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RETURN RECEIPT REQUESTED



9900 Northwest Freeway
Houston, Texas 77092
713-684-4000
www.hcfd.org

December 18, 2013

Ms. Roksan Okan-Vick, FAIA
Executive Director
Houston Parks Board
300 North Post Oak Lane
Houston, TX 77024

Reference: Bayou Greenways 2020 Maintenance Access Agreement

Dear Ms. Okan-Vick:

Harris County Commissioners Court on December 17, 2013, approved the above-referenced agreement between the Houston Parks Board and the Harris County Flood Control District. One fully-executed original is being transmitted for your records.

Should you require any additional information, please contact Ms. Sandra Musgrove, P.E.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael D. Talbott".

Michael D. Talbott, P.E.
Director

'cg

Enclosure: Agreement

cc: Alia Vinson, Allen Boone Humphries Robinson LLP (w/copy of enclosure)

BAYOU GREENWAYS 2020 MAINTENANCE ACCESS AGREEMENT

This BAYOU GREENWAYS 2020 ACCESS AGREEMENT (this "Agreement") by and between the HARRIS COUNTY FLOOD CONTROL DISTRICT, a body corporate and politic under the laws of the State of Texas (the "HCFC"), and the HOUSTON PARKS BOARD, INC., a Texas nonprofit corporation, tax-exempt under Section 501(c)(3) of the Internal Revenue Code, as amended ("HPB"), is entered into as of the Effective Date, set forth below. Each of HCFC and HPB is individually referred to herein sometimes as a "Party," and they are collectively referred to herein sometimes as the "Parties."

RECITALS

WHEREAS, on November 6, 2012, the voters of the City of Houston (the "City") approved a \$166 million parks bond proposition ("Proposition B") of which \$100 million is designated to support the portion of the Bayou Greenways Initiative (a regional plan for interconnected parks, trails and green spaces) within the corporate City limits only referred to as the Bayou Greenways 2020 Project and which project constitutes, or will constitute after implementation of land acquisitions, approximately four thousand (4,000) acres of land (the "Project"). The Project is a public/private project with the purpose of creating an integrated system of connected linear parks with walking, running and bicycle trails along the nine (9) major bayous within the City limits as shown on Exhibit A attached hereto (the linear park system along each such major bayou being referred to herein as a "Bayou Greenway"), consisting of greenway segments existing as of the Effective Date of this Agreement plus additional greenway segments acquired, designed and constructed by HPB, acting as Houston Parks Board Local Government Corporation's ("HPBLGC") manager, pursuant to the Interlocal Agreement, defined below; and

WHEREAS, the HPBLGC is a Texas nonprofit local government corporation created on behalf of the City to provide support for the City's park system. HPB works with the City and the City's Parks and Recreation Department ("HPARD") to create, improve, protect, and advocate for parkland in the greater Houston area, and to acquire new parkland and park capital improvements throughout the City and its extra-territorial jurisdiction. HPB has a management agreement with HPBLGC to acquire, manage, develop and improve parks properties on behalf of HPBLGC and to contract for the design, development, improvement, construction and installation of parks and open spaces approved by the Director of HPARD; and

WHEREAS, consistent with the election ordinance for Proposition B, which provided that "it is the intention of the City Council to allocate \$100,000,000 of the proceeds of any public improvement bonds or obligations issued and authorized under Proposition B to fund the project known as the Bayou Greenways Initiative," the City agreed in that certain Interlocal Agreement between the City and HPBLGC (and HPB

acting as its manager) approved by City Council on June 26, 2013 (the "Interlocal Agreement") to take all necessary steps to commit \$100,000,000 in bond proceeds to the Project, with the understanding that the remaining \$105,000,000 necessary for the Project will be secured by HPBLGC, acting through its manager, HPB and HPB's partners through private philanthropy and other sources, including the application and receipt of federal, state or other governmental funding, and including multi-year pledges and grants, resulting in at least (or a minimum of) a one-to-one public-private funding ratio for the Project; and

WHEREAS, HCFCD owns the fee estate or has easement rights in certain real property parcels located along the nine (9) major bayous within the City limits, contained within the Bayou Greenways shown on Exhibit A ("Property"); and

WHEREAS, HCFCD and the City entered into an Interlocal Agreement, dated December 31, 1997, which may be amended or substituted by and between HCFCD and the City, allowing the City to construct hike and bike trails and related amenities and appurtenances on HCFCD owned property within Harris County, Texas, and requiring the City to maintain and keep in good repair such improvements and surrounding HCFCD property in perpetuity ("Hike and Bike Trail Interlocal"); and

WHEREAS, HPB desires to maintain and repair trails and related amenities and appurtenances constructed on the Property within the corporate City limits under the authority of the Hike and Bike Trail Interlocal, and to maintain and mow the surrounding Property, beginning July 1, 2014; and

WHEREAS, HCFCD desires to grant HPB access to perform maintenance on the Property, as agreed herein; and

