

ORDINANCE NO. 255

AN ORDINANCE OF THE TOWN OF CINCO BAYOU, FLORIDA, GRANTING TO KIDD BAYOU OAKS OWNERS' ASSOCIATION, INC., A FLORIDA NOT-FOR-PROFIT CORPORATION, THE RIGHT TO USE, IMPROVE, REPAIR, OPERATE, MARK, REGULATE AND SUPERVISE PARKING FACILITIES IN, OVER, ALONG, ACROSS AND UPON A PORTION OF THAT CERTAIN PUBLIC RIGHT OF WAY KNOWN AS KIDD STREET, IN THE TOWN OF CINCO BAYOU, FLORIDA, IN CONJUNCTION WITH AND ADJACENT TO THE KIDD BAYOU OAKS TOWNHOME DEVELOPMENT FOR A PERIOD OF THREE (3) YEARS; PROVIDING FOR AN OPTION FOR GRANTEE TO EXTEND THE FRANCHISE FOR ONE (1) THREE (3) YEAR TERM; PRESCRIBING CERTAIN TERMS AND CONDITIONS UNDER WHICH SAID CORPORATION IS TO OPERATE SAID FRANCHISE; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CINCO BAYOU, FLORIDA, AS FOLLOWS:

SECTION 1: In consideration of the faithful performance and observance of the conditions and reservations hereinafter specified the right, privilege and authority is hereby granted to Kidd Bayou Oaks Owners' Association, Inc., a Florida not-for-profit Corporation (hereinafter referred to as the "Grantee"), to use, improve, maintain, repair, operate, mark, regulate, and supervise parking facilities in, over, along, across and upon a portion of that certain public right-of-way known as Kidd Street (more specifically described hereinafter) in the Town of Cinco Bayou, Florida (hereinafter referred to as the "Town") adjacent to the Kidd Bayou Oaks Townhome Development for a period of three (3) years, subject to renewal, all in accordance with the conditions hereof.

SECTION 2: That certain parcel of land which is the subject of this grant is described as follows, to wit: A PORTION OF THE RIGHT-OF-WAY OF KIDD STREET DESCRIBED AS FOLLOWS: BEGIN AT AN UN-NUMBERED IRON ROD MARKING THE SOUTHEAST CORNER OF KIDD BAYOU OAKS AS RECORDED IN PLAT BOOK 7, PAGE 68, PUBLIC RECORDS OF OKALOOSA COUNTY, FLORIDA THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST ALONG WEST RIGHT-OF-WAY OF KIDD STREET (80' RIGHT-OF-WAY) AND THE EAST LINE OF SAID KIDD BAYOU OAKS A DISTANCE OF 2.64 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST ALONG SAID RIGHT-OF-WAY A DISTANCE OF 96.00 FEET; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST A DISTANCE OF 28.58 FEET TO THE BACK OF THE CURB OF SAID KIDD STREET; THENCE SOUTH 00 DEGREES 17 MINUTES 24 SECONDS EAST ALONG SAID BACK OF CURB A DISTANCE OF 96.00 FEET; THENCE SOUTH 90 DEGREES 00 MINUTES 00 SECONDS WEST A DISTANCE OF 28.93 FEET TO THE POINT OF BEGINNING.

SECTION 3: Grantee shall maintain a pervious ground cover on that parcel of land which is the subject of this grant and mark it for parking and regulate and supervise parking thereon, and erect any parking signs necessary. The Grantee may restrict the described property to and for the benefit of the members of Grantee and their guests.

SECTION 4: The right, privilege and franchise hereby granted is granted for a period of three (3) years from and after the effective date of this ordinance and shall cease and terminate at the expiration of such time and at the end of said period, unless the Grantee exercises the option to extend this franchise as hereinafter granted to the Grantee. The Grantee shall have the option and the right to extend this franchise for one (1) additional term of three (3) years under the same terms and conditions contained herein.

SECTION 5: The Grantee shall pay to the Town Two Hundred and Fifty Dollars (\$250.00) per year, together with applicable Florida state leasing sales tax, during each year of the term of this franchise, as further consideration for the granting of the rights, privileges and franchise granted hereby. Said franchise fees shall be paid in advance annually during each year of the initial three (3) year term and for any renewal option term exercised by the Grantee.

