

LICENSE AGREEMENT FOR THE USE, ENHANCEMENT, AND DEVELOPMENT OF THE CITY'S SINGLE TRACK MOUNTAIN BIKE TRAILS

This non-exclusive License Agreement is made and entered into by and between the **CITY OF SUGAR LAND**, a home-rule city located in Fort Bend County, Texas ("City"), and the **FORT BEND MOUNTAIN BIKE ASSOCIATION**, a Texas nonprofit corporation ("Licensee").

RECITALS:

WHEREAS, Licensee is a Texas nonprofit organization that operates as a chapter of the International Mountain Biking Association ("IMBA") and is dedicated to building and maintaining sustainable single track trails in the City of Sugar Land and within the Fort Bend County region; and

WHEREAS, Licensee's mission includes volunteer efforts in regards to sustainability, conservation, education, safety, partnerships, and community involvement with like-minded community advocates focusing on mountain biking and trail building; and

WHEREAS, the City and Licensee desire to collectively work together to build, maintain, and manage soft surface, multi-use, natural surface trails (also known as single track) within the City's park and trail systems; and

WHEREAS, Licensee's work might include, but is not limited to, restoration or enhancement of existing trails, trail design, and master planning for future trail projects serving both the City and Licensee as well as the Sugar Land community's best interest; and

WHEREAS, all project tasks will be a collaborative partnership between the City and Licensee, with final decisions being made by and in the best interest of the City and its residents; and

WHEREAS, Licensee desires to license the use of the City's Brazos River Park Trail, Brindley Trail, River Park Trails, and Oyster Creek Bike Trail (the "Existing Trails") and the use of future single track trail segments approved by the City, if any (the "Future Trails") (collectively, the Existing Trails and Future Trails are the "Licensed Premises"), from the City for the sole purposes of enhancing, improving, adding to, maintaining, managing, constructing, and developing the City's single track trails (the "Licensed Purposes"); and

WHEREAS, the City desires to provide Licensee with a non-exclusive license to use the Licensed Premises for the Licensed Purposes; and

NOW THEREFORE, for the consideration and on the terms, provisions, and conditions hereinafter set forth, the City and Licensee hereby agree as follows:

AGREEMENT:

1. The recitals set forth above are adopted and incorporated into this License Agreement.

2. Grant of License.

A. The City hereby grants to Licensee a non-exclusive license to use the Licensed Premises for the Licensed Purposes.

B. Licensee hereby agrees to, and shall, use the Licensed Premises only as contemplated by this License Agreement.

C. The rights herein granted to Licensee are not exclusive and the City hereby reserves for itself, its successor and assigns, as well as the general public, the right to use the Licensed Premises or allow any other person to use the Licensed Premises for any purpose or purposes whatsoever, provided such use does not unreasonably interfere with any rights granted to Licensee hereunder.

3. Term; Access.

A. The term of this License Agreement shall be one (1) year, commencing on the Effective Date. City Council reserves the option to extend this License Agreement upon the same terms and conditions herein for up to four (4) additional one-year periods by notifying Licensee in writing of the extension at least thirty (30) days prior to the expiration of the then-current term.

B. Licensee shall have unrestricted right of ingress and egress to the Licensed Premises during the term of this License Agreement each day from sunrise to sunset, unless otherwise designated by City policy or rules adopted by the City's Director of Parks and Recreation and provided to Licensee in writing.

C. The City has the right at any time to enter onto the Licensed Premises for the purpose of inspecting the Licensed Premises, and making necessary repairs, additions, or alterations as may be necessary for the safety, improvement, or preservation of the Licensed Premises.

D. Licensee agrees that lightning, flooding or other severe weather is likely to present a hazard or danger to users of the Licensed Premises. City and Licensee agree that in the case of severe weather, access to the Licensed Premises may be restricted at the sole discretion of the City. Severe weather refers to dangerous meteorological phenomena with the potential to cause damage to persons or property.

4. Licensee Rights and Obligations.

A. Licensee will comply with any and all applicable IMBA rules and regulations, to the extent the same are not in conflict with this License Agreement.

B. All of Licensee's volunteers that will be doing work on or at the Licensed Premises must register and sign up with, and be approved as a volunteer by, Serve Sugar Land, the volunteer branch of the City. The City's Worker's Compensation insurance covers Serve Sugar

Land volunteers.

C. Licensee may solicit funds from private donors, as well as government agencies, through grant writing and fundraising drives, for the Licensed Purposes, to further enhance the single track recreational experience for all user groups. Licensee may allocate such funds to hire consultation for project master planning and design. Any solicitation of grant proposals must be provided to, and approved by, the City's Director of Parks and Recreation prior to submittal. Such approval will not be unreasonably withheld.

D. Licensee is permitted to make approved trail improvements only on the Licensed Premises. These trail improvements will be made only with prior approval and consent by the City.

E. Licensee, in conjunction with the City, will adequately mark all proposed sections of trail and trail improvements and Licensee will obtain written consent from the City prior to commencing any trail construction activities.

F. Maintenance.

- i. Licensee will provide regular trail maintenance and volunteers to perform ongoing maintenance of Existing Trails and Future Trails. Maintenance will be performed to keep trails open and passable, as well as to endeavor to mitigate erosion issues, using sustainable trail construction and maintenance techniques.
- ii. Licensee will maintain Existing Trails and make minor changes to maintain their good condition. A map of the Existing Trails is attached hereto as Exhibit "A" and incorporated herein by reference.
- iii. Licensee is permitted to use light power tools and hand tools during daylight hours in order to maintain trails. Heavy equipment may be used only with prior approval from the City. For purposes of this License Agreement, "heavy equipment" includes, but is not limited to chain saws and power pole saws, a mini excavator, small front end loader (skid steer), small ATV, or similar. "Light power tools" are defined as a "weed eater", blowers, or hedge trimmers/clippers.
- iv. Licensee may only use chain saws and powered pole saws (with prior approval) only if hand tools cannot perform the task needed. The operator must show that he/she has had prior experience with operating that equipment and must follow all safety requirements in the ANSI Z133 American National Standard. All proper personal protective equipment (PPE) must be worn at all times, no exceptions. The trail where such work is being performed must be blocked off during this use. A helper or spotter must be present with the operator at all times. For purposes of this License Agreement, "hand tools" are defined as rake, shovel, hand pruner, hand operated pole saw, hand saws/clippers, or similar.
- v. Licensee is not allowed to use "Round-Up" or any kind of herbicides (chemicals) on the Licensed Premises.
- vi. Proper safety equipment must be worn at all times while operating light power tools and hand tools.

- vii. Licensee will provide trail warnings in the form of cones, caution tape, and or a personal spotter when trail work is being performed.

G. Licensee will work with the City's Parks and Recreation Department to coordinate complete trail closures due to weather or long term repairs. The City's Parks and Recreation Department has final approval over any such trail closures.

H. If any Existing Trail(s) or Future Trail(s) enters into a state of being unsafe or un-ridable, Licensee will be held responsible for the return of such trail(s) to a satisfactory, usable condition. If the City deems one or more trails unsafe or unfit for riding, that trail will be closