



CITY OF HOUSTON
Planning and Development

Sylvester Turner

Mayor

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October 17, 2018

Mr. Stephen Wright
Houston Parks and Recreation Department
2999 South Wayside
Houston, TX 77023

Re: 2018 Transportation Improvement Program (TIP) Call for Projects – **City of Houston**
Concurrence


Dear Director Wright:

The City of Houston Review Committee has reviewed the Department's application for TIP funding to construct the Northwest Trans Center/Memorial Park/Heights Shared Use Path. The Review Committee will notify H-GAC that the conceptual design is consistent with City guidelines and plans.


Please be advised that projects will be subject to City of Houston final design review and approval prior to construction. Any non-standard improvements in city right-of-way will require a maintenance agreement prior to construction. Sponsors awarded federal funding should be prepared to coordinate design and construction through Houston Public Works as a local let contract.

The staff of both departments is prepared to continue working with you during the project development process. Please contact Jennifer Ostlind at (832) 393-6569 or via email at jennifer.ostlind@houstontx.gov or Gary Hill at (832) 395-3082 or via email at gary.hill@houstontx.gov if you have any questions or require additional guidance.

Sincerely,



Margaret Wallace Brown
Acting Director
Planning & Development Department



Carol Ellinger Haddock, P.E.
Director
Houston Public Works

MWB:JO/smb

c: Maureen Crocker, Assistant Director, Houston Public Works
Jeff Weatherford, Deputy Director, Houston Public Works
Uptown TIRZ 16



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MEETING MINUTES

Uptown / Silver Eagle Distributing

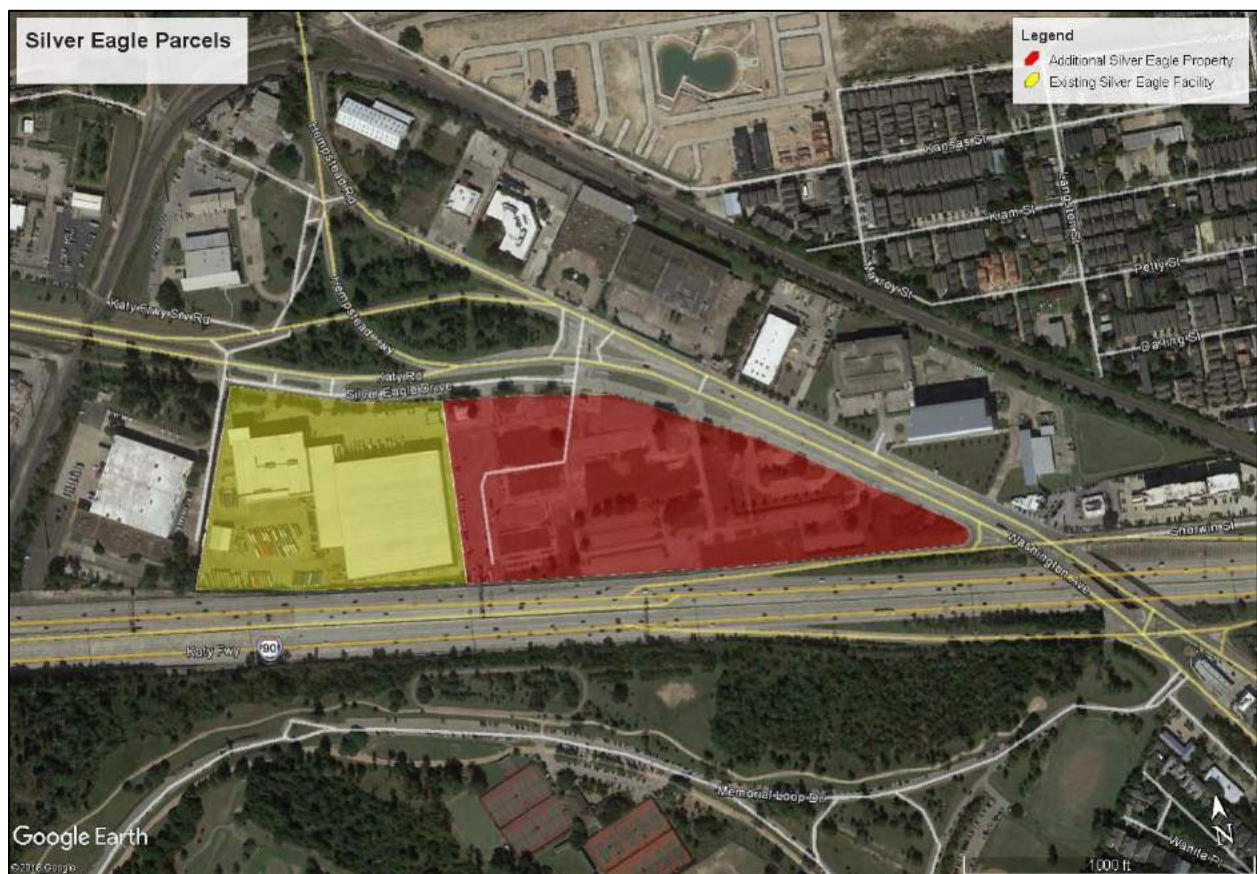
January 18, 2018

Attendees: Jim Webb (The Goodman Corporation), Brad Cowan (Terrain Studio), Dane Johnson, Misty Cornelius (Silver Eagle)

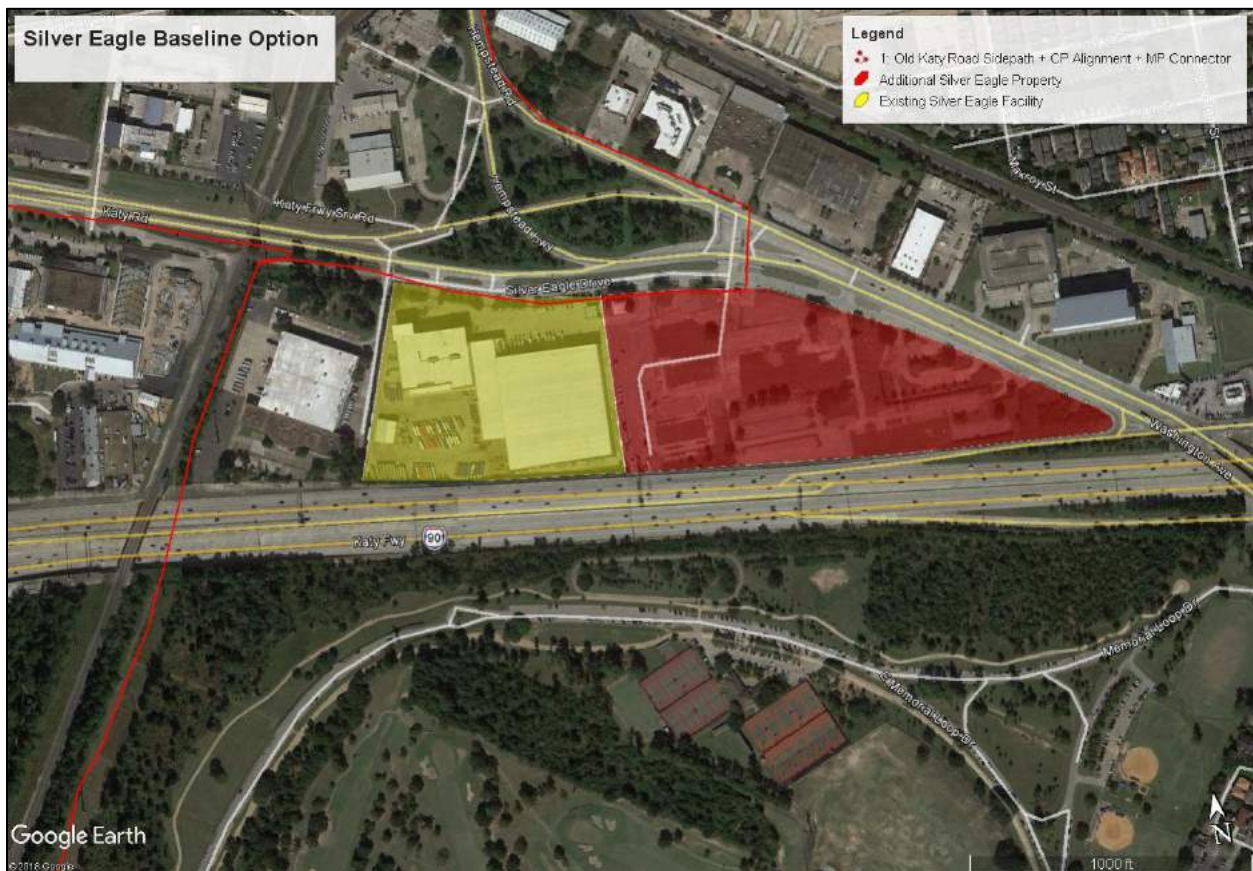
Purpose: Review Uptown multi-use path alignments with Silver Eagle Distributing to review impacts on Silver Eagle property.

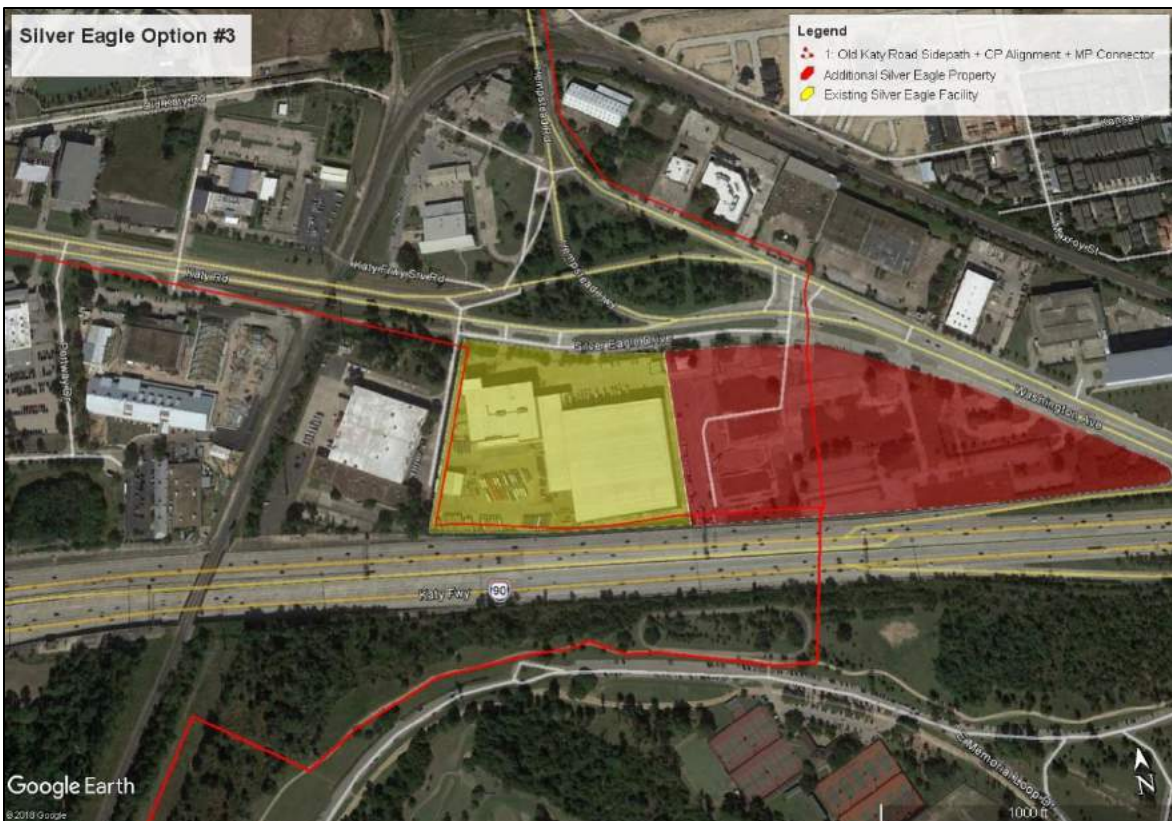
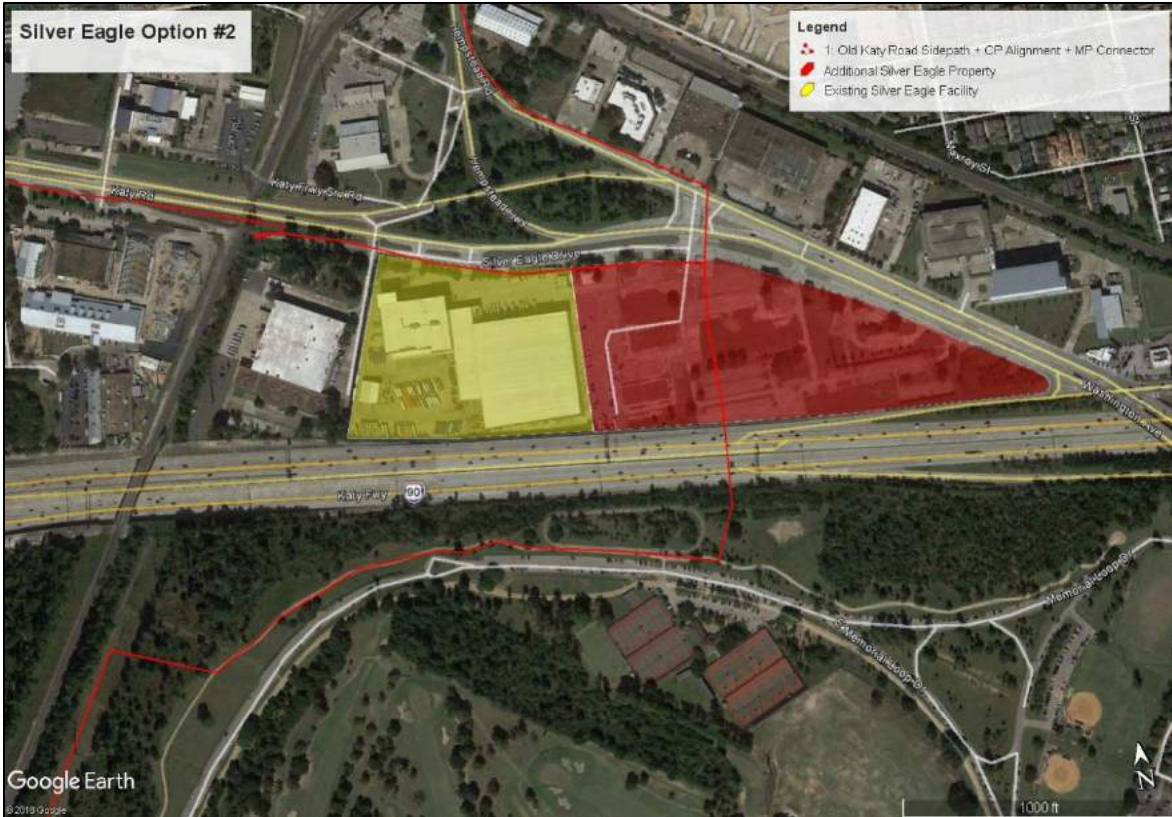
Notes:

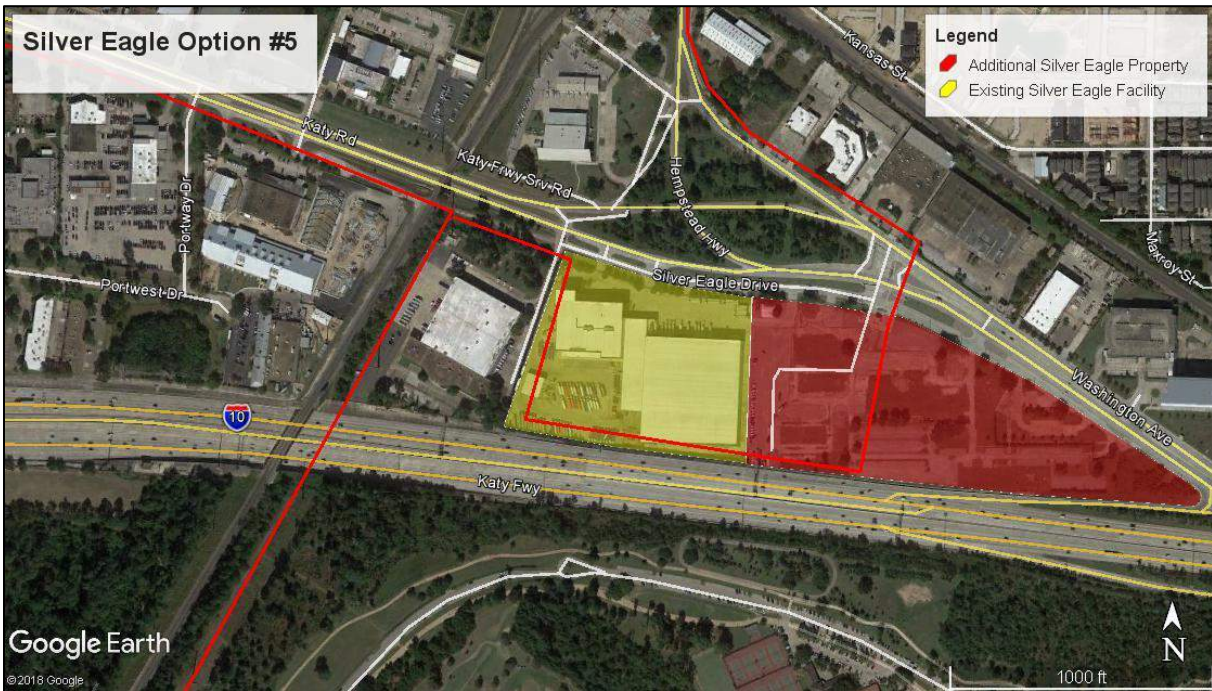
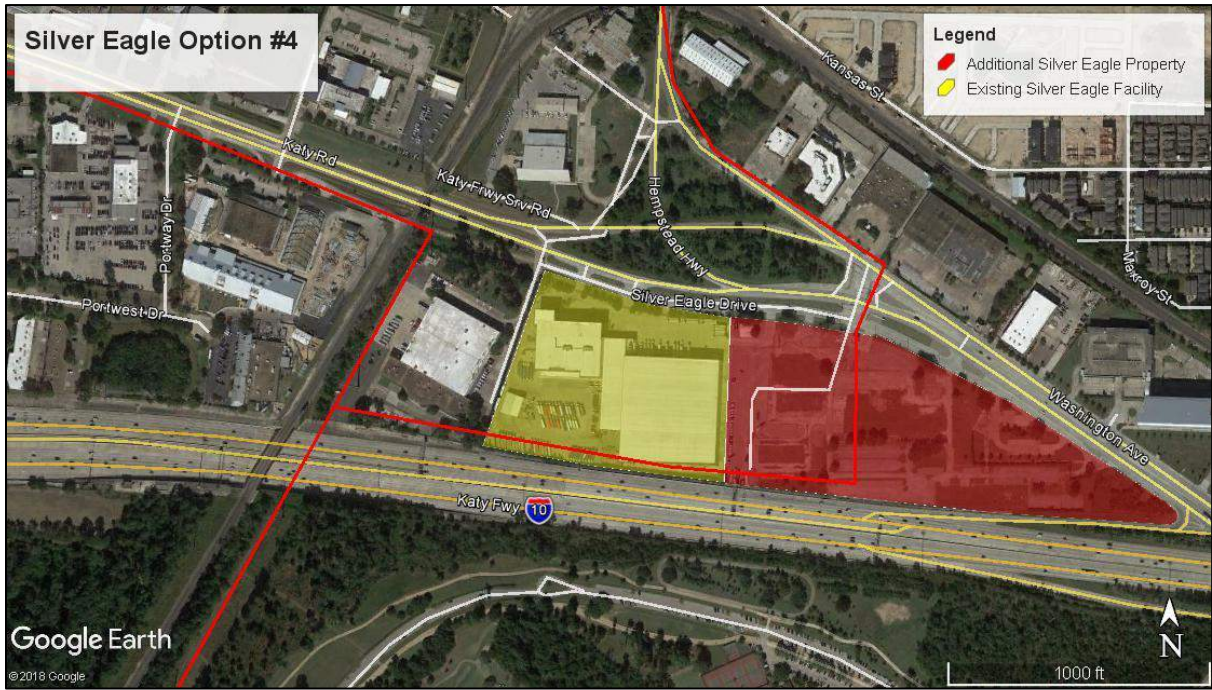
- Silver Eagle has purchased the property located just to the east of their existing building as roughly identified in the image below.



- There is developer interest in purchasing this property with the intent of turning the parcel into a mixed use “City Center” type destination. Developers are particularly interested in connectivity to Memorial Park and are interested in a bike/ped. bridge component over I-10 at that location. Silver Eagle would like us to explore the feasibility of a bridge at this location rather than the previously denoted location just adjacent to the UPRR railroad tracks.
- We discussed the fact that the Memorial Park Master Plan may prohibit a crossing at that location but that it would be explored further with Uptown.
- Silver Eagle is generally supportive of the NW Transit/Memorial Park/Heights Multi Use Path concept and believes that connectivity along the frontage of their facility can be accomplished but that design would need to be closely coordinated with their staff in order to accommodate safety concerns. They would prefer connectivity to the Park to be facilitated via their new parcel if possible.
- The following images roughly depict some alignments we discussed in relation to our baseline alignment. Silver Eagle is generally amenable to providing an easement for multi-use path connectivity so long as it provides a mutual benefit.







Next Steps:

- TGC will draft a letter for Silver Eagle to review which provides general support of the concept and project consistent with the discussion held today.
- Uptown will review the feasibility of the location of the pedestrian bridge on the Silver Eagle property and other related modifications to the proposed alignment.
- Dane Johnson and Misty Cornelius will serve as the points of contact for further discussions regarding this project. Roxann Neumann will remain on correspondence.
- Uptown will follow up with Silver Eagle in 2-4 weeks to further discuss and review the project status.



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**MEETING
MINUTES**

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CENTERPOINT/UPTOWN/HCFCD TRAIL DISCUSSION

February 6, 2018

Attendees: Nat Wanissorn (Uptown), Lisa Johnson (HPARD), Richard Odlozil (HPARD), Mike Vandewater (HCFCD), Lee Tristan (CenterPoint), Brad Cowan (Terrain), Jim Webb (TGC), Welcome Wilson Sr., Welcome Wilson Jr. (Welcome Group)

- After reviewing survey data provided by CPE and HCFCD, it is determined that the UPRR ROW extends approximately 28' west of the fence adjacent to their railroad tracks.
- CPE requires us to stay away from the "drop zone" of the overhead lines. Guidance is to stay as far away as possible from the overhead lines and equipment at all times.
- All parties in agreement that UPRR ROW is to be avoided as it will not be possible to negotiate access/license/easement agreements for the trail.
- HCFCD provided information about their easements and indicated they do not have the authority to allow recreational use of the easements. Permission for the trail will have to be provided by the underlying property owners. If the trail is allowed, HCFCD will review the design to ensure the trail does not block maintenance access and the drainage patterns in the easement continue to drain toward the inlets.
- Field measurements from the UPRR fence line indicate that there is sufficient space to place a 8'-12' trail within the CPE owned property/HCFCD easement along the corridor. This alignment would require the relocation of the existing chain link fence to the west by approximately 2-4'. This will avoid touching UPRR ROW.
- Trail alignment must be as straight as possible at all times. Uptown would be responsible for covering cost to relocate wooden utility poles and other obstructions if necessary. Transmission lines cannot be relocated.

- CPE will ultimately require a formal survey and drawings for any type of approval. These documents and any coordination with lease holders re: fence relocation can be run through Lee Tristan.
- Large storm inlet drain at Richmond to be covered and closed soon. This may accommodate a better trail connection to the existing sidewalk at Richmond in the future.
- HPARD/COH to advertise the design of the section from San Felipe to Memorial Park in March 2018.
- Welcome Group has maintenance agreement with both CPE and UPRR north of San Felipe. South of San Felipe Welcome Group only has a maintenance agreement with CPE.
- Welcome Group's existing irrigation line needs to be accommodated in design plans for section north of San Felipe.



Since the ROW is in the form of easements HCFCRD does not have the authority to grant permission to use the ROW for recreational purposes. Permission to use this property will have to be obtained from the underlying property owners: Texas New Orleans RR and Houston Lighting & Power.

HCFCRD will review the plans and therefor will be required to follow our criteria and policies.

TXDOT COORDINATION MEETING

April 24, 2018

Attendees: Eliza Paul PE, Bill Brudnick PE, Mark Patterson PE, Ken Lin PE, Pat Henry PE, Ana Ramirez Huerta, Catherine McCreight (TxDOT), Sarah Newbery (Uptown), Randy Odinet (Memorial Park Conservancy), Jim Webb (TGC), Brad Cowan (Terrain Studios), Luci Correa, Rick Dewees (HPARD)

Discussion and Comments by Segment (See Map Below)

Segment 1:

- Concerns with sharrow option on Kansas St..
 - Alternative suggestions include reviewing City of Houston (COH) TC Jester access management plan to understand impacts to Kansas St. Closing access to TC Jester frontage road could further reduce traffic which would make option more amenable. (COH ReBuild Houston Map Viewer is down currently but team will review when able).
 - Suggestion to review property north of Kansas, which is owned by several entities: Texas Lehigh Cement, Trinity Aggregate Distribution, and Missouri Pacific (now Union Pacific) Railroad. This had been reviewed in the past but team will re-engage with UPRR for guidance on specific property ownership and willingness to sell property.
 - Suggestion to review AASHTO criteria for sharrows placement.
 - AASHTO, Guide to Bicycle Facilities 4th Edition (p. 4-2) does not specify designs or dimensions for shared lanes or roadways.
 - City of Houston IDM requires 14' outside lane width.
 - City of Houston IDM recommends signed bike route with no pavement markings in situations such as these, along local roads. This potentially provides an interim option until a longer term connection can be identified. Project team will coordinate with COH PWE on path forward.
- “Hairpin” turn onto Hempstead Road viewed to be slightly hazardous and should be mitigated to extent possible through design. Installation of a guard rail could help to mitigate.

- Placing shared use bridge west of UPRR bridge suggested due to existing bridge abutments; uncertainty regarding if abutments were to allow future expansion of UPRR rail. Regardless, project needs to stay within CPE corridor will require placement to east of existing UPRR bridge.

Segment 2:

- Question regarding whose ROW (Memorial Park/TxDOT) will be used along east side of 610. Answer is that it varies dependent upon location in concept drawing.
- Question of why Buffalo Bayou can't contain path to connect Uptown to Buffalo Bayou Park. Answer is that there are ROW constraints with unwilling sellers.
- Bridge options discussed and utilization, to some degree, of existing West Loop Shared Use bridge was encouraged by some. It was discussed that a separate bridge could enhance access to/from the Park and provide a different "feel."
- Post Oak Boulevard (POB) Crossing of 610 discussed. Considered to potentially be hazardous due to interaction with left turn movement of BRT. Suggestion to cross POB to the south and cross on south side of POB to avoid left turn movement. Also suggested look at heading down to San Felipe and crossing at that location. Some view San Felipe as just as hazardous.
- This project section is important because it provides connection to funded piece, under development by HPARD.

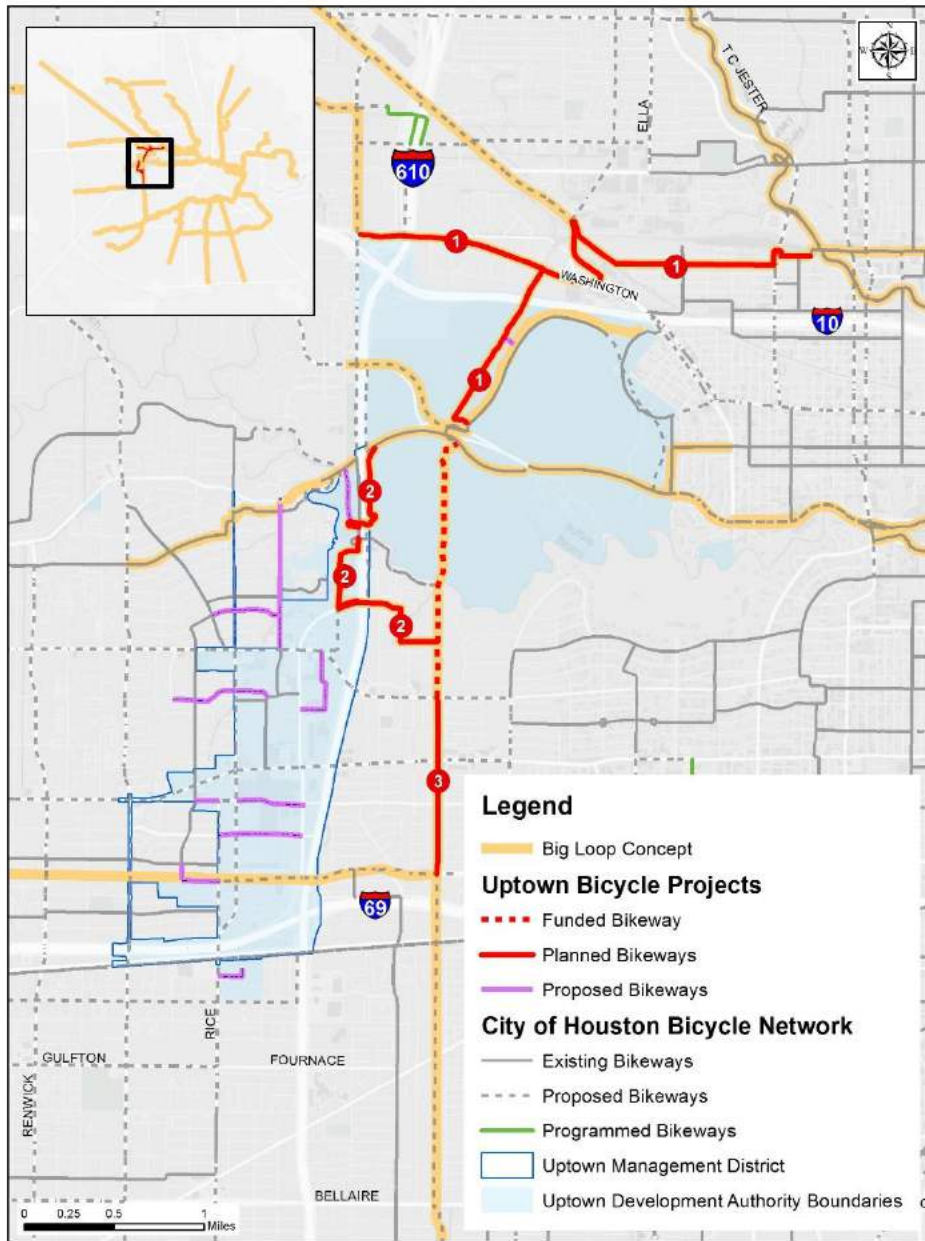
Segment 3:

- No substantive comments.

General Comments:

- Discussion regarding status of funded project, AFA, and design funding with TxDOT occurred.
- The projects discussed (Segments 1-3) were discussed in the context of a FTA transfer. These are eligible for transfer due to their nexus to fixed route transportation and the Uptown BRT.
- TxDOT will like to retain management and control of the shared use bridge across I-10 and also impacts crossing 610 near Buffalo Bayou.
 - Suggested that funds be transferred to FTA with some funds being held back to complete those TxDOT improvements, by TxDOT.
- Maintenance discussed and will be completed by various entities depending on location of improvement and nature of improvement (above City of Houston standard or not).

- Project sponsorship discussed and it was determined that it will be coordinated between HPARD and Uptown. TxDOT suggested that current TIP criteria prohibits Management District/TIRZ from applying for TIP funds. H-GAC indicates via email on 4/24/18:
 - “[H-GAC] is less concerned with the definition of various districts, MUDS, TIRZ, etc. [as a local government per the written H-GAC TIP criteria] than whether the proposed project has the support of our cities, counties, transit, and transportation agencies.”
- A letter of concurrence from TxDOT will be requested which indicates discussion of these projects and a willingness to coordinate ROW/access in the future.





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MEETING MINUTES

Uptown / Houston Parks Board / CenterPoint Energy

November 20, 2017

Attendees: Jim Webb (The Goodman Corporation), Brad Cowan (Terrain Studio), Sarah Newbery (Uptown Development Authority), Chip Place (Houston Parks Board), Kevin Meals, Matt Dowell (CenterPoint Energy)

Purpose: Review Uptown multi-use path alignments with CenterPoint to receive preliminary concurrence in advance of pursuing grant funding.

Notes:

- Uptown reviewed the universe of multi-use path projects connecting Memorial Park to surrounding activity centers and regional hike/bike connections.
- CenterPoint clarified that the businesses adjacent to their property in Segment 3 utilize CenterPoint property via a license agreement rather than a lease agreement.
- CenterPoint noted previous coordinating efforts related to Segment 3 with the Welcome Wilson group as well as other interested parties (to include Rice University) in the past. An agreement regarding exists with the Welcome Wilson group regarding the CenterPoint property in question.
 - Uptown will coordinate with the Welcome Wilson group regarding this project.
- The unfunded section south of Segment 3 is noted as a very important component for regional multi-use path connectivity.
- CenterPoint noted potential conflicts with overhead utility equipment in relation to the conceptual path alignment but identified that these conflicts could be mitigated through modifications to the alignment.
- The group noted it would be important to coordinate with Harris County Flood Control District (HCFCD) due to their adjacent easement on UPRR property and the need to potentially utilize certain components of it if deemed necessary (and if possible) through final design.
 - Contacts suggested as Shannon Watson and Sandra Musgrove; Houston Parks Board will provide coordination with HCFCD.
- CenterPoint suggested walking Segment 3 to determine where the trail alignment should run in relation to field conditions and mark areas for future review/evaluation by

CenterPoint. It was determined that CenterPoint could potentially review the field conditions the first week in December.

- Uptown and the consultant team will walk the Segment 3 alignment on 11/22/17 to review field conditions and flag potential conflicts in advance of a field walk with CenterPoint.
- CenterPoint will review real estate information relative to Segment 3 and pending general concurrence with alignment, will coordinate with license-holders.

Next Steps:

- Uptown will review alignment and flag potential conflict areas.
- Uptown will coordinate with CPE on field visit for first week of December.
- Houston Parks Board will coordinate with HCFCD.
- Uptown will coordinate with Welcome Wilson Group.
- Pending results, CPE will review real estate documentation for corridor and coordinate with licensees.

**AMENDED AND RESTATED
DEVELOPMENT, CONSTRUCTION, OPERATIONS,
MAINTENANCE AND CONCESSION AGREEMENT**

By and Among

CITY OF HOUSTON, TEXAS,

and

UPTOWN DEVELOPMENT AUTHORITY

and

MEMORIAL PARK CONSERVANCY, INC.

RELATING TO MEMORIAL PARK

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**AMENDED AND RESTATED
DEVELOPMENT, CONSTRUCTION, OPERATIONS,
MAINTENANCE AND CONCESSION AGREEMENT**

RELATING TO MEMORIAL PARK

THIS AMENDED AND RESTATED MEMORIAL PARK DEVELOPMENT, CONSTRUCTION, OPERATIONS, MAINTENANCE AND CONCESSION AGREEMENT (“Agreement”) is made in Harris County, Texas, as of the Countersignature Date, by and among **MEMORIAL PARK CONSERVANCY, INC.**, a nonprofit corporation organized under Chapter 22, Texas Business Organizations Code (“**MPC**”), the **UPTOWN DEVELOPMENT AUTHORITY**, a local government corporation organized pursuant to Chapter 431, Texas Transportation Code (“**UDA**”) and the **CITY OF HOUSTON, TEXAS (“City”)**, a home-rule city located in Harris, Montgomery and Fort Bend Counties, Texas, acting by and through its governing body, the City Council (each, individually a “**Party**,” and collectively called the “**Parties**,” as further defined in Section 2.01).

ARTICLE I

RECITALS

A. MPC is a nonprofit corporation created pursuant to Chapter 22, Texas Business Organizations Code, and qualified under Section 501(c)(3) of the Internal Revenue Code, as amended, established for charitable and educational purposes dedicated to the restoration and enhancement of Memorial Park, a regional park serving all Houstonians, by (1) preserving the integrity of Memorial Park, (2) enriching the Park’s heritage as a unique landmark, and (3) transforming it into one of the nation’s premier parks through capital improvement, visitor services, programming and enhanced maintenance and operational support, to encourage the continuing improvement of, and to expand public awareness of, Memorial Park (the “**Park**”).

B. The City created Reinvestment Zone Number Sixteen, the City of Houston, Texas (the “**TIRZ**”), by City Ordinance No. 1999-709, passed and adopted on July 7, 1999, and the TIRZ’s boundaries were enlarged to include the Park by City Ordinance No. 2013-469, passed and adopted on May 15, 2013.

C. UDA is a local government corporation created by the City, acting on behalf of itself and the TIRZ under that certain agreement approved by City Ordinance No. 1999-1341, passed and adopted on December 15, 1999, by and between the City, the TIRZ, and UDA (the “**TIRZ Tri-Party Agreement**”) for purposes of redevelopment in the area of the City generally referred to as the Uptown Area, as more particularly described by metes and bounds in the aforementioned City Ordinances relating to the TIRZ, and is authorized to enter into agreements to implement the Project Plan, defined below.

D. The fourth amended project plan and reinvestment zone financing plan for the TIRZ (the “**Project Plan**”), approved by City Ordinance No. 2013-470, passed and adopted on May 15,

2013, includes an estimated \$100 million in funding for infrastructure enhancements and improvements for the Park.

E. The Parties have determined and found consistent with Chapter 311 of the Texas Tax Code (the “Act”) that facilities of the TIRZ may be funded and maintained by TIRZ funds and UDA is authorized to expend, dedicate, pledge or otherwise provide for the use of Available Tax Increment (as defined herein) to pay any project costs that may benefit the TIRZ, including but not limited to construction, operation and maintenance of TIRZ project facilities, which include all Projects of the Master Plan.

F. The Parties have developed a Master Plan for the restoration, enhancement and redevelopment of the Park in a manner appropriate to meet the demands of the more than four million current annual Park visitors, which Master Plan was unanimously approved by the City Council by City Motion No. 2015-0215, passed and adopted on April 1, 2015.

G. In order to cause the development, implementation and completion of the Master Plan, the Parties previously entered into the Original Agreement (as defined herein) to allocate the duties, responsibilities and obligations of each Party during the term of this Agreement, and the Parties now wish to (1) amend and restate the processes required in order to (a) approve all elements that constitute the Ten-Year Plan (as defined herein) and all such improvements for the Park as are contemplated in the Master Plan (inclusive of the Ten-Year Plan) (each, as further defined herein, a “Project”) to continue implementation of the Master Plan, (b) provide for the continued periodic approval by the City, the Standards Committee (as defined herein), UDA and MPC of the implementation of such Projects, and (c) to provide funds for Projects and related operations and maintenance thereof and of the Park in general; (2) authorize the Parties to continue to construct, operate and maintain approved Projects and other improvements in the Park; and (3) authorize MPC to continue to conduct and/or oversee appropriate non-City funded programs, activities and services for the benefit of the Park.

H. The Parties have entered into this Agreement to implement the Master Plan, including specifically all elements that constitute the Ten-Year Plan, which plan is hereby recognized to be compatible with the Master Plan, and all such improvements for the Park as are contemplated in the Master Plan (inclusive of the Ten-Year Plan), which are deemed to constitute TIRZ facilities for the sole purpose of the performance of maintenance obligations during the term of this Agreement.

I. The Act provides that the TIRZ (or UDA on behalf of the TIRZ) may enter into agreements as it considers necessary or convenient to implement the Project Plan and achieve its purposes. UDA and the City have determined and found that this Agreement constitutes a Development Agreement under the TIRZ Tri-Party Agreement, and the obligations of UDA under this agreement are Authority Obligations (as defined herein) under the TIRZ Tri-Party Agreement.

J. The UDA Board and the TIRZ Board have determined that it is in the best interest of the TIRZ and UDA to amend and restate this agreement with MPC in order to provide for the efficient and effective implementation of certain aspects of the Project Plan, which includes the operation and maintenance of the Projects for the benefit of the TIRZ and the City.

K. The amendment and restatement of this Agreement will provide benefits to the residents of the City through the implementation of the Master Plan and, further, will allow the City to reallocate its monetary resources and increase funding for other parks in the City's park system.

L. The Project will provide necessary improvements and long-term maintenance to a public park, and as such, is a public purpose that supports redevelopment, improves the quality of life of residents of the TIRZ and the greater City, and expands economic development in the TIRZ. Accordingly, UDA and the City have determined, in consideration of the agreements made herein, that it is in the best interest of UDA and the City to contract with and make payments to MPC as provided in this Agreement for the construction of Projects and the operation and maintenance of the Park, consistent with Article III, Section 52-a of the Texas Constitution and Section 311.010(h) of the Texas Tax Code, as amended.

M. It is the City's desire to work with the other Parties in undertaking and completing the Projects, in an expeditious manner subject to the availability of adequate funding for the capital costs of such Projects and the costs for related operations and maintenance thereof.

N. In order to complete a substantial portion of the Master Plan, the Parties have committed to provide certain private and public funds to pay for the acquisition, construction and installation of the Projects constituting the Ten-Year Plan and funds to support and carry out the operation and maintenance of the Park other than the Excluded Areas (defined below).

O. The Parties acknowledge that certain private funds will be provided through that certain Funding Agreement between MPC and the Major Donor (defined below) (the "**Funding Agreement**"). The Parties understand that the Major Donor shall have certain rights under this Agreement relating to the Project and the enforcement of certain rights and duties of the Parties.

P. The Parties have identified the Projects to be included in the Ten-Year Plan to continue the implementation of the Master Plan and wish to proceed with the construction of such Projects in accordance with the Master Plan and this Agreement.

For and in consideration of the mutual promises, covenants, benefits and obligations described herein, **THE PARTIES HEREBY AGREE** to the terms and conditions of this Agreement, as follows:

ARTICLE II

DEFINITIONS

Section 2.01 Certain Terms. As used in this Agreement, in addition to those terms defined in the introductory paragraph and recitals of Article I of this Agreement, the following words and phrases shall have the meanings set out below unless a different meaning clearly appears from the context in which the term appears:

"**Act**" has the meaning set forth in the recitals to this Agreement.

“**Agreement Year**” means a particular twelve (12) month period of the Term. Agreement Years are numbered One through Thirty; Agreement Year One begins on the Effective Date, and each succeeding Agreement Year begins on the same date in the following year.

“**Applicable Laws**” means all federal, state and local laws, regulations, ordinances, codes, governmental orders, rules or administrative procedures and judicial orders applicable to the entity, activity or matter indicated in the context such term is used.

“**Authority Obligations**” has the meaning set forth in the TIRZ Tri-Party Agreement.

“**Available Tax Increment**” means the Tax Increment, excluding that portion of the Tax Increment allocated to affordable housing and that portion pledged to the payment of principal and interest on any Debt.

“**Capital Maintenance Project**” means any Project of the Master Plan, inclusive of the Ten-Year Plan, that requires a major capital expenditure to repair or replace based on the standard set forth in the Capital Maintenance Requirements.

“**Capital Maintenance Requirement(s)**” means all maintenance costs that are not ordinary or routine maintenance as defined in the Maintenance Standard, including major capital repairs or capital replacements as necessary with respect to any portion of the Master Plan Projects and the Park (except for Excluded Areas) which are no longer economically feasible to continue to repair, or which are near the end of, or have exceeded, their useful life as reasonably determined based on industry standards or other accounting guidelines.

“**Capital Maintenance Reserve Fund**” means a separate, segregated fund in the depository of MPC, for MPC’s use during the Term solely to fund its Capital Maintenance Requirement under this Agreement for the benefit of the Park.

“**Central Connector**” means that certain Project consisting of a land bridge and associated tunnels and features over and around Memorial Drive in the Park, as further illustrated in **Exhibit B**.

“**City Code**” means the City’s Code of Ordinances, as amended from time to time.

“**City Funds**” means any and all funds appropriated by the City to fund operations or maintenance pursuant to this Agreement.

“**City Sponsored Special Events**” means the two City produced or City sponsored special events as defined in Section 25-2 of the City Code that are held in the Park consisting of the events currently referred to as the Bayou Arts Festival and Houston Livestock and Rodeo Trail Ride.

“**Concession**” means any commercial/retail or other activity contemplated in Section 32-8 of the City Code, conducted in the Park except for the Excluded Areas, including but not limited to park food service establishments covered by Article IX, Chapter 32 of the City Code (including mobile food units, food trucks, concession stands and other units), or other concessions for the sale or exhibition of beverages, novelty items, art work and retail goods. For clarification, the existing

“Beck’s” concession, located in the Excluded Area consisting of the clubhouse that is part of the Golf Course, is a concession in an Excluded Area.

“**Concession Revenue**” means the revenue, fees, charges or other compensation paid to MPC by the vendor, licensee or contractor of any Concession.

“**Construct**” means, with reference to a Party, the undertaking, causing or entering into agreement undertaking or causing the design, engineering, acquisition, construction, reconstruction, restoration, installation and management of a Project under the Master Plan (inclusive of the Ten-Year Plan) and/or provision of all or a majority of the funding for such Project. The term Construct includes all other forms of the word, including but not limited to Construction, Constructs and Constructed.

“**Countersignature Date**” means the date of countersignature of this Agreement by the City Controller of the City or his or her designee.

“**Croquet Court**” means the Memorial Park Croquet Court, including the lawn, lighting, associated structures and site furnishings.

“**Cumulative Net Proceeds Allocation**” has the meaning set forth in Section 6.05(a)(2).

“**Debt**” means all bonds, notes and related obligations (including credit agreement obligations) of UDA issued pursuant to that certain Trust Indenture dated February 1, 2001, as amended by the First Supplemental Indenture dated February 1, 2003, and the Second Supplemental Indenture dated October 7, 2009, and as may be amended and supplemented in the future (collectively the “**Indenture**”). The Indenture authorize such bonds, notes, and obligations that have a lien and pledge on Tax Increment senior to the pledge under this Agreement.

“**Definitive Agreements**” means this Agreement, the Operations and Maintenance Manual, the Restrictive Covenants and any other agreement entered into by the Parties (i.e. a work order) or other binding policies imposed by the Standards Committee.

“**Department**” means the City of Houston Parks and Recreation Department.

“**Director**” means the Director of the Department and any person named by the Mayor to serve that function, or his or her designee.

“**Ecological Restoration Projects**” means erosion control, invasive or non-native species removal and control, the re-establishment of appropriate ecosystems, irrigation improvements, other work and activities related to the restoration of the Park’s natural environment.

“**Effective Date**” means the Countersignature Date.

“**Escalator Index**” means the 12-month Employment Cost Index (“**ECI**”) for total compensation for private industry workers for the Houston-Baytown—Huntsville, TX combined statistical area, not seasonally adjusted, as published quarterly by the United States Bureau of Labor Statistics, Office of Compensation Levels and Trends for the 12-month period ending in December of the previous calendar year. If the ECI shall cease to be published or is replaced by

another index, or if the basis on which the ECI is calculated is materially modified, from time to time during the Term, the Standards Committee shall select a substitute index as the Escalator Index that is calculated on a basis that is most similar to the ECI and is otherwise applicable to the major components of MPC's annual budget for the fiscal year in which such publication ceases or modification is made. In such event the actual dollar amount of the amounts subject to adjustment for such fiscal year shall serve as the base for future calculations of the Escalator Index for purposes of Article VI of this Agreement. When language herein provides that an amount shall be adjusted or increased annually "by application of the Escalator Index" such amount shall be increased each calendar year as of January 1 by the same percentage increase as that of the Escalator Index from the prior calendar year.

"Excluded Areas" means (i) facilities in the Park in existence as of the Original Effective Date (consisting of associated port-a-cans, irrigation, sports fields (excluding volley ball courts), tennis center, fitness center, swimming pool and the polo practice field, so long as the same is operated in connection with the polo playing field on the adjacent private property of the Bayou Club) until replaced through new construction or until such time as agreed between MPC and the City, and (ii) the easement area required by the Harris County Flood Control District (the **"HCFCD Easement Area"**) to construct the **"Demonstration Project"** shown on **Exhibit I** attached hereto (clauses (i) and (ii), collectively, **"Temporary Excluded Areas"**), and the **"Permanently Excluded Areas,"** which include (iii) the golf course located in the Park (the **"Golf Course"**), including associated landscaping but excluding parking areas, (iv) the Houston Arboretum and Nature Center (the **"Arboretum"**), (v) the lawn and lighting of the Croquet Court (but not other associated structures and site furnishings or associated programming), (vi) water lines, lift stations and trail bridges located outside of the other Excluded Areas named in this definition, that are maintained by the City through Houston Public Works or as part of the Combined Utility System as of the Effective Date (but excluding water lines "below the meter" and located in non-Excluded Areas), (vii) designated areas of the Maintenance Facility pursuant to **Exhibit F**, (viii) paved portions of Memorial Drive and Woodway Drive and associated street lighting, and the CenterPoint transmission line easements and (ix) civic art.

"Force Majeure" has the meaning set forth in Section 9.15.

"Funding Agreement" has the meaning set forth in the recitals to this Agreement.

"Greenspace Maintenance" means all necessary and required activities, services and actions required to maintain all Park Greenspace at the Maintenance Standard, including routine maintenance of any bridges inside the Park for which MPC is responsible, excluding the Excluded Areas and the costs of recreational facility management, programming and administration and related costs of MPC.

"Greenspace Maintenance Fund" means a separate, segregated fund created under Section 6.01 and held in the depository of MPC for the benefit of the Park during the Term and to be used exclusively to fund Greenspace Maintenance.

"Greenspace Maintenance 2041 Fund" means a separate, segregated fund created under Section 6.01 and held in the depository of MPC for the benefit of the Park during the Term and to be used exclusively to fund Greenspace Maintenance from the year 2041 through the Term.

“**Maintenance Facility**” has the meaning set forth in Section 3.02(g).

“**Maintenance Standard**” means the standard of maintenance for the Park as contemplated in the Operations and Maintenance Manual, but in no event less than the standard of maintenance for the Park in effect as of the Effective Date or that described in **Exhibit C**.

“**Major Change**” means a proposed change to a Project that would cause (i) the elimination of a feature separately illustrated in the Ten-Year Plan, (ii) the material modification of such a feature’s component parts, (iii) an impact on an Excluded Area, or (iv) an impact on the Ten-Year Plan Schedule or the Ten-Year Plan Budget.

“**Major Donor**” means the Kinder Foundation, a Texas nonprofit corporation, the entity that is party to the Funding Agreement with MPC to fund, in part, the Master Plan.

“**Master Plan**” means the Master Plan referred to in the recitals hereof, as such document may be amended or supplemented from time to time as provided in this Agreement.

“**MPC Endowment Fund**” means a separate, segregated endowment or similar trust fund created under Section 6.01 and held in the depository of MPC for the benefit of the Park to provide a long-term sustainable revenues to fund the operations and maintenance and related activities of the Park.

“**MPC Greenspace Maintenance Contribution**” has the meaning set forth in Section 6.03(b).

“**MPC Space**” has the meaning set forth in Section 3.02.

“**MWBE**” has the meaning set forth in Section 5.12.

“**Notice to Proceed**” means a written communication from the Director that authorizes one or more of the Parties to begin performance of work on a Project, containing a declaration of approval and acceptance of the plans for the Project.

“**Operating Account**” means a separate, segregated fund in the depository of MPC, for MPC’s use during the Term in connection with costs of operations, Programs and related administrative matters for the benefit of the Park.

“**Operations and Maintenance Manual**” has the meaning set forth in Section 3.05(e)(1).

“**Original Agreement**” means that certain Memorial Park Development, Construction, Operations, Maintenance and Concession Agreement Between the City of Houston, Texas, Uptown Development Authority, and Memorial Park Conservancy, Inc., approved by the City Council by Ordinance No. 2015-1305, passed and adopted on December 16, 2015, dated effective as of the Original Countersignature Date, as supplemented by that certain Development Agreement by and between Tax Increment Reinvestment Zone Number Sixteen, City of Houston, Texas, Uptown Development Authority, and Memorial Park Conservancy, Inc., dated effective as of December 14, 2016.

“Original Countersignature Date” means December 21, 2015, the date of countersignature of the Original Agreement by the City Controller of the City or his or her designee.

“Original Effective Date” means January 20, 2016, the date that was thirty (30) days after the Original Countersignature Date.

“Parity Debt” means, collectively, (i) that certain Development Agreement made by and between the TIRZ, UDA, and Houston Arboretum & Nature Center, which grants a security interest in Available Tax Increment which is on parity with the pledge in this Agreement, (ii) that certain Development Agreement made by and between the TIRZ, UDA, and Harris County Improvement District No. 1, which grants a security interest in Available Tax Increment which is on parity with the pledge in this Agreement and (iii) any other outstanding development agreements of UDA that grant a lien on Tax Increment on parity with the pledge in this Agreement.

“Parking Revenue” has the meaning set forth in Section 4.10(g).

“Park” has the meaning set forth in the recitals hereof.

“Park Event” means a use, activity or event defined as a Park Event in Section 32-60 of the City Code.

“Park Greenspace” means all greenspace, water features and hardscapes of the Park, excluding the Excluded Areas.

“Party” and **“Parties”** means individually or collectively, MPC, UDA, the City, and any of their assignees under this Agreement.

“Project” means all or any of the improvements for the Park contemplated in the Master Plan, including the portion designated the Ten-Year Plan set forth in **Exhibit B**, as amended from time to time pursuant to this Agreement.

“Project Fund” means a separate, segregated fund created under Section 6.01 held in the depository of MPC exclusively to fund the Construction of the Projects.

“Project Manager” has the meaning set forth in Section 5.03.

“Program” has the meaning set forth in Section 4.08.

“Resiliency Fund” means a separate, segregated fund created under Section 6.01 held in the depository of MPC for the benefit of the Park, and to be used exclusively to fund any restoration, remediation and recovery needs of the Park following an event of Force Majeure.

“Restrictive Covenants” means collectively, (i) the Master Plan, (ii) the Maintenance Standard, and (iii) all other terms, provisions, covenants, conditions and restrictions set forth in this Agreement and the Operations and Maintenance Manual, all of which are covenants running with the land constituting the Park, and binding upon the Parties and their respective employees, agents, contractors and subcontractors during the Term.

“**Running Center**” means the facility in the Park currently known as the Roy H. Cullen Running Trails Center.

“**Special Events**” means any special event as defined in Section 25-2 of the City Code that are held in the Park (subject to the limitations contained in Section 6.08 hereof).

“**Standards Committee**” has the meaning set forth in Section 3.05.