WHEREAS, although the Hike and Bike Trail Interlocal may be referenced herein for descriptive purposes, it is understood by the Parties that this Agreement is not, in whole or in part, an assignment of the City's rights or obligations under the Hike and Bike Trail Interlocal, and that the rights and duties of the Parties flow from this Agreement only. Other agreements referenced herein are for informational purposes only and not for inclusion or incorporation;

NOW, THEREFORE, for and in consideration of the promises and the mutual agreements set forth herein, the Parties hereby agree as follows:

Article I
Access to the Property

A. Authorization to Access.

(1) HCFCD authorizes HPB to enter upon the Property, subject to the HCFCD's rights thereto for the limited purposes of performing Basic Maintenance and Additional Maintenance as described in this subsection. In no event does such authority permit changes to the contour or condition of the Property, or construction, installation, storage, or placement of materials, property, structures, fences, obstructions, signage, lighting, or improvements that differ from or add to the Drawings and Specifications approved pursuant to the Hike and Bike Trail Interlocal. HPB's authority to enter upon the Property is subject at all times to HCFCD's right to enter upon and use the Property for flood control purposes, as is more fully provided in Article I.A.5 hereof; and is expressly limited to the extent of HCFCD's right, title, or interest, if any, in and to the Property, and HCFCD makes no representation or warranty regarding its right, title, or interest, if any, in and to the Property used by HPB for performing the maintenance.

a. Basic Maintenance. Basic Maintenance tasks described in this subsection shall be performed in the Basic Maintenance Area. The Basic Maintenance Area shall be the side of the bayou on which the trail and related amenities and appurtenances are or will be constructed, installed, or placed under the Hike and Bike Trail Interlocal, between the outside boundary of HCFCD's right-of-way line and the top of bank of the bayou; provided, however, if the trail or related appurtenance is located between the top of bank and the bayou, the Basic Maintenance Area will include the area between the top of the bank and the edge of the trail shelf/bench closest to the bayou; or as otherwise provided in the Drawings and Specifications approved by HCFCD pursuant to the Hike and Bike Trail Interlocal. Within the Basic Maintenance Area: HPB shall, consistent with the City's maintenance obligations described in the Hike and Bike Trail Interlocal, maintain and keep in good repair and safe physical condition (e.g., cracks, potholes, and other physical attributes) the trail and related amenities and appurtenances, including but not limited to pavement, slope, bridges, stairways, railings, landscaping, irrigation features, traffic control signs, light fixtures, and electrical equipment; mow, edge and trim the grass, and remove trash, paper, debris; silt shall be removed from trails and related amenities and appurtenances only); provide tree maintenance and remove dead or dying trees and tree limbs; manage undesirable vegetative species; empty trash receptacles. HPB shall be responsible for proper disposal of all collected refuse or recyclable material. Dangerous conditions shall be repaired as soon as possible to ensure usability and safety. Graffiti shall be removed within 72 hours of notice to HPB. Debris and silt shall be removed from the trails and related amenities and appurtenances, within two (2) weeks of water receding from minor and major flood events. All other Basic Maintenance activities described in this subsection shall be performed at such time intervals so as to keep the Basic Maintenance Area neat and tidy at all times for public use. Replacement and

removal of plantings shall be approved in advance by HCFCD. HPB may provide Basic Maintenance for all or any of the Property on a more frequent basis than required by the Hike and Bike Trail Interlocal; provided, however, HPB shall be required to meet at all times the minimum requirements of Basic Maintenance beginning July 1, 2014.

- b. Additional Maintenance. The above described maintenance activities may be performed, as indicated, within the Additional Maintenance Area. The Additional Maintenance Area shall be the part of the Property not included in the Basic Maintenance Area.
- (2) HPB shall perform all maintenance activities at its own cost, in coordination and cooperation with HCFCD, and with the approval of the Harris County Commissioner in whose Precinct such activities will take place. Notice to HCFCD by a Commissioner that HPB has failed to get such approval may be deemed a Performance Default, as defined herein, by HCFCD's Director. A second notice to HCFCD by the same Commissioner that HPB failed to get such approval shall be deemed a Performance Default; in addition, HPB may not perform maintenance activities on Property located within that Commissioner's Precinct until HPB obtains, in a form acceptable to HCFCD's Director, the consent and approval of the Commissioner of the affected Precinct.
 - (3) If any portion of the Property is covered, in whole or part, in an agreement between HCFCD and the U.S. Army Corps of Engineers, Harris County, or any other party, then this Agreement is subject to those other agreements and HPB will obtain the consent and approvals from said third parties prior to performing maintenance activities on those portions of the Property, if requested to do so by HCFCD. Upon request and payment of duplication costs, HCFCD will furnish HPB with a copy of any such agreements then in effect which cover any portion of the Property.
 - (4) HPB shall comply with all requirements of all laws, statutes, ordinances, regulations, and other requirements, now or hereafter in force, of all federal, state, and local governmental bodies and agencies which are applicable to HPB's maintenance activities permitted by this Agreement. HPB shall be responsible for all consents required to be obtained from an applicable agency or any underlying or adjacent property owner whose authority or rights are affected by HPB's maintenance activities and will cause its contractors to obtain all necessary permits.
 - (5) HPB agrees that HCFCD grants HPB a non-exclusive, revocable license for the limited purposes stated herein, subject to the scope of HCFCD's easement if the Property is not owned by HCFCD in fee and local, state and other laws

applicable to property interests owned by HCFCD, and HCFCD at all times retains the continuing right to do what it may lawfully do to or with the Property that it could or might do in the absence of this Agreement, including, without limitation, the right to demand immediate removal of any and all plantings, vegetation, improvements, equipment, personal property, and personnel from the Property, or to take such steps as may be necessary to remove the same. HCFCD assumes no responsibility for the wellbeing or disposition of such items removed hereunder. Furthermore, HCFCD reserves the right to, at any time, enter upon and use the Property for flood control purposes and to take such actions with respect to such Property or any personal property located thereon as, in its Director's sole discretion, may be desirable for flood control purposes, including without limitation removal of the trail or related amenities or appurtenances to accommodate maintenance or channel improvement, and HPB shall have no claim for damages of any character on account thereof against HCFCD, its Director, agents, representatives, employees, or contractors. If HCFCD is aware of the need for removal of a portion of the trail or other approved structure prior to entering the Property for maintenance or other purposes, HCFCD will use reasonable efforts to notify HPB in advance of taking such action if HCFCD's Director or his designee determines that providing such notice will not interfere with HCFCD activities. Notwithstanding the foregoing sentence, at all times HCFCD may remove without notice, or demand immediate removal, of improvements or property constructed, placed or installed on the Property without HCFCD approval.

B. Contractor and Insurance Obligations.

- (1) HPB will cause to be inserted in HPB's maintenance agreement(s) for all private contractors, excluding any such contract with HPARD, the statement attached hereto as **Exhibit B**.
- (2) During the Term of this Agreement, HPB will provide at its cost, and will require its contractor(s), excluding HPARD, to provide at its or their cost: comprehensive general liability insurance policies that name HCFCD as an additional insured, with sufficient coverage to protect HCFCD against claims for personal injury, death, and property damage arising out of the performance of maintenance activities on the Property, such insurance to afford HCFCD protection in amounts not less than One Hundred Thousand and No/100 Dollars (\$100,000.00) for injuries to or death of any one person, and not less than Three Hundred Thousand and No/100 Dollars (\$300,000.00) for injuries to or death of more than one person in any one accident or occurrence, and not less than One Hundred Thousand and No/100 Dollars (\$100,000.00) for injury to or destruction

of property in any one accident or occurrence, or in the amounts of the HCFCD's maximum limitations of liability under the Texas Tort Claims Act, as amended, whichever amounts shall be greater. Said policies shall require notice to be sent to the HCFCD in the event of cancellation or termination of said policy or endorsement. If HPB and HPB's contractor(s), excluding HPARD, provide coverage consistently throughout the Term of this Agreement, within thirty (30) days after the execution of this Agreement and prior to any maintenance activities on the Property, HPB shall deliver a copy of each such insurance policy and additional insured endorsement to HCFCD's Director, and not later than thirty (30) days after the expiration date of said policy, HPB shall furnish a copy of the renewal insurance policy and additional insured endorsement to HCFCD's Director. If coverage is provided on a per maintenance event basis by HPB and HPB's contractor(s), excluding HPARD, HPB shall deliver a copy of each such insurance policy and additional insured endorsement to HCFCD's Director not later than fifteen (15) days prior to performance of maintenance activities.

HPB agrees that it will ensure that such coverage is in place during the time any maintenance activities are performed pursuant to this Agreement, and may require insurance in excess of the amounts or coverages set out above as it deems necessary.

- (3) It is understood and agreed that HCFCD and HCFCD's personnel shall not be considered employees, agents, partners, joint venturers, ostensible or apparent agents, servants or borrowed servants of HPB. It is also understood and agreed that HPB and HPB's personnel shall not be considered employees, contractors, subcontractors, agents, partners, joint venturers, ostensible or apparent agents, servants or borrowed servants of HCFCD.

C. Indemnification. HPB COVENANTS NOT TO SUE AND AGREES TO RELEASE HCFCD FROM AND AGAINST ANY AND ALL LOSSES, LIABILITIES, CLAIMS, DEMANDS, FINES, COSTS, AND CAUSES OF ACTION OF EVERY KIND AND CHARACTER ON ACCOUNT OF PERSONAL INJURIES, ILLNESS OR DEATH OF PERSON(S), OR DAMAGE TO OR LOSS OF PROPERTY INCURRED BY HPB, ITS EMPLOYEES, AGENTS, LICENSEES, INVITEES, REPRESENTATIVES, CONTRACTORS, OR SUBCONTRACTORS, IN PERFORMING THE ACTIVITIES PERMITTED BY THIS AGREEMENT, OR ARISING FROM OR INCIDENT TO ANY DEFECT IN OR CONDITION OF ANY PROPERTY, FACILITIES, EQUIPMENT, TOOLS, OR OTHER ITEMS PROVIDED BY HCFCD WHETHER OR NOT SUCH DEFECT OR CONDITION IS KNOWN OR SHOULD HAVE BEEN KNOWN TO HCFCD, ITS DIRECTOR, OFFICIALS,

AGENTS, SERVANTS, EMPLOYEES, REPRESENTATIVES, LICENSEES, INVITEES, CONTRACTORS, OR SUBCONTRACTORS.

