

RIGHT OF ENTRY

THIS RIGHT OF ENTRY (this "Agreement") is entered into effective as of the date (the "Effective Date") of signature by Grantor (as hereinafter defined) by and between **THE CITY OF HOUSTON, TEXAS**, a municipal corporation situated in Harris, Fort Bend and Montgomery Counties, Texas, whose address for purposes hereof is 611 Walker Street Houston, Texas 77002, Attn: Director, Houston Public Works ("Grantor"), and **HARRIS COUNTY FLOOD CONTROL DISTRICT**, a political subdivision of the State of Texas, whose address is 9900 Northwest Freeway, Houston, Texas 77092 ("Grantee").

WITNESSETH:

WHEREAS, Grantor is the owner of the Sherwood Oaks Lift Station site and the contiguous Sherwood Oaks Water Plant Site, both located at Sherwood Forest Drive at Chatterton Drive, Sherwood Oaks Estates, Section 2, C. Williams Survey, Abstract A-834 in Houston, Texas, (the "Property"), shown on the drawing attached hereto as **Exhibit "A"**; and

WHEREAS, Grantee requests Grantor's permission for access over and across the Property to perform maintenance work on a section of Turkey Creek from Chatterton Drive to 3200' downstream (Channel W167-04-00-X013); and

WHEREAS, Grantor agrees to allow Grantee such access pursuant to the terms hereof;

NOW, THEREFORE, KNOW ALL PERSONS BY THESE PRESENTS:

THAT, for and in consideration of the premises and the mutual covenants and agreements herein set forth, the parties hereto hereby agree as follows:

1. Agreement for Access. Grantee its employees, agents and equipment service contractors will have the right of ingress and egress to the Property over and cross the Property, during regular working hours.

2. Term. The license granted pursuant to this Right of Entry shall have a term commencing on the Effective Date (the "Term") and extending 365 days thereafter. Grantee will have one option to renew the Term and may exercise the option by providing a written request to the Houston Public Works Director, or her designee, 30 days before the Term ends.

3. Insurance. Grantee will require its contractors accessing the Property to have the following insurance:

Coverage and Limits. During the Term of this Agreement and any extensions thereto, the Contractor at its sole cost and expense shall provide insurance of such type and with such terms and limits as may be reasonably associated with this Agreement. As a minimum, the Engineer shall provide and maintain the following coverage and limits:

(a) Workers Compensation, as required by the laws of Texas, and Employers' Liability, as well as All States, United States Longshore & Harbor Workers Compensation Act and other endorsements, if applicable to the project, and in accordance with state law.

Employers' Liability

(i)	Each Accident	\$1,000,000
(ii)	Disease – Each Employee	\$1,000,000
(iii)	Policy Limit	\$1,000,000

(b) Commercial General Liability, including but not limited to, the coverage indicated below. This policy will provide coverage for personal and bodily injury, including death, and for property damage, and include an endorsement for contractual liability. Coverage shall not exclude or limit the Products/Completed Operations, Contractual Liability, or Cross Liability. Where exposure exists, the District may require coverage for watercraft, blasting, collapse, explosions, blowout, cratering, underground damage, pollution, and other coverage. *The District and City shall be named Additional Insureds on primary/non-contributory basis.*

(i)	Each Occurrence	\$1,000,000
(ii)	Personal and Advertising Injury	\$1,000,000
(iii)	Products/Completed Operations	\$1,000,000
(iv)	General Aggregate (per project)	\$2,000,000

(c) Professional Liability/Errors and Omissions, in an amount not less than One Million Dollars (\$1,000,000) per claim and in the aggregate.

(d) Umbrella/Excess Liability in an amount not less than One Million Dollars (\$1,000,000) per occurrence and in the aggregate. *The District and City shall be named Additional Insureds on primary/non-contributory basis.*

(e) Automobile Liability insurance to include the Contractor's liability for death, bodily injury, and property damage resulting from the Contractor's activities covering use of owned, hired, and non-owned vehicles, with combined single limit of not less than One Million Dollars (\$1,000,000) for each accident. *The District and City shall be named Additional Insureds on primary/non-contributory basis.*

(f) Any other coverage required of the Contractor pursuant to statute.

Delivery of Policies. Immediately upon execution of this Agreement and before any services are commenced by the Contractor, the Contractor shall provide the District and City evidence of all of the above coverage on forms and with insurers acceptable to the District. The Contractor must maintain a valid Certificate of Insurance as described herein on file with the District at all times during the term of this Agreement. The Contractor must either (1) mail the Certificate of Insurance to the District at 9900 Northwest Freeway, Houston, TX 77092, Attn: Contract Management or (2) submit it by email to HCFCAdminServices@hcfcd.hctx.net.

Issuers of Policies. Coverage shall be issued by company(s) licensed by the Texas Department of Insurance to do business in Texas, unless said coverage is not available or economically feasible except through an excess or surplus lines company, in which case the company(s) should be registered to do business in Texas. Companies shall have an A.M. Best rating of at least A-VII.

Certificates of Insurance. The Contractor shall provide unaltered Certificates of Insurance which evidence the required coverage and endorsements and satisfy the following requirements:

- (a) Be less than 12 months old;
- (b) Include all pertinent identification information for the Insurer, including the company name and address, policy number, NAIC number or AMB number, and an authorized signature;
- (c) Include the project name and reference numbers and indicate the name and address of the Project Manager in the Certificate Holder Box; and
- (d) Be appropriately marked to accurately identify:
 - (i) All coverage and limits of the policy;
 - (ii) Effective and expiration dates;
 - (iii) Waivers of subrogation, endorsement of primary insurance and additional insured language, as described herein.

Certified Copies of Policies and Endorsements. Upon request, the Contractor shall furnish certified copies of insurance policies and endorsements to the District.

Renewal Certificates. Renewal certificates are due to the District at least thirty (30) days prior to the expiration of the current policies.

Subcontractors. If any part of the Agreement is sublet, insurance shall be provided by or on behalf of any subcontractor and shall be sufficient to cover their portion of the Agreement. The Contractor shall furnish evidence of such insurance to the District as well.

Additional Insured. The Contractor shall include the District and its respective officers, directors, agents, and employees as an Additional Insured on the Commercial General Liability, Automobile Liability, and Umbrella/Excess Liability insurance certificates. The Contractor's coverage shall be primary insurance to any similar insurance maintained by the District and must contain an endorsement stating such. Coverage to the District as an Additional Insured on any of the Contractor's insurance coverage shall not be subject to any deductible.

Deductibles. The Contractor shall be responsible for and pay any claims or losses to the extent of any deductible amounts applicable under all such policies and waives any claim it may have for the same against the District, its officers, directors, agents, or employees.

Claims-made Policies. All insurance policies written on a claims-made basis, including Professional Liability/Errors and Omissions, shall be maintained for a minimum of two (2) years following completion of all services under this Agreement ("Extended Reporting

Period"). The Contractor shall obtain or maintain full prior acts coverage at least to the effective date of this Agreement in the event of a carrier or policy change.

Waiver of Subrogation. The Contractor waives any claim or right of subrogation to recover against the District, its officers, directors, agents, and employees (“Waiver of Subrogation”). Each policy required under this Agreement must contain a Waiver of Subrogation endorsement.

Notice of Cancellation, Non-Renewal, or Material Change. The Contractor shall provide the District with thirty (30) days' minimum written notification in the event of cancellation, non-renewal, or material change to any or all of the required coverage.

Remedies for Noncompliance. Failure to comply with any part of this Article is a material breach of this Agreement. The Contractor could immediately, and without notice, have all compensation withheld or suspended, be suspended from providing further services, or be terminated from this Agreement for any lapse in coverage or material change in coverage which causes the Contractor to be in noncompliance with the requirements of this Article.


4. Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Texas.

5. Severability. If any provision of this Agreement is determined to be illegal or unenforceable for any reason, the remaining provisions hereof shall not be affected thereby.

In witness whereof, the parties have executed this Agreement, in multiple counterparts, each of which is deemed to be an original, to become effective on the date of signature on behalf of Grantor.

GRANTOR

CITY OF HOUSTON

DocuSigned by:

A93C410B72B3453...

By: _____
CAROL E. HADDOCK, P.E.
Director, Houston Public Works

Date: 8/17/2021

GRANTEE

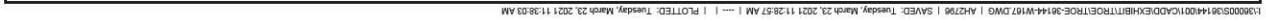
APPROVED AS TO FORM:

HARRIS COUNTY FLOOD CONTROL
DISTRICT

CHRISTIAN D. MENESEE
Harris County Attorney

By  LAURA FIORENTINO CAHILL
Senior Assistant County Attorney

By LINA HIDALGO
County Judge



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 the following members present, to-wit:

Lina Hidalgo	County Judge
Rodney Ellis	Commissioner, Precinct No. 1
Adrian Garcia	Commissioner, Precinct No. 2
Tom S. Ramsey, P.E.	Commissioner, Precinct No. 3
R. Jack Cagle	Commissioner, Precinct No. 4

and the following members absent, to-wit: _____, constituting a quorum, when among other business, the following was transacted:

**ORDER AUTHORIZING EXECUTION OF A RIGHT OF ENTRY BETWEEN
 THE HARRIS COUNTY FLOOD CONTROL DISTRICT AND
 THE CITY OF HOUSTON, TEXAS**

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
AYES:	Judge Lina Hidalgo	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
NAYS:	Comm. Rodney Ellis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ABSTENTIONS:	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. 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, Grantor is the owner of the Sherwood Oaks Lift Station site and the contiguous Sherwood Oaks Water Plant Site, both located at Sherwood Forest Drive at Chatterton Drive, Sherwood Oaks Estates, Section 2, C. Williams Survey, Abstract A-834 in Houston, Texas, (the "Property"), shown on the drawing attached hereto as **Exhibit "A"**; and

WHEREAS, Grantee requests Grantor's permission for access over and across the Property to perform maintenance work on a section of Turkey Creek from Chatterton Drive to 3200' downstream (Channel W167-04-00-X013); and

WHEREAS, Grantor agrees to allow Grantee such access pursuant to the terms hereof;

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, a Right of Entry by and between the Harris County Flood Control District and the City of Houston, Texas, said Right of Entry being incorporated herein by reference for all purposes as though fully set forth verbatim herein.