“**Tax Increment**” means funds from the amount of property taxes levied and collected by the City and the Houston Independent School District on the captured appraised value of real property located within the TIRZ, deposited into the Tax Increment Fund pursuant to Section 311.013 of the Act and payable to UDA by the City pursuant to the TIRZ Tri-Party Agreement.

“**Tax Increment Fund**” means the special fund established by the City pursuant to Section 311.014 of the Act.

“**Ten-Year Plan**” means the comprehensive plans, funding, schedule and scope reflected in the Ten-Year Plan Budget, the Ten-Year Plan Schedule and the Ten-Year Plan Scope, as may be revised or amended pursuant to this Agreement.

“**Ten-Year Plan Budget**” means the budget for the Ten-Year Plan, as shown in **Exhibit B**.

“**Ten-Year Plan Schedule**” means the schedule for the Ten-Year Plan, as shown in **Exhibit B**.

“**Ten-Year Plan Scope**” means the portion of the Master Plan shown in **Exhibit B** to be substantially accomplished by the Parties within ten (10) years of the Effective Date.

“**Term**” means the initial term or any renewal term of this Agreement as contemplated in Section 9.01.

“**TIRZ Tri-Party Agreement**” has the meaning set forth in the recitals to this Agreement.

“**Undetermined Shortfall**” has the meaning set forth in Section 6.05(d)(2).

“**UDA 2041 Contribution**” has the meaning set forth in Section 6.05(e).

“**UDA Capital Contribution**” has the meaning set forth in Section 6.05(a)(2).

“**UDA Greenspace Maintenance Contribution**” has the meaning set forth in Section 6.05(c).

“**UDA Initial Capital Contribution**” has the meaning set forth in Section 6.05(a)(2).

“**UDA Remaining Capital Contribution**” has the meaning set forth in Section 6.05(a)(2).

“**Updated Greenspace Maintenance Annual Target**” has the meaning set forth in Section 6.07(d).

“**2016 TIP Trail**” means the Transportation Improvement Plan trail project submitted and approved for inclusion in the Transportation Improvement Plan in 2016.

“**2019-2022 TIP Trails**” means the series of UDA trail projects to be submitted and approved for inclusion in the Transportation Improvement Plan in 2018, including the Memorial Park Connector.

ARTICLE III

PERFORMANCE OF SERVICES

Section 3.01 Right of Entry. The City hereby grants to MPC and UDA, and their respective employees, engineers, architects and consultants, contractors, and other representatives, the right of entry into the Park to perform all of their respective rights and obligations under this Agreement and all other activities as are reasonably necessary or appropriate in connection with the performance of their respective rights and obligations permitted or required hereunder and all other lawful acts incidental thereto. In connection with any work to be performed by their contractors under this Agreement, prior to entry on the Park by said contractors, UDA and MPC shall comply, and contractually require their respective contractors to comply, with the insurance and indemnification requirements set forth in this Agreement and for said contractors having a contract of \$50,000 or more, UDA and MPC shall provide three (3) business days’ prior notice to the Director. Similarly, the City, for public works or repairs to facilities in the Park for which the cost is \$50,000 or more (whether self-performed or undertaken by third-party contractors), shall provide three (3) business days’ prior notice to MPC before commencing the work. The Parties agree, understand and confirm that this Agreement grants no real property interest in the Park and adjacent property whatsoever and is intended merely as a convenience for the Parties to expedite work on the Projects.

Section 3.02 Right to Use MPC Space. During the Term of this Agreement, MPC has the right to use the area in the Running Center as office space, the areas at the Maintenance Facility designated herein for use by MPC, and those portions of other Projects that may be designated in the future for use by MPC (collectively, the “**MPC Space**”) for purposes of performing MPC’s rights and obligations under this Agreement, as further described in this Section 3.02.

(a) MPC Space. In consideration of the benefits of MPC’s services provided to the City under the Agreement at no additional cost, MPC shall have the right to continue to use MPC Space for general office use for purposes of performing such services under the Agreement for carrying out MPC’s other activities for the restoration and enhancement of the Park, including but not limited to raising funds, programming, supporting projects, recruiting volunteers, managing Concession contractors, and funding and supervising construction, repair and maintenance of Projects for the Park. MPC shall have the right to install directional and identification signage as needed for effective operations of the MPC Space, as approved by the Standards Committee.

(b) As Is Condition. MPC has accepted and continues to accept the condition of MPC Space AS IS and agrees to return MPC Space to the City in substantially the same condition as existing on the Effective Date, ordinary wear and tear excepted. MPC HEREBY WAIVES ANY CLAIMS AGAINST CITY FOR DEFECTS IN THE MPC SPACE, INCLUDING LATENT

DEFECTS. Commencement of the use of MPC Space by MPC shall be conclusive that MPC Space was in good repair and in satisfactory condition, fitness and order when such use commenced.

(c) Interior Maintenance Costs. MPC shall pay all costs associated with maintaining the interior of MPC Space. Provided current funds are available, the City shall be responsible for maintaining all structural components of the MPC Space and Maintenance Facility, including the mechanical, electrical and plumbing systems and equipment serving the MPC Space and Maintenance Facility, and for the cost of all electricity, gas and water utilities for the MPC Space and Maintenance Facility.

(d) Termination. Upon the expiration or termination of the Agreement for any reason MPC shall surrender the MPC Space to the City broom clean and in good condition, except for ordinary wear and tear. If MPC does not immediately surrender possession to the City, the City may reenter and repossess the premises, without being guilty of trespass, without the requirement of court proceedings, and without incurring liability to MPC for loss or damage to MPC's furnishings and other property.

(e) Relocation. During the Term, the Director shall have the right to require MPC to move to other space for public health and safety reasons upon thirty (30) days' prior written notice to MPC (or such shorter notice as is reasonably necessary due to emergency conditions).

(f) Damage to or Destruction of Facilities. If a facility included in or containing any MPC Space is materially damaged or destroyed by fire, flood or other casualty so that it is unusable for the purposes intended, the City, to the extent it receives insurance proceeds for such casualty, shall use best efforts to restore such facility to again serve its intended purposes. Should the City be unable to begin restoration of such facility within one (1) year of such damage or destruction, MPC's rights to operate the facility may be terminated or suspended by the Director. The City shall provide written notice to MPC within one hundred eighty (180) days after such damage or destruction of its intent to restore the facility. The Director may suspend MPC's rights to use the facility until the repair or rebuilding is complete, at which time MPC may continue to use the facility for the remainder of the Term of the Agreement.

(g) Maintenance Facility. Beginning July 1, 2018, MPC shall have the right to occupy and use the Memorial Park Maintenance Facility (the "**Maintenance Facility**"), and agrees to share a portion of the Maintenance Facility with the Department, all as set forth in **Exhibit F**. In consideration of this transfer to MPC, MPC will provide \$25,000 to the Department within 60 days of the Effective Date for Maintenance Facility improvements. Beginning July 1, 2018 through December 31, 2019, MPC will provide the east office in Facility #3 to the Department for its use, as well as share with the Department common space such as restrooms; the Department will also designate at least two stalls in Facility #5 for MPC beginning July 1, 2018. The Department will use its best efforts to provide all facilities and spaces within said facilities designated for MPC per **Exhibit F** in broom clean condition by July 1, 2018. MPC shall be assigned an access code allowing purchase of fuel from the fuel tanks and dispensers located on the Maintenance Facility. Both the Department and MPC will cooperate and provide reasonable access to the other Party's portion of the Facility to access plumbing, utility control boxes, and other features that are currently interconnected or that serve the other Party's portion of the facility.

Section 3.03 Development Rights.

(a) The City hereby grants MPC and UDA the non-exclusive right to develop Projects in the Park as contemplated in the Master Plan, subject to all the terms and conditions of this Agreement. No other person or entity other than one of the Parties shall have the right to develop capital improvements in the Park during the Term except as contemplated in the Master Plan and/or as approved by the Standards Committee as set forth in Section 3.05 of this Agreement, and subject to all the terms and conditions of this Agreement.

(b) MPC, with the participation of the Standards Committee and the Director, shall conduct periodic review of the Master Plan. MPC shall report to the Standards Committee and the Director its findings and make recommendations as to Projects to meet the Park's needs, as well as supplemental Park operational and maintenance plans. MPC shall identify in the report the available sources of additional non-City funds to pay for such Projects and costs of operations, maintenance and Programs. MPC, with the participation of the Standards Committee and the Director, shall conduct meetings to receive public comments on any substantial changes, as determined by the Standards Committee, to be proposed as formal amendments to the Master Plan.

Section 3.04 Grant of Naming Rights. Pursuant to the Original Agreement, MPC has obtained approval from the Standards Committee of a "Names and Sponsorship Policy" (the "**Policy**") governing the naming of any feature or Project of the Park. For avoidance of doubt, the Parties hereby agree, consent to and approve the updated Policy (the "**Amended Policy**") attached hereto as **Exhibit E**. The approval by the City of the Amended Policy shall serve as approval of an exception to the Department's Parks and Recreation Departmental Policy Number 1010.4 for Naming Park Property without the need for any further approvals that might otherwise be required under such policy. Based on such approval, the City hereby approves the following criteria set forth in subsections (a)-(c) below and contained in the Amended Policy. The Amended Policy may be amended or modified from time to time with the approval of the Standards Committee, provided that the criteria set forth in subsections (a)-(c) below shall be maintained in the Amended Policy, as amended.

(a) Names shall become effective only upon the substantial completion of construction. No name shall be granted for a period longer than the then-current term of this Agreement without the approval of the Director; provided, however, naming rights may be granted in perpetuity for the Major Donor and any other donor that may constitute a significant donor, or as may be defined by the Amended Policy.

(b) MPC shall not rename any area or feature at the Park that was previously named by City except with the prior approval of the Director.

(c) In no event shall any area or feature of the Park be named for a commercially available product unless the name of the product is also the name of the corporation selling the product.

Notwithstanding the foregoing, all Parties agree and understand that the Amended Policy and any amendments to the Amended Policy in the future, may not authorize any action that would rename

the Park or that would contravene or conflict with the original deeds by which the property constituting the Park was conveyed to the City.

Section 3.05 Standards Committee.

(a) Composition. Beginning on July 1, 2018, the Parties shall each appoint respective representatives and such representatives shall jointly select a neutral chair pursuant to subsection (b) below to form a nine (9) member Standards Committee (the “**Standards Committee**”) consisting of the chair, two representatives of MPC, two representatives of UDA, two representatives of the Major Donor, and two representatives of the City, both of whom shall be City employees, and which will include the Chief Development Officer of the Mayor’s office, or his/her designee, as approved by the Mayor, and the Director. Upon cessation of operation or existence of the TIRZ, the Mayor shall appoint two additional representatives to the Standards Committee.

(b) Chair. Following the appointments in subsection (a) above, the appointed committee members shall jointly select a chair for a term of three years, and shall use best efforts to select a chair within sixty (60) days of the Effective Date. The chair shall be an individual who, among other qualifications, (i) has knowledge about the efficient and cost-effective operation and maintenance of green space, (ii) is an independent, neutral party with respect to all Parties, the Major Donor, and the other committee members i.e., one who has no contractual, financial, fiduciary or other business or family relationship to any of such entities or individuals and (iii) has the capacity to build consensus among the Parties. Notwithstanding the foregoing, the Standards Committee may meet and conduct business as provided herein prior to the date a chair is appointed.

(c) Decisions. All decisions of the Standards Committee shall be decided upon by a majority vote, which must include at least one of the representatives of the City voting with the majority.

(d) Committee Functions and Powers. The Standards Committee shall meet at a location in the City at least quarterly each calendar year. Members shall serve a maximum of three (3) consecutive three-year terms. The Standards Committee shall be maintained through the Term (as same may be renewed or extended pursuant to Section 9.01).

(e) Powers. Subject to the rights of Major Donor and the Mayor as provided herein, the Standards Committee shall have the following powers:

(1) Oversight of the maintenance standard for the Park (the “**Maintenance Standard**”) as set forth in MPC’s Operations and Maintenance Manual and any modifications thereof from time to time, as submitted by MPC to the Standards Committee (the “**Operations and Maintenance Manual**”), which Maintenance Standard shall be no less rigorous than the standard of maintenance shown in **Exhibit C**. The Operations and Maintenance Manual shall include an operating plan that contains a description of planned or existing Concessions and Programs, reservation systems, venue rental rates, user fees, Employee/Volunteer Performance Standards, Names and Sponsorship Policy and any other matter the Standards Committee deems desirable or necessary to (i) preserving the integrity

of the Park, (ii) enriching the Park's heritage as a unique landmark, and (iii) transforming it into one of the nation's premier parks.

(2) Review and comment on operating budgets prior to final adoption by UDA and MPC and the reports described in Section 6.01(c). On or before April 1 of each Agreement Year, MPC and UDA shall both present to the Standards Committee and the Director, for their review and comment thereon, each of their respective proposed budgets for the following fiscal year to show revenues and expenses related to each Party's obligations under this Agreement. During the development of its proposed annual operating budget for the Park, MPC shall provide meaningful opportunities to the Standards Committee to comment well in advance of the adoption of the budget. MPC shall also provide the Standards Committee and the Director a report on the current maintenance conditions, and any recommended changes to the Operations and Maintenance Manual.

(3) Except as set forth in Section 4.08(d) and Section 6.08 hereof, approval of any future development of Projects and any other enhancements, improvements and facilities involving capital expenditures in the Park, including the Excluded Areas, proposed by any Party or any other person or entity.

(i) Approval of Projects shall include a reasonable determination that the operation and maintenance of such Projects is feasible in light of availability of ongoing funding thereof.

(ii) No capital expenditures for enhancements, improvements or other facilities that are not contemplated in the Master Plan shall be approved unless the Standards Committee and the Director reasonably determine that (A) the proposed enhancements, improvements or other facilities are compatible with the Master Plan, (B) they have no material adverse impact on Programs, Projects and facilities existing in the Park as of the date such capital expenditures are proposed, and (C) adequate and secure funding sources for the future operation and maintenance thereof shall be provided.

(iii) In connection with its approval of any Project or other capital expenditures proposed by any person or entity other than a Party, the Standards Committee shall require, as a condition of its approval, that the Project Manager for such person or entity shall coordinate with MPC and UDA as appropriate during the design phase and construction period for such work with respect to scheduling, locations of work areas, interconnections with utilities, roads and other features in the Park and other aspects of such work as it may affect the Park.

(4) Approval of any substantial changes to the Master Plan, as determined by the Standards Committee, to be proposed as formal amendments to the Master Plan. Only substantial changes require formal amendment to the Master Plan. Proposed amendments shall be presented by the proposing Party and the Standards Committee in a public meeting for public comment before final recommendation by the Standards Committee to the Director. If a formal amendment to the Master Plan is approved by the Standards

Committee and the Director, the Director must report to the Mayor that the Master Plan has been amended through such process.

(5) Resolution of any disagreement among the Parties, or between the Standards Committee and the Director, as to any matter arising under the Master Plan or this Agreement. Should the Standards Committee be unable to resolve such disagreement, the disagreement shall be presented to the Mayor and the Major Donor for joint resolution, and the decision of the Mayor and Major Donor shall be binding and final.

(6) Approval of any changes, amendments or revisions to the Park Fee Schedule, as set forth in **Exhibit D**, as contemplated and prescribed by Section 4.08 hereof.

(7) Approval of the rates and charges of all metered parking in the Park except for the Excluded Areas as contemplated and prescribed by Section 4.10(g) hereof.

(8) Authority to perform all functions assigned to the Standards Committee in this Agreement.

ARTICLE IV

OPERATIONS AND MAINTENANCE

Section 4.01 MPC's Maintenance and Operations Obligations.

(a) During the Term, MPC, at its sole cost and expense, shall have full operational and management responsibility for all areas of the Park except for Excluded Areas.

(b) Except for Excluded Areas, MPC shall maintain the Park in accordance with the Maintenance Standard, and at its sole cost and expense, subject to and in accordance with the terms of this Agreement, shall be obligated to promptly provide and undertake:

(1) all Greenspace Maintenance to the Park, consistent with the maintenance tasks and schedule set forth in **Exhibit C** attached hereto;

(2) all equipment necessary to conduct Greenspace Maintenance;

(3) all Capital Maintenance Projects pertaining to any Project Constructed by MPC;

(4) all maintenance and repairs associated with the restoration of the Park following an event of Force Majeure impacting the Park, excepting areas of the Park maintained by other entities (including the Excluded Areas and areas maintained by the City pursuant to Section 4.03 and Section 4.06); and

(5) all maintenance of the Park trails and other Projects of the Park not otherwise maintained by other entities; and

(6) all annual reporting requirements set forth in Section 6.01(c).

Notwithstanding the foregoing, MPC shall have no operations and maintenance obligation or Capital Maintenance Requirement in respect to any Project located outside the boundaries of the Park, specifically including but not limited to the 2016 TIP Trail, 2019-2022 TIP Trails and all related pedestrian bridges over Interstate 10 and Buffalo Bayou.

Section 4.02 UDA's Maintenance and Operations Obligations. During the Term, UDA, at its sole cost and expense, agrees to assist with the operations and maintenance of the Park in accordance with the Maintenance Standard, including its duties and obligations to fund such activities under Article VI. Further, UDA agrees to promptly undertake and provide the annual reporting requirements in Section 6.01(c).

Section 4.03 City's Maintenance and Operations Obligations. During the Term, the City shall be responsible, at its sole cost and expense, for the operation and maintenance of the Excluded Areas and other areas as set forth in this Agreement including Section 3.02(c), as well as its duties and obligations to fund such activities under Section 6.06, including but not limited to funding UDA duties and obligations following the cessation of operation or existence of the TIRZ, as further set forth in Section 6.06(c). The City agrees to operate and maintain, including the undertaking of any Capital Maintenance Requirements with regard to, the infrastructure within the Park, including (i) structural portions of tunnels and (ii) roadway and pedestrian bridges associated with park roads and trails crossing roadways (including Texas Department of Transportation rights-of-way), Buffalo Bayou, or the HCFCFCD Easement Area as proposed by the Master Plan. The City shall also be responsible for the Capital Maintenance Requirements relating to park roads in accordance with Section 4.06. Nothing in the foregoing shall operate to prevent the City from causing a municipal management district to assume responsibility for any Capital Maintenance Requirement of the City hereunder.

Section 4.04 Employees and Contractors. MPC may employ staff, contract services or make use of volunteers as needed to execute its duties outlined in this Agreement.

Section 4.05 Operation and Maintenance of Excluded Areas. As limited by this Agreement, the City shall continue to operate and maintain the Excluded Areas; provided, however, that MPC shall assume operational, maintenance, management, reservations, revenues, expenses and programming responsibilities of the Temporary Excluded Areas upon completion of Construction of each new or replacement facility at which time such new or replacement facility shall no longer be a Temporary Excluded Area. In connection with such transitions, the City shall work with MPC to ensure all necessary information and equipment for operation and maintenance of the facilities is also made available to MPC as it assumes responsibility for such new or replacement facility. The following agreements have been reached relating to portions of the Temporary Excluded Areas:

(a) Operations of the Running Center shall be transferred to MPC pursuant to this section effective July 1, 2018.

(b) MPC shall assume responsibility for maintenance of any hard structures MPC builds relating to the ballfields; however the Department shall continue to conduct field maintenance as well as maintenance of field lighting and related electrical components and manage operations of all ballfields until all ballfields are relocated or rebuilt, or an agreement is reached

between MPC and the City that such ballfields are no longer Excluded Areas, at which time all ballfields shall cease to be Excluded Areas and MPC shall assume responsibility for all operations and maintenance of such ballfields and associated hard structures, all of which will be included in Park Greenspace at such time.

Section 4.06 Park Roads. As limited by this Agreement, the City shall continue to operate and maintain Memorial Drive and Woodway Drive and all other existing and future roads as park roads providing public access to and circulation within and through the Park, including any related Capital Maintenance Requirements; provided, however, that the esplanades and medians thereof shall be operated and maintained by MPC.

Section 4.07 Park Rules and Regulations. The rules and regulations of the Department relating to use of the Park, as contemplated in Article II, Chapter 32 of the City Code, shall be administered by MPC in the Park. Upon approval by the Standards Committee, MPC may adopt and promulgate other or additional rules that are specific to the Park. The City shall work cooperatively with MPC to prevent crime, enforce the law, preserve the peace, and provide a safe environment in the Park.

Section 4.08 Programs; City Events; Fees.

(a) Except as otherwise provided below in this Section 4.08, the City hereby grants to MPC the exclusive right to develop, implement and host programs, activities and services, including but not limited to fee and non-fee based Park Events and other classes, educational opportunities, recreational activities, and volunteer opportunities (each, a “**Program**,” whether or not the same is a Park Event) in the Park (other than in Excluded Areas) that are consistent with the Park being a nationally recognized preeminent Park, as recommended by MPC and reported to the Standards Committee. The term “**Program**” also includes communicating with the public regarding MPC’s marketing and fundraising efforts for the benefit of the Park. All Park Events or other organized uses or activities by members of the public in the Park (other than in Excluded Areas), shall be reserved or scheduled through MPC, MPC shall issue park use permits pursuant to Section 32-61 of the City Code, designate the venue or facilities (i.e. picnic tables, etc.) and area or areas where such activity may be held, and MPC shall report the same to the Standards Committee and the Director.

(b) Pursuant to subsection (a), MPC shall have the exclusive right, subject to approval by the Standards Committee, (i) to establish reasonable, non-discriminatory fee structures and/or rate schedules from time to time for Programs, Park activities and other venues and facilities in the Park, (ii) to charge such park user fees, space rental rates or other charges according to such structures and schedules, (iii) to collect the revenue arising therefrom for MPC’s use during the Term in connection with costs of operations, maintenance and Programs for the benefit of the Park and (iv) to establish, charge and collect any such additional reasonable charges for Programs subject to the City Fee Schedule approved by City Council pursuant to Section 32-69 of the City Code, as published on the City’s website (the “**City Fee Schedule**”) to cover related expenses such as damage deposits, set-up/break-down, trash removal, security, and other direct costs of MPC. MPC’s fees for Programs that are not specifically established in the Park fee schedule set forth in **Exhibit D** (the “**Park Fee Schedule**”), as amended by MPC and approved by the Standards Committee, are subject to the City Fee Schedule. MPC agrees to use best efforts to set fees and

charges that promote and allow the general public to access the Park. The maximum amounts of the fees established in the Park Fee Schedule may, upon approval of the Standards Committee, be adjusted annually by application of the Escalator Index, on January 1 of each calendar year. Following the adoption of new and revised fees in the Park Fee Schedule, MPC shall provide a copy of the revised Park Fee Schedule to the Director.

(c) The City reserves the right to develop, implement and/or host City Sponsored Special Events in the Park without being required to pay the applicable permitting and program fees on its own behalf (including in Excluded Areas); provided, however, that the City shall coordinate with and seek approval from MPC for any required permit in connection with scheduling, security, traffic management and locations; shall comply with MPC permitting regulations and general guidelines; shall collect and provide to MPC the applicable permitting and programming fees for any third party involved in City Sponsored Special Events; and shall provide at least fifty (50) percent of the proceeds from such City Sponsored Special Events to MPC for Park operations, unless the City and MPC agree to a different amount in a separate agreement or memorandum of understanding. Planning for City Sponsored Special Events shall include an MPC representative. MPC and the City may agree to other Special Events in the Park from time to time provided that such Special Events are implemented and hosted in the manner set forth in this Section 4.08(c) and the proceeds from such Special Events benefit the Park, as may be mutually determined by the City and MPC.

(d) City Agreements Relating to the Park. As stewards of the Park, MPC shall have approval rights over major changes to the Park or major events or Special Events in the Park (excluding the Excluded Areas); provided, however, with respect to the Excluded Areas, MPC has certain specific rights in regard to the operation of the Golf Course and the hosting of any professional golf tournaments as further described under Section 6.08 hereof. With respect to major changes, Special Events and other major events in the Excluded Areas, the City agrees to allow MPC to review the proposed plans for any such event and the City shall provide or cause any contract entered into with any third-party sponsoring such event to include (i) MPC as an additional insured, to the extent requested by MPC and (ii) to include contractual obligations on such party to cause the payment of any necessary amounts to cover anticipated and unanticipated business interruptions with regard to metered parking, impacts to the Park (outside of the Excluded Areas) and any other amount required to remedy any impact relating to such event.

Section 4.09 Utilities. As limited by this Agreement, the City shall provide, at the City's sole cost and expense, all utilities for the Park as it exists as of the Original Countersignature Date and thereafter as developed in accordance with the Master Plan, including, without limitation, water, electricity, drainage, storm and sewer services, but excluding telecommunication service. Irrigation plumbing that is installed for operations under this Agreement shall be segregated from plumbing for delivery of water for human use to as to allow supply of irrigation water from reclaimed wastewater or greywater. City will provide water for ground irrigation purposes from either public potable water lines, reclaimed wastewater, or greywater at City's election.

Section 4.10 Concessions and Parking.

(a) Concessions. The City hereby grants to MPC the exclusive right to develop and manage, directly or through vendors, contractors and licensees, Concession operations in the Park,

except for the Excluded Areas, including the right to (i) select and issue permits to concessionaires, vendors, contractors and licensees; (ii) develop and construct improvements; (iii) develop and operate parking and vehicle staging areas in locations within the Park designated in the Master Plan; and (iv) offer special parking privileges to permitted vendors, contractors and licensees. All Concession Revenues shall be held by MPC in the Operating Account for MPC's use during the Term in connection with costs of operations, maintenance and Programs for the benefit of the Park during the Term. MPC's management of Concessions shall include the rights and duties described in the Operations and Maintenance Manual.

(b) Concessions Parking. MPC shall cause all Concessions and related parking and vehicle staging areas to be conducted in designated areas within the Park in accordance with the Master Plan and operated in accordance with the Operations and Maintenance Manual.

(c) Alcohol. MPC, its contractors and other users of the Park may serve and/or sell alcoholic beverages at the Park for a Program or a Special Event, subject to (i) MPC or its third-party vendor obtaining any required governmental approvals and licenses for the service or sale of alcoholic beverages and (ii) MPC or its third-party vendor obtaining and maintaining liquor liability insurance as reasonably required by the Director.

(d) Proceeds. MPC shall document and account for all Concession Revenue, and revenues and expenses from Programs, Special Events, user fees and other sources contemplated in this Agreement and shall submit such documentation to the City no later than September 30 of each Agreement Year for MPC's preceding fiscal year. All Concession Revenues shall be used for the benefit of the Park during the Term.

(e) Permits and Licenses. Except for the Concession permits required under Chapter 32 of the City Code, which shall be issued by MPC, the City shall issue or approve all permits and licenses required under the City Code for vendors, contractors and licensees and vendors selected by MPC for Concessions in the Park on the same terms and conditions as the City generally issues or approves licenses and permits elsewhere in the corporate city limits of the City. All permit and license fees charged by the City shall be retained by the City in the same manner as fees charged by the City on licenses and permits elsewhere in the corporate city limits of the City.

(f) City Agreement Relating to Golf. Should the City enter into discussions for a future concession or other agreement creating revenue and pertaining to the Park, including discussions related to the Golf Course pursuant to Section 6.08, the City will include MPC in such discussions and negotiations.

(g) Parking. The Parties recognize and agree that users of the Park should be afforded ample, convenient and sufficient parking options to allow users to enjoy the amenities of the entire Park, inclusive of the Excluded Areas. Accordingly, in addition to Concession parking, the City hereby grants to MPC the exclusive right to develop, manage and cause the operation of public parking in or for the Park (other than in the Arboretum) in accordance with the Master Plan, the Operations and Maintenance Manual and the goals expressed herein. This grant specifically includes the right to develop parking for all areas associated with the Ten-Year Plan. MPC commits to manage the public parking component of the Master Plan in a manner that will ensure

that both metered and non-metered parking will be provided and be available to all Park users consistent with the Master Plan.

The City hereby authorizes installation and implementation of metered parking (whether on streets, park roads or lots) at Eastern Glades, the Golf Course, the fitness center and the tennis center (as depicted in **Exhibit G**) with all revenue arising therefrom (other than revenues derived from Arboretum parking, the “**Parking Revenue**”) to be remitted to MPC for Greenspace Maintenance until the Greenspace Maintenance Annual Target is met, at which point Parking Revenue may be used for any purpose of MPC for the benefit of the Park, as further set forth in Section 6.03(b) of this Agreement, provided, however, the City may retain a portion of such Parking Revenue to recover any capital costs for the parking meters. The City agrees that, except for the capital cost of the parking meters, which shall be paid with Parking Revenue, the costs to the City of operating and maintaining the parking meters and related administrative oversight will be funded with revenues generated from the issuance of parking citations in the Park, which shall not be deemed part of the Parking Revenue.

To ensure that Parties can fully and effectively set parking rates commensurate with demand, the City further delegates to the Standards Committee the right to determine the fees and charges for parking and any additional metered parking to be implemented in conjunction with the Master Plan, and the City agrees to concurrently take all steps required to make such delegation effective under the City Code upon the adoption of this Agreement by the City Council. The Parties agree and recognize that the Standards Committee shall set parking rates for the Park that are within the City’s then-existing parking meter fee schedule approved by City Council pursuant to Section 26-160 of the City Code as published on the City’s website (the “**City Parking Meter Fee Schedule**”), as the same may be amended from time to time.

In addition to Concessions parking and metered parking described above, MPC is authorized to develop the appropriate fees and related charges for any and all parking or vehicular management in connection with any Special Events in the Park and for other vehicular uses as such charges come into common practice in the Houston area. Such fees and charges shall be approved by the Standards Committee and shall be deemed to be a separate fee schedule from the City Parking Meter Fee Schedule.

MPC shall prepare a revised **Exhibit G** to reflect then-current locations of metered parking each time the Standards Committee approves the implementation of (i) additional metered parking areas or (ii) additional fees and charges for parking and other vehicular uses outside of the City Parking Meter Fee Schedule and **Exhibit G** shall be updated, supplemented or replaced in accordance with Section 9.10.

(h) Crestwood. The City shall use best efforts to work with the Crestwood neighborhood to implement residential permit parking, time-limited parking or equivalent alternative.

ARTICLE V
CAPITAL IMPROVEMENTS

Section 5.01 Implementation of the Master Plan and Ten-Year Plan.

(a) Master Plan and Ten-Year Plan. During the Term, MPC and UDA shall make recommendations to the Standards Committee for approval and recommendation to the Director to construct public improvements needed to implement the Master Plan; provided, however, that the Parties understand and agree to take all necessary steps to implement the Master Plan in a manner that allows implementation and Construction of the Ten-Year Plan in accordance with the Ten-Year Plan Schedule. The Parties hereby acknowledge that the Standards Committee has considered and approved the Ten-Year Plan in the manner prescribed by this Agreement. Further, the Parties and the Standards Committee agree to fund, Construct and complete the Ten-Year Plan substantially in accordance with the Ten-Year Plan Scope and the Ten-Year Plan Schedule set forth in **Exhibit B**, and to fund the Ten-Year Plan at the amounts and on the approximate dates specified in the Ten-Year Plan Budget, subject to any Major Changes.

MPC may identify, and make recommendations to the Standards Committee regarding, other needs and issues that may not have been identified in the original Master Plan or the Ten-Year Plan but which may be required by changing times or needs, and MPC may propose changes to landscapes, plant types, facility designs or facility materials in order to reduce maintenance costs and to improve performance, functionality, environmental qualities and aesthetics. MPC may also make recommendations as to scheduling, planning, and programming of Projects to minimize the impact on Park users and Park maintenance. Notwithstanding anything stated to the contrary in any Definitive Agreement, any Major Changes related to the Ten-Year Plan shall be subject to approval by the Major Donor during the implementation of Ten-Year Plan Projects, which shall be provided promptly and not unreasonably withheld.

(b) Ten-Year Plan Schedule, Budget and Scope of Work. To ensure the implementation of the Ten-Year Plan, the Ten-Year Plan Schedule shall incorporate certain milestone dates describing the latest dates by which certain work associated with the Ten-Year Plan must begin or be complete as further set forth in **Exhibit B**. The dates listed in **Exhibit B** may be modified (which shall constitute a Major Change) subject to approval of the Standards Committee, by MPC as it deems commercially reasonable and appropriate based on causes beyond the control of the Party or Parties whose performance obligations under this Agreement are subject to such milestone dates. The Ten-Year Plan Budget listed in **Exhibit B** may be modified or adjusted (which shall constitute a Major Change) subject to approval of the Standards Committee. The Ten-Year Plan Scope of Work listed in **Exhibit B** may be modified (which shall constitute a Major Change) subject to approval of the Standards Committee if (i) costs incurred in implementing the Ten-Year Plan have increased to the degree that the scope of work cannot be fully implemented within the Ten-Year Plan Budget, or (ii) if MPC secures private funding that is restricted to a Project that Major Donor is to fund or partially fund, in which case additional Projects funded by the Major Donor may be added to the Ten-Year Plan.

(c) CIP Information. Upon request of the City, UDA and MPC shall promptly provide information necessary for inclusion in the City's capital improvement plan.

Section 5.02 TIP Trail. By approval of this Agreement, the City hereby designates the 2019-2022 TIP Trails as a City priority for Houston-Galveston Area Council construction funding, and authorizes the Director and other officials of the City to take all necessary steps to secure or cause UDA to secure such grant to fund the 2019-2022 TIP Trails.

Section 5.03 Project Manager.

(a) Master Plan. The Party, or any other person or entity that is not a Party, providing the funding to Construct a Project or other capital expenditure approved by the Standards Committee pursuant to Section 3.05(e)(3) shall be named project manager for that Project or capital expenditure in accordance with this Section. Except as provided in Section 5.3(b) below, if both UDA and MPC are providing funding, the Party providing the majority of the funding shall serve as project manager, unless otherwise determined by the Parties. If a Party and non-party person or entity are both providing the funding, the Party shall be the project manager. If one or more non-party persons or entities are providing the funding, the Standards Committee shall designate the project manager. The project manager as determined in the foregoing sentences of this subsection (hereinafter referred to as “**Project Manager**”) shall have the right and responsibility to develop plans and specifications and funding plans for Projects and capital expenditures included in the CIP as set forth in this Article V.

(b) Ten-Year Plan. MPC shall conduct the scheduling, planning, and programming for the Ten-Year Plan and all capital improvements as a whole. UDA or MPC shall serve as Project Manager for any Project for the Ten-Year Plan based on whether UDA or MPC is the Party providing the majority of the funding, unless otherwise agreed upon by the Parties and approved by the Standards Committee; however, all rights and obligations of this Agreement shall apply to any Project Manager involved in implementation of the Ten-Year Plan. Notwithstanding the foregoing and solely with respect to the Construction of the Central Connector, UDA and MPC agree to coordinate efforts in the manner described in **Exhibit H**.

Section 5.04 Plans and Specifications.

(a) Subject to the other terms and provisions of this Agreement, the Project Manager shall Construct Park improvements, features and other Projects as described in the Master Plan. Without limiting the generality of the foregoing, the Project Manager shall have responsibility for the selection, engagement and payment of Project design professionals, and all Construction contractors, subcontractors and consultants, and all others that may at any time and from time to time be engaged in the Construction of Park improvements.

(b) Subject to Section 5.01 above, the Project Manager shall comply with the following plan review process:

(1) The Project Manager shall, without expense to the City, prepare and present plans for conceptual design to the Standards Committee for determination that the design is consistent with the Master Plan. After allowing each member of the Standards Committee to review the conceptual design of any Project, the Standards Committee shall make such determination by a majority vote, however, for designs for which MPC is acting as Project Manager, additional approval by the Major Donor is required. Once the design

is determined to be consistent with the Master Plan, the Project Manager shall, without expense to the City, prepare and present plans for Schematic Design and the proposed Construction schedule to the Standards Committee for confirmation that the design remains consistent with the Master Plan.

(2) Once the design is determined to be consistent with the Master Plan, the Project Manager shall, without expense to the City, prepare plans and specifications for Construction of the improvements or features, which shall be consistent with the conceptual design determined in accordance with Section 5.04(b)(1) above. The Project Manager shall submit copies of the Construction plans and specifications, together with an updated Construction schedule to the Director at intervals of 50% and 95% completion for review and approval solely to confirm that the Improvements, as so planned, conform to the Schematic Design plans and schedule as confirmed by the Standards Committee as set forth above in this Section 5.04(b). In addition, as further set forth in the Funding Agreement, the Major Donor shall have the same rights of review and approval of plans and specifications as the Director related to any Project for which MPC is acting as Project Manager.

(3) At each stage of review under Section 5.04(b)(1) or (2), the Standards Committee, after allowing each member of the Standards Committee to review the plans and specifications, or the Director, as the case may be, shall provide comments or approval within fourteen (14) business days of receipt of the submittals of plans as set forth above in this Section 5.04(b); provided, however, if no response is given within each 14-business day review period, the plans so submitted shall be deemed to have been confirmed by the Standards Committee or approved by the Director on behalf of the City. Upon completion of all such approved Construction plans, the Project Manager shall file a complete copy of same with the Standards Committee and the Director. Upon completion of all Construction, the Project Manager shall file final as-built Construction plans and drawings with the Standards Committee and the Director.

(c) During any Construction, Project Manager shall invite the Director and the other Parties' designated representatives to attend periodic project meetings with the Project Manager and any general contractor. During Construction the Project Manager shall have the right to approve change orders and field changes, but proposed changes that are materially inconsistent with the approved plans shall be submitted to the Standards Committee and the Director for approval. The Director shall provide such review within ten (10) business days of receipt of the proposed change; provided, however, if no response is given by the Director within each 10-day review period, the proposed change so submitted shall be deemed to have been approved by the Director on behalf of the City. If the Director's comments are not acceptable to the Project Manager, the matter shall be referred to the Standards Committee for resolution.

(d) All designs shall include drawings, plans and technical specifications in a form that would be acceptable for a project bid, awarded and constructed by the City under Applicable Laws.

Section 5.05 Notice to Proceed. No Construction by any Party or any other person or entity of any Project or other capital enhancements, improvements or facilities in the Park shall commence until the Standards Committee has given its approval under Section 3.05(e)(3) and the

Director has given a Notice to Proceed. Within fourteen (14) business days of request to proceed, the Director shall give a Notice to Proceed on a Project after review and approval of the project funding and schedule (as described in subsections (a) and (b) hereof below) or shall provide written comments in the event of denial of approval; provided, however, if no response is given within such 14-business day review period, the plans so submitted shall be deemed to have been approved by the Director and Notice to Proceed shall be deemed to have been given.

(a) Project Funding. The Project Manager of any Project shall provide the Director with evidence satisfactory to the Director that at least seventy percent (70%) of the funds necessary to complete a Project have been secured. For purposes of this section secured means funds in hand, secured debt obligation or firm commitments. Upon good cause, the Director may raise or lower the percentage for funds needed to commence the Project or may direct that the Project proceed in phases as appropriate to match the level of funding secured.

(b) Project Schedule. The Project Manager of any Project shall provide the Director with the schedule for start and completion of any such Construction along with a description of any limitation on public use of the Park during the period of Construction.

Section 5.06 Construction.

(a) Construction shall be done substantially in accordance with approved plans and construction schedule, in compliance with all Applicable Laws, and in a good and workmanlike manner. The Project Manager shall pay, or cause to be paid, all bills for labor, materials and supplies in connection with such Construction, and shall obtain releases of liens from the parties performing such labor or furnishing such materials and supplies. The Project Manager shall pay, or cause to be paid, all fees for engineering, architectural, legal and other professional services incurred by the Project Manager and its contractors in connection with such Construction.

(b) The Project Manager shall provide the Standards Committee with a bi-monthly status report covering progress to date of the Construction of a Project. Upon request of the City, the Project Manager shall provide the City with a status report covering the progress to date of the Construction of a Project.

(c) Upon completion of the Project, the Project Manager shall make all efforts to remediate any damage or disruption to adjacent Park property that may have occurred during Construction.

(d) The Project Manager shall arrange any utility connection and usage fees, consistent with Section 4.09.

Section 5.07 Regulations, Permits and Fees. The Project Manager or its designated contractors shall obtain all necessary City permits and be responsible for the payment of all permit fees required for the Projects. The Construction plans and specifications must meet all Applicable Laws required by governmental bodies or agencies having jurisdiction over the Projects, subject to the following:

(a) The City hereby acknowledges that Articles V and VI, Chapter 33 of the City Code relating to tree mitigation do not apply to actions undertaken by MPC and UDA in furtherance of

the Master Plan approved by the City pursuant to this Agreement because the trees within the Park are not within the definition of “protected tree” as that term is defined in Section 33-101 of the City Code, nor are the trees within the Park located in a “street” as that term is defined in Section 33-151 of the City Code. The Director shall exercise the Director’s authority and jurisdiction with respect to trees on or along public places of the City pursuant to Section 32-6 of the City Code through the Director’s exercise of approval rights under Section 5.04(b)(2).

(b) To the extent that any Project undertaken pursuant to this Agreement is determined to be an “Eligible Project,” as that term is defined in City Ordinance No. 2006-731, passed and adopted on June 28, 2006 (as same may be amended from time to time, the “**Civic Art Program Ordinance**”), the City acknowledges that (i) pursuant to Section 2(e) of Exhibit A of the Civic Art Program Ordinance, any portion of an Eligible Project that is financed with grants or contributions from private persons is subject to the Civic Art Program Ordinance unless expressly provided otherwise in the conditions of the granting or contributing person; (ii) the Funding Agreement expressly provides that Civic Art Program purposes are not allowed as an authorized purpose of the Major Donor’s contributions to Eligible Project; and (iii) it is an express condition of all other MPC contributions to Eligible Projects that Civic Art Program purposes are not allowed as an authorized purpose of MPC’s contributions to Eligible Projects. For the purposes of this Agreement, it is hereby determined that this Agreement expressly provides that the Civic Art Program purposes are not allowed as an authorized purpose of MPC’s contributions to Eligible Projects, including but not limited to Major Donor’s contributions. Notwithstanding the foregoing, the Parties will use good faith efforts to collaborate on civic art projects to be completed as part of the Ten-Year Plan but the Major Donor and MPC are under no duty or obligation to contribute to same unless they elect to do so.

(c) During Construction of the Central Connector bridge and tunnels, the Project Manager shall be responsible for submitting any traffic studies required by the City to demonstrate the construction traffic control is adequate and safe. Upon submission by MPC to the City of a traffic study (performed by an engineer competent to provide such services) demonstrating traffic flow and safety conditions typically required for roadway lane closures during construction, the City shall review and implement the recommendations set forth in the traffic study, including the reduction in traffic on Memorial Drive to two lanes in each direction during Construction of the Central Connector bridge and tunnels, including a possible rerouting of traffic to the ballfield access road, among other alternatives, if the Director and the Houston Public Works Director each find that the traffic study addresses traffic and safety issues in a manner consistent with the City’s policies and regulations.

The Project Manager shall obtain all building permits, licenses and approvals required by all governmental authorities including the City, for any Construction or Project. The City shall use its best efforts to expedite the issuance of such permits, licenses and approvals as are required by the City.

If environmental conditions that require remedial action are discovered during Construction of a Project for which the City is not indemnified by MPC and UDA (i.e. an existing condition that is not subject to Article VII), MPC and UDA shall accommodate the City’s environmental work to remediate the condition. If environmental conditions that require remedial

action are discovered during Construction of a Project for which the City is indemnified by MPC and UDA, MPC and UDA shall promptly notify the City and remediate such conditions.

Section 5.08 Construction Contracts. The Project Manager may enter into Construction contracts with contractors to Construct any Projects funded in whole or in part with non-City money based on the plans approved by the Director as set forth in Section 5.04(b).

(a) Each Construction contract for a Project or new capital improvement in the Park shall provide that: (i) the City is a third-party beneficiary of all representations and warranties made by the contractor; and (ii) the contractor shall look solely to the Project Manager for any payment due under the Construction contract.

(b) The Project Manager shall require each contractor in such Construction contracts to furnish payment and performance bonds, naming the City as co-obligee or co-beneficiary, in the full amount of the contract sum for each Construction contract, and in form and substance reasonably satisfactory to the City, based on such bonds as are then commercially available for major Construction projects in the City.

(c) The Project Manager shall require that any and all warranties or guarantees from any contractor, manufacturer, supplier or any other subcontractor required by the specifications, or otherwise provided by such contractor, manufacturer, supplier or other subcontractor are transferable to the City as a condition of the Construction contract to enable the transfer of same to the City in accordance with of this Agreement.

Section 5.09 City Inspection. The City shall have the continuing right to inspect, at any time, the progress of Construction of Projects. The Director shall further have the right, but not the duty, to perform a final inspection of each Project prior to the transfer of the Project to the City as described in Section 5.13.

Section 5.10 Substantial Completion. When the work to be performed under a Construction contract has been completed substantially in accordance with the approved plans, the Project Manager shall deliver to the City a certificate from the Project architect or engineer or landscape architect certifying that, as of the date specified therein, the work to be performed under such Construction contract has been substantially completed in a good and workmanlike manner and in accordance with the approved plans and any change orders or field changes authorized under this Agreement subject only to items specified in such certificate as minor punch list items or as requiring corrective work. The Project Manager, and the other Parties' designated representatives, shall have the right to review and comment on the final punch-list items developed prior to substantial completion.

Section 5.11 Final Completion. A Project shall be deemed to be finally completed as of the date of the TDLR Certificate of Final Completion to be issued by the Project Manager's architect for all Construction contracts for such Project, which shall include (a) the architect's certification that all punch-list items identified in any certificates of substantial completion have been completed except for any on-going work covered by contractors or manufacturers' warranties; (b) a certificate signed by the contractor for each Construction contract, certifying that all matters required to be performed under such Construction contract have been completed and

all labor and materials for which payment is due under the Construction contract have been fully paid, and that all building materials, supplies and equipment physically incorporated into the improvements are free and clear of all liens and encumbrances; and (c) all permits, approvals and certificates required by Applicable Laws for occupancy of structural improvements, including but not limited to any applicable certificate of occupancy.

Section 5.12 MWBE. The Project Manager shall comply and shall require its contractors to comply with the City's Small Business Minority and Women Business Enterprise ("MWBE") programs for design and construction of Park improvements or features as set forth in Chapter 15 of the City Code. The City's policy does not require the Project Manager to in fact meet or exceed a goal, but it does require the Project Manager to objectively demonstrate that it has made good faith efforts to do so. To this end, the Project Manager's contractors shall maintain records showing: (i) subcontracts with MWBEs, and (ii) specific efforts to identify and award subcontracts and supply agreements to MWBEs.

Section 5.13 Transfer to the City. Each Project shall be transferred to the City within thirty (30) days after final completion and acceptance by the City of the Projects. Transfer shall be completed by delivery of a fully executed copy of the Bill of Sale, substantially in the form attached hereto and made a part hereof as **Exhibit J**, all warranties or guarantees related to each Project, as-built plans and drawings of the Projects and any other documents required to be furnished under this Agreement or requested by the Director. At transfer, the Director shall acknowledge in writing the City's acceptance of the Project and any Bill of Sale.

Section 5.14 Project Manager Certification. Prior to each transfer closing, the Project Manager and the City shall certify that there is no litigation or other governmental proceedings that have been commenced or threatened with regard to, or which would affect, the transfer provided for in this Agreement. The Project Manager shall provide the City with all consents, approvals, releases or waivers from third parties deemed by the Director to be necessary or advisable to allow the transfer of each Project, including, without limitation, any consents from lenders or litigants. Compliance with this Section shall be a condition precedent for the transfer or a project to the City under Section 5.13.

Section 5.15 Hogg Bird Sanctuary. The Department shall plan and construct improvements in the Hogg Bird Sanctuary of the Park, consistent with the Master Plan. MPC agrees to accommodate these improvements without any compensation or reimbursement for its expenses, provided that the costs of the improvements shall not be costs of MPC. MPC shall participate in design, planning and construction with the Director and Houston Parks Board to accommodate any such improvements. MPC may propose changes to landscapes, plant types, facility designs or facility materials in order to reduce maintenance costs and to improve performance, functionality, environmental qualities and aesthetics. MPC agrees to negotiate with the Department to reach amicable resolution of all such concerns, but in any event, the location and design of the improvements is subject to the approval of the Standards Committee and the Director. Notwithstanding the Department's right to plan and construct improvements in the Hogg Bird Sanctuary pursuant to this section, MPC may also make improvements to Hogg Bird Sanctuary in accordance with this Agreement.

ARTICLE VI

FUNDING

Section 6.01 General. As further set forth in this Article VI, the Parties agree to provide the necessary funds to fully support and finance the obligations and duties of the Parties described herein, specifically including Articles IV and V, and further, agree to contribute the necessary funds to the various Accounts (as defined and created below) in the amounts and at the times specified in the various Budgets (as defined below) of the Parties to provide for the Construction and implementation of the Master Plan, inclusive of the Ten-Year Plan, and the operation and maintenance of the Projects Constructed by the Parties during the Term, all as more fully described in this Article VI.

(a) Project Fund. To ensure that sufficient funds are on hand for the purpose of funding the Construction of the Projects, MPC and UDA hereby agree to create one or more funds and accounts that will collectively be deemed the “**Project Fund**,” which either (i) may be held at the depository of MPC for the benefit of the Park and subject to the terms of this Agreement and other Applicable Laws, or (ii) may be held in an account created by UDA at the trustee for its Debt and shall be designated solely for the benefit of the Park and subject to the terms of this Agreement. UDA agrees to adopt a resolution declaring that such amounts are restricted solely for the use and benefit of the Park with respect to the Ten-Year Plan, and further agrees to provide such monies for deposit into appropriate Accounts on the dates specified and determined in this Agreement. The Project Fund shall be funded in the manner set forth in this Article and shall hold and maintain funds to be used for Projects under the Ten-Year Plan as well as other Projects with respect to the Master Plan.

(b) Operations and Maintenance Funds. To ensure that sufficient funds are on hand to operate and maintain the Park during the Term, the Parties hereby agree to create at the depository of MPC and for the benefit of the Park, the following funds:

(1) Greenspace Maintenance Fund. The Greenspace Maintenance Fund is hereby created for the purposes set forth in this Agreement and shall be funded annually with monies deposited in such fund, as further set forth in this Article VI;

(2) Capital Maintenance Reserve Fund. The Capital Maintenance Reserve Fund is hereby created and confirmed for the purposes set forth in this Agreement and shall be funded consistent with this Article to provide a source of funds for MPC to maintain the Projects consistent with the Capital Maintenance Requirement;

(3) Resiliency Fund. The Resiliency Fund is hereby created for the purposes set forth in this Agreement and shall hold and maintain funds to be used by MPC following an event of Force Majeure;

(4) Greenspace Maintenance 2041 Fund. The Greenspace Maintenance 2041 Fund is hereby created for the purposes set forth in this Agreement and shall hold and maintain funds for Greenspace Maintenance from the year 2041 through the Term; and

(5) MPC Endowment Fund. The MPC Endowment Fund is hereby created for the purposes set forth in this Agreement and shall consist of a trust account or similar endowment account to hold and maintain funds in trust for the sole benefit of the Park.

Collectively, the Project Fund, Greenspace Maintenance Fund, Capital Maintenance Reserve Fund, Resiliency Fund, Greenspace Maintenance 2041 Fund and MPC Endowment Funds may be referred to as the “Accounts” and individually as an “Account.”

With respect to the Accounts, MPC shall establish and maintain an accounting system, which shall be substantially in accordance with generally accepted accounting principles, that enables the City Controller or his or her designee to readily identify MPC’s assets, expenses, reserves and use of funds, and provides transparency for all Parties to review and understand the funding status of the Accounts. MPC covenants and agrees to promptly deposit any and all monies remitted pursuant to Section 6.02 through Section 6.06 hereof in the appropriate Account to be used solely for the purposes allowed under this Agreement.

(c) Annual Reporting.

(1) Audits. MPC shall provide copies of its annual financial audits to the Standards Committee (and the City representatives on the Standards Committee shall provide the same to the appropriate representatives of the City) within thirty (30) days after issuance thereof.

(2) Capital Reports. At the end of their respective fiscal years during the Term, UDA and MPC shall each provide an annual year-end written report, using audited or unaudited financial information, as available, to the Standards Committee (and the City representatives on the Standards Committee shall provide the same to the appropriate representatives of the City) for the immediately preceding fiscal year providing the status of capital funding and expenditures for the Ten-Year Plan and the Master Plan. UDA’s report in accordance with this Section 6.01(c)(2) shall include, without limitation, reporting of Debt used to fund Unrelated Debt and the UDA Capital Contribution during the prior fiscal year as provided in Section 6.05(a)(2) and its projection for use of Debt in the future.

Section 6.02 MPC Funding.

(a) MPC shall be entitled to all revenues generated within the Park, including revenues derived from MPC Programs, except from the Excluded Areas. In consideration of this entitlement, MPC agrees to budget and use all revenues generated to create, construct, install, maintain and operate the Park and Projects in accordance with this Agreement, in addition to the funding sources identified in Section 6.04 through Section 6.06.

(b) MPC shall be solely responsible for raising any and all private philanthropic funding required to create, construct, install, maintain and operate the Park and other desired improvements at the Park in accordance with this Agreement, the Master Plan and the Operations and Maintenance Manual, except for projects referenced in Section 5.15. MPC agrees to raise not less \$1,000,000 annually to assist with the maintenance and operation of the Park, and, to the extent required, allocate sufficient raised funds to achieve the objectives set forth in Section 6.02(a). The Parties shall coordinate and cooperate in connection with applications for all grants for funding to

create, construct, install, maintain and operate the Park and other desired improvements at the Park. As part of its annual fundraising, MPC shall, during each fiscal year of the Term, raise sufficient funds for operations and maintenance of the Park, including maintaining reasonable operating reserves.

(c) Annually, MPC agrees to prepare its budget for each fiscal year, as contemplated in Section 3.05(e)(2) hereof, and to include in such budget a reasonable determination of the amounts necessary to fund its capital and maintenance obligations set forth in Section 6.03 and the dates such funds shall be deposited in the appropriate Account during that budget cycle. The proposed MPC budget shall reflect, at a minimum, amounts within five (5) percent of the amounts in **Exhibit A** (as increased annually by application of the Escalator Index) and/or as adjusted by Section 6.07(d) hereof. If the proposed MPC budget, in the aggregate, varies by more than five (5) percent from the amounts set forth in **Exhibit A** in any Agreement Year, Standards Committee approval is required, and Major Donor approval is required if the proposed budget is projected to cause MPC to be unable to meet the Maintenance Standard for Greenspace Maintenance. If MPC's proposed budget is projected to cause MPC to be unable to meet the Maintenance Standard for Greenspace Maintenance, then MPC shall have the right to reduce the scope of Greenspace Maintenance to levels that can be covered by the proposed budget, subject to Major Donor's approval, which shall not be unreasonably withheld. Such annual budget, after being presented to the Standards Committee and approved if necessary under this subsection, shall be known as the "**MPC Budget**" herein.