SECTION 6: No fee, tax or charge for use or parking in the parking facilities to be maintained and operated by Grantee shall be levied against any user of such facilities, without the express written consent of the Town Council of Cinco Bayou, Florida.

SECTION 7: The Grantee shall indemnify and hold harmless the Town for all damages to the property of the Town from maintenance, repair or operation of the parking facilities contemplated herein and shall indemnify and hold harmless every owner of property abutting on the described property which is damaged by the work or operation thereof, all physical damage which shall be done to such abutting property through an act or omission of the Grantee or of any contractor, sub-contractor or other person in the course of any employment for the repair, maintenance or operation of the parking facilities or any part thereof.

SECTION 8: In the maintenance, repair and operation of the parking facilities contemplated herein, Grantee shall use all necessary care to avoid interfering with the operation of or doing or permitting to be done any damage to the water and sewer lines, and other utility infrastructure, conduits or any other property of the Town or any utility provider, located in, over or under the subject right-of-way and shall use all reasonable care to avoid injury to the property of the Town and any utility provider; and if it shall in its work do or permit to be done any such damage, Grantee shall promptly restore the property so damaged to the condition in which it was before being damaged or pay therefor and shall also be liable for any other damages which may accrue because of said damage to said Town or any other person, firm or corporation.

SECTION 9: The Grantee shall protect, defend, indemnify and hold the Town and Town officials and employees, harmless from all claims, demands, causes of action or liability, resulting from injury to or death of persons or damage to or loss of property sustained on or about the subject right of way arising from the installation, maintenance and operation of the parking facilities. Grantee shall pay any legal expenses the Town may incur in establishing that Grantee is responsible and liable under this section.

SECTION 10: Nothing contained herein is intended, nor shall be construed, to waive the Town of Cinco Bayou's rights and immunities under the Florida constitution, common law, or *Florida Statutes 768.28*, as amended from time to time.

SECTION 11: Should any section, clause or provision of this ordinance be declared invalid by a court of competent jurisdiction, the same shall not affect the validity of the ordinance in whole or in part thereof other than the part declared invalid.

SECTION 12: The Grantee shall, within thirty (30) days after the final passage of this ordinance, file a written acceptance thereof with the Town Manager/Clerk.

SECTION 13: The Grantee may not assign or transfer this franchise.

SECTION 14: Upon termination of this franchise, Grantee shall make such repairs at its expense in such a manner as to conform the described property with the remainder of the street right-of-way in the Town of Cinco Bayou existing at the time of such termination.

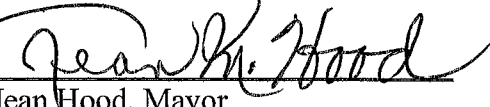
SECTION 15: This Ordinance shall take effect upon acceptance by the Grantee or thirty (30) days after its final passage, whichever occurs first.

PASSED, APPROVED AND ADOPTED, by the Town Council of the Town of Cinco Bayou, Florida at a regular meeting, this ____ day of April 2024.

ATTEST:

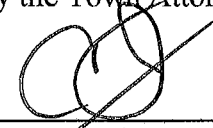
THE TOWN OF CINCO BAYOU, FLORIDA

By: 
Keith Williams, Town Manager/Clerk

By: 
Jean Hood, Mayor

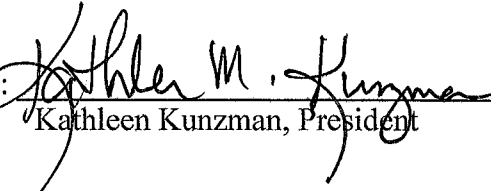
[SEAL]

The form and legal sufficiency of the Foregoing has been reviewed and Approved by the Town Attorney.

By: 
C. Jeffrey McInnis, Town Attorney

ACCEPTED:

KIDD BAYOU OAKS OWNERS' ASSOCIATION, INC., a Florida not-for-profit corporation,

By: 
Kathleen Kunzman, President