

INTERLOCAL HIKE AND BIKE TRAIL AGREEMENT

THE STATE OF TEXAS §
 §
 COUNTY OF HARRIS §

THIS AGREEMENT is made, entered into, and executed by and among the **Harris County Flood Control District**, a body corporate and politic under the laws of the State of Texas, hereinafter called "HCFCD" or the "District" and **Fry Road Municipal Utility District**, a conservation and reclamation district created and operating under the provisions of Article XVI, Section 59, of the Constitution of Texas, and Chapters 49 and 54 of the Texas Water Code, hereinafter called "MUD." The District and MUD are referred to herein collectively as the "Parties" and individually as a "Party."

RECITALS:

The District and MUD previously entered into Hike and Bike Trail Agreement No. 339 (the "Previous Agreement"), dated January 27, 2004, which expired on January 27, 2024. The Previous Agreement allowed MUD to construct and maintain or cause to be constructed and maintained, a public hike and bike trail and related appurtenances on HCFCD Unit U101-19-00, depicted on "Exhibit A," attached to this Agreement for descriptive purposes only, hereinafter called the "Trail."

The Parties desire for MUD to continue to maintain, or cause to be maintained, the Trail at this location.

The District is willing to allow MUD to continue to use the portions of the property owned in fee by the District or in which the District owns an easement (collectively, hereinafter the "Property") for the purposes stated herein, subject to the conditions hereinafter provided.

The Parties recognize that flood control and drainage is the paramount public purpose of the HCFCD Unit along which the Trail will be constructed and maintained by the MUD.

NOW, THEREFORE, in consideration of the mutual covenants, agreements and benefits to both Parties, it is agreed as follows:

TERMS:

1.

Plans and Specifications

After the approval of this Agreement by the Commissioners Court of Harris County, should MUD wish to add to the Trail in any manner, MUD will furnish to the District, more specifically, the District Watershed Coordination Department, for the District's written approval, detailed construction plans and specifications conforming with the District's Policy, Criteria and Procedures Manual (PCPM), (hereinafter the "Plans and Specifications") for the Trail. All proposed trail related appurtenances must be shown on the Plans and Specifications submitted for review and approval. After the approval of the Plans and Specifications by an authorized representative of the District, an authorized representative of the District will so notify MUD that the District allows MUD's use of the Property for the purpose of constructing and maintaining the Trail.

2.

Construction

Only after receipt of the notice of the approval of the Plans and Specifications from the District, MUD, at MUD's sole expense, shall commence to construct the Trail in a good and workmanlike manner and in substantial accordance with the Plans and Specifications, which have been approved in advance by the District for such purposes. Once construction has commenced, MUD shall proceed diligently until completed (but in no event longer than one (1) year from the commencement of construction of the Trail, unless the District's Executive Director or their designee(s) (hereinafter the "Director") determines in their sole discretion that good cause exists to extend the time in which the Trail is to be completed). The District's approval of Plans and Specifications does not relieve MUD of the duty to ensure that its Trail and appurtenances do not obstruct HCFCD access to channel infrastructure for maintenance and repair. If any conflict arises between the provisions of the Plans and Specifications and the provisions of this Agreement, this Agreement shall be controlling and binding upon the parties hereto.

If any portion of the Property is covered by an agreement between the District and the United States Army Corps of Engineers (USACE), Harris County, or any other party, then those agreements take priority over this Agreement and MUD must obtain the consent and approvals from said parties, in addition to District approval, prior to undertaking the construction or maintenance of the Trail. Upon request and payment of duplication costs, the District will furnish MUD with an electronic copy of any such agreement then in effect which covers any portion of the Property across which MUD proposes to construct or maintain a Trail.

If third party encroachments on the Property adversely affect Trail construction or maintenance, MUD will coordinate with the third party to remove the encroachments with due consideration to relevant property rights and applicable law or, if necessary, MUD may petition for such removal from a court of law. The District will provide information to assist MUD efforts to remove the encroachments but will not use District funds or be an active party in removal efforts.

Trail construction shall provide positive drainage. MUD shall not construct, install or place improvements on property or plant vegetation that blocks access to HCFCD standard maintenance equipment or as needed for HCFCD projects.

3.

Compliance with the Law

MUD shall comply with all requirements of the Americans with Disabilities Act, the Texas Architectural Barriers Act, and all other 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 the Property and the Trail. MUD shall be responsible for all permits required for the construction of the Trail and all consents required to be obtained from any applicable governmental agency or underlying fee owner.

4.

Maintenance and Repair

MUD shall maintain in good repair and in safe condition the Basic Maintenance Area or Extended Maintenance Area, as defined below, the Trail and all associated improvements and appurtenances constructed or to be constructed along the Trail. In addition to the other maintenance responsibilities described below, MUD is responsible for warning of and making safe

a dangerous condition within said maintenance areas for the protection of the public. MUD shall barricade or cause to be secured sites along the Trail that pose a threat to public safety, including but not limited to sinkholes, erosion and failures of retaining walls, slopes, Trail infrastructure or appurtenances, until MUD can correct the dangerous condition.

MUD acknowledges that the Trail or one or more of its improvements and appurtenances could adversely affect the condition of the Property's flood control features. Therefore, in the event the Director, in their sole discretion, determines that the Trail or one or more of its improvements or appurtenances has damaged or destroyed a flood control feature of the Property, then all such property of the District so damaged or destroyed shall be promptly repaired or replaced by MUD to the satisfaction of the Director and in accordance with the criteria set forth in the District's PCPM. However, in lieu of said repair or replacement, MUD shall, if so required by the Director, pay to the District money in an amount deemed sufficient by the Director, in their sole discretion, to compensate for the loss sustained by the District as a result of damages or destruction to said flood control features. MUD shall perform its obligations as specified herein regardless of who or what necessitated the repairs or replacement and without the aid or assistance of the District or the District's equipment, personnel, or materials.

In addition, the Director may remove at MUD's cost or demand immediate removal of those portions of the Trail or appurtenances that the Director determines to have damaged a flood control feature or channel integrity or which may block access to HCFCD's desired use of the Property.

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, between the boundary of HCFCD's right-of-way line and the top of bank of the bayou; or as otherwise provided in the Plans and Specifications approved by HCFCD as provided herein. MUD is responsible in its planning and construction of the Trail and appurtenances to ensure free and unobstructed access to the channel infrastructure and slopes by HCFCD's maintenance and repair equipment as determined by HCFCD or its contractor without regard to the existence of the Trail and appurtenances and dictated by mowing categories based on site characteristics as defined in HCFCD's Vegetation Management Manual, as the same may be amended or updated from time to time. If a Trail or amenity obstructs HCFCD maintenance or repair access or necessitates a mowing category change at any location along the Trail, MUD maintenance responsibilities for the Trail and Property, from the point of obstruction or mowing category change to the District's next designated unobstructed point of access, will change from Basic Maintenance to Full Maintenance, as defined below. Within the Basic Maintenance Area: MUD shall 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, traffic control signs, and shall mow, edge and trim the grass at such time intervals so as to keep same from attaining a height of more than nine (9) inches, and remove trash, paper, debris; remove silt from Trails and related amenities and appurtenances; provide tree maintenance, to include removal of dead or dying trees and tree limbs; manage undesirable vegetative species; and empty trash receptacles. MUD shall be responsible for proper disposal of all collected refuse or recyclable material. (Depositing refuse or recyclable material in or on an already full or overflowing waste or recycling receptacle is not proper disposal). Dangerous conditions shall be repaired as soon as possible to ensure usability and safety. Graffiti shall be removed within seventy-two (72) hours of notice to MUD. Debris, tree limbs, 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. Where a dead, damaged or diseased tree poses an immediate risk to public safety, all or portions of the tree may be removed as necessary to protect the public without prior notice; provided that MUD shall notify the District of such removal as soon as practicable.

b. Full Maintenance in Extended Maintenance Area

Where the Trail traverses below the upper maintenance berm or under a bridge necessitating placement of the Trail on the side slope or on a lower bench, the area from the District right-of-way to the centerline of the channel and horizontally from a distance of fifty (50) feet beyond the termination of the hand railing or retaining wall or fifty (50) feet beyond where the Trail moves to the upper maintenance berm is herein called the "Extended Maintenance Area." MUD will be responsible for Full Maintenance of the Extended Maintenance Area. Full Maintenance is Basic Maintenance, as defined above, and in addition, MUD shall mow, edge, and trim said grass from the District right-of-way to the water's edge. Full Maintenance shall also include repair of channel infrastructure to the channel centerline if and to the extent that the Trail causes the need for repair as determined in the sole discretion of the Director, including but not limited to repairs of earthen slope failures and erosion, concrete pavement, riprap, outfalls, culverts or bridges installed for Trail crossings, stairways, landscaping, signs, hand railings, retaining walls, headwalls and wingwalls, backslope swale systems, and drainage features in, around or under the Trail, and all other improvements and appurtenances constructed or to be constructed along the Trail. The Director may determine in their sole discretion, that some or all of such repairs will be completed by the District with funding provided by MUD.

5.

Trail/Property Construction, Repair, Alteration and Inspection; Criteria

MUD will not undertake any repair or alteration to the Trail, the Property or any existing improvements thereto, or begin any construction anywhere on the Property without first securing the written approval of the Director of the Plans and Specifications for the same. The content of proposed signage, murals, artwork or other similar expressive embellishment must be approved in writing by HCFCD prior to its placement on the Property or its incorporation into the Trail appurtenances. All Plans and Specifications for construction, repair or alteration undertaken by MUD must comply with the criteria set forth in the District's PCPM, as updated from time to time. With the prior written consent of the Director, MUD may make minor changes necessary or desirable during the construction of the Trail. Submission of Plans and Specifications are not required for minor maintenance and repair work. MUD shall notify the District forty-eight (48) hours in advance of the start of any construction, repairs, or modifications. During the term of this Agreement, the Director may inspect the Trail and the Basic Maintenance Area or Extended Maintenance Area, as applicable, to determine whether MUD is constructing and maintaining the Trail and performing its other obligations pursuant to this Agreement.

6.

Trees and No Waste

MUD shall not cause or permit any waste upon the hereinabove described Trail and Property. Further, MUD shall not cut or damage any tree or trees on the District's Property with a diameter breast-high ("dbh") greater than three (3) inches at a level approximately four and one-half (4½) feet from its base, without the prior written consent of the District's Director except as otherwise permitted herein.

7.

Public Use and No Fee

The Trail shall be open to the use of the general public. No fee or charge shall be imposed for the use thereof.

8.

Limitation and Disclaimer of Warranty

MUD's right to the use and enjoyment of the Trail for the purposes herein stated is expressly limited to the District's right, title, and interest, if any, in and to the Property, and the District makes no warranty or representation as to its right, title, or interest, if any, in and to said Property. If, and in the event that, additional rights, title, and interest in and to the Property are needed for the construction, maintenance, or operation of the Trail, the acquisition of such rights, title, and interest shall be at the sole expense and obligation of MUD.

The District makes no representation as to the suitability of the soils, condition of existing drainage infrastructure, or the stability of the channel bank for the MUD's intended purposes.

9.

Term

The term of this Agreement shall extend for a term of twenty-five (25) years commencing on the date of its execution by both Parties; however, it shall continue thereafter on a year to year basis, unless earlier terminated as provided hereunder. Either the District (through its governing body or its Director) or MUD may terminate this Agreement prior to the expiration of said term(s), without cause, upon thirty (30) days prior written notice to the other party hereto. If applicable, the MUD's ownership of and responsibility to maintain the pedestrian bridge(s) shall survive such termination until the pedestrian bridge(s) are removed and the Property is restored in compliance with the PCPM.

10.

Notices

All notices shall be given by registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

To District: Harris County Flood Control District
9900 Northwest Freeway
Houston, Texas 77092
Attention: Executive Director

To MUD: Fry Road Municipal Utility District
10000 Memorial Drive, Suite 260
Houston, Texas 77024
Attention: President

Each notice shall be considered exercised and completed upon deposit of the notice in the United States mail as aforesaid. Either Party may designate another address in writing from time to time by giving the other Party ten (10) days notice.

11.