Section 6.03 Elements of MPC Funding.

(a) Capital Contributions. To fulfill its contribution to the funding of the Master Plan, MPC has raised in cash or commitments an amount equal to or exceeding \$15,000,000, not including Major Donor funding under this Agreement. Of that amount, MPC shall deposit within sixty (60) days of the Effective Date a minimum of \$5,000,000 to the Project Fund for funding a portion of the Ten-Year Plan with the balance of \$10,000,000 being deposited into the Project Fund as cash is received pursuant to its commitments. The initial deposit of \$5,000,000 may take into account and credit actual monies spent by MPC prior to the Effective Date for the Project and deposit a net amount after giving effect to monies previously spent. Additionally, MPC commits to raise an additional amount of \$40,000,000 for its portion of the Ten-Year Plan, and shall promptly deposit such monies as received to the Project Fund as they become available to MPC. Pursuant to the Funding Agreement, the Major Donor shall contribute \$70,000,000 through the Funding Agreement to MPC for a portion of the Ten-Year Plan, and such monies shall be deposited into the Project Fund and the MPC Endowment Fund on the schedule set forth in the Funding Agreement, as described in **Exhibit B**. Such funding shall be provided in a manner that does not delay the Project schedule, and such funds will be made available as contemplated by this Agreement, including Article V hereof.

(b) Greenspace Maintenance Contributions. MPC agrees to deposit sufficient funds to the Greenspace Maintenance Fund in accordance with this Agreement and in the amounts contemplated in **Exhibit A**, as increased annually by application of the Escalator Index, and at the times set forth in the MPC Budget (the "**MPC Greenspace Maintenance Contribution**"). To the extent required to fund MPC's obligation to provide equipment for use in Greenspace Maintenance activities during the Term pursuant to Section 4.01, such amounts shall be reflected

in the MPC Budget and deposited in the Greenspace Maintenance Fund, as needed. Additionally, Parking Revenue shall be deposited to the Greenspace Maintenance Fund up to the Greenspace Maintenance Annual Target, calculated pursuant to Section 6.07. Once the Greenspace Maintenance Annual Target has been reached pursuant to Section 6.07, additional Parking Revenue shall be retained by MPC for any use during the Term in connection with costs of operations, maintenance and Programs for the benefit of the Park.

(c) Capital Maintenance Contributions. MPC shall raise and maintain a minimum balance of \$1,000,000 (as increased by application of the Escalator Index) in the Capital Maintenance Reserve Fund by the end of MPC fiscal year 2028, and from 2028 through the end of the Term shall use good faith efforts to continue to fund the Capital Maintenance Reserve Fund in order to fund non-routine maintenance, capital repairs and replacements over time. To the extent required to fund MPC's obligation to fund the Capital Maintenance Projects pertaining to Projects MPC has Constructed throughout the Term pursuant to Section 4.01, such amounts shall be reflected in the MPC Budget and deposited in the Capital Maintenance Reserve Fund, as needed.

(d) Resiliency Fund Contributions. MPC shall deposit to the Resiliency Fund for use for the Park following Force Majeure events in the amount of \$1,000,000 (as increased by application of the Escalator Index), by the end of MPC fiscal year 2028.

(e) MPC Endowment Fund Contributions. By the end of MPC fiscal year 2028, MPC shall deposit sufficient funds in the MPC Endowment Fund to attain a balance of at least \$5,000,000 to provide investment income for the benefit and support of the Park and Park operations, including Greenspace Maintenance, in accordance with this Agreement, the Master Plan and the Operations and Maintenance Manual.

Section 6.04 UDA Funding.

(a) UDA agrees that the capital and maintenance obligations set forth in Section 6.05 shall be secured by and payable from Available Tax Increment. Accordingly, to secure UDA's payment obligations herein, UDA and the TIRZ hereby grant, convey, pledge and assign to MPC a lien on and security interest in the Available Tax Increment on parity with Parity Debt and subordinate to the lien on UDA Debt.

(b) Prior to the submittal of UDA's annual fiscal year budget to the City for approval during the Term, all required contributions pursuant to Section 6.05 shall be determined and set forth in the annual budget of UDA presented to the Standards Committee (after such presentation and approval, the "**UDA Budget**"), including, without limitation, UDA's projected use of Debt to fund the UDA Capital Contribution during the upcoming fiscal year, as permitted by Section 6.05(a)(2). With respect to Ecological Restoration Projects and other capital contributions from UDA to MPC, within ten (10) days following approval of the UDA Budget, UDA and MPC shall enter into a work order or other agreement in a form that is mutually acceptable to UDA and MPC, incorporating such scope, schedule and budget for such Projects and contributions, and providing for UDA's corresponding periodic disbursements to MPC in the aggregate amounts in UDA's fiscal year covered by the UDA Budget.

Section 6.05 Elements of UDA Funding. UDA agrees to make the following funds available as contemplated by this Agreement, including Article V hereof. This funding commitment is in addition to the funds UDA has already committed for phase one of the Eastern Glades Project.

(a) Capital Contributions.

(1) UDA shall pay to MPC \$500,000 annually in each UDA fiscal year through 2028 along with a payment of \$4,500,000 in UDA fiscal year 2025, exclusively for Ecological Restoration Projects.

(2) UDA agrees to contribute \$50,000,000 for its share of the capital costs (the “**UDA Capital Contribution**”) of the Ten-Year Plan, as set forth in **Exhibit B** attached hereto. Notwithstanding anything stated herein to the contrary, UDA shall be obligated to fund the UDA Capital Contribution on or before (i) the date(s) necessary to meet the scheduling obligations detailed in the Ten-Year Plan Schedule in **Exhibit B** and (ii) in the amount(s) corresponding with the applicable Project in the Ten-Year Plan Scope of Work and Budget schedule in **Exhibit B** (“**UDA Capital Funding Schedule**”).

(i) To assure UDA’s obligation under this subsection, the City and UDA hereby confirm that UDA has existing Debt authorizations adequate to immediately allow \$25,000,000 of the UDA Capital Contribution to be funded (the “**UDA Initial Capital Contribution**”), and UDA shall exclusively set aside such portion of the authorized Debt exclusively for the UDA Capital Contribution. UDA covenants and agrees that prior to funding the entire UDA Initial Capital Contribution, UDA will not issue any Debt for purposes unrelated to the Project (“**Unrelated Debt**”) that could impair UDA’s ability to issue Debt necessary to meet its obligation to fund the UDA Initial Capital Contribution. Until the UDA Initial Capital Contribution has been fully funded in accordance with the UDA Capital Funding Schedule, at least sixty (60) days prior to issuing any Unrelated Debt, UDA shall (A) notify MPC and Major Donor of its intent to issue such Debt and (B) provide a written certification to MPC and Major Donor certifying that the proposed issuance of Unrelated Debt in combination with the proposed Debt necessary to fund the UDA Initial Capital Contribution would be permitted to be issued in accordance with all agreements, covenants and restrictions contained in the Indenture or otherwise governing the issuance of Debt by UDA, along with such backup documentation as the MPC and Major Donor may reasonably request.

(ii) Subject to UDA’s absolute obligation to fund the UDA Capital Contribution in accordance with the UDA Capital Funding Schedule, UDA may finance the portion of the UDA Capital Contribution in excess of the UDA Initial Capital Contribution (the “**UDA Remaining Capital Contribution**”) through the issuance of one or more series of Debt; provided, however, that at least 60% of the cumulative net proceeds of all future series of Debt (inclusive of the UDA Initial Capital Contribution) described in this Subsection (ii) shall be exclusively dedicated by UDA to funding the UDA Remaining Capital Contribution, (the “**Cumulative Net Proceeds Allocation**”) and further provided that the total of all

such UDA Capital Contributions shall not exceed \$50,000,000. Notwithstanding anything to the contrary, UDA's right to implement the Cumulative Net Proceeds Allocation shall in no way supersede or otherwise affect UDA's obligation to fund the UDA Capital Contribution in accordance with the UDA Capital Funding Schedule or otherwise delay the implementation of the Ten-Year Plan, in strict accordance with the Ten-Year Plan Schedule. Further, UDA's right to fund the UDA Remaining Capital Contributions in accordance with the Cumulative Net Proceeds Allocation is subject to the approval by City Council of an ordinance authorizing UDA Debt as provided in the TIRZ Tri-Party Agreement. All Parties to this Agreement acknowledge that Major Donor contributions to MPC will be tied to UDA meeting its obligations to fund the UDA Capital Contributions in accordance with the UDA Capital Funding Schedule and any failure to meet such obligation by UDA will cause a related adjustment in MPC's receipt of Major Donor funds.

(b) Operations Contributions. Annually, beginning in UDA fiscal year 2019 and continuing through the Term, UDA shall pay \$200,000 to MPC for maintenance and operation of the Running Center (as increased annually by application of the Escalator Index). If UDA does not provide the full amount of this funding between UDA fiscal years 2019 and 2023, it may enter into an agreement with MPC to provide any amounts owing at a later date, payable to MPC with interest, as set forth in such agreement.

(c) Greenspace Maintenance Contributions. Annually, beginning in UDA fiscal year 2019 and continuing through fiscal year 2041, UDA shall pay \$400,000 (as increased annually by application of the Escalator Index) to MPC for deposit to the Greenspace Maintenance Fund (the "**UDA Greenspace Maintenance Contribution**"). The UDA Greenspace Maintenance Contribution shall be due and payable annually from UDA to MPC in full on August 15 of each year.

(d) Greenspace Maintenance Guaranty; Annual Reconciliation.

(1) Beginning in UDA fiscal year 2021, UDA shall guarantee that sufficient funds are available to meet the Greenspace Maintenance Annual Target defined in Section 6.07 herein. In consideration of such guaranty, if the MPC Budget does not include sufficient funds to meet the Greenspace Maintenance Annual Target when combined with the other sources of Greenspace Maintenance Annual Funding set forth in Section 6.07(b), then the UDA Budget for that UDA fiscal year shall include an the amount sufficient, when added to the MPC Greenspace Maintenance Contribution and such other sources of Greenspace Maintenance Annual Funding set forth in Section 6.07(b), to equal or exceed the Greenspace Maintenance Annual Target (the "**Determined Payment**"), and such amount (i.e. the Determined Payment) will be deposited by UDA into the Greenspace Maintenance Fund as set forth in Section 6.05(b) to be used for Greenspace Maintenance during the same MPC fiscal year.

(2) Beginning in MPC fiscal year 2022, the Standards Committee shall conduct an annual reconciliation process regarding projected and actual Greenspace Maintenance funding and expenses (each, an "**Annual Reconciliation**") in order to ensure the

Greenspace Maintenance Annual Target has been met for the prior MPC fiscal year. Each such Annual Reconciliation shall take place after MPC’s annual audit has been delivered pursuant to Section 6.01(c). During each Annual Reconciliation, the amount contributed by UDA for the Determined Payment shall be reconciled with the actual deficit or surplus in Greenspace Maintenance Annual Funding as compared to the Greenspace Maintenance Annual Target (both as defined in Section 6.07) during the prior MPC fiscal year. If a deficit is determined (the “**Undetermined Shortfall**”), such amount shall be added to the UDA Greenspace Maintenance Contribution for the current MPC fiscal year and deposited into the Greenspace Maintenance Fund within thirty (30) days. If a surplus is determined, the amount of the surplus shall be credited against the UDA Greenspace Maintenance Contribution for the next succeeding MPC fiscal year.

(e) Greenspace Maintenance 2041 Fund Contributions. In order to fund Greenspace Maintenance during the Term after the TIRZ ceases to exist or operate, concurrently with the Standards Committee determination of the Updated Greenspace Maintenance Requirement pursuant to Section 6.07(d), the Standards Committee shall also determine the total UDA contribution required to meet the Updated Greenspace Maintenance Requirement after 2041 (the “**UDA 2041 Contribution**”). The UDA 2041 Contribution shall be funded by UDA by causing not less than twenty (20) percent of the UDA 2041 Contribution to be deposited in the Greenspace Maintenance 2041 Fund on or before each of the following dates: January 10 of the year of the evaluation described in Section 6.07(d), January 10, 2032, January 10, 2035, January 10, 2038, and January 10, 2041. MPC may deposit such funds into any of the Accounts created hereunder except for the MPC Endowment, so long as a sufficient amount is available to MPC on an annual basis for Greenspace Maintenance during MPC fiscal years 2042-2048.

Section 6.06 Elements of City Funding.

(a) Excluded Area Funding and Recreation Centers. With respect to the Temporary Excluded Areas of the Park, including the Tennis Center, Sports Fields, Running Center, Fitness Center and Pool (each a “**Recreation Center**,” and collectively, the “**Recreation Centers**”), the City shall use best efforts to fund the costs of maintenance and operations of the Park and Recreation Centers, in accordance with the current standard of maintenance as of the Effective Date, at the level funded under the Original Agreement, which is the amount in the City’s budget (2016 fiscal year beginning July 1, 2015), with this cap increasing based on the Escalator Index, using October 2016 as the base for purposes of such adjustments (each such amount, as adjusted, the “**Recreation Center Budgeted Amount**”).

(1) Except as otherwise provided in subsection (a)(2) below, to the extent that any Recreation Center is determined to be redeveloped pursuant to the Master Plan, MPC and the City shall use best efforts to enter into a supplemental agreement that would govern and determine a funding mechanism between the City and MPC that would fund maintenance and operating costs at the Maintenance Standard. The City and MPC agree to prepare an analysis using the most recent fiscal audit of the City, the Recreation Center Budgeted Amount, and projections of the anticipated operating and maintenance costs of the redeveloped Recreation Center, including projected user fees, parking revenues, and other revenues associated with the Recreation Center, to determine the sources of revenue needed to support such Recreation Center, in addition to revenues generated by the

Recreation Center. Any agreement between the City and MPC shall be memorialized in a supplemental agreement approved by such Parties and approved by the Standards Committee. Upon approval of the supplemental agreement and final completion (as defined in Section 5.11 hereof) of the redeveloped Recreation Center, the subject Recreation Center shall no longer be an Excluded Area pursuant to Section 4.05 hereof and the management and funding of that Recreation Center shall be governed by this Agreement, as supplemented.

(2) Pursuant to Section 4.05 hereof, the Running Center shall no longer be an Excluded Area effective as of July 1, 2018, and MPC will assume operations of the Running Center at that time in lieu of entering into a supplemental agreement pursuant to subsection (a)(1) above. It is understood and agreed to by the Parties that the Recreation Center Budgeted Amount allowable to the Running Center shall be funded by UDA, and the City shall assume such obligation in the event that (i) UDA is dissolved by the City or (ii) the City takes action to materially change the Project Plan such that the TIRZ or UDA would no longer meet its obligations under this Agreement, or (iii) the TIRZ ceases to exist or operate during the Term.

(b) City Greenspace Maintenance Contributions. Beginning with the City's fiscal year 2019, the City shall also annually deposit or cause to be deposited \$200,000 (as increased annually by application of the Escalator Index) in Golf revenues or other revenue to the Greenspace Maintenance Fund (the "**City Greenspace Maintenance Contribution**") or, once the Greenspace Maintenance Annual Target has been met, to MPC for any Park purpose.

(c) City Contributions in Lieu of TIRZ. In the event that (i) UDA is dissolved by the City or (ii) the City takes action to materially change the project plan of the TIRZ such that the TIRZ or UDA would no longer meet its obligations under this Agreement, or (iii) the TIRZ ceases to exist or operate during the Term, the City shall immediately take all steps required to assume all funding obligations of UDA under this Agreement, including, but not limited to, those listed in Section 6.05, including, but not limited to, the Capital Maintenance Requirements for Projects Constructed by UDA. Additionally, if the City intends to cause the TIRZ or UDA to cease to exist or operate, the City shall notify MPC either (i) twelve (12) months before taking actions to cause such cessation, if an intention to do so exists at such time or (ii) at the time at which such intention is formed.

Section 6.07 Annual Greenspace Maintenance Funding and UDA Guaranty. The aggregate target for funding dedicated to Greenspace Maintenance on an annual basis in accordance with this Agreement (the "**Greenspace Maintenance Annual Target**") shall be determined as follows:

(a) As of June 1, 2018, the Greenspace Maintenance Annual Target shall be \$1,070,000, as set forth in **Exhibit A** (as such exhibit may be revised or amended pursuant to this Agreement including annual increases by application of the Escalator Index, which shall expressly apply to the Greenspace Maintenance Annual Target).

(b) The funding sources to determine whether the Greenspace Maintenance Annual Target will be attained for a given Agreement Year include the following (collectively, the “**Greenspace Maintenance Annual Funding**”):

- (1) the MPC Greenspace Maintenance Contribution;
- (2) the UDA Greenspace Maintenance Contribution;
- (3) the City Greenspace Maintenance Contribution; and
- (4) projected Parking Revenue.

(c) The Determined Payment, calculated in accordance with Section 6.05(d), will be funded as follows: (i) before UDA fiscal year 2021, the MPC Budget shall allocate sufficient resources to fund the deficit and ensure that the Greenspace Maintenance Annual Target is met; (ii) during and after UDA fiscal year 2021, UDA agrees to budget and allocate sufficient resources to fund the Determined Payment for that Agreement Year as part of the UDA guaranty, which provision shall be subject to review during each Annual Reconciliation, described in Section 6.05(d). If the TIRZ ceases to operate or exist, the City agrees provide funding to ensure that the Greenspace Maintenance Annual Target is attained through the Term.

(d) During the MPC fiscal year following the substantial completion of the implementation of the Ten-Year Plan, the Parties agree that the Standards Committee shall evaluate the Greenspace Maintenance Annual Target for the then-current fiscal year through the end of the Term, as set forth in **Exhibit A**. This evaluation shall be based on an analysis of the funding and expenses for Greenspace Maintenance under this Agreement in prior years along with the projections of any consultants hired by the Standards Committee for such purpose, if necessary or helpful. In the event the Standards Committee determines based on this evaluation that the Greenspace Maintenance Annual Target set forth in **Exhibit A** should be updated to ensure sufficient funds are available to conduct Greenspace Maintenance of the Park in accordance with the Maintenance Standard for the remainder of the Term, then the Standards Committee may adjust and amend **Exhibit A** to reflect the updated Greenspace Maintenance Annual Target for all future fiscal years during the Term (such amount the “**Updated Greenspace Maintenance Annual Target**”).

Section 6.08 Golf. (a) The City currently operates and retains all net revenue from the Golf Course. Should the City determine, in its sole discretion, to change its operations model or to operate the Golf Course via a concession or other agreement with another party, which may include in that agreement or other agreement the right to host a golf tournament (i.e. a PGA event), it shall take certain actions as described in this Section 6.08(b) below.

(b) To the extent there is a proposed agreement changing or transferring the operation of the Golf Course, the City shall include MPC in such discussions and negotiations to ensure that (i) the agreement (one or more) returns a mutually agreeable amount of revenues or percentage of revenues and (ii) any events such as a professional golf tournament return sufficient revenues to MPC to further benefit the Park. To allow the Parties to fully understand the impact of a professional golf tournament, if there is an agreement to host a golf tournament at the Golf Course, MPC may hire a qualified consultant to conduct a study to evaluate the impact of such tournament

on the Park, which shall include a study of the maintenance costs, diminution of Parking Revenue or other revenue available to MPC, and the short and long term impacts on the Park, environmental and otherwise, and the City agrees that such study shall be used as a basis to determine the amount or percentage of revenues to be provided to MPC in connection with the proposed concession or related agreement. As part of any agreement relating to the Golf Course, the Parties agree to prepare a survey and metes and bounds description of the area of the Golf Course to be included in the Excluded Area. All revenue remitted to MPC shall be used first, to restore the condition of the Park from any impact from the operations of the Golf Course or the hosting of a tournament, second, to fund the MPC Endowment, and third, to fund Greenspace Maintenance or costs of operations and Programs of the Park. For avoidance of doubt, “including MPC in the negotiations” specifically contemplates the City including MPC or its agents on all distributions of term sheets and agreements relating to such concession or tournament, an opportunity to review and comment on any parking plan associated with the tournament, and to review and comment on all trademarks and other marks associated with the tournament and related tournament concessions.

Section 6.09 Limit of Appropriation by City Council. The Parties acknowledge that City’s City Council has the sole authority to appropriate and allocate City Funds specified in this Agreement. In order to comply with Article II, Sections 19 and 19a of the City’s Charter and Article IX, Section 5 of the Texas Constitution, the City may not obligate itself by contract to pay more money than the amount the City Council appropriates and allocates for this Agreement. It is expressly understood and agreed by the Parties that the City has not appropriated funds to fulfill an obligation created by the terms of this Agreement; provided further, however, that the City may, but shall not be obligated to, from time to time budget and appropriate funds to fulfill any obligation created hereunder. Should the City Council fail to appropriate and allocate amounts sufficient to fund City’s obligations under this Agreement, MPC’s sole remedies are either to reduce its scope of Park care pursuant to Section 6.02(c) or termination for cause pursuant to Section 9.04.

Section 6.10 UDA Development Agreement; Eligibility for Reimbursement. UDA specifically acknowledges and agrees that this Agreement is a “Development Agreement” in accordance with the TIRZ Tri-Party Agreement and that the repayment to MPC of funds advanced by MPC may be secured by the Available Tax Increment in accordance with the terms of this Agreement. MPC hereby bears the risk that any of the Project costs may be determined to be ineligible under the Act, by the Attorney General of the State of Texas, or a court of law with competent jurisdiction and further agrees that UDA will not be obligated to repay MPC for any such ineligible Project costs. In the event that all or a portion of the Project costs is determined to be ineligible under the Act, by the Attorney General of the State of Texas through a written opinion of the Attorney General, or a court of law with competent jurisdiction without appeal, or is not included in the Project and Financing Plan (as defined in the TIRZ Tri-Party Agreement) during the term of this Agreement, the reimbursement will be reduced by the amount attributable to the ineligible component. If UDA has already repaid MPC for such ineligible Project costs, the Parties hereby agree that the amount repaid by UDA for such ineligible Project costs will be offset against future repayments by UDA.

ARTICLE VII

INDEMNIFICATION

Section 7.01 Indemnification. MPC AGREES TO AND WILL DEFEND, INDEMNIFY, AND HOLD CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY, THE “**CITY INDEMNITEES**”) AND THE MAJOR DONOR, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY, THE “**MAJOR DONOR INDEMNITEES**”) HARMLESS FOR ALL CLAIMS, CAUSES OF ACTION, LIABILITIES, FINES, AND EXPENSES (INCLUDING, WITHOUT LIMITATION, ATTORNEYS’ FEES, COURT COSTS, AND ALL OTHER DEFENSE COSTS AND INTEREST) FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO THE DEFINITIVE AGREEMENTS OR ANY CONTRACT OR SUBCONTRACT THEREUNDER INCLUDING, WITHOUT LIMITATION, THOSE CAUSED BY:

(1) MPC AND/OR ITS AGENTS’, EMPLOYEES’, OFFICERS’, DIRECTORS’, CONTRACTORS’ OR SUBCONTRACTORS’ (COLLECTIVELY, “**MPC PARTIES**”), ACTUAL OR ALLEGED NEGLIGENCE OR INTENTIONAL ACTS OR OMISSIONS;

(2) CITY INDEMNITEES’, MAJOR DONOR INDEMNITEES’ AND MPC PARTIES’ ACTUAL OR ALLEGED CONCURRENT NEGLIGENCE, WHETHER MPC IS IMMUNE FROM LIABILITY OR NOT; AND

(3) CITY INDEMNITEES’, MAJOR DONOR INDEMNITEES’ AND MPC PARTIES’ ACTUAL OR ALLEGED STRICT STATUTORY LIABILITY, WHETHER MPC IS IMMUNE FROM LIABILITY OR NOT.

MPC WILL DEFEND, INDEMNIFY, AND HOLD CITY INDEMNITEES AND MAJOR DONOR INDEMNITEES HARMLESS DURING THE TERM OF THIS AGREEMENT AND FOR FOUR (4) YEARS AFTER THE AGREEMENT TERMINATES. MPC’S INDEMNIFICATION IS LIMITED TO FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$500,000) PER OCCURRENCE. MPC WILL NOT INDEMNIFY THE MAJOR DONOR INDEMNITEE TO THE EXTENT ANY SUCH CLAIMS ARE CAUSED BY CLAIMS, CAUSES OF ACTION, LIABILITIES, FINES, AND EXPENSES FOR THE SOLE, CONCURRENT OR CONTRIBUTORY NEGLIGENCE OF SUCH MAJOR DONOR INDEMNITEE.

Section 7.02 INDEMNIFICATION – PROCEDURES.

(a) Notice of Claims. If the City, the Major Donor or MPC receives notice of any claim or circumstances which could give rise to an indemnified loss, the receiving party shall give written notice to the other party within thirty (30) days. The notice must include the following:

- (1) a description of the indemnification event in reasonable detail,
- (2) the basis on which indemnification may be due, and

- (3) the anticipated amount of the indemnified loss.

This notice does not estop or prevent the City or the Major Donor from later asserting a different basis for indemnification or a different amount of indemnified loss than that indicated in the initial notice. If the City or the Major Donor does not provide this notice within the 30-day period, it does not waive any right to indemnification except to the extent that MPC is prejudiced, suffers loss, or incurs expense because of the delay.

(b) Defense of Claims.

(1) Assumption of Defense. MPC may assume the defense of the claim at its own expense with counsel chosen by it that is reasonably satisfactory to the City or the Major Donor, as applicable. MPC shall then control the defense and any negotiations to settle the claim. Within ten (10) days after receiving written notice of the indemnification request, MPC must advise the City or the Major Donor as to whether or not it shall defend the claim. If MPC does not assume the defense, the City or the Major Donor shall assume and control the defense, and all defense expenses constitute an indemnification loss.

(2) Continued Participation. If MPC elects to defend the claim, the City or the Major Donor may retain separate counsel to participate in (but not control) the defense and to participate in (but not control) any settlement negotiations. MPC may settle the claim without the consent or agreement of the City or the Major Donor, unless it (x) would result in injunctive relief or other equitable remedies or otherwise require the City or the Major Donor to comply with restrictions or limitations that adversely affect the City or the Major Donor, (y) would require the City or the Major Donor to pay amounts that MPC does not fund in full, (z) would not result in the City’s or the Major Donor’s full and complete release from all liability to the plaintiffs or claimants who are parties to or otherwise bound by the settlement.

ARTICLE VIII

INSURANCE

Section 8.01 Insurance. The City shall take the necessary steps to add all vertical improvements in the Park, including the Central Connector, to its then-current property insurance or similar insurance at full replacement value during the Term. Additionally, MPC agrees to obtain and maintain at all times during the Term of this Agreement insurance meeting at a minimum all of the following requirements:

Coverage	Limit of Liability
(1) Workers’ Compensation:	Statutory Limits for Workers’ Compensation
(2) Employer’s Liability:	<ul style="list-style-type: none"> • Bodily Injury by Accident \$1,000,000 (each accident) • Bodily Injury by Disease \$1,000,000 (policy limit) • Bodily Injury by Disease \$1,000,000

Coverage	Limit of Liability
	(each employee)
(3) Commercial General Liability: Including Broad Form Coverage, Contractual Liability, Bodily and Personal Injury; and Products and Completed Operations coverage	Bodily Injury and Property Damage, Combined limit of \$1,000,000 (each occurrence), and \$2,000,000 aggregate
(4) Automobile Liability Insurance:	\$1,000,000 combined single limit each occurrence
(5) Builder's Risk, during Construction	Full replacement cost of all improvements
(6) Professional Liability, for design and engineering contracts in excess of \$100,000	\$1,000,000 per claim
Defense costs are excluded from the face amount of the policy. Aggregate Limits are per 12-month policy period unless otherwise indicated.	

Section 8.02 Additional Insurance Requirements.

(a) Forms of Policies. The insurance may be in one or more policies of insurance.

(b) Certificates. The insurance coverages may be represented in one or more certificates of insurance. It is agreed, however, that nothing included within or omitted from the insurance certificates shall relieve the Party from its duties to provide the required coverage hereunder.

(c) Issuers. The issuer of any policy must have a certificate of authority to transact insurance business in the State of Texas issued by the Texas Board of Insurance and a rating of at least "B+" and a financial size of Class VI or better in the most current edition of Best's Insurance Reports. Each issuer must be responsible and reputable and must have financial capability consistent with the risks covered.

(d) Additional Insured. Each policy, except those for Workers' Compensation and Employer's Liability, must name the City and its agents, officers, directors, officials, legal representatives, employees and assigns and the Major Donor and its agents, officers, directors, officials, legal representatives, employees and assigns as additional insured parties on the original policy and all renewals or replacement during term of such MPC's agreement or contract with contractor and/or Party. If any of such policies are written as "claims made" coverage and the City or the Major Donor are required to be carried as an additional insured, then MPC must purchase policy period extensions so as to provide coverage to the City or the Major Donor, as applicable, for a period of at least two (2) years after the completion of the work contemplated by such Contractor's agreement or contract with contractor and/or Party.

(e) Deductibles. A policy held by MPC or a contractor of MPC may contain deductible amounts as approved by MPC. MPC shall assume and bear any claims or losses to the extent of such deductible amounts in a policy held MPC or its contractors and waives any claim it may ever have for the same against the City, its officers, agents or employees and the Major Donor, its officers, agents or employees with respect to such deductible amounts. MPC is not responsible for deductibles for any policy held by another Party to this Agreement, and the City shall be responsible for all deductible amounts for a policy held by the City or its agents.

(f) Cancellation. MPC shall notify the City and the Major Donor in writing not less than thirty (30) days before cancellation of any policy. MPC shall notify the City and the Major Donor in writing not less than thirty (30) days before any material change or reduction of coverage. MPC shall give written notice to the City and the Major Donor within five (5) days of the date upon which total claims by any party against MPC reduce the aggregate amount of coverage below the amounts required by this Agreement. MPC shall notify the Director in writing to any cancellation or material change to MPC's insurance coverage. Within the 30-day period, MPC shall provide other suitable policies in lieu of those about to be canceled or non-renewed so as to maintain in effect the required coverage. If MPC does not comply with this requirement, the Director, at his or her sole discretion, or the Major Donor may immediately suspend MPC from any further performance under this Agreement and begin procedures to terminate for default.

(g) Subrogation. Each policy must contain an endorsement to the effect that the insurer waives any claim or right in the nature of subrogation to recover against the City, its officers, agents or employees and the Major Donor, its officers, agents or employees.

(h) Endorsements. Each policy, except for Workers' Compensation, must contain an endorsement that such policy is primary insurance to any other insurance available to the City and the Major Donor as an additional insured with respect to claims arising hereunder and that the insurance applies separately to each insured.

(i) Premiums. MPC shall pay all insurance premiums for the policies it holds, and the City and the Major Donor shall not be obligated to pay any premiums.

(j) Blanket Policies. MPC shall be entitled to purchase and maintain the insurance under so called "blanket" policies, provided the coverage thereunder is at least the levels contained herein and is otherwise adequate in keeping with prudent underwriting standards.

(k) Proof of Insurance. At the City's or the Major Donor's request, copies of all policies referred to above, certified by the attorney-in-fact issuing them, together with written proof that the premiums have been paid, shall be deposited by MPC with the Director or the Major Donor, as applicable. If the Director or the Major Donor fails to request copies of such policies, MPC shall provide certificates of insurance, in lieu of policies, reflecting that the terms of this Article have been met, such certificates to be provided before MPC or the Contractor begins any work in, on or about the Premises.

(l) Contractors. MPC, UDA, and each Project Manager shall cause any contractors or subcontractors whose contracts exceed \$100,000 to provide proof of liability coverage meeting all

requirements stated above except amount. The amount must be commensurate with the amount of the contract, but no less than \$500,000 per claim.

(m) Approval by Major Donor. Insurance standards shall be subject to approval of the Major Donor.

Section 8.03 WAIVER OF SUBROGATION AND RIGHT OF RECOVERY. ANYTHING TO THE CONTRARY IN THIS AGREEMENT NOTWITHSTANDING, TO THE MAXIMUM EXTENT PERMITTED BY LAW, MPC WAIVES ALL RIGHTS OF RECOVERY, CLAIM, ACTION OR CAUSE OF ACTION OR SUBROGATION AGAINST CITY, UDA, THE MAJOR DONOR AND THEIR RESPECTIVE AFFILIATES, PARTNERS, AGENTS, OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES OR REPRESENTATIVES FOR ANY DAMAGE TO THE PREMISES AND/OR THE IMPROVEMENTS, TO THE EXTENT THAT SUCH DAMAGE IS DUE TO AN INSURED CASUALTY RISK (AS SUCH TERM IS DEFINED IN THIS AGREEMENT) REGARDLESS OF CAUSE OR ORIGIN, INCLUDING NEGLIGENCE OF CITY, MPC, UDA, THE MAJOR DONOR, THEIR AFFILIATES OR THEIR PARTNERS, AGENTS, OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES OR REPRESENTATIVES.

ARTICLE IX

GENERAL PROVISIONS

Section 9.01 Term of Agreement. This Agreement shall be in force and effect commencing on the Effective Date and continuing for an initial term of thirty (30) years subject to the renewal provisions herein, provided, further that, upon cessation of the operation or existence of the TIRZ, UDA shall no longer be a Party to this Agreement.

(a) Renewal Terms. MPC shall have the option to renew this Agreement for two (2) additional consecutive periods of up to thirty (30) years each (each, a “**Renewal Term**”) subject to approval of City Council. Beginning ten (10) years before the last day of the then-current Term, or, if earlier, if the City notifies MPC pursuant to Section 6.06(c) that it intends to dissolve or terminate the TIRZ or UDA, the Parties shall in good faith commence negotiations regarding a renewal agreement, culminating with a recommendation of the Standards Committee to City Council to renew this Agreement for a particular Term, including such modifications and amendments as are agreed upon by the Parties as appropriately addressing the best interests of the Park. The initial Term and any Renewal Term(s) are individually and collectively referred to in this section as the “**Term.**”

(b) Secondary Renewal Options. If MPC notifies the other Parties in writing that it will not exercise its rights with respect to renewing the Agreement for a Renewal Term or an agreement on renewal has not been reached one (1) year before the end of the then-current Term, the Parties agree that the Major Donor shall have the secondary right, but not the obligation, to exercise the Renewal Term option by sending written notice to all Parties hereto during the period beginning with the earlier of (i) receipt by Major Donor of notice from MPC waiving its renewal rights or (ii) one year before the end of the then-current Term (if no agreement has been reached) and ending six (6) months before the last

day of the then-current Term, subject to approval by City Council. Such notice by the Major Donor shall indicate a successor nonprofit entity to replace MPC, as MPC's assignee, subject to the reasonable approval of the City. If the Major Donor timely exercises such secondary renewal option, then MPC and the Major Donor (or the Major Donor's approved successor entity) shall cooperate in making an orderly transition of MPC's activities in connection with the Park in accordance with the transition provisions of Section 9.04(c) below. On or before the last day of the then-current Term, MPC shall assign this Agreement and all of the related contracts and assets to Major Donor's designated successor entity for the continuation of implementation of the Ten-Year Plan and Greenspace Maintenance obligations hereunder during the Renewal Term, and MPC shall transfer to such successor entity all funds held by MPC in the (i) Project Fund; (ii) Greenspace Maintenance Fund; (iii) Capital Maintenance Reserve Fund; (iv) Resiliency Fund; (v) Greenspace Maintenance 2041 Fund; and (vi) all amounts attributable to contributions of the Major Donor to the MPC Endowment Fund (including such proceeds applicable to the Major Donor contributions to the MPC Endowment Fund, compounded at the same average rate of return earned by the MPC Endowment Fund during the Term prior to such assignment), for use solely for the benefit of the Park for the purposes designated in this Agreement for such funds. If the Major Donor elects not to exercise such secondary renewal option or options, then this Agreement shall automatically terminate at the end of the then-current Term, in which event the provisions of Section 9.04 hereof shall apply.

Section 9.02 Severability. The provisions of this Agreement are severable, and if any word, phrase, clause, sentence, paragraph, action or other part of this Agreement or application thereof to any person or circumstance shall ever be held by any court or regulatory authority of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of the Agreement and the application of such word, phrase, clause, sentence, paragraph, section or part, of this Agreement to other persons or circumstances shall not be affected thereby.

Section 9.03 Events of Default.

(a) Default by a Party shall occur if the Party fails to perform or observe any of the other terms and conditions of this Agreement required to be performed or observed by the Party. An injured Party shall have the right to terminate its duties under this Agreement as of the sixtieth (60th) day following the receipt by the defaulting Party of a notice describing such default and contract termination, provided: (i) such termination shall be ineffective if within such 60-day period the defaulting Party cures said default and (ii) such termination may be stayed, at the option of the injured Party, pending the cure of said default.

(b) Default occurs if a Party fails to perform one or more of its financial obligations under this Agreement. If a default occurs, an injured Party shall deliver a written notice to the other Parties describing the default and the proposed termination date. The proposed termination date shall be at least ninety (90) days after the defaulting Party's receipt of the notice. The injured Party, at its sole option, may extend the proposed termination date to a later date. If the defaulting Party cures the default before the proposed termination date, as the same may be extended by an event of Force Majeure, the proposed termination date is ineffective. If the defaulting Party does not cure the default before the proposed termination date, the injured Party may stay the

termination or terminate its performance under this Agreement on the termination date. The Director shall act on behalf of the City to notify one or the other Parties of a default and to effect termination.

(c) The City or UDA may terminate in the event of MPC (i) being insolvent or bankrupt or ceasing to pay its debts as they mature or making an arrangement with or for the benefit of its creditors or consenting to or acquiescing in the appointment of a receiver, trustee or liquidator for a substantial part of its property, or (ii) any action or answer by MPC approving of, consenting to, or acquiescing in, any such proceeding, or (iii) the levy of any distress, execution or attachment upon the property of MPC which shall prevent its performance hereunder.

Section 9.04 Termination; Assignment.

(a) Any Party may terminate its performance under this Agreement if the other Party defaults and fails to cure the default within ninety (90) days after receiving notice of it and such default is not stayed; provided, however, that MPC or UDA may not terminate this Agreement at any time after it commences Construction of a Project until such Construction has achieved final completion pursuant to Section 5.11, unless it returns the Project site to its condition prior to the commencement of Construction of such Project.

(b) No Party shall, wholly, in part, by law or otherwise, transfer, assign or otherwise dispose of any of its rights or interests in this Agreement, without the prior written consent of the other Parties, which consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, (i) if the City authorizes the creation of a local government corporation whose governmental functions include maintenance and operation of the Park and MPC is determined (whether through its bylaws or by contract) to manage such local government corporation, MPC may assign its rights and interests under this Agreement to the local government corporation without requiring consent of any other Party; and (ii) if MPC becomes insolvent, is in default (as set forth in Section 9.03) beyond the applicable notice and cure period, or declares that it is unable or unwilling to proceed with implementation of the Ten-Year Plan or its Greenspace Maintenance obligations hereunder, the Major Donor may designate another nonprofit entity to complete work under the Ten-Year Plan, such designated entity shall be automatically assigned all rights of (i) Construction and entry and (ii) maintenance and operation possessed by MPC under this Agreement relating to the Master Plan and shall be subject to the Maintenance Standard required hereunder, and MPC shall transfer to such successor entity all funds held by MPC in the (i) Project Fund; (ii) Greenspace Maintenance Fund; (iii) Capital Maintenance Reserve Fund; (iv) Resiliency Fund; (v) Greenspace Maintenance 2041 Fund; and (vi) all amounts attributable to contributions of the Major Donor to the MPC Endowment Fund (including such proceeds applicable to the Major Donor contributions to the MPC Endowment Fund, compounded at the same rate of return earned by the MPC Endowment Fund during the Term prior to such assignment).

(c) Upon termination or expiration of this Agreement for any reason, or upon the assignment of this Agreement by MPC or any successor entity to MPC hereunder, then MPC or such assignor shall cooperate with the City (in the case of a termination or expiration of this Agreement) or with the assignee (in the case of an assignment hereof) to accomplish the orderly transition of operations and obligations relating to the Park. Upon termination or expiration of this

Agreement, all public funds remaining in the Accounts shall be transferred to the City. In the event of an assignment of this Agreement by MPC, MPC shall transfer to such successor entity all funds held by MPC in the (i) Project Fund; (ii) Greenspace Maintenance Fund; (iii) Capital Maintenance Reserve Fund; (iv) Resiliency Fund; (v) Greenspace Maintenance 2041 Fund; and (vi) all amounts attributable to contributions of the Major Donor to the MPC Endowment Fund (including such proceeds applicable to the Major Donor contributions to the MPC Endowment Fund, compounded at the same average rate of return earned by the MPC Endowment Fund during the Term prior to such assignment).

(d) In no event shall the maintenance obligations of a Party under this Agreement be terminated. Such duties and obligations shall be performed by UDA and/or the City. To the extent that MPC has an existing “right of entry” from the City pursuant to a separate agreement at the time this Agreement is terminated with the City, MPC’s right of entry under that agreement shall not be affected and shall survive termination of this Agreement.

Section 9.05 Remedies Cumulative. The rights and remedies contained in this Agreement shall not be exclusive but shall be cumulative of all rights and remedies now or hereafter existing whether by statute, at law, or in equity; provided, however, no Party may terminate its duties under this Agreement except in accordance with the provisions hereof.

Section 9.06 Representations of MPC. MPC represents to the City that:

(a) MPC is duly organized as a nonprofit corporation under the laws of the State of Texas and is duly qualified and authorized to carry on the operations contemplated by this Agreement.

(b) MPC has the power, authority and legal right to enter into and perform this Agreement and the execution, delivery and performance hereof by MPC (i) have been duly authorized by MPC’s Board of Directors, shall not violate any judgment, order, law or regulation applicable to MPC, and (ii) do not constitute a default under, or result in the creation of, any lien, charge, encumbrance or security interest upon any assets of MPC under the agreement or instrument to which the City is a party or by which MPC or its assets may be bound or affected.

(c) This Agreement has been duly authorized, executed and delivered by MPC and, constitutes a legal, valid and binding obligation of MPC, enforceable in accordance with its terms.

Section 9.07 Representations of UDA.

(a) UDA is duly organized as a nonprofit corporation under the laws of the State of Texas and is duly qualified and authorized to carry on the operations contemplated by this Agreement.

(b) UDA has the power, authority and legal right to enter into and perform this Agreement and the execution, delivery and performance hereof by UDA (i) have been duly authorized by UDA’s Board of Directors, shall not violate any judgment, order, law or regulation applicable to UDA, and (ii) do not constitute a default under, or result in the creation of, any lien, charge, encumbrance or security interest upon any assets of UDA under the agreement or instrument to which the City is a party or by which UDA or its assets may be bound or affected.

(c) This Agreement has been duly authorized, executed and delivered by UDA and, constitutes a legal, valid and binding obligation of UDA, enforceable in accordance with its terms.

(d) The Project Plan (inclusive of the financing plan) includes the funding for the infrastructure improvements and enhancements for the Park that have been approved by the City and UDA is authorized to use Available Tax Increment to make all payments and deposits required under this Agreement.

(e) The two development agreements constituting Parity Debt are the only outstanding UDA indebtedness with a lien on and pledge of Available Tax Increment on parity with obligations under this Agreement.

Section 9.08 Representations of the City. The City hereby represents to MPC that:

(a) The City is duly created under the laws of the State of Texas and is duly qualified and authorized to carry on the governmental functions and operations contemplated by this Agreement.

(b) The City has the power, authority and legal right to enter into and perform its obligations set forth in this Agreement, and the execution, delivery and performance hereof, (i) have been duly authorized, shall not violate any judgment, order, law or regulation applicable to the City, and (ii) do not constitute a default under or result in the creation of, any lien, charge, encumbrance or security interest upon any assets of the City under any agreement or instrument to which MPC is a party or by which the City or its assets may be bound or affected.

(c) This Agreement has been duly authorized, executed and delivered and, constitutes a legal, valid and binding obligation of the City, enforceable in accordance with its terms.

Section 9.09 Notice. Unless otherwise provided in this Agreement, any notice, communication, request, reply or advice (herein severally and collectively, for convenience, called “**notice**”) herein provided or permitted to be given, made or accepted by any party to the other must be in writing and may be given or be served by depositing the same in the United States Postal Service mail, postpaid and registered or certified, and addressed to the party to be notified, with return receipt requested, or by delivering the same to any reasonable officer of such party, or by prepaid telegram, when appropriate, addressed to the party notified or by facsimile, with a copy to be sent by United States Postal Service mail. Notice deposited in the United States Postal Service mail in the manner hereinabove described shall be conclusively deemed to be effective, unless otherwise stated in this Agreement, from and after the expiration of three (3) days after it is so deposited, or the confirmed receipt of the facsimile. Notice given in any manner other than stated herein shall be effective only if and when received by the party to be notified. For the purpose of notice, the addresses of the parties shall, until changed as herein provided be as follows:

If to the City, to: Houston Parks and Recreation Department
2999 South Wayside
Houston, Texas 77023
Attn: Director

If to MPC: Memorial Park Conservancy
7575 North Picnic Lane
Houston, Texas 77007
Attn: Chief Executive Officer

**If to UDA or
TIRZ:** Uptown Development Authority
1980 Post Oak Blvd., Suite 1700
Houston, Texas 77056
Attn: Executive Director

Each party shall have the right from time to time at any time to change its respective address and each shall have the right to specify as its address any other address, provided that at least fifteen (15) days' written notice is given of such new address to the other party.

Section 9.10 Merger and Amendments. This Agreement comprises the complete and entire Agreement among the Parties. Each Party shall maintain a copy of this Agreement that shall incorporate all amendments hereto. Except as described below in respect to a correction, update or revision to an exhibit of this Agreement, this Agreement may not be altered or amended except in writing executed on behalf of the Parties, duly approved by the governing body of each Party and also approved by the Major Donor, with such approval by the Major Donor not to be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, the Parties may make corrections, updates and revisions to certain of the exhibits (including the schedules attached thereto) to this Agreement strictly in accordance with the terms of this Agreement and such corrections, updates and revisions shall not be deemed amendments to the Agreement under this section. For the avoidance of doubt, such corrections, updates and revisions include changes to the following exhibits in accordance with the respective requirements hereof: to **Exhibit A** pursuant to Article VI, **Exhibit B** pursuant to Section 5.01(b), **Exhibit D** pursuant to Section 4.08, **Exhibit E** pursuant to Section 3.04 and **Exhibit G** pursuant to Section 4.10(g). Any corrected or updated exhibit shall be deemed provided by MPC to each Party through provision thereof to the Standards Committee.

Section 9.11 Captions. The captions at the beginning of the Articles of this Agreement are guidelines and labels to assist in locating the reading of such Articles, and therefore, shall be given no effect in construing this Agreement and shall not be restrictive of or be used to interpret the subject matter of any article, section or part of this Agreement.

Section 9.12 Choice of Law. This Agreement is subject to and shall be construed in accordance with the Constitution and the laws of the State of Texas and the Charter and Ordinances and Administrative Policies, as applicable, of the City. All obligations hereunder shall be performed in Houston, Harris County, Texas.

Section 9.13 Equal Employment Opportunity. MPC shall not discriminate against any employee, contractor, vendor or concessionaire or any applicant or bidder for employment, contracts or concessions on the basis of race, religion, color, sex, national origin, age, handicap or disability, marital status, veteran status, political affiliation, sexual orientation, gender identity, gender expression or any basis that would violate Applicable Laws.

Section 9.14 Enforcement.

(a) The City Attorney or his or her designee shall have the right to enforce all legal rights and obligations under this Agreement without further authorization. MPC covenants to provide to the City Attorney all documents and records that the City Attorney deems necessary to assist in determining MPC's compliance with this Agreement, with the exception of those documents made confidential by Applicable Laws.

(b) Upon at least three (3) business days' advance notice to MPC, the City shall have the right, directly or through duly authorized representatives, during normal business hours and at its expense, to audit and obtain copies of MPC's books and records relating to the Project, provided, however, that MPC shall not be subject to audit more frequently than once in any City fiscal year during the Term.

(c) This Agreement constitutes a contract for goods and services under Chapter 271, Subchapter I of the Texas Local Government Code.

Section 9.15 Force Majeure. Notwithstanding anything in this Agreement which is or may appear to be to the contrary, if the performance of any covenant or obligation to be performed hereunder by any Party (except for a Payment Default) is delayed as a result of circumstances which are beyond the reasonable control of such Party and could not have been reasonably anticipated (which circumstances may include, but not be limited to, pending or threatened litigation, acts of God, war, acts of civil disobedience, fire, flood or other casualty, shortage of materials, severe natural disturbance, adverse weather conditions (such as, by way of illustration and not limitation, severe rain storms or below freezing temperatures, or tornadoes), industry-wide labor action, strikes or similar acts (but not strikes limited to either Party's work force) the time for such performance shall be extended by the amount of time that such delay is actually in effect ("**Force Majeure**"). The Party affected by Force Majeure shall promptly give notice to the other Parties of the occurrence of the Force Majeure event and shall use commercially reasonable efforts to mitigate the impact and duration of the Force Majeure event.

Section 9.16 Federally Declared Disaster. The Parties agree to cooperate to establish written federally declared disaster procedures and protocols. The procedures and protocols shall establish the role and responsibility of each Party in the event any of the Park or its Projects are impacted, damaged or destroyed, in whole or in part, as a result of or in connection with the occurrence of a federally-declared disaster/emergency event for the procurement, purchase, repair, replacement, reconstruction, emergency work, monitoring or other aspects related to restoration of the Park (other than the Excluded Areas) and any Projects resulting from the occurrence of such event. Such procedures and protocols (including any amendments thereto) must be approved by the Parties and shall supplement the provisions of this Agreement. At all times after a declared disaster/emergency declaration from the federal government, or notification from the Director to MPC of an impending declaration, MPC agrees to work with the City to ensure compliance with all federal, state, and local laws and regulations applicable to all aspects of the restoration of the City-owned property or assets in the Park.

Section 9.17 Pay or Play. The requirements and terms of the City Pay or Play program, as set out in Executive Order 1-7, are incorporated into this Agreement for all purposes. MPC and

UDA have each reviewed Executive Order No. 1-7 and shall comply with its terms and conditions as they are set out at the time of City Council approval of this Agreement.

Section 9.18 Compliance with Equal Opportunity Ordinance. MPC shall comply with the requirements of the City's Equal Employment Opportunity Ordinance as set out in **Exhibit K**, attached hereto.

Section 9.19 Environmental Compliance. MPC shall maintain and operate the Park in an environmentally sound manner that complies with all applicable federal, state and local environmental and related laws and permits, and MPC shall maintain current certifications to use any and all chemicals required for MPC to perform MPC's maintenance obligations with respect to the Park.

Section 9.20 MPC Debt. Unless excluded by Section 15-125 of the City Code of Ordinances, if MPC, at any time during the Term of this Agreement, incurs a "debt," as the word is defined in Section 15-122 of the City Code, it shall immediately notify the City Controller in writing. If the City Controller becomes aware that MPC has incurred a debt, the City Controller shall immediately notify Contractor in writing. If MPC does not pay the debt within thirty (30) days of either such notification, the City Controller may deduct funds in an amount equal to the debt from any payments owed to MPC under this Agreement, and MPC waives any recourse therefor.

Section 9.21 Prior Agreements. This Agreement supersedes and replaces the Original Agreement. The Original Agreement is hereby terminated as of the Effective Date.

Section 9.22 Major Donor as Third Party Beneficiary. The terms of this Agreement will be binding upon, and inure to the benefit of, the Parties hereto and their permitted successors and assigns. In addition, the Parties hereby expressly acknowledge, stipulate and agree that this Agreement shall also inure to the benefit of the Major Donor, that the Major Donor is a third party beneficiary of this Agreement and all Definitive Agreements, and that the Major Donor shall have the right (but not the obligation) and legal standing to enforce the respective obligations of the Parties under all Definitive Agreements to the full extent allowed at law or in equity, or as otherwise provided under the Definitive Agreements, to the same extent as any Party hereto would have.

Section 9.23 Restrictive Covenants.

(a) Declaration of Restrictive Covenants. The City, as owner of the real property and interests in real property constituting the Project Area, hereby declares that the Restrictive Covenants are covenants running with the land (both real property and interests in real property) consisting of the Park. The Parties hereby acknowledge and agree that the Restrictive Covenants shall be binding on the Parties, their respective employees, agents, contractors and subcontractors, and the activities and operations of the foregoing, respectively, in the Park and otherwise relating to the Project, from and after the Effective Date hereof for the duration of the Term. The Parties hereby further acknowledge and agree that any one of the Parties hereto (or their permitted successors or assigns), and/or the Major Donor and/or MPC as third party beneficiaries, acting jointly or severally, shall have the right, but not the obligation, to enforce the Restrictive Covenants

against any of the Parties, their respective employees, agents, contractors and subcontractors, with any rights and remedies available at law or in equity, or as otherwise set forth in this Agreement. The Parties hereby further acknowledge and agree that the Restrictive Covenants are not established for the benefit of, and are not enforceable by, any neighboring property owner, any member of the public, or by any natural person or legal entity other than the Parties hereto (or their permitted successors or assigns), and/or the Major Donor and/or MPC as third party beneficiaries, acting jointly or severally.

(b) Recordation of Memorandum. Within thirty (30) days after the Effective Date hereof, the Parties shall have executed, and the City shall have recorded in the Official Public Records of Real Property of Harris County, Texas, the Memorandum of Restrictive Covenants, in the form attached hereto as **Exhibit L**, for the purpose of giving actual, constructive and legal notice that this Agreement, together with the Master Plan and the Operations and Maintenance Manual, as amended from time to time, impose the Maintenance Standard as a land use restriction on the Park, except for the Excluded Areas. Upon recordation, the City shall provide a file-stamped copy of the Memorandum of Restrictive Covenants to each Party and to the Standards Committee. Upon termination or expiration of this Agreement for any reason, the Parties shall cooperate to execute and record an instrument that releases the Park from the Restrictive Covenants.

Section 9.24 No Waiver of Immunity. Notwithstanding anything contained in this Agreement to the contrary, nothing in this Agreement shall constitute a waiver by the City of any provisions of any law relating to governmental immunity or limitations of liability of a governmental entity.

[Remainder of this page intentionally left blank; signature pages follows.]

IN WITNESS WHEREOF, the City, UDA and MPC have made and executed this Agreement in multiple counterpart originals, each of which is an original.

ATTEST:

CITY OF HOUSTON, TEXAS

By: _____
Anna Russell, City Secretary

By: _____
Sylvester Turner, Mayor

COUNTERSIGNED:

By: _____
Chris B. Brown, Controller

DATE OF COUNTERSIGNATURE:

APPROVED:

By: _____
Andy Icken, Chief Development Officer

APPROVED:

By: _____
James Koski, Deputy Chief of Staff

APPROVED:

By: _____
Steve Wright, Director
Houston Parks and Recreation Department

APPROVED AS TO FORM:

By: _____
Mary Frances Buzak,
Senior Assistant City Attorney
LD # 0421500220002

MPC:

MEMORIAL PARK CONSERVANCY,
A Texas nonprofit corporation

By: _____

Name: Steven B. Jenkins

Title: Chairman

UDA:

UPTOWN DEVELOPMENT AUTHORITY,
A Texas local government corporation

By: _____

Name: Louis Sklar

Title: Vice Chairman and Acting Chairman

EXHIBIT A
GREENSPACE MAINTENANCE ANNUAL TARGET

[See attached.]

EXHIBIT A: ANNUAL GREENSPACE MAINTENANCE TARGET

REVENUE SOURCE	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023	5 YR Total	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	5 YR Total	10 YR Total	FY 2029-41 Annual	FY29-41 Total	FY 2042-48 Annual	FY 2019-2048 Total
Golf Revenue	\$200,000	\$200,000	\$200,000	\$200,000	\$200,000	\$200,000	\$200,000	\$200,000	\$200,000	\$200,000	\$200,000	\$200,000	\$200,000	\$200,000	\$200,000	\$200,000	\$6,000,000
Parking Revenue	\$135,000	\$135,000	\$250,000	\$250,000	\$375,000	\$750,000	\$750,000	\$750,000	\$750,000	\$750,000	\$750,000	\$750,000	\$750,000	\$750,000	\$750,000	\$750,000	\$19,895,000
SUB TOTAL - REVENUE	\$335,000	\$335,000	\$450,000	\$450,000	\$575,000	\$2,145,000	\$950,000	\$950,000	\$950,000	\$950,000	\$950,000	\$950,000	\$950,000	\$950,000	\$950,000	\$950,000	\$25,895,000
MPC Contributions	\$35,000	\$35,000	\$170,000	\$268,250	\$255,000	\$314,000	\$340,750	\$338,250	\$355,750	\$430,750	\$430,750	\$430,750	\$430,750	\$430,750	\$430,750	\$430,750	\$7,880,250
Distribution from 2041 Greenspace Maintenance Fund	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
SUB TOTAL - MPC CONTRIBUTIONS	\$35,000	\$35,000	\$170,000	\$268,250	\$255,000	\$763,250	\$314,000	\$340,750	\$338,250	\$355,750	\$430,750	\$430,750	\$430,750	\$430,750	\$430,750	\$430,750	\$7,880,250
Adjust for 2041 Greenspace Funding from UDA																	
ADJUSTED SUB TOTAL - MPC CONTRIBUTIONS																	
SUB TOTAL - MPC FUNDING	\$370,000	\$370,000	\$620,000	\$718,250	\$830,000	\$2,908,250	\$1,264,000	\$1,290,750	\$1,288,250	\$1,305,750	\$1,380,750	\$6,529,500	\$9,437,750	\$1,212,500	\$15,762,500	\$1,225,000	\$33,775,250
TRIZ Funding in lieu of HPARD	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000	\$9,200,000
TRIZ Contributions	\$300,000	\$300,000	\$510,000	\$549,750	\$816,000	\$612,000	\$1,215,250	\$876,750	\$806,250	\$487,250	\$487,250	\$487,250	\$487,250	\$488,200	\$5,346,600	\$0	\$12,819,850
Payments to 2041 Greenspace Maintenance Fund	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	Varies	\$6,130,000	\$0	\$6,130,000
SUB TOTAL - UDA CONTRIBUTIONS	\$700,000	\$700,000	\$910,000	\$949,750	\$1,216,000	\$4,475,750	\$1,012,000	\$1,615,250	\$1,276,750	\$1,206,250	\$887,250	\$5,997,500	\$10,473,250	\$888,200	\$17,676,600	\$0	\$28,149,850
SUB TOTAL - UDA SHORTFALL CONTRIBUTION	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
(UNDETERMINED)	\$1,070,000	\$1,070,000	\$1,530,000	\$1,668,000	\$2,046,000	\$7,384,000	\$2,276,000	\$2,906,000	\$2,565,000	\$2,512,000	\$2,268,000	\$12,527,000	\$19,911,000	\$2,100,700	\$33,439,100	\$2,100,714	\$61,925,100
ANNUAL GREENSPACE MAINTENANCE TARGET	\$1,070,000	\$1,070,000	\$1,530,000	\$1,668,000	\$2,046,000	\$7,384,000	\$2,276,000	\$2,906,000	\$2,565,000	\$2,512,000	\$2,268,000	\$12,527,000	\$19,911,000	\$2,100,700	\$33,439,100	\$2,100,714	\$61,925,100

*Park Program Funding and Operations funded by MPC separately
 **UDA will make advance payments between FY29 - FY41 to provide
 *** UDA will take over current annual HPARD Greenspace

NOTES:
 1. All costs have been rounded
 2. Green Space Maintenance Cost is based on current project completion schedule and will be reviewed annually

EXHIBIT B

TEN-YEAR PLAN, SCOPE, BUDGET, SCHEDULE AND CASH FLOW

[See attached.]

EXHIBIT B
SCOPE OF WORK AND BUDGET

PROJECT	MPC	UDA	TIP GRANT	TOTAL
Destinations	58,000,000	0	0	58,000,000
Eastern Glades	29,600,000			29,600,000
Memorial Groves	14,800,000			14,800,000
Running Complex	13,600,000			13,600,000
Central Connector	40,400,000	30,000,000	0	70,400,000
Land Bridge	23,400,000	29,000,000		52,400,000
Mobility and Parking	5,800,000			5,800,000
Storm Water & Drainage		1,000,000		1,000,000
Prairie Restoration	7,100,000			7,100,000
Recreation, Trails & Amenities	4,100,000			4,100,000
Connectivity in Park	10,900,000	5,000,000	0	15,900,000
Southern Arc Trail	9,700,000			9,700,000
Southside Trail Rehabilitation	1,200,000			1,200,000
Outer Loop Trail		1,000,000		1,000,000
Memorial Drive Pedestrian Bridge		3,000,000		3,000,000
East-West Trail to Crestwood		1,000,000		1,000,000
Connectivity to Park		7,000,000	30,000,000	37,000,000
Memorial Drive to San Felipe – 2016 TIP Trail		2,000,000	10,000,000	12,000,000
Memorial Park Connector and 2019-2022 TIP Trails		5,000,000	20,000,000	25,000,000
Stormwater Management	2,300,000	5,000,000	0	7,300,000
Recreation & Amenities	8,700,000	3,000,000		11,700,000
Ballfields	5,200,000			5,200,000
Seymour Lieberman Trail Reconstruction along Memorial		3,000,000		3,000,000
Signage for Wayfinding & Parking	2,300,000			2,300,000
Old Archery Range Improvement	1,200,000			1,200,000
Endowment	4,700,000	NA	NA	4,700,000
TOTAL	125,000,000	50,000,000	30,000,000	205,000,000

*UDA is responsible for TIP Grant work.
Project costs include project management and contingency.*

**EXHIBIT B
TEN-YEAR PLAN SCHEDULE**

PROJECT	PROJECT START	CONSTRUCTION START	PROJECT COMPLETION
Eastern Glades - MPC	February 2017	August 2018	June 2020
Ballfields	July 2018	July 2019	April 2020
Memorial Park Connector (to Post Oak Blvd) - UDA	July 2018	January 2020	June 2021
Central Connector - UDA	July 2018	October 2020	October 2022
Central Connector - MPC	July 2018	October 2020	October 2022
Memorial Drive to San Felipe 2016 TIP Trail - UDA	July 2018	TBD	TBD
Stormwater Mgmt. – MPC (Phased)	July 2018	July 2021	June 2024
Stormwater Mgmt. – UDA (Phased)	July 2018	July 2020	June 2025
Running Complex – MPC*	May 2021	November 2022	May 2024
Memorial Groves – MPC*	May 2023	November 2024	May 2026
Seymour Lieberman Trail - UDA	July 2023	April 2024	Dec. 2025
Southern Arc Trail - MPC	May 2025	November 2026	May 2028
Memorial Drive Pedestrian Bridge - UDA	July 2026	May 2027	May 2028
Additional 2019-22 TIP Trails - UDA	TBD	TBD	TBD

Minor Ten-Year Plan Projects will be scheduled by agreement of the Parties, the Standards Committee and the Major Donor in subsequent revisions of the Ten-Year Plan.

TIP Trail schedules to be finalized based on federal grant funding.

** Schedule subject to change based on available funding.*

EXHIBIT B

CAPITAL CASH FLOW SUMMARY

FUNDED BY	MPC	MAJOR DONOR	TOTAL
July 2018	\$5,000,000	\$7,000,000	\$9,389,000
September 2019	\$12,029,000	\$21,000,000	\$33,029,000
September 2020	\$15,000,000	\$35,000,000	\$50,000,000
September 2021	\$20,225,000	\$54,000,000	\$74,225,000
September 2022	\$32,240,000	\$59,000,000	\$91,240,000
September 2023	\$36,060,000	\$61,200,000	\$97,260,000
September 2024	\$50,760,000	\$63,400,000	\$114,160,000
September 2025	\$51,295,000	\$65,600,000	\$116,895,000
September 2026	\$53,295,000	\$67,800,000	\$121,095,000
September 2027	\$55,000,000	\$70,000,000	\$125,000,000
TOTAL	\$55,000,000	\$70,000,000	\$125,000,000

*Figures in each year are cumulative of all years to-date.
MPC totals include projections for funds to be raised in italics.*

FUNDED BY	UDA
June 30, 2018	\$4,660,000
June 30, 2019	\$12,360,000
June 30, 2020	\$27,860,000
June 30, 2021	\$37,860,000
June 30, 2022	\$40,160,000
June 30, 2023	\$43,560,000
June 30, 2024	\$46,000,000
June 30, 2025	\$46,600,000
June 30, 2026	\$47,500,000
June 30, 2027	\$50,000,000
TOTAL	\$50,000,000

Figures in each year are cumulative of all years to-date.

EXHIBIT C

**MAINTENANCE STANDARD
FOR MEMORIAL PARK AS OF EFFECTIVE DATE**

Maintenance Category	Standard (Cycle)
Mowing	Every 14 days (Mar-Oct) Once a month (Nov-Feb)
De-littering	Daily
Cleaning Restrooms	Daily
Mowing Firebreaks	Twice a year
Flowerbed Maintenance	Seasonal change out (where appropriate) Bi-weekly (inspected & groomed)

EXHIBIT D
PARK FEE SCHEDULE

[See attached.]

Rental Rates

PICNIC AREAS (21 AREAS AVAILABLE) - 3 HOUR RENTAL

31-125 participants*/**	\$135
126-250 participants*	\$350
251-500 participants*	\$550
Picnic Loop private event (limited availability at the discretion of MPC)	\$2000

*Nonprofit rates: \$90, \$235, \$370

CHILDREN'S BIRTHDAY PARTY (One covered picnic table at the Vale-Asche playground) - 3 HOUR RENTAL

Up to 30 children (12 and under)	\$70
<i>Nonprofit rates not available.</i>	

VOLLEYBALL COURTS

Volleyball Court Rental (per court/per hour) – 4 courts available	\$15
Volleyball net rental (per net/per day) – 2 nets available	\$25
<i>Nonprofit rates not available.</i>	

CULLEN RUNNING TRAILS CENTER - 1 HOUR RENTAL

Hours: M-F 6 am-8 pm, S-Su 7 am-2pm

East Patio (concrete pad)*	\$70
Multipurpose room (16' x 23', seating for 20 people)*	\$80
Event Lawn (100' x 100' lawn behind the CRTC)*	\$235

*Nonprofit rates: \$50, \$55, \$165

**Picnics of 30 or fewer participants do not need a permit and may set up free of charge in one of the restricted "family picnic areas"

Fees are determined based on impact to park resources and users and may reflect the operating costs carried by MPC.

Additional fees:

\$200 refundable grounds deposit will be charged if a) attendance will exceed 125 people, b) renter sets up a canopy or tent exceeding personal-use size, OR c) renter sets up a portable stage or other structure.

An **additional permit(s)** will be required by the City of Houston for a) the use of propane, b) amplified sound, AND/OR c) tents exceeding 1200 square feet.

Rental Regulations

1. Damages – Renter is responsible for any and all damage to equipment. Any damages will be repaired or replaced with the Renter held responsible for payment of all repairs resulting from use.
2. "As-is" Condition – Renter agrees to rent special equipment in its "as-is" condition.
3. Renter is responsible for setting up and returning rooms and equipment to the same location and arrangement they were in prior to usage. Set up and take down must be completed within the reserved time. MPC will not be responsible for tech support or troubleshooting in set up or take down of equipment before or during rental.
4. Renter will pick up equipment immediately before and after event from the Running Trails Center located at 7575 N. Picnic Lane, Houston, TX 77007. The office is open 8 am-5 pm Monday-Friday. Renter is responsible for drop-off directly to MPC staff person.

EXHIBIT E
NAMES AND SPONSORSHIP POLICY

[See attached.]

Names and Sponsorship Policy

April 2018

Memorial Park Conservancy (MPC), a Texas nonprofit corporation, encourages the solicitation and acceptance of gifts for purposes that will help MPC to further and fulfill its mission. The following policies and guidelines govern recognition of gifts, sponsorships and naming opportunities offered to MPC for the benefit of its programs and the Park.

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NAMES AND SPONSORSHIP POLICY

A. Announcement of Gifts

It is MPC's policy that gifts will not be publicly announced or recognized until MPC has received either the gift or documentation of the pledge. When a pledge is made that a gift will be delivered over time, the pledge will not be announced or recognized until MPC has received documentation of the pledge. No verbal pledges will be recognized as having been made. Either a signed pledge letter of intent or a gift must be in the possession of MPC before a pledge/gift is recorded, announced, or recognized.

B. Anonymity

Benefactors will be given the opportunity to choose anonymity, and this anonymity will be reflected in all published lists and other forms of donor recognition. The following will be those individuals who, for reasons of stewardship and accountability, will be informed of the amount of all pledges to the campaign, including those who request anonymity:

- Chief Executive Officer
- Chief Operating Officer
- Board Chair
- Campaign Chairs
- Campaign Counsel
- Director of Finance

In addition, any financial institution with an investment interest in the campaign, such as a bank providing a bridge loan, may be made aware of all gifts and pledges including those that are to remain anonymous for recognition purposes. Donors who elect anonymity should be made aware of the select individuals who, and institutions that, will be informed of their pledge before news of the gift is communicated.

C. Gift Valuation for Recognition Purposes

(1) Outright Gifts

Donors of outright gifts will be offered donor recognition at the level of gift reporting as listed below.

(2) Deferred Gifts

Donors of deferred gifts will be offered donor recognition at the level of gift reporting as listed below when the gift is irrevocable. Revocable gifts will be offered membership in a legacy society until the gift is realized. When realized, the donor will be recognized for the full value of the gift.

D. Visual Recognition and Naming Rights

The size and design of visual recognition of contributors will be approved by the Memorial Park Standards Committee in accordance with the 2015 Memorial Park Development, Construction, Operations Maintenance and Concession Agreement and consistent with the general principles and criteria of the Houston Parks and Recreation Department Policy Number 1010.4 for Naming of Park Property. Names shall only become effective upon substantial completion of construction. No feature previously named by the City of Houston shall be renamed without prior approval of the City of Houston. No feature may be named for a commercially available product unless the product is also the name of the corporation selling the product.

E. Forms of Recognition

(1) Annual Fund

The names of donors to the Annual Fund over \$250 will be published in the MPC annual report and other MPC publications as appropriate.

(2) Special Events

The names of donors and sponsors to special events will be published in MPC event publications and publicity as outlined in corresponding event materials, as well as the annual report and other MPC publications as appropriate.

(3) Legacy Gifts

The names of donors who provide MPC with information about their intentions to make MPC a beneficiary of their estate or deferred revocable gifts will be recognized through a legacy society, including a listing in the annual report and other MPC publications as appropriate.

(4) Capital and/or Endowment Campaigns

MPC will utilize the following three forms of recognition for campaigns:

- **Individual Signage:** This recognition is defined as physical, site-specific individual donor recognition opportunities, based on a specified and agreed upon level of financial support. The minimal level for this recognition opportunity will be \$50,000.
- **Campaign Summary Signage:** This recognition is defined as a listing of donors within a specific giving range to a campaign. All donors at and above \$25,000 will be recognized on a permanent donor display for campaigns.
- **Publications:** Periodically, the names of donors will be published in MPC publications, newsletters, and updates. The purpose of these publications is to show appreciation for gifts made and to encourage others to make significant and stretching philanthropic commitments to MPC.

(5) Endowment

The minimum level for a named endowed fund will be \$50,000. The names of donors to the endowment program will be published in MPC publications, newsletters, and other communications, as appropriate.

(6) Cumulative Giving Society

Donors with cumulative giving to MPC of over \$50,000 will be recognized through a listing in the annual report and other MPC publications as appropriate.

(7) Other Gifts

The Development staff at MPC and the executive administration will determine donor recognition opportunities for other gifts that are received outside of the opportunities above.

F. Life of a Named Gift Opportunity

Naming rights shall not be granted for a period longer than the term of the Amended and Restated Memorial Park Development, Construction, Operations, Maintenance and Concession Agreement (“Agreement”) without approval of the Director of the Parks and Recreation Department. Names shall become effective only upon the substantial completion of construction.

No name shall be granted for a period longer than the then-current term of this Agreement without the approval of the Director; provided, however, naming rights may be granted in perpetuity for the Major Donor (as defined in the Agreement).

Donor recognition opportunities that are part of a physical facility may not be transferable to a new facility. However, in the event of a new facility or renovation, MPC will offer appropriate recognition to these donors in other forms, as determined by the executive administration of the MPC. All naming opportunities expire at the end of the useful life of the furnishing, structure or facility.

Under no circumstances will any action be permitted that would rename the Park or take any action that would contravene or conflict with the original deeds granting the Park to the City.

G. Removal or Modification of Named Gift Opportunities

(1) Corporate Gifts

In the event of a corporate merger or name change, the donor may provide the funds to change the recognition to reflect the new company name. MPC may remove the name of companies that are no longer in business.

(2) Removal of Names

When individuals, corporations, their senior officers, or other organizations being recognized through donor recognition, named programs, endowments, etc. are later found to have, in the judgment of the MPC Board of Directors and the executive administration, violated ethical behavior or broken laws and their actions result in an unfavorable connection for Memorial Park, MPC and/or Memorial Park Conservancy Endowment, Inc. , the Board of Directors and executive administration reserves the right to remove such a name from the facility without reimbursing the donor for their gift.

(3) Name Changes

If a donor wishes to change the wording on donor recognition signage, due to circumstances such as death, divorce, or remarriage, the donor may provide the funds to change the recognition, provided such a change is feasible at the time and has been approved by the MPC Gift Acceptance Committee.

(4) Non-Payment

If a donor has not completed all pledge payments and has not made a pledge payment in the past 24 months per an executed pledge agreement, the donor will be notified that the name can be removed from the space, program, or endowment.

H. Matching Gifts

(1) Solicitation Of Matching Gifts

Whenever and wherever possible, donors to the campaign will be encouraged to seek out and take advantage of corporate or foundation matching gift programs.

(2) Designation Of Matching Gift

Unless otherwise directed by the donor, corporation, or foundation, income from matching gifts will be designated for the same restricted purpose as the original gift of the individual donor.

(3) Donor Recognition

The corporate or foundation matching gift donor will receive credit and appropriate gift recognition and will be categorized in the appropriate donor recognition level. Additionally, for purposes of donor recognition, matching gift values will also be added to value of the original “matched” donor’s gift for recognition purpose





EXHIBIT F
MAINTENANCE FACILITY

[See attached.]

Memorial Maintenance Facility



Legend

-  Maintenance_Yard
-  MPC_Area
-  COH_Area
-  Common Area

Buildings

- 1. COH Greenhouse
- 2. MPC Greenhouse
- 3. Head House
- 4. MPC Barn
- 5. COH Barn
- 6. COH Office-House

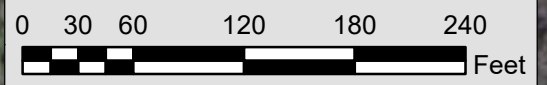


EXHIBIT G
PARKING MAP

[See attached.]

EXHIBIT G - EXISTING PARKING AND INITIAL PAID PARKING PLAN

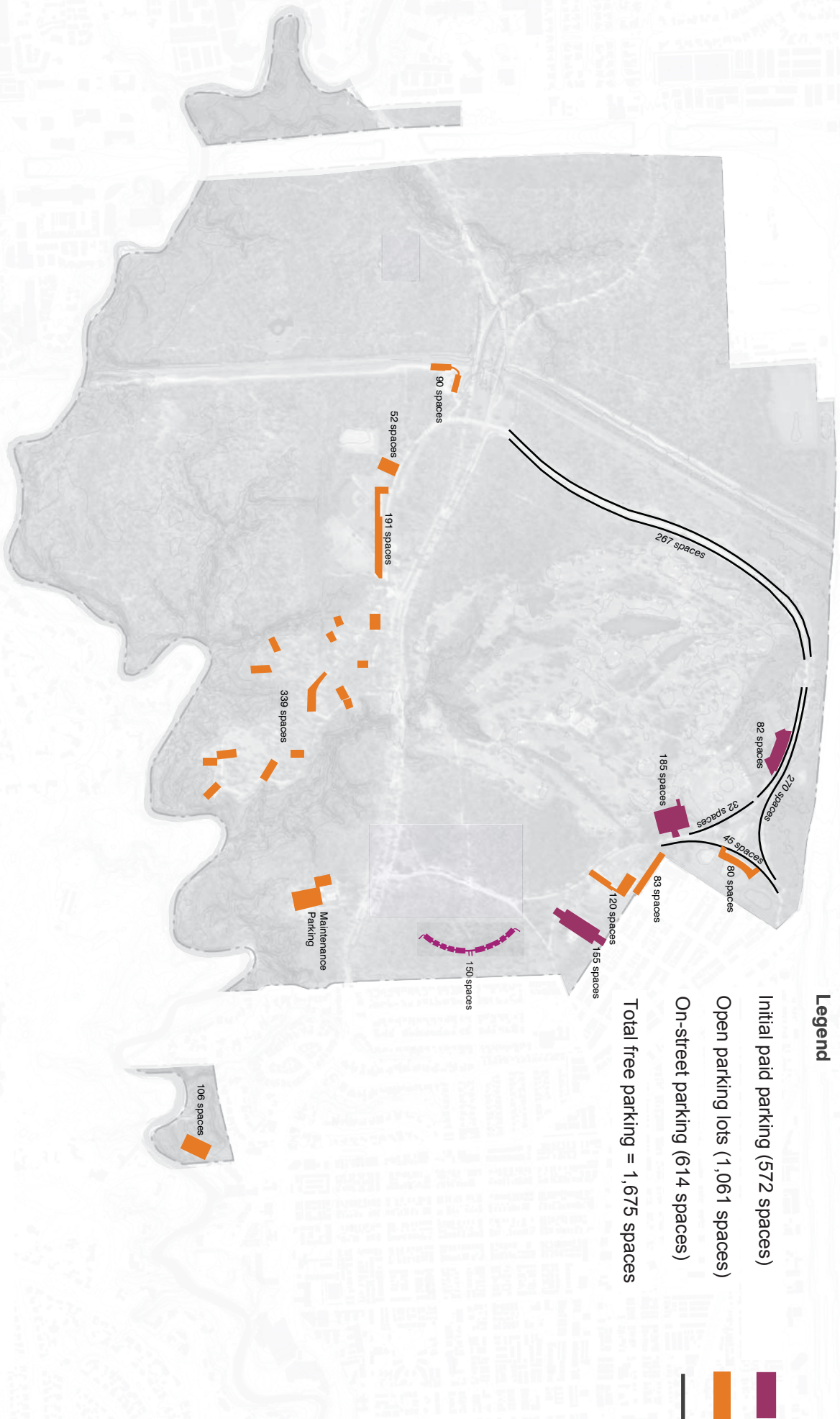


EXHIBIT H

CENTRAL CONNECTOR COLLABORATION

1. Joint Implementation. The Central Connector Project, which includes the land bridge, will be funded by both UDA and MPC and is the only Project in the Ten-Year Plan that UDA and MPC are obligated to jointly implement in this Agreement.
2. Project Manager. The Standards Committee will appoint a subcommittee to oversee planning, design and construction of the Central Connector Project (the “**Subcommittee**”) and a chairperson for the Subcommittee (“**Subcommittee Chair**”). The Subcommittee must have a majority consisting of Standards Committee members but may include others with expertise in the planning, design and construction of landscape features (the “**Requisite Qualifications**”), and it will advise the Subcommittee Chair during implementation of the Central Connector Project. The Subcommittee Chair shall have the Requisite Qualifications but is not required to be a member of the Standards Committee. The Subcommittee Chair will be charged with detailed coordination between the MPC, UDA, City staff and others and will seek advice from the Subcommittee on a regular basis and report to the Standards Committee on a bi-monthly basis with regard to progress of the Central Connector Project. Upon approval of an overall approach for the design phase, the Subcommittee Chair will recommend and the Standards Committee will select the appropriate Project Manager or Project Managers for the design phase of work and identify the same for the construction phase. The Standards Committee may replace the Subcommittee and/or the Subcommittee Chair upon a vote of at least six of its members. The Subcommittee will terminate upon Final Completion of the Central Connector Project.
3. Scope of Work and Allocation of Budget. **Attachment A** details the initial allocation of budgets and scope of work by sub-project that MPC and UDA are each obligated to contribute to the Central Connector Project. Upon a recommendation from the Subcommittee Chair and the approval of UDA, MPC and Major Donor, the Standards Committee may revise the allocation of funds and scope of work in **Attachment A** between UDA and MPC; however, the total funding provided by UDA and MPC to the Projects in the Ten-Year Plan will not exceed the financial obligations of the Parties under the Agreement.
4. Design Phase. Upon a recommendation from the Subcommittee Chair, the Standards Committee will identify a design consultant or consultants for the Project and also work with UDA and MPC to identify the most advantageous contracting approach with the design consultant or consultants, which may include joint funding of one design agreement for work funded by MPC and UDA, separate but coordinated agreements with the same design consultant for that work, or separate but coordinated agreements with the different design consultants for that work. UDA and MPC will each fund the design and engineering for their allocated scope of work by sub-projects as described in **Attachment A**. **Attachment A** also describes the funds UDA and MPC have targeted for design/engineering and other design phase tasks (these targets are not binding commitments). The allocation of the scope of work for other design phase tasks (non-design/engineering) will be determined by mutual agreement of UDA, MPC and the Subcommittee Chair; however, UDA and MPC will have authority over their own budgets and contracts, and their totals for contracted and actual expenses by task may be above or below the targets in

Attachment A. The Standards Committee is authorized to revise the overall allocation of the design phase scope of work between UDA and MPC upon the recommendation of the Subcommittee Chair and advance approval of UDA, MPC and Major Donor. If UDA and MPC are each Project Managers for portions of the design phase work, they will coordinate their design phase activities, including but not limited to the design of roadways, drainage facilities and related landscape features that are part of the drainage system. The Subcommittee Chair will oversee this coordination; however, MPC and UDA may each appeal the Subcommittee Chair's decisions to the Standards Committee, and the Standards Committee may confirm or overrule the Subcommittee Chair.

5. Construction Phase. Upon a recommendation from the Subcommittee Chair and approval of MPC, UDA and Major Donor, the Standards Committee will identify the most advantageous contracting approach for construction, which may include joint funding of one construction contract for work funded by MPC and UDA or separate but coordinated construction contracts for the same work. The Standard Committee also will determine the best methods to select a construction general contractor or contractors with methods involving UDA funds being restricted to those allowable for local government corporations under state law. Upon a recommendation from the Subcommittee Chair and approval of MPC, UDA and Major Donor, the Standards Committee will determine a fair allocation of construction costs based upon the expenditures of MPC and UDA funds for design phase tasks to-date (which may have increased or decreased from the figures in **Attachment A**) and the allocations MPC and UDA budget commitments by sub-project and for the Project in **Attachment A** (as may be subsequently revised by the Standards Committee). Approval of any construction contract will require the separate approval of each Party funding or partially funding that construction contract. If construction work is contracted separately for MPC and UDA work, the other party (MPC or UDA as the case may be) will have the right to attend construction meetings, visit the site, review construction management and inspection reports, and conduct independent inspections of the construction. UDA and MPC are required to carefully coordinate with regard to construction of roadways, drainage facilities and related landscape features that are part of the drainage system. **Attachment A** also specifies the funds UDA and MPC have targeted for other tasks during construction (these targets are not binding commitments), which generally will be associated with (and therefore allocated by) UDA's and MPC's construction contracts.

6. Adjustments to Budget: If the Central Connector Project's actual costs are (i) at any time projected to be below or above the allocated budgets in **Attachment A** or (ii) have been determined upon Substantial Completion of the Project to be below or above the allocated budgets in **Attachment A**, MPC, UDA and the Sub-Committee Chair shall recommend for approval by the Standards Committee and Major Donor adjustments to (i) first the Ten-Year Plan Budget and (ii) if budget adjustments are not sufficient, to the Ten-Year Plan Scope of work with those adjustments to not cause the Ten-Year Plan Budget to exceed MPC's and/or UDA's financial obligations under the Agreement.

ATTACHMENT A

SCOPE OF WORK & BUDGET COMMITMENTS BY SUB-PROJECT	MPC	UDA	TOTAL
Land Bridge	23,400,000	29,000,000	52,400,000
Mobilization	1,400,000	5,700,000	
Demolition	400,000		
Tree Protection	600,000		
Site Drainage	1,200,000		
Utilities		1,100,000	
Traffic Control Plan		2,500,000	
Clearing and Grubbing	900,000		
Pre-Cast Tunnels and Foundations		18,500,000	
Waterproofing		300,000	
Fire Protection, Ventilation		500,000	
Excavation and Structural / General Fill	6,200,000		
TxDOT Barrier		400,000	
Memorial Drive "Bridge" btwn tunnels	3,400,000		
Tunnel Entries	1,500,000		
Lighting	1,700,000		
Railing	600,000		
Traffic signal, signs, pavement	900,000		
Planting (on land bridge only)	2,200,000		
General Contingency	2,400,000		
Mobility and Parking	5,800,000		5,800,000
Storm Water & Drainage		1,000,000	1,000,000
Prairie Restoration	7,100,000		7,100,000
Recreation, Trails & Amenities	4,100,000		4,100,000
TOTAL	40,400,000	30,000,000	70,400,000

NON-BINDING TARGETS

Type of Task**	Sub-Total	Construction	Design 10%	Design-Other 6%	Construction-Other* 4%
MPC	\$34,880,400	\$29,067,000	\$2,906,700	\$1,744,020	\$1,162,680
UDA	\$26,437,635	\$22,031,362	\$2,203,136	\$1,321,882	\$881,255
TOTAL	\$61,318,035	\$51,098,362	\$5,109,836	\$3,065,902	\$2,043,935

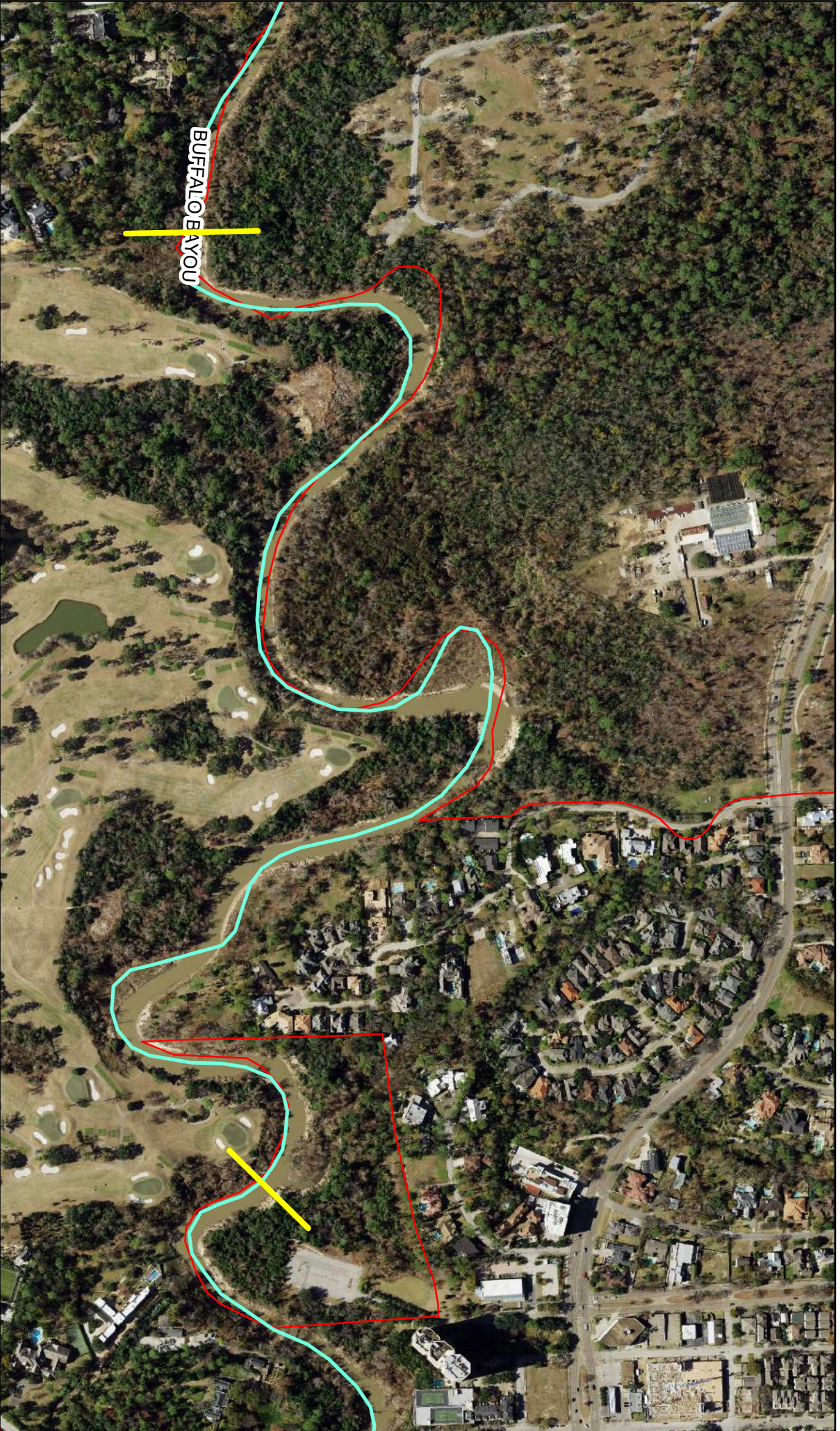
* Includes construction management and materials testing

** The budget for each type of task is the construction budget multiplied by a percentage.

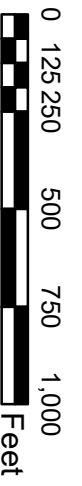
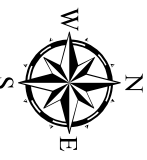
	Total	Sub-total	Project Management and General Contingency
MPC	\$40,400,000	\$34,880,400	\$5,519,600
UDA	\$30,000,000	\$26,437,635	\$3,562,365
TOTAL	\$70,400,000	\$61,318,035	\$9,081,965




EXHIBIT I
DEMONSTRATION PROJECT

[See attached.]

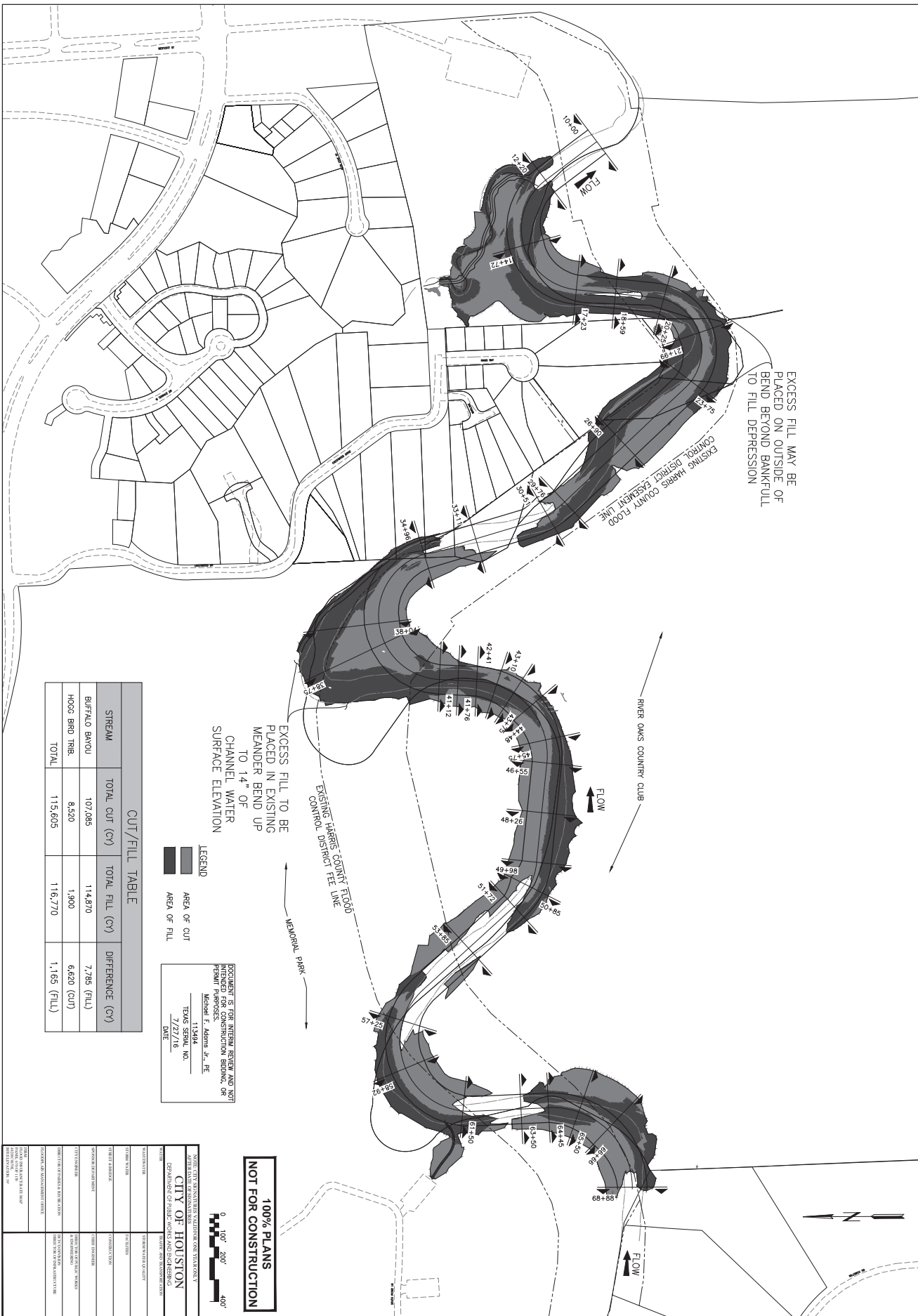


Memorial Park Demonstration Project Location Map



-  MPDP Limits
-  channels
-  Memorial_Park_Boundary





EXCESS FILL MAY BE PLACED ON OUTSIDE OF BEND BEYOND BANKFULL TO FILL DEPRESSION

EXCESS FILL TO BE PLACED IN EXISTING MEANDER BEND UP TO 1.4' OF CHANNEL WATER SURFACE ELEVATION

STREAM	TOTAL CUT (CY)	TOTAL FILL (CY)	DIFFERENCE (CY)
BUFFALO BAYOU	107,085	114,870	7,785 (FILL)
HOOB BIRD TRIB.	8,520	1,900	6,620 (CUT)
TOTAL	115,605	116,770	1,165 (FILL)

LEGEND
 ■ AREA OF CUT
 ■ AREA OF FILL

DOCUMENT IS FOR INTERIM REVIEW AND NOT FOR CONSTRUCTION PURPOSES.
 Michael F. Adams Jr., P.E.
 TEXAS SERIAL NO. 113484
 DATE 7/27/16

100% PLANS
 NOT FOR CONSTRUCTION



STATE OF TEXAS CITY OF HOUSTON DEPARTMENT OF PUBLIC WORKS AND CONSTRUCTION	
DESIGNED BY	STATSTAC
CHECKED BY	MFA
APPROVED BY	---
DATE	7/27/16
SCALE	1"=200'
SHEET NUMBER	21 OF 67

<p>300 Jefferson Street, Suite 1870 Houston, TX 77002-3000 Tel. 832.597.4466 Fax. 832.597.4464 www.statstac.com</p>	<p>9910 Northwest Freeway Houston, Texas 77036</p> <p>Harris County Flood Control District</p>	<p>PROJECT ID# W100-00-00-X043</p> <p>MEMORIAL PARK DEMONSTRATION PROJECT</p> <p>CUT/FILL PLAN</p>	<table border="1"> <thead> <tr> <th>REV</th> <th>DESCRIPTION</th> <th>DATE</th> <th>APPR</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	REV	DESCRIPTION	DATE	APPR								
	REV	DESCRIPTION	DATE	APPR											
<p>PREPARED: MAS</p> <p>CHECKED: MFA</p> <p>APPROVED: ---</p>	<p>STATSTAC</p>	<p>STATSTAC</p>	<p>STATSTAC</p>												

EXHIBIT J
BILL OF SALE

[See attached.]

FORM OF BILL OF SALE

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

BILL OF SALE

WHEREAS, by Agreement (“Agreement”) dated _____, between the City of Houston (the “City”), Uptown Development Authority (“UDA”) and Memorial Park Conservancy, Inc. (“MPC”), _____ has agreed to provide _____ for the _____ (Name of the Project) _____ and the surrounding area _____ (location) _____ (the “Project”); and

WHEREAS, pursuant to such Agreement, _____ is obligated to transfer ownership of the Project to the City; NOW THEREFORE,

KNOW ALL MEN BY THESE PRESENTS:

That _____, by and through its duly authorized representatives whose names and signatures as duly affixed hereto, for and in consideration of TEN DOLLARS (\$10.00), and other good and valuable consideration in hand paid to it by the City, the receipt and adequacy of which are hereby acknowledges, and grants, sells, conveys, transfers, assigns and delivers to the City all of its right, title and interest in the Project and does hereby grant, sell, convey, transfer, assign and deliver the Project unto the City, free and clear of all liens and encumbrances thereof;

TO HAVE AND TO HOLD the Project, together with all and singular the rights and appurtenances thereto, unto the City, its successors and assigns, forever, and _____ does hereby bind itself and its successors to warrant and forever defend all and singular the said premises unto the City, against every person claiming or to claim the same, or any part hereof.

_____ has executed this Bill of Sale and delivered the Project to the City, and the City has accepted this Bill of Sale and acquired the Project from _____, **AS IS, WHERE IS, AND WITHOUT ANY WARRANTIES OF WHATSOEVER NATURE, EXPRESS OR IMPLIED, IT BEING THE INTENTION OF CITY AND MPC TO EXPRESSLY NEGATE AND EXCLUDE ALL WARRANTIES, INCLUDING WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF HABITABILITY, MERCHANTABILITY AND FITNESS FOR ANY PARTICULAR PURPOSE, WARRANTIES CREATED BY ANY AFFIRMATION OF FACT OR PROMISE OR BY ANY DESCRIPTION OF THE PROJECT OR BY ANY SAMPLE OR MODE, AND ANY OTHER WARRANTIES WHATSOEVER CONTAINED IN OR CREATED BY LAW, INCLUDING THE TEXAS UNIFORM COMMERCIAL CODE,** except the warranty of title set forth above. This disclaimer of warranties shall have no effect on the warranties and guarantees described in Section 5.08 of the Agreement.

From and after the date hereof, _____ shall be released and discharged of all of its obligations, duties and responsibilities under the Agreement, save and except the duty of indemnification contained in Section 7.01 of the Agreement.

[Remainder of this page intentionally left blank; signature page follows.]

IN WITNESS WHEREOF, this Bill of Sale has been executed by _____

by its duly authorized officer on _____, 20__.

By: _____

Name: _____

Title: _____

ACCEPTED ON BEHALF OF THE
CITY OF HOUSTON, TEXAS

Mayor

EXHIBIT K
EQUAL EMPLOYMENT OPPORTUNITY

[See attached.]

EQUAL EMPLOYMENT OPPORTUNITY

1. The contractor, subcontractor, vendor, supplier, or lessee will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, or age. The contractor, subcontractor, vendor, supplier, or lessee will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, sex, national origin, or age. Such action will include, but not be limited to, the following: employment; upgrading; demotion or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation and selection for training, including apprenticeship. The contractor, subcontractor, vendor, supplier or lessee agrees to post in conspicuous places available to employees, and applicants for employment, notices to be provided by the City setting forth the provisions of this Equal Employment Opportunity Clause.
2. The contractor, subcontractor, vendor, supplier, or lessee states that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, national origin or age.
3. The contractor, subcontractor, vendor, supplier, or lessee will send to each labor union or representatives of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer advising the said labor union or worker's representative of the contractor's and subcontractor's commitments under Section 202 of Executive Order No. 11246, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The contractor, subcontractor, vendor, supplier, or lessee will comply with all provisions of Executive Order No. 11246 and the rules, regulations, and relevant orders of the Secretary of Labor or other Federal Agency responsible for enforcement of the equal employment opportunity and affirmative action provisions applicable and will likewise furnish all information and reports required by the Mayor and/or Contractor Compliance Officer(s) for purposes of investigation to ascertain and effect compliance with this program.
5. The contractor, subcontractor, vendor, supplier, or lessee will furnish all information and reports required by Executive Order No. 11246, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to all books, records, and accounts by the appropriate City and Federal Officials for purposes of investigations to ascertain compliance with such rules, regulations, and orders. Compliance reports filed at such times as directed shall contain information as to the employment practice policies, program, and work force statistics of the contractor, subcontractor, vendor, supplier, or lessee.
6. In the event of the contractor's, subcontractor's, vendor's, supplier's, or lessee's non-compliance with the non-discrimination clause of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part, and the contractor, subcontractor, vendor, supplier, or lessee may be declared ineligible for further City contracts in accordance with procedures provided in Executive Order No. 11246, and such other sanctions may be imposed and remedies invoked as provided in the said Executive Order, or by rule, regulation, or order of the Secretary of Labor, or as may otherwise be provided by law.
7. The contractor shall include the provisions of paragraphs 1-8 of this Equal Employment Opportunity Clause in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take

such action with respect to any subcontractor or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event the contractor becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

8. The contractor shall file and shall cause his or her subcontractors, if any, to file compliance reports with the City in the form and to the extent as may be prescribed by the Mayor. Compliance reports filed at such times as directed shall contain information as to the practices, policies, programs, and employment policies and employment statistics of the contractor and each subcontractor.

EXHIBIT L
MEMORANDUM OF RESTRICTIVE COVENANTS

[See attached.]

EXHIBIT L

MEMORANDUM OF RESTRICTIVE COVENANTS

MEMORIAL PARK, HOUSTON, TEXAS

This **MEMORANDUM OF RESTRICTIVE COVENANTS** (this “**Memorandum**”), dated effective as of the Effective Date set forth below, is executed by **CITY OF HOUSTON, TEXAS** (“**City**”), a home-rule city located in Harris, Montgomery and Fort Bend Counties, Texas, acting by and through its governing body, the City Council; the **UPTOWN DEVELOPMENT AUTHORITY**, a local government corporation organized pursuant to Chapter 431, Texas Transportation Code (“**UDA**”); and **MEMORIAL PARK CONSERVANCY, INC.**, a nonprofit corporation organized under Chapter 22, Texas Business Organizations Code (“**MPC**”) (each, a “**Party**,” and collectively, the “**Parties**”).

RECITALS

The City is the owner of certain real property and interests in real property, known as “**Memorial Park**”, and being more particularly described by metes and bounds in **EXHIBIT A** attached hereto (the “**Park**”).

Prior to the Effective Date hereof, the Parties have developed a Master Plan for the restoration, enhancement and redevelopment of the Park in a manner appropriate to meet the demands of the more than four million current annual Park visitors, which Master Plan was unanimously approved by the City Council by City Motion No. 2015-0215, passed and adopted on April 1, 2015 (the “**Master Plan**”). The Master Plan may be amended from time to time, but in any event, shall remain in effect for the Term of the Project (as defined below).

The Parties have entered into that certain Amended and Restated Development, Construction, Operations, Maintenance and Concession Agreement dated effective as of the Effective Date hereof (the “**Tri-Party Agreement**”) pursuant to which the Parties will cooperate in a long-term project for the development, implementation and completion of the Master Plan (the “**Project**”). The Tri-Party Agreement may be amended from time to time hereafter as provided therein.

The Tri-Party Agreement provides that the Project has a term beginning prior to the Effective Date hereof, and continuing for an initial term ending at midnight on _____, **2048**, and provides the option for MPC to extend the term for two (2) additional, consecutive Renewal Terms of 30 years each, respectively, potentially extending until midnight on _____, **2108** (collectively, the “**Term**”), as such capitalized terms are more specifically defined in the Tri-Party Agreement.

Pursuant to the Tri-Party Agreement, and as a condition of each Party’s undertaking its respective obligations under the Tri-Party Agreement, the Parties have adopted, and have agreed to be bound by, the Operations and Maintenance Manual, covering the Park, which may be amended from time to time (the “**Operations and Maintenance Manual**”). The Operations and Maintenance Manual contains a description of planned or existing Concessions and Programs, reservations systems, venue rental rates, user fees, Employee/Volunteer Performance Standards,

Names and Sponsorship Policy, and other matters the Standards Committee deems desirable or necessary to (1) preserving the integrity of the Park, (2) enriching the Park’s heritage as a unique landmark, and (3) transforming the Park into one of the nation’s premier parks. The Operations and Maintenance Manual may be amended from time to time, but in any event, shall remain in effect for the entire Term of the Project.

NOTICE

NOW, THEREFORE, in consideration of the foregoing premises, and as required in the Tri-Party Agreement, the Parties have executed this Memorandum, and have caused the same to be recorded in the Official Public Records of Real Property of Harris County, Texas, to give notice (i) of the existence of the Tri-Party Agreement, the Operations and Maintenance Manual and the Master Plan, as amended from time to time during the Term, (ii) that the terms, conditions, covenants and restrictions set forth in the foregoing documents (collectively, the “**Restrictive Covenants**”) are declared by City and intended by the Parties as covenants running with the land (both real property and interests in real property) consisting of the Park, and (iii) that such Restrictive Covenants shall be binding on the Parties and their respective employees, agents, contractors and subcontractors with regards to their respective activities and operations in the Park and otherwise relating to the Project, from and after the Effective Date hereof for the duration of the Term.

Any one of the Parties hereto, and/or the Kinder Foundation, a Texas non-profit corporation, acting jointly or severally, shall have the right to enforce the Restrictive Covenants against any of the Parties, their respective employees, agents, contractors and subcontractors, with any rights and remedies available at law or in equity, or as otherwise set forth in the Tri-Party Agreement. The Parties stipulate, however, that the Restrictive Covenants are not established for the benefit of, and are not enforceable by, any neighboring property owner, any member of the public, or by any natural person or legal entity other than the Parties hereto (or their permitted successors or assigns), and/or the Kinder Foundation as third party beneficiaries, acting jointly or severally.

For a complete version of the Restrictive Covenants, copies of the Tri-Party Agreement, the Operations and Maintenance Manual and the Master Plan, as amended from time to time after the Effective Date hereof, may be obtained upon written request (at the expense of the requesting party) to City or MPC as follows:

<p>Mayor, City of Houston 900 Bagby Houston, Texas 77002</p>	<p>OR</p>	<p>Memorial Park Conservancy at its registered office as reflected in the records of the Texas Secretary of State</p>
---	-----------	--

Nothing in this Memorandum of Restrictive Covenants is intended, nor shall it be construed to, amend, supplement, delete or otherwise revise any portion of the Tri-Party Agreement, the Operations and Maintenance Manual and the Master Plan, as amended from time to time after the Effective Date hereof. The Parties acknowledge and agree that nothing in this Memorandum of Restrictive Covenants is intended to amend, supplement, delete, or otherwise revise any other restrictions of record affecting the Property.

EXECUTED in multiple counterpart originals by the respective Parties, to be made effective on the date of countersignature by the City Controller set forth below (the “Effective Date”).

ATTEST:

CITY OF HOUSTON, TEXAS

By: _____
Anna Russell, City Secretary

By: _____
Sylvester Turner, Mayor

COUNTERSIGNED:

By: _____
Chris B. Brown, Controller

DATE OF COUNTERSIGNATURE: _____

APPROVED:

By: _____
Andy Icken, Chief Development Officer

APPROVED:

By: _____
James Koski, Deputy Chief of Staff

APPROVED:

By: _____
Steve Wright, Director
Houston Parks and Recreation Department

APPROVED AS TO FORM:

By: _____
Mary Frances Buzak
Senior Assistant City Attorney
LD #0421500220002

UDA:

UPTOWN DEVELOPMENT AUTHORITY,
A Texas local government corporation

By: _____

Name: Louis Sklar

Title: Vice Chairman and Acting Chairman

MPC:

MEMORIAL PARK CONSERVANCY,
A Texas non-profit corporation

By: _____

Name: Steven B. Jenkins

Title: Chairman

Acknowledgments

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

 This instrument was acknowledged before me on the ____ day of _____, 2018,
by Sylvester Turner, Mayor of CITY OF HOUSTON, TEXAS, a Texas home rule municipality,
on behalf of said municipality.

[SEAL]

Notary Public, State of Texas

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

 This instrument was acknowledged before me on the ____ day of _____, 2018,
by _____, Acting Chairman of UPTOWN DEVELOPMENT AUTHORITY, a
Texas local government corporation, on behalf of said corporation.

[SEAL]

Notary Public, State of Texas

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

 This instrument was acknowledged before me on the ____ day of _____, 2018,
by Steven B. Jenkins, Chairman of MEMORIAL PARK CONSERVANCY, a Texas non-profit
corporation, on behalf of said corporation.

[SEAL]

Notary Public, State of Texas

EXHIBIT A

MEMORANDUM OF RESTRICTIVE COVENANTS

Legal Description of the Park

[To be inserted]