

**LICENSE AGREEMENT
ENCROACHMENT IN PUBLIC RIGHT OF WAY**

This License Agreement is entered into on this the ____ day of _____, 2023 by and between Legacy at Lake Dunlap Property Owners Association (“Licensee”), c/o Lifetime HOA Management, 18585 Sigma Roas, Suite 104, San Antonio, TX 78258, and the City of New Braunfels, Texas, (“Licensor”), acting herein through its duly authorized City Manager, 550 Landa Street, New Braunfels, Texas 78130.

RECITALS

WHEREAS, Licensor is the owner of that certain right of way known as Weltner Road in the City of New Braunfels, Guadalupe County, Texas, hereinafter referenced and known as the “Right of Way”.

WHEREAS, Licensee has requested to construct an approved encroachment in the Right of Way as depicted on Exhibit “A” which is attached hereto and made a part thereof, hereinafter referred to as the “Encroachment”, and

WHEREAS, The City Council of the City of New Braunfels finds this license to serve a valid public purpose, and

WHEREAS, Licensor is agreeable to allowing the Encroachments to be constructed pursuant to the terms and conditions set forth in this agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the annual sum of One Hundred Dollars (\$100.00) payable upon the execution of this agreement and then annually on the anniversary date of the agreement, Licensor does hereby grant a license to Licensee for purpose of constructing the Encroachment. The annual fees charged under this agreement shall remain the same for a period of at least two years from the date the license was granted and are subject to change after each subsequent one-year period the license remains in effect.

TERMS

1. Licensee shall prepare plans for Encroachment and said plans must be approved by the City of New Braunfels Building Department, the City Engineer and a Building Permit shall be issued prior to beginning any work;
2. Licensee agrees that it will not enlarge the encroachment area or construct or cause to be constructed or erected any other structure or improvement in the Right of Way, other than the approved Encroachment, without the express, written approval of Licensor;
3. Licensor grants this License solely to the extent of its right, title and interest in the Right of Way without express or implied warranties;

4. The improvements installed by Licensee will not interfere with any established drainage or public access in the Right of Way;
5. Licenser will incur no liability or maintenance obligations from such improvements including, but not limited to, drainage problems due to the improvements;
6. Licenser reserves the right to inspect Encroachment at any time;
7. Licensee shall be responsible for maintenance of Encroachment.
8. The improvements shall be fully constructed by Licensee or their agents and Licensee releases Licenser from all liability associated with such improvements. Licensee agrees to comply with all federal, state and local laws, construction and safety codes, and other regulations in the construction and maintenance of the improvements;
9. Sole ownership of the improvements shall remain with Licensee, their Successors or Assigns unless otherwise agreed to in writing;
10. This Agreement, until its revocation, shall bind each party's successors and assigns. Licensee and its successors and assigns must notify Licenser of any change of Licensee or address to the Licenser within thirty days of any such change.
11. Licenser shall have the right to establish a lien on Licensee's adjoining land as a covenant running with the adjoining land for failure to pay all applicable licensing fees under this agreement.
12. INDEMNIFICATION: In consideration of the permission extended to the Licensee by the CITY OF NEW BRAUNFELS, TEXAS, its officers, agents, employees, servants, successors or assigns, to use the City's Property identified in this agreement for any or all of the purposes listed in this agreement, Licensee does hereby agree to INDEMNIFY, REIMBURSE, DISCHARGE, and RELEASE the CITY OF NEW BRAUNFELS, TEXAS, and its officers, agents, employees, servants, successors, and assigns AND HOLD THEM HARMLESS from and against any and all costs, expenses, reasonable attorney fees, claims, suits, losses or liability for injuries including death, to persons and from any other costs, expenses, reasonable attorney fees, claims, suits, losses or liabilities of any and every nature whatsoever arising in any manner, directly or indirectly, out of or in connection with the Licensee's presence or activities on the City's Property identified herein by the Licensee, his agents, employees, servants, successors, assigns, contractors or subcontractors
13. Licensee shall, at its own expense, purchase, maintain and keep in force liability insurance and shall protect Licensee and Licenser from claims which may arise out of or in connection with any operations at the Premises, whether the operations be by the Licensee or by anyone directly or indirectly employed or contracted by the Licensee, guest, invitee, volunteer, agent, or by anyone for whose acts Licensee may be liable. The

minimum amounts of liability insurance required are as follows:

Bodily Injury	
Per Person	\$300,000.00
Per Accident	\$500,000.00
Property Damage Liability	
Per Accident	\$100,000.00
Aggregate	\$100,000.00

- a. Insurance required by this section shall be written so that the Licensee will be notified in writing, in the event of cancellation, restrictive amendment or non-renewal at least thirty (30) days prior to the action. Certificates of Insurance shall be filed with Licensor's Risk Manager.
 - b. All insurance required under this section shall be written with the City as an additional insured. In any event, Licensee is fully responsible for all losses arising out of, resulting from or connected with operations under this agreement whether or not the losses are covered by insurance. The City's acceptance of Certificates of Insurance that in any respect do not comply with the City's requirements does not release the Licensee from compliance herewith.
 - c. All insurance required under this section shall be primary over any other insurance coverage the City may hold.
 - d. The parties intend that the Licensee maintain liability insurance coverage not less than amounts prescribed in Section 101.023 of the Texas Civil Practice and Remedies Code as it may be amended from time to time. In the event such amounts increase beyond the limits set forth herein, the Licensee shall obtain such increased coverage and provide the City a certificate therefore. The burden of maintaining proper insurance coverage and compliance with this subsection lies solely with the Licensee. Failure to maintain such insurance coverage is a breach of this Agreement.
14. This license constitutes the entire agreement between Licensor and Licensee on this subject, and it may be amended only by written instrument executed by both parties.
15. The Licensee shall have thirty (30) days after receiving notice from Licensor to remedy any breach in this agreement. Should Licensee fail to remedy breach within that time period, Licensor may terminate this license immediately and cause Encroachment to be removed from the property immediately.

16. All notices, requests and other communications dealing directly or indirectly with this license shall be in writing and shall be hand delivered by messenger or carrier service, telecommunicated, or mailed by registered or certified mail (postage prepaid) return receipt requested, addressed to:

Licensor
City of New Braunfels
City Manager
550 Landa Street
New Braunfels, TX 78130

Licensee
Legacy at Lake Dunlap Property Owners
Association
Attn. _____
c/o Lifetime HOA Management
18585 Sigma Road, Suite 104
San Antonio, TX 78258

17. This Agreement shall be governed by the laws of the State of Texas and exclusive venue for any legal dispute under this agreement is in the District Court in Comal County, Texas having jurisdiction over the dispute.

LICENSOR
City of New Braunfels

By: _____
Robert Camareno, City Manager

APPROVED AS TO FORM:

Valeria M. Acevedo, City Attorney

LICENSEE
Legacy at Lake Dunlap Property Owners
Association

By: _____
Name: _____
Title: _____

STATE OF TEXAS §
 §
COUNTY OF COMAL §

On _____, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his/her authorized capacity as _____ of HDC Hwy 46, LLC.

WITNESS my hand and official seal.

Notary Public, State of Texas

STATE OF TEXAS §
 §
COUNTY OF COMAL §

On _____, _____, personally appeared ROBERT CAMARENO, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity as City Manager of the CITY OF NEW BRAUNFELS, TEXAS.

WITNESS my hand and official seal.

Notary Public, State of Texas