HPB AGREES NOT TO IMPEAD OR BRING ANY ACTION AGAINST HCFCD, ITS DIRECTOR, OFFICIALS, AGENTS, SERVANTS, EMPLOYEES, REPRESENTATIVES, LICENSEES, INVITEES, CONTRACTORS, OR SUBCONTRACTORS BASED ON ANY CLAIM BY ANY PERSON FOR PERSONAL INJURY, DEATH, OR PROPERTY LOSS OR DAMAGE THAT ARISES OUT OF ACTIVITIES PERMITTED UNDER THIS AGREEMENT.

THE COVENANT NOT TO SUE AND AGREEMENT TO RELEASE CONTAINED IN THIS SUBSECTION C. ARE EQUALLY BINDING UPON HPB AND ITS PERMITTED SUCCESSORS AND ASSIGNS.

**Article II
HCFCD Maintenance**

- A. HCFCD Maintenance. HCFCD may, but shall not be obligated to, maintain the Property to the same extent and in a like manner as for other like or similar facilities within HCFCD, using its own equipment and personnel. HCFCD and HPB agree to coordinate maintenance efforts on the Property and, at the discretion of HCFCD's Director and HPB's Executive Director, may consider entering into a separate written agreement providing for HPB to pay HCFCD to perform certain maintenance activities on the Property in addition to HCFCD's regular maintenance schedule.
- B. No Allocation of Funds. HCFCD has not and shall not be obligated to appropriate funds to fulfill any obligation created by the terms of this Agreement; provided, however, that HCFCD may, from time to time, budget and appropriate funds for use on the Property as HCFCD's governing board, in its sole discretion, determines necessary and convenient for HCFCD purposes.
- C. Greenways. HCFCD agrees that any portion of the Property upon which the Project is constructed shall be open to the public for recreational purposes, subject to the terms herein. In the event HCFCD determines (i) any portion of the Property upon which the Project is constructed is surplus land (no longer needed for flood control or drainage purposes) and (ii) that it intends to sell such surplus lands, then HCFCD agrees that HPB, the City, or HPBLGC may attempt to negotiate with HCFCD to purchase surplus lands at a price determined by HCFCD to be fair market value if such action is in the best interest of HCFCD, as determined by its Director, complies with the laws of the State of Texas, and is approved by the Harris County Commissioners Court.

Article III
General Provisions

- A. Term and Default. The term of this Agreement shall be thirty (30) years from the Effective Date (the "Initial Term"), and shall automatically renew thereafter on an annual basis (the "Renewal Term"), unless terminated as hereinafter provided. The Initial Term and any Renewal Term(s) are individually and collectively referred to as the "Term."
- (1) General Events of Default. A Party shall be deemed in default under this Agreement (a "Performance Default") if such Party (i) fails to materially perform, observe or comply with any of its covenants, agreements or obligations hereunder or breaches or violates any of its representations contained in this Agreement, and (ii) fails to cure pursuant to the provisions below. Before any such failure by any Party shall be deemed to be a Performance Default under this Agreement, the Party claiming such failure shall notify, in writing, the Party alleged to have failed to perform the alleged failure and shall demand performance by the alleged non-performing Party.
- (2) Remedies. In the event HCFCD fails to perform any of its obligations herein, HPB's sole remedy shall be to terminate this Agreement. In the event HPB fails to perform any of its obligations herein, HCFCD's sole remedy shall be to terminate this Agreement.
- (3) Termination Rights. Either HPB or HCFCD, as the injured Party, may terminate this Agreement if the other Party has caused a Performance Default, if the non-performing Party fails to cure such Performance Default within ninety (90) days, of receiving a written termination notice from the injured Party describing the proposed termination date, subject to Article III.B. The injured Party, at its sole option, may extend the proposed termination date to a later date. If the defaulting Party cures the Performance Default before the proposed termination date, the proposed termination is ineffective. If the defaulting Party does not cure the default before the proposed termination date, the injured Party may terminate this Agreement on the termination date. Notwithstanding the foregoing or any provision of this Agreement which may be read to the contrary, HCFCD may immediately terminate this Agreement if HCFCD's Director determines, in his sole discretion, that HPB is not satisfactorily performing Basic Maintenance, or it is necessary or convenient for flood control or drainage purposes, or it is in the best interest of HCFCD to do so.
- B. Force Majeure. If the performance of any covenant or obligation to be performed hereunder by any Party 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, 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 Party 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.

- C. Notices. Any notice sent under this Agreement (except as otherwise expressly required) shall be written and mailed or sent by electronic transmission confirmed by mailing written confirmation at substantially the same time as such electronic transmission, or personally delivered to an officer of the receiving party at the following addresses:

If to HCFCD, to: Harris County Flood Control District
9900 Northwest Freeway
Houston, Texas 77092
Attention: Director

If to HPB: Executive Director
HPB
300 North Post Oak Lane
Houston, TX 77024

With a copy to: Alia Vinson
Allen Boone Humphries Robinson LLP
3200 Southwest Freeway, Ste. 2600
Houston, TX 77027

Notice shall be deemed to have been received on the date such notice is personally delivered or otherwise actually received by the intended recipient. Any party may change its address by written notice in accordance with this Article III.C.

- D. Amendments and Waivers. Any provision of this Agreement may be amended or waived if such amendment or waiver is in writing and is approved by the Parties. No course of dealing on the part of the Parties nor any failure or delay by the Parties with respect to exercising any right, power or privilege pursuant to this Agreement shall operate as a waiver thereof.

- E. Invalidity. In the event that any of the provisions contained in this Agreement shall be held unenforceable in any respect, such unenforceability shall not affect any other provisions of this Agreement and, to that end, all provisions, covenants, agreements or portions of this Agreement are declared to be severable.
- F. Successors and Assigns. This Agreement binds and benefits the Parties and their permitted legal successors and assigns. HCFCD shall not assign this Agreement whether by operation of law or otherwise. HPB shall not assign this Agreement whether by operation of law or otherwise without HCFCD's prior written consent, which shall not be unreasonably withheld. Notwithstanding the foregoing, HPB may assign the Agreement to its wholly owned subsidiary which it controls with the written consent of the Director of HCFCD. In the case of a permitted assignment by HPB in accordance with this Article III.F., HPB shall immediately furnish HCFCD with proof of the assignment and the name, telephone number, and address of the assignee.
- G. Exhibits, Titles of Articles, Sections and Subsections. The exhibits attached to this Agreement are incorporated herein and shall be considered a part of this Agreement for the purposes stated herein, except that in the event of any conflict between any of the provisions of such exhibits and the provisions of this Agreement, the provisions of this Agreement shall prevail. All titles or headings are only for the convenience of the Parties and shall not be construed to have any effect or meaning as to the agreement between the Parties hereto. Any reference herein to an article, section or subsection shall be considered a reference to such article, section or subsection of this Agreement unless otherwise stated. Any reference herein to an exhibit shall be considered a reference to the applicable exhibit attached hereto unless otherwise stated.
- H. Entire Agreement. This Agreement represents the final agreement between the Parties and may not be contradicted by evidence of prior, contemporaneous, or subsequent oral agreements of the Parties. There are no unwritten oral agreements between the Parties.
- I. Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same agreement.
- J. Interpretation. This Agreement has been jointly negotiated by the Parties and shall not be construed against a Party because that Party may have primarily assumed responsibility for the drafting of this Agreement.

[EXECUTION PAGE FOLLOWS]

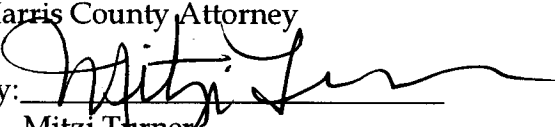
IN TESTIMONY OF WHICH this instrument has been executed in multiple counterparts, each of equal dignity and effect, on behalf of HPB and HCFCD effective as of the Effective Date defined herein.

Executed in triplicate originals on DEC 17 2013 (the "Effective Date").

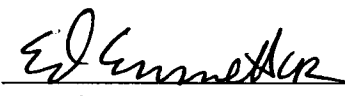
APPROVED AS TO FORM:

