

STATE OF TEXAS §

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF HARRIS §

## **Cypresswood Glen Property Owners Association**

a Texas Non-Profit Corporation, (hereinafter referred to as "ASSOCIATION") and **Community Asset Management, Inc.**, a Texas Corporation (hereinafter referred to as "MANAGER") the Parties to this AGREEMENT, do mutually agree as follows.

### **I. APPOINTMENT OF MANAGING AGENT**

The ASSOCIATION hereby appoints Community Asset Management, Inc., and Community Asset Management, Inc., hereby accepts such appointment on the terms and conditions herein contained as the sole and exclusive Managing Agent of the ASSOCIATION to maintain, operate, manage and supervise the ASSOCIATION in accordance with the terms and provisions of this AGREEMENT and the ASSOCIATION's governing documents.

### **II. DESIGNATED CONTACTS**

The primary contact for the ASSOCIATION shall be the President of the ASSOCIATION, or any other person so designated by the President. The primary contact for the MANAGER shall be the President of the management company or a Community Manager designated by the President.

### **III. SERVICES PROVIDED**

The MANAGER shall provide services to the ASSOCIATION as specified in Exhibit "A", which is attached hereto and made as a part of this AGREEMENT.

### **IV. COMPENSATION**

Compensation shall be paid to the MANAGER by the ASSOCIATION in the amount and under the terms specified in Exhibit "B", attached hereto as part of this AGREEMENT. MANAGER shall invoice such fees monthly near the first day of the month of service and shall be paid within fourteen (14) days by the ASSOCIATION. For any projects or work not provided for in this AGREEMENT, but requested or initiated by the ASSOCIATION, the MANAGER will quote a rate to the ASSOCIATION and will await the approval of the ASSOCIATION before proceeding with the service.

### **V. TERM OF THE AGREEMENT**

This AGREEMENT shall be in effect from \_\_\_\_\_, 2008 until modified or canceled as specified below.

- A. Cancellation. This AGREEMENT may be canceled by either party at any time during the term of the AGREEMENT with a thirty (30) day written notice. The MANAGER shall continue to offer services to the ASSOCIATION and shall be paid by the ASSOCIATION per this AGREEMENT for thirty (30) days from the date of written notice of cancellation. Upon cancellation or termination of this AGREEMENT, all obligations hereunder shall cease except for liabilities or claims which accrued or arose prior to such termination.

B. Modification. This AGREEMENT constitutes the full understanding of the parties, and no prior or contemporaneous oral or written representations made by either party shall be binding. This AGREEMENT may also be modified at any time during the term of the AGREEMENT by attachment of a written amendment to the AGREEMENT which is signed by both parties.

**VI. CONTRACTOR RELATIONSHIP**

Employees, agents or subcontractors of the MANAGER shall under no circumstances be considered employees of the ASSOCIATION. The MANAGER shall retain exclusive authority to supervise, manage or otherwise control such employees, agents or subcontractors. The MANAGER will indemnify and hold the ASSOCIATION harmless from any claims asserted by any employees, agents or subcontractors of the MANAGER against the ASSOCIATION and arising from such employees', agents' or subcontractors' positions with the MANAGER.

**VII. LIABILITY**

The MANAGER does not assume any liability of the ASSOCIATION by entering into this AGREEMENT. The ASSOCIATION agrees to hold the MANAGER, its officers, employees and agents harmless of any liability arising out of, in connection with, or resulting from any act or omission of ASSOCIATION.

**VIII. INSURANCE**

The MANAGER agrees to carry at its own expense Worker's Compensation Insurance in compliance with the Texas Employers Liability Act, Public Liability Insurance with minimum limits of \$1,000,000, as well as Hired and Non-owned Auto Liability Insurance. The ASSOCIATION agrees to carry, at its own expense, necessary Public Liability insurance adequate to protect the MANAGER in the same manner and extent they protect the Board and will name the Manager as a co-insured. The MANAGER shall not be held liable for any error in judgment or mistake of fact or law, or for anything which it may do or refrain from doing, except in cases of willful misconduct or gross negligence. The provisions herein shall survive the termination of this AGREEMENT.

**IX. ATTORNEY FEES**

Should either party hereto be required to institute legal action against the other party hereto to enforce the performance of this AGREEMENT or to collect moneys owed pursuant hereto, said party shall be entitled, in addition to all other amounts, to recover a reasonable attorney fee plus all costs of court. This AGREEMENT shall be construed in accordance with the laws of the State of Texas.

**EXECUTED AND AGREED TO BY AND BETWEEN THE PARTIES** on this \_\_\_\_ day of \_\_\_\_\_, 2008.

**ASSOCIATION**

Cypresswood Glen P.O.A.

\_\_\_\_\_

President

\_\_\_\_\_

Secretary

**MANAGER**

Community Asset Management, Inc.

\_\_\_\_\_

David L. Johnson  
President

\_\_\_\_\_

David J. Smith  
Vice President

# **Exhibit "A"**

## **Service Specifications**

### **I. SCOPE OF SERVICES**

The Cypresswood Glen community is comprised of approximately 325 residential lots. The MANAGER shall provide "near-site" community services to the ASSOCIATION as described by these Service Specifications. For purposes of this AGREEMENT, "near-site" services shall not be construed as "on-site" services, and shall not be construed to require daily monitoring of ASSOCIATION facilities nor daily supervision of ASSOCIATION contractors by the MANAGER.

### **II. FINANCIAL MANAGEMENT**

The MANAGER shall provide to the ASSOCIATION financial management, which is to include accounts receivable, accounts payable, financial reporting, administrative services, contract administration, amenities management (if amenities exist), and record keeping.

#### **A. Accounts Receivable**

1. Perform all assessment fee billing, collection, and record keeping.
2. Send annual statements to each account holder with a balance due. Send statements for delinquent accounts at least once per quarter.
3. Interface with title companies / closing agents to provide ownership and certified assessment information on behalf of the ASSOCIATION. Any resulting transfer fees will be retained by the MANAGER.
4. Perform delinquent collections. Where no alternate direction is given by the ASSOCIATION, the MANAGER will follow these escalating steps:
  - a. Send a delinquent statement showing interest accrued, and stipulating the legal language required by the State of Texas for recovery of future collection fees.
  - b. Send a statement along with a MANAGER's demand letter, by certified mail.
  - c. Set up and monitor payment plans within Association guidelines.
  - d. Interface with the ASSOCIATION's attorney where further legal action is required.
  - e. Where court appearances are necessary, the MANAGER will appear and testify on behalf of the ASSOCIATION.
5. Receive, receipt and deposit ASSOCIATION funds to accounts styled in the name of the ASSOCIATION. Bank lock box fees shall be the responsibility of the ASSOCIATION.

#### **B. Accounts Payable**

1. Prepare all checks for the ASSOCIATION's accounts payable. The MANAGER will only sign ASSOCIATION checks as specified by the ASSOCIATION.

2. Keep the ASSOCIATION bank accounts balanced and perform a monthly reconciliation of the bank statements. The MANAGER shall have no obligation to advance funds to the ASSOCIATION for any purpose whatsoever.

#### C. Financial Reporting

1. Provide a monthly financial report to Directors of the ASSOCIATION, including a complete and accurate general ledger of financial activities and status of funds in the ASSOCIATION's account(s).
2. Provide lists to the ASSOCIATION of property owners, account balances, etc. upon request.
3. Provide support for the ASSOCIATION's Treasurer to carry out cash flow analyses with revenue and expense projections in order to formulate and recommend a maintenance fee rate and an operating budget for the ASSOCIATION.
4. Provide the financial input and backup materials for an Annual Report of the ASSOCIATION for the annual meeting, if one will be published. Submission of such annual report shall not be construed to require the MANAGER to supply a financial audit. Any audit required by the ASSOCIATION shall be prepared at ASSOCIATION's expense by an independent auditor of ASSOCIATION's selection.

#### D. Administrative Services

1. Attend once-monthly Board of Directors meetings. The parties to this AGREEMENT shall make every effort to avoid scheduling meetings between the hours of 5:00 p.m. Friday until 8:00 a.m. Monday.
2. Attend the Annual Meeting of the ASSOCIATION. Coordinate the Annual Meeting, including issuing required meeting announcements and proxies for the meeting.
3. Produce and distribute minutes for each meeting of the Board and for each General or Annual meeting.
4. Maintain working knowledge of the governing documents of the ASSOCIATION and provide consultation on association management.
5. Serve as the ASSOCIATION's Agent with attorneys, CPAs, contractors, vendors, and other contacts of the ASSOCIATION.
6. Provide word processing of management documents and ASSOCIATION correspondence required in the day-to-day operation of the ASSOCIATION.
7. Send "Welcome to the Community" packets to new members of the ASSOCIATION as directed by the ASSOCIATION.
8. Provide notary service to any Director or Officer of the ASSOCIATION in the office of the MANAGER during normal business hours.

#### E. Contract Administration

1. Assist the Board in preparation of bid specifications for ASSOCIATION contracts as requested and solicit such bids for evaluation by the ASSOCIATION.
2. Prepare all contracts and agreements on behalf of the ASSOCIATION (legal review of the documents will be obtained as requested).
3. Coordinate and oversee the work of Contractors.
4. Monitor the ASSOCIATION's insurance policies for renewal and conformance.

F. Amenities Management (if amenities exist)

1. Perform an inspection and inventory of amenities and equipment prior to annual budget preparation.
2. Provide I.D. badges such as swim tags or amenity area passes at no charge to the ASSOCIATION (fee paid by swimmer).
3. Make available on-site I.D. badge qualification and distribution.

G. Record Keeping

1. Maintain a complete set of files for the ASSOCIATION with records such as the ASSOCIATION's governing documents, certificates, contracts, correspondence, meeting minutes, and financial reports.
2. Maintain a current list of property owners by working with title companies, taxing authorities, utility districts and residents.
3. Maintain historical data in individual physical files, one for each property in the community.
4. Maintain an off-site secure storage area for archived ASSOCIATION records. Archived records shall be maintained in accordance with MANAGER's Records Retention Policy for Client Paper Records, as amended January 31, 2000.

### **III. DEED RESTRICTION MANAGEMENT**

The MANAGER shall provide to the ASSOCIATION two primary services required for management of deed restriction enforcement: Restriction Violation Control (with on-site inspections) and Architectural Control (off-site).

A. MANAGER will provide violation management as follows.

1. Where no alternate direction is given by the ASSOCIATION, the MANAGER will follow these escalating steps:
  - a. All lots in the community will be physically inspected from public streets. Inspections will be performed by persons qualified to make competent professional judgments in the field, and they shall be performed twice per month.
  - b. Except for time-sensitive violations, alleged violations will be logged with no contact to the owner of the property for at least two weeks.

- c. For violations which persist, notice of violation will be sent to owner (and tenant, if applicable), on ASSOCIATION letterhead, via first class mail.
  - d. For violations which continue to persist, a more terse notification will be sent via certified mail. Such notification will include language required by the State of Texas for recovery of future legal fees.
  - e. For violations which persist, the MANAGER will present the dispute for ASSOCIATION decision and make recommendation as to which matters should be turned over to an attorney for further pursuit.
  - f. The MANAGER will coordinate ASSOCIATION efforts to cure selected violations on vacant properties, such as mowing and exterior maintenance.
2. MANAGER will keep copies of the deed restrictions for each section and make them available to homeowners at cost of reproduction.
  3. MANAGER will remain conversant with the content of the deed restrictions of the community and advise the Board and property owners on the content and on Board interpretation of the documents.
  4. MANAGER will maintain a continuing deed restriction awareness campaign by providing articles for the newsletter as requested.

B. MANAGER will provide management of architectural control, working with the ASSOCIATION's Architectural Control Committee (the "A.C.C.") as follows:

1. Receive and document receipt of requests for A.C.C. approval.
2. Screen inappropriate submissions, and notify owners of any insufficiency.
3. Convey submissions to the A.C.C. member(s) designated by the Board, and track the routing of the submission.
4. Receive and document receipt of the A.C.C. ruling, and respond to the property owner with the A.C.C.'s ruling.

Complete records on all Architectural Control requests and decisions will be maintained by the MANAGER, with original plans to be kept on file for a minimum of two (2) years.

## **Exhibit "B"**

### **Compensation Schedule**

#### **I. FEES FOR CONTRACT SERVICES**

The fee for Financial Management service rendered under the terms of this AGREEMENT shall be in the amount of \$450 per month. The fee for Deed Restriction Management service rendered under the terms of this AGREEMENT shall be in the amount of \$400 per month.

_____ (Association)	_____ (Manager)
init	init

#### **II. FEES FOR SPECIAL OR INFREQUENT SERVICES**

Collection Demand Letter .....	\$ 45.00 per letter
Court Appearance for Association .....	\$ 85.00 per day

For any projects or work not provided for in this AGREEMENT, the MANAGER will quote a rate for ASSOCIATION approval before proceeding.

#### **III. "PASS-THROUGH" EXPENSE**

The MANAGER shall invoice the ASSOCIATION for the actual cost of postage for items mailed on the ASSOCIATION's behalf. Such expense shall be billed by the MANAGER and paid by the ASSOCIATION on the same timetable as the fixed fees listed above.

**Community Asset Management, Inc.**  
**Records Retention Policy for Client Paper Records**

Originally Adopted December 30, 1992  
Amended January 31, 2000

Community Asset Management (The “Company”) shall retain paper records produced by the processes used in management of its clients according to the schedule shown below.

**Client Records Which Shall Be Kept in Perpetuity**

Articles of Incorporation and Certificate of Incorporation  
ByLaws  
Tax Returns  
Meeting Minutes  
Annual Corporate Reports (if any)  
Property Records  
Contracts and Leases in Effect  
Insurance Policies in Effect  
Insurance Letters / Correspondence  
Audit Reports and Financial Statements

**Client Records Which Shall be Kept for at Least 4 Years**

Work sheets and related backup documents for tax returns  
Bank statements and reconciliations  
Canceled checks for standard transactions  
Invoices from vendors  
Correspondence related to individual member properties  
Account histories for individual member properties

**Client Records Which Shall be Kept for at Least 2 Years**

Business correspondence  
Annual Election ballots and Sign-In Sheets  
Paper plans which accompanied architectural control requests

The Company *may* retain in perpetuity additional paper records which are produced by the process of management of its clients. All client paper records retained shall be deemed the property of the client. All records kept on magnetic media shall be deemed the property of The Company.