The District's Rights Paramount

The District has advised MUD and MUD is aware that the Property was acquired for flood control and drainage purposes. The District presently uses said portions of the Property upon which the Trail is to be constructed for maintenance of HCFCU Unit U101-19-00 and the District contemplates future use of the Property for widening of the drainage facility and for other flood control and drainage improvements as the need for the same may arise and funds may be available. The District hereby expressly reserves to itself, its officers, employees, agents, and contractors, the right to enter upon said Property and Trail at any time for any purpose necessary or convenient in connection with drainage and flood control work, to flood said Property and Trail, and to make such other use of said Property and Trail as may be necessary or desirable in connection with drainage and flood control, and MUD shall have no claim for damages of any character on account thereof against the District, or any officer, employee, agent, or contractor thereof. The District shall have no responsibility to replace or repair any portion of the Trail that is damaged in the course of such flood control activities. If the Trail or other structures appurtenant thereto constructed by MUD including but not limited to, railings or low water crossings, are damaged by the District during drainage or flood control activities or by the flow of water in the channel, or if any of MUD's improvements experience structural failure from any cause, the District reserves the right to demand immediate removal and to not to allow MUD to rebuild the Trail or replace the structures appurtenant thereto if to do so would, in the Director's opinion, impede the flow of water in the channel or impair channel functionality. The District further reserves the right to remove portions of the Trail from time to time as the Director determines necessary or convenient to accommodate channel improvements or access purposes, and further, to not permit MUD to rebuild same. HCFCU may remove without notice, or demand immediate removal of, improvements or property constructed, placed or installed on the Property without HCFCU approval. The District may determine, in its sole discretion, that closure of the Trail is necessary to ensure the safety of the public for the duration of District activities. The District shall make every reasonable effort to coordinate with MUD on activities requiring Trail closures.

In the event the maintenance, repair or replacement of a flood control feature necessitates the removal of the Trail or one or more of its improvements and appurtenances or the District determines that an unauthorized Trail feature must be removed, the District will make reasonable efforts to provide MUD with thirty (30) days notice prior to such removal. If MUD fails or refuses to remove the improvements within the notice period, or if time does not permit prior notice, the District shall proceed with removal and MUD shall reimburse the District for the costs of such removal and disposal.

MUD understands and agrees that the District's County-wide mowing, maintenance, and repair schedules are dictated by the flood control and drainage needs of the entire County, prioritized by degree of deficiency and available budget. The existence of Trails or other recreational improvements along an HCFCU Unit has no bearing on the scheduling of such activities, and will not elevate the timing of mowing, maintenance or repairs to such HCFCU Unit ahead of other HCFCU Units solely because damage or erosion prevents Trail construction; damage or erosion

has rendered a Trail or other recreational amenity unsafe or unusable; or MUD's aesthetic standards are more stringent than HCFCD's standard mowing and maintenance schedule allows. In the event damage or erosion to an HCFCD Unit creates a dangerous condition within the Basic Maintenance Area or the Extended Maintenance Area, MUD must act as provided in this Agreement to warn of or remedy the condition.

12.

Covenant Not To Sue and Release

MUD COVENANTS NOT TO SUE AND AGREES TO RELEASE THE DISTRICT AND ITS AGENTS, OFFICERS, CONTRACTORS, SERVANTS, EMPLOYEES, REPRESENTATIVES, LICENSEES, AND INVITEES (HEREINAFTER IN THIS ARTICLE, THE "DISTRICT") FROM AND AGAINST ANY AND ALL LOSSES, LIABILITY, CLAIMS DEMANDS, AND CAUSES OF ACTION OF EVERY CHARACTER AND KIND RESULTING FROM PERSONAL INJURY, ILLNESS, OR DEATH, OR DAMAGE TO OR LOSS OF PROPERTY, OCCURRING, GROWING OUT OF, INCIDENT TO, OR RESULTING DIRECTLY OR INDIRECTLY FROM THE ACTIONS OF MUD, ITS EMPLOYEES, AGENTS, OFFICERS, CONTRACTORS, SERVANTS, REPRESENTATIVES, LICENSEES, OR INVITEES IN SECURING, EXERCISING, OR IN ANY MANNER PERFORMING THE TERMS AND CONDITIONS OF THIS AGREEMENT. IT IS THE EXPRESS INTENT OF THE PARTIES TO THIS AGREEMENT THAT THE COVENANT NOT TO SUE AND AGREEMENT TO RELEASE PROVIDED FOR IN THIS ARTICLE IS EXTENDED BY MUD TO ALSO RELEASE THE DISTRICT FROM THE CONSEQUENCES OF THE DISTRICT'S OWN NEGLIGENCE. THIS COVENANT NOT TO SUE AND AGREEMENT TO RELEASE SHALL APPLY EVEN THOUGH ANY DAMAGE, INJURY, SICKNESS, OR DEATH IS CAUSED IN WHOLE OR IN PART BY ANY DEFECT IN OR CONDITION OF ANY REAL OR PERSONAL PROPERTY, AREA, FACILITIES EQUIPMENT, TOOLS, OR OTHER ITEMS WHICH MAY BE PROVIDED BY THE DISTRICT, WHETHER OR NOT SUCH DEFECT OR CONDITION WAS KNOWN OR SHOULD HAVE BEEN KNOWN BY THE DISTRICT. THE COVENANT NOT TO SUE AND AGREEMENT TO RELEASE PROVIDED HEREIN SHALL NOT BE CONSTRUED IN ANY WAY TO LIMIT INSURANCE COVERAGES PROVIDED BY MUD OR BY OTHERS FOR THE DISTRICT PURSUANT TO THE TERMS OF THIS AGREEMENT, WHICH INSURANCE REQUIREMENTS ARE INDEPENDENT FROM AND IN ADDITION TO SUCH COVENANT NOT TO SUE AND AGREEMENT TO RELEASE.

13.

Indemnification By Contractor

MUD will cause to be inserted in the construction contract for the Trail an agreement that the contractor will indemnify, protect, covenant not to sue, release, and save and hold harmless MUD and the District and all their representatives from all suits, actions, or claims of any character brought on account of any injuries or damages sustained by any person or property in consequence of any neglect in safeguarding the work or through the use of unacceptable materials in the construction of the Trail or any associated improvements, or on account of any act of omission by the contractor.

MUD shall furthermore require that the contractor's insurance policies name the District as an insured. Such insurance policies shall include not less than the minimum coverages as stated in the current "Harris County General Conditions for Roads, Bridges and Related Work."

14.

Insurance Requirements

MUD shall at all times keep and maintain during the term of this Agreement, at their own expense, a general liability insurance policy covering the Trail and all facilities and activities associated therewith, for the full Basic Maintenance Area or Extended Maintenance Area, as appropriate, with coverage in the amount of not less than ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) for injury to or death of any one person and not less than THREE HUNDRED THOUSAND DOLLARS (\$300,000.00) for injury to or death of more than one person in any one accident or occurrence, and not less than ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) for any single occurrence for damage to or destruction of property, or in the amounts of the District's maximum limitations under the Texas Tort Claims Act, whichever amounts shall be greater for covering the District. Said policy(ies) shall name the District as an insured. MUD shall deliver a copy of each such policy to the Director of the District within fifteen (15) days after the effective date of this Agreement. Not later than thirty (30) days after the expiration date of each policy, MUD shall furnish a copy of a renewal insurance policy to the Director of the District.

15.

Not Joint Enterprise, Employee, Nor Agent

This Agreement is not intended to and shall not create a joint enterprise between MUD and the District. It is understood and agreed that the District and the District's personnel shall not be considered employees, agents, partners, joint venturers, or servants of MUD. It is also understood and agreed that MUD's personnel shall not be considered employees, agents, partners, joint venturers, or servants of the District. The parties are undertaking governmental functions or services under this Agreement and the purpose hereof is solely to further the public good, rather than any pecuniary purpose. The party undertaking work under this Agreement shall have a superior right to control the direction and management of such work and the responsibility for day-to-day management and control of such work except as may otherwise expressly be provided herein.

16.

No Intent to Dedicate

MUD's use of the District's Property set out herein is intended by the parties to be temporary in nature. Neither the District nor MUD intend to designate any part of the Trail as a park, recreation area, scientific area, wildlife refuge, or historic site for any purpose, including Tex. Parks & Wild. Code Ann. Ch. 26, as amended, or to dedicate any part of the Trail as a park for any purpose, including Tex. Loc. Gov't Code Ann. Ch. 317, as amended

17.

No Allocation of Funds

It is expressly understood and agreed by the Parties, such understanding and agreement being of the essence to this Agreement, that the District has not appropriated funds hereunder to fulfill any obligation created by the terms of this Agreement; provided further, however, that the District may, but shall not be obligated to, from time to time budget and appropriate funds to fulfill any obligation created hereunder. In the event the District shall fail or refuse to appropriate or expend funds necessary to perform any obligation hereunder, the sole remedy of MUD shall be to

terminate this Agreement; provided further, however, that before terminating this Agreement for such failure or refusal, MUD shall first notify the District in writing of its intent to terminate and give the District not less than thirty (30) days to remedy such deficiency, and thereafter only terminate in the event the District fails or refuses to remedy the deficiency.

18.

Texas Public Information Act

The Parties expressly acknowledge that this Agreement is subject to the Texas Public Information Act, Tex. Gov't Code Ann. §§ 552.001 *et seq.*, as amended (the "Act"). MUD expressly understands and agrees that the District shall release any and all information necessary to comply with Texas law without the prior written consent of MUD.

It is expressly understood and agreed that the District, its officers, and employees may request advice, decisions, and opinions of the Attorney General of Texas ("Attorney General") in regard to the application of the Act to any information or data furnished to the District, whether or not the same is available to the public. It is further understood that the District, its officers, and employees shall have the right to rely on the advice, decisions, and opinions of the Attorney General, and that the District, its officers, and employees shall have no liability or obligations to MUD for the disclosure to the public, or to any person or persons, of any information or data furnished to the District in reliance on any advice, decision, or opinion of the Attorney General.

In the event the District receives a written request for information pursuant to the Act that affects MUD's rights, title to, or interest in any information or data or a part thereof, furnished to the District by MUD under this Agreement, then the District will promptly notify MUD of such request. MUD may, at its own option and expense, prepare comments and submit information directly to the Attorney General stating why the requested information is exempt from disclosure pursuant to the requirements of the Act. MUD is solely responsible for submitting the memorandum brief and information to the Attorney General within the time period prescribed by the Act. MUD is solely responsible for seeking any declaratory or injunctive relief regarding the disclosure of information that it deems confidential or privileged.

MUD affirmatively consents to the disclosure of its e-mail addresses that are provided to the District, including any agency or department of the District. This consent is intended to comply with the requirements of the Act and shall survive termination of this Agreement. This consent shall apply to e-mail addresses provided by MUD and agents acting on behalf of MUD and shall apply to any e-mail address provided in any form for any reason whether related to this Agreement or otherwise.

19.

Titles and Provisions

Titles are for convenient reference only and shall not be used to interpret or limit the meaning of any provision of this Agreement. The use of the neuter, male, or female singular pronoun to refer to the District or MUD shall be deemed a proper reference, even though the District or MUD may be a male individual, a female individual, a partnership, a corporation, a limited liability company, governmental entity, or any other entity or group of two or more individuals or entities.

20.

Third Party Rights, Successors and Assigns

No Party hereto shall make, in whole or in part, any assignment of this Agreement without the written consent of the other Party. This Agreement shall not bestow any rights upon any third party, but rather shall bind and benefit the District and MUD only.

21.

No Waiver of Immunity

Nothing in the Agreement is construed as creating any personal liability on the part of any officer, director, employee, or agent of any public body that may be a Party to the Agreement, and the Parties expressly agree that the execution of the Agreement does not create any personal liability on the part of any officer, director, employee, or agent of the District.

The Parties agree that no provision of this Agreement extends the District's liability beyond the liability provided in the Texas Constitution and the laws of the State of Texas.

Neither the execution of this Agreement nor any other conduct of any Party relating to this Agreement shall be considered a waiver by the District of any right, defense, or immunity under the Texas Constitution or the laws of the State of Texas.

The District does not agree to binding arbitration, nor does the District waive its right to a jury trial.

22.

Venue

This Agreement is subject to the laws of the State of Texas, the laws of the United States federal government, and all rules and regulations of any regulatory body having jurisdiction in Harris County, Texas. Venue shall be in a court of competent jurisdiction in Houston, Harris County, Texas.

23.

Waiver of Breach

Waiver by any Party of a breach or violation of any provision of the Agreement is not a waiver of any subsequent breach.

24.

Severability

If any provision or part of the Agreement or its application to any person, entity, or circumstance is ever held by any court of competent jurisdiction to be invalid for any reason, the remainder of the Agreement and the application of such provision or part of the Agreement to other persons, entities, or circumstances are not affected.

25.

Survival of Terms

Any provision of this Agreement that, by its plain meaning, is intended to survive the expiration or earlier termination of this Agreement including, but not limited to the indemnification provision, shall survive such expiration or earlier termination. If an ambiguity exists as to survival, the provision shall be deemed to survive.

26.

Entire Agreement

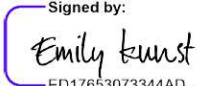
This instrument merges the prior negotiations and understandings of the Parties and contains the entire agreement between the Parties relating to the rights herein granted and the obligations herein assumed. No other agreements, assurances, conditions, covenants (express or implied), or other terms of any kind exist between the Parties regarding this Agreement. Any modifications concerning this instrument shall be of no force and effect excepting a subsequent modification in writing, signed by all Parties hereto.

EXECUTED on _____.

APPROVED AS TO FORM:

CHRISTIAN D. MENEFFEE
Harris County Attorney

HARRIS COUNTY FLOOD CONTROL
DISTRICT

Signed by:

By: _____
ED17653073344AD...
EMILY KUNST
Assistant County Attorney
25GEN0797

By: _____
LINA HIDALGO
County Judge

ATTEST: [or WITNESS]

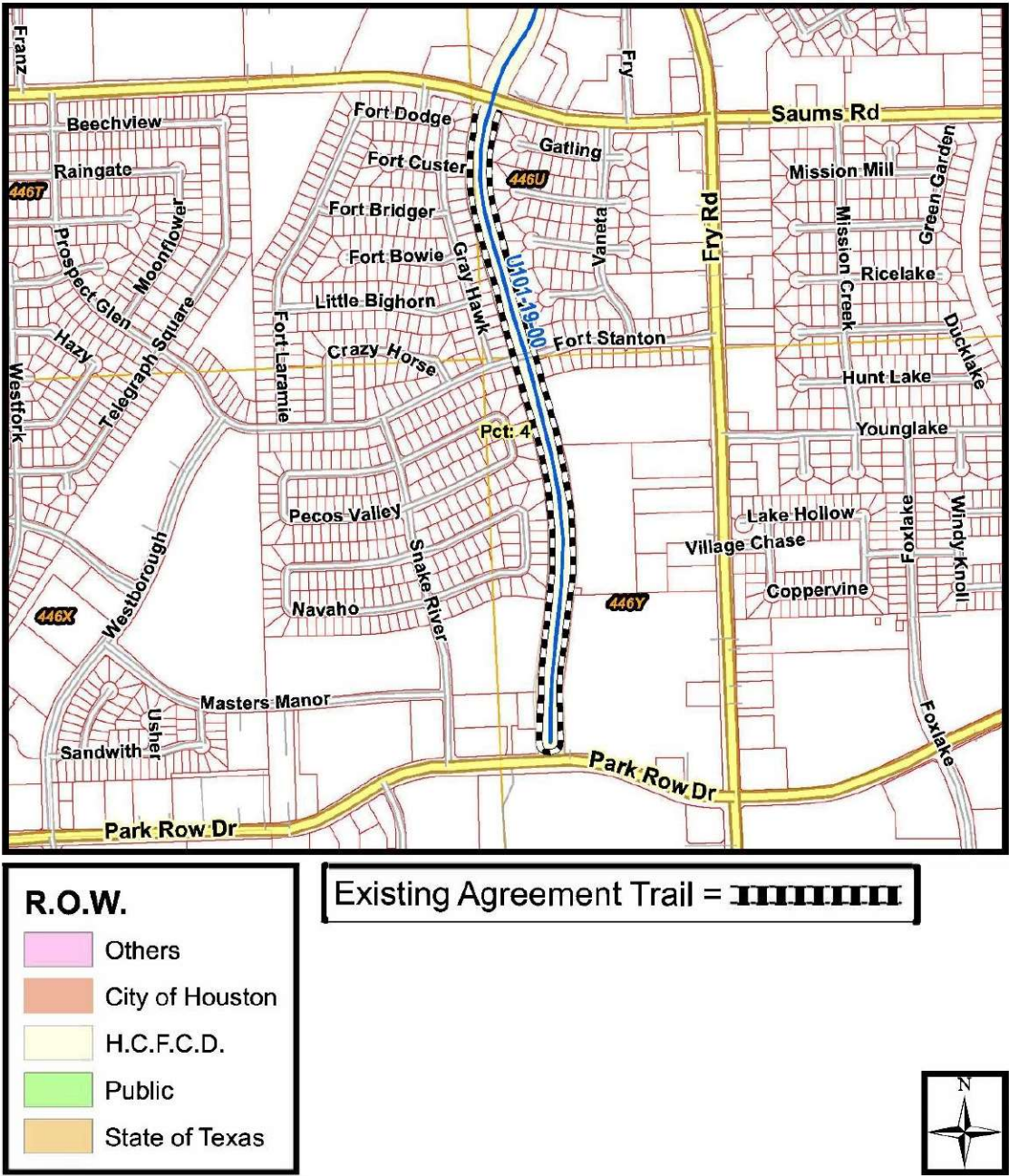
FRY ROAD MUNICIPAL UTILITY
DISTRICT

By: 
MARCY MARTINEZ
Secretary

By: 
JAMES ROADARMEL
President

Exhibit "A"

Harris County Flood Control District
Fry Road MUD
Hike and Bike Trail Agreement
HCFCD Unit U101-19-00



THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

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 _____, with all members present except _____.

A quorum was present. Among other business, the following was transacted:

**ORDER AUTHORIZING EXECUTION OF AGREEMENT
BY AND BETWEEN THE HARRIS COUNTY FLOOD CONTROL DISTRICT AND FRY ROAD
MUNICIPAL UTILITY DISTRICT TO CONSTRUCT AND MAINTAIN
A PUBLIC HIKE AND BIKE TRAIL ON HCFCD UNIT U101-19-00
TRACT NO. 01-003.0; PRECINCT 4**

Commissioner _____ introduced an order and made a motion that the same be adopted. Commissioner _____ 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
Judge Lina Hidalgo	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Rodney Ellis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Adrian Garcia	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Tom S. Ramsey, P.E.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Lesley Briones	<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 law-fully adopted. The order thus adopted follows:

The District and MUD previously entered into Hike and Bike Trail Agreement No. 339 (the "Previous Agreement"), dated January 27, 2004, which expired on January 27, 2024. The Previous Agreement allowed MUD to construct and maintain or cause to be constructed and maintained, a public hike and bike trail and related appurtenances on HCFCD Unit U101-19-00, depicted on "Exhibit A," attached to this Agreement for descriptive purposes only, hereinafter called the "Trail."

The Parties desire for MUD to continue to maintain, or cause to be maintained, the Trail at this location.

The District is willing to allow MUD to continue to use the portions of the property owned in fee by the District or in which the District owns an easement (collectively, hereinafter the "Property") for the purposes stated herein, subject to the conditions hereinafter provided.

The Parties recognize that flood control and drainage is the paramount public purpose of the HCFCD Unit along which the Trail will be constructed and maintained by the MUD.

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 Lina Hidalgo is hereby authorized to execute, for and on behalf of the Harris County Flood Control District, an Agreement by and between the Harris County Flood Control District and Fry Road Municipal Utility District, for possible future construction and continued maintenance of a public hike and bike trail and related appurtenances, on, over, across, and through certain Property located along both sides of the channel of HCFCD Unit U101-19-00, said Agreement being incorporated herein by reference for all purposes as though fully set forth verbatim herein.

Section 3: All Harris County and Harris County Flood Control District officials and employees are authorized to any and all things necessary or convenient to accomplish the purposes of this order.

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