VINCE RYAN

Harris County Attorney

By: 
Mitzi Turner
Assistant County Attorney

HARRIS COUNTY FLOOD CONTROL DISTRICT

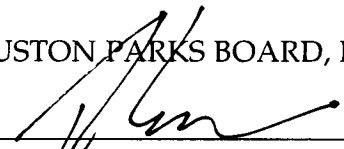
By: 
Ed Emmett
County Judge

~~ATTEST:~~

~~By: _____
Signature~~

~~_____
Title~~

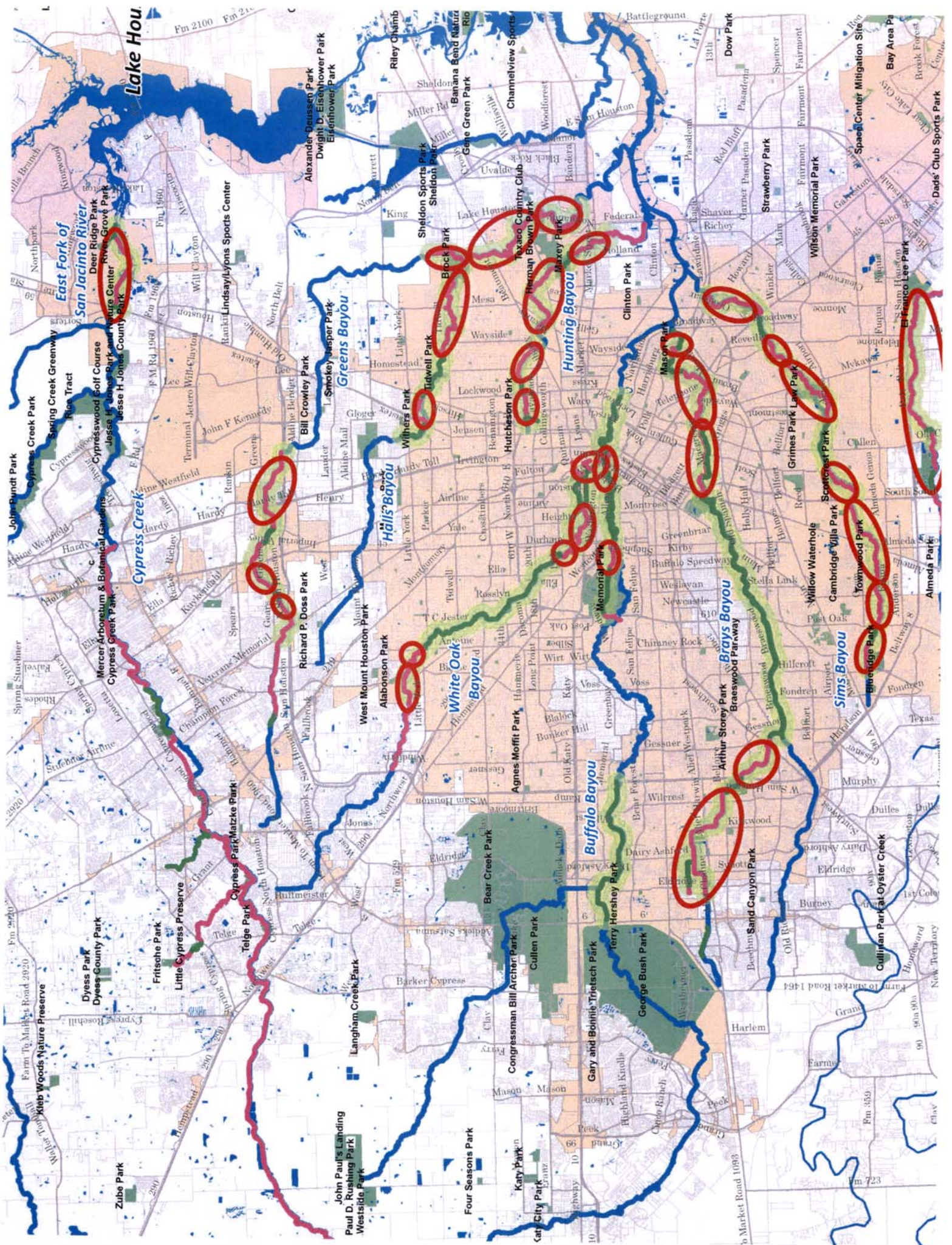
HOUSTON PARKS BOARD, INC.

By: 
Thomas G. Bacon
Chairman

ATTEST:

By: 
Roksan Okan-Vick
Executive Director

**EXHIBIT A
PROJECT MAP**



Lake Hou.

East Fork of San Jacinto River

Greens Bayou

Halls Bayou

White Oak Bayou

Buffalo Bayou

Brays Bayou

Sims Bayou

Deer Ridge Park

Jesse H Jones County Park

Mercer Arboretum & Botanical Gardens

Cypress Creek Park

Richard P. Doss Park

West Mount Houston Park

Alabonson Park

Memorial Park

Arthur Storey Park

Braceswood Parkway

Willow Waterhole

Cambridge Villa Park

Townwood Park

Alameda Park

Sheldon Sports Park

Sheldon Park

Witners Park

Lockwood

Hutchison Park

Callingsworth

Memorial Park

San Felipe

Arthur Storey Park

Braceswood Parkway

Willow Waterhole

Cambridge Villa Park

Townwood Park

Alameda Park

Sheldon Sports Park

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Townwood Park

Alameda Park

Sheldon Sports Park

Sheldon Park

Witners Park

Lockwood

Hutchison Park

Callingsworth

Memorial Park

San Felipe

Arthur Storey Park

Braceswood Parkway

Willow Waterhole

Cambridge Villa Park

Townwood Park

Alameda Park

Sheldon Sports Park

Sheldon Park

Witners Park

Lockwood

Hutchison Park

Callingsworth

Memorial Park

San Felipe

Arthur Storey Park

Braceswood Parkway

Willow Waterhole

Cambridge Villa Park

Townwood Park

Alameda Park

Sheldon Sports Park

Sheldon Park

Witners Park

Lockwood

Hutchison Park

Callingsworth

Memorial Park

San Felipe

Arthur Storey Park

Braceswood Parkway

Willow Waterhole

Cambridge Villa Park

Townwood Park

Alameda Park

Sheldon Sports Park

Sheldon Park

Witners Park

Lockwood

Hutchison Park

Callingsworth

Memorial Park

San Felipe

Arthur Storey Park

Braceswood Parkway

Willow Waterhole

Cambridge Villa Park

Townwood Park

Alameda Park

John Paul's Landing
Paul D. Rushing Park
Westside Park

Four Seasons Park
Katy Park
Kat City Park

John Paul's Landing
Paul D. Rushing Park
Westside Park

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Westside Park

EXHIBIT B

SAVE AND HOLD HARMLESS AGREEMENT

I HEREBY ASSUME ALL RISKS ASSOCIATED WITH THE MOWING AND MAINTAINING OF HARRIS COUNTY FLOOD CONTROL DISTRICT (HCFCD) LAND OR RIGHT-OF-WAY OR ANY ASSOCIATED IMPROVEMENTS PURSUANT TO THE CONTRACT BETWEEN THE HCFCD AND HPB (THE "CONTRACT"). I FURTHER AGREE TO RELEASE, DEFEND, INDEMNIFY, HOLD HARMLESS, AND COVENANT NOT TO SUE THE HCFCD, ITS DIRECTOR, OFFICIALS, SERVANTS, EMPLOYEES, AGENTS, REPRESENTATIVES, LICENSEES, INVITEES, AND CONTRACTORS, FROM AND AGAINST ALL CLAIMS, DAMAGES, LOSSES, AND EXPENSES, INCLUDING ATTORNEY'S FEES, OF ANY CHARACTER, TYPE, OR DESCRIPTION, ARISING OUT OF MY PARTICIPATION AND ACTIVITY IN THE MOWING AND MAINTAINING OF HCFCD LAND OR RIGHT-OF-WAY OR ANY ASSOCIATED IMPROVEMENTS PURSUANT TO THE CONTRACT THAT MAY RESULT IN THE INJURY TO OR DEATH OF, MYSELF, MY EMPLOYEE(S), OR ANY THIRD PARTY, OR DAMAGE TO PROPERTY.

I FURTHER AGREE TO RELEASE, DEFEND, INDEMNIFY, HOLD HARMLESS, AND COVENANT NOT TO SUE THE HCFCD, ITS DIRECTOR, OFFICIALS, SERVANTS, EMPLOYEES, AGENTS, REPRESENTATIVES, LICENSEES, INVITEES, AND CONTRACTORS FROM THE ABOVE DESCRIBED CLAIMS, EVEN THOUGH SUCH INJURY TO OR DEATH OF MYSELF, MY EMPLOYEE(S), OR ANY THIRD PARTY, OR DAMAGE TO PROPERTY IS CAUSED, IN WHOLE OR IN PART, BY ANY DEFECT IN OR CONDITION OF THE HCFCD LAND OR RIGHT-OF-WAY OR ANY ASSOCIATED IMPROVEMENTS, OR HCFCD EQUIPMENT OR MACHINERY USED, AND WHETHER OR NOT SUCH DEFECT OR CONDITION IS KNOWN OR SHOULD HAVE BEEN KNOWN TO THE HCFCD, ITS DIRECTOR, OFFICIALS, SERVANTS, EMPLOYEES, AGENTS, REPRESENTATIVES, LICENSEES, INVITEES, OR CONTRACTORS, AND WHETHER OR NOT SUCH CLAIMS ARISE FROM NEGLIGENCE ATTRIBUTABLE TO THE HCFCD, ITS DIRECTOR, OFFICIALS, SERVANTS, EMPLOYEES, AGENTS, REPRESENTATIVES, LICENSEES, INVITEES, OR CONTRACTORS. THE INDEMNITY PROVIDED HEREIN SHALL NOT BE CONSTRUED IN ANY WAY TO LIMIT INSURANCE COVERAGES PROVIDED BY HPB OR ITS CONTRACTOR(S) FOR THE HCFCD PURSUANT TO THE TERMS OF THE CONTRACT, WHICH INSURANCE REQUIREMENT IS INDEPENDENT FROM AND IN ADDITION TO SUCH INDEMNITY.

THIS AGREEMENT SHALL BE BINDING UPON THE PARTIES, AND UPON THEIR HEIRS, EXECUTORS, PERSONAL REPRESENTATIVES, ADMINISTRATORS, AND ASSIGNS.

Signature

Date

Printed Name/Title

Company Name

Address

Telephone Number

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

DEC 17 2013

APPROVE clm
Recorded Vol _____ Page _____

The Commissioners Court of Harris County, Texas, convened at a meeting of said Court at the Harris County Administration Building in the City of Houston, Texas, on DEC 17 2013, with the following members present, to-wit:

Ed Emmett	County Judge
El Franco Lee	Commissioner, Precinct No. 1
Jack Morman	Commissioner, Precinct No. 2
Steve Radack	Commissioner, Precinct No. 3
R. Jack Cagle	Commissioner, Precinct No. 4

and the following members absent, to-wit: none constituting a quorum, when among other business, the following was transacted:

**ORDER AUTHORIZING EXECUTION OF A
BAYOU GREENWAYS 2020 MAINTENANCE ACCESS AGREEMENT
BETWEEN THE HARRIS COUNTY FLOOD CONTROL DISTRICT
AND THE HOUSTON PARKS BOARD, INC.**

Commissioner Cagle introduced an order and made a motion that the same be adopted. Commissioner Morman seconded the motion for adoption of the order. The motion, carrying with it the adoption of the order, prevailed by the following vote:

		Yes	No	Abstain
AYES:	Judge Ed Emmett	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
NAYS:	Comm. El Franco Lee	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ABSTENTIONS:	Comm. Jack Morman	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Comm. Steve Radack	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Comm. R. Jack Cagle	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The County Judge thereupon announced that the motion had duly and lawfully carried and that the order had been duly and lawfully adopted. The order thus adopted follows:

WHEREAS, on November 6, 2012, the voters of the City of Houston (the "City") approved a \$166 million parks bond proposition ("Proposition B") of which \$100 million is designated to support the portion of the Bayou Greenways Initiative (a regional plan for interconnected parks, trails and green spaces) within the corporate City limits only referred to as the Bayou Greenways 2020 Project and which project constitutes, or will constitute after implementation of land acquisitions, approximately

four thousand (4,000) acres of land (the "**Project**"). The Project is a public/private project with the purpose of creating an integrated system of connected linear parks with walking, running and bicycle trails along the nine (9) major bayous within the City limits as shown on **Exhibit A** attached hereto (the linear park system along each such major bayou being referred to herein as a "**Bayou Greenway**"), consisting of greenway segments existing as of the Effective Date of this Agreement plus additional greenway segments acquired, designed and constructed by HPB, acting as Houston Parks Board Local Government Corporation's ("**HPBLGC**") manager, pursuant to the Interlocal Agreement, defined below; and

WHEREAS, the HPBLGC is a Texas nonprofit local government corporation created on behalf of the City to provide support for the City's park system. HPB works with the City and the City's Parks and Recreation Department ("**HPARD**") to create, improve, protect, and advocate for parkland in the greater Houston area, and to acquire new parkland and park capital improvements throughout the City and its extra-territorial jurisdiction. HPB has a management agreement with HPBLGC to acquire, manage, develop and improve parks properties on behalf of HPBLGC and to contract for the design, development, improvement, construction and installation of parks and open spaces approved by the Director of HPARD; and

WHEREAS, consistent with the election ordinance for Proposition B, which provided that "it is the intention of the City Council to allocate \$100,000,000 of the proceeds of any public improvement bonds or obligations issued and authorized under Proposition B to fund the project known as the Bayou Greenways Initiative," the City agreed in that certain Interlocal Agreement between the City and HPBLGC (and HPB acting as its manager) approved by City Council on June 26, 2013 (the "**Interlocal Agreement**") to take all necessary steps to commit \$100,000,000 in bond proceeds to the Project, with the understanding that the remaining \$105,000,000 necessary for the Project will be secured by HPBLGC, acting through its manager, HPB and HPB's partners through private philanthropy and other sources, including the application and receipt of federal, state or other governmental funding, and including multi-year pledges and grants, resulting in at least (or a minimum of) a one-to-one public-private funding ratio for the Project; and

WHEREAS, HCFCD owns the fee estate or has easement rights in certain real property parcels located along the nine (9) major bayous within the City limits, contained within the Bayou Greenways shown on **Exhibit A** ("**Property**"); and

WHEREAS, HCFCD and the City entered into an Interlocal Agreement, dated December 31, 1997, which may be amended or substituted by and between HCFCD and the City, allowing the City to construct hike and bike trails and related amenities and appurtenances on HCFCD owned property within Harris County, Texas, and requiring the City to maintain and keep in good repair such improvements and surrounding HCFCD property in perpetuity ("**Hike and Bike Trail Interlocal**"); and

WHEREAS, HPB desires to maintain and repair trails and related amenities and appurtenances constructed on the Property within the corporate City limits under the authority of the Hike and Bike Trail Interlocal, and to maintain and mow the surrounding Property, beginning July 1, 2014; and

WHEREAS, HCFCD desires to grant HPB access to perform maintenance on the Property, as agreed herein; and

WHEREAS, although the Hike and Bike Trail Interlocal may be referenced herein for descriptive purposes, it is understood by the Parties that this Agreement is not, in whole or in part, an assignment of the City's rights or obligations under the Hike and Bike Trail Interlocal, and that the rights and duties of the Parties flow from this Agreement only. Other agreements referenced herein are for informational purposes only and not for inclusion or incorporation;

NOW, THEREFORE, BE IT ORDERED BY THE COMMISSIONERS COURT OF HARRIS COUNTY, TEXAS THAT:

Section 1: The recitals set forth in this order are true and correct.

Section 2: County Judge Ed Emmett is hereby authorized to execute for and on behalf of the Harris County Flood Control District, a Bayou Greenways 2020 Maintenance Access Agreement by and between the Harris County Flood Control District and the Houston Parks Board, Inc., said Agreement being incorporated herein by reference for all purposes as though fully set forth verbatim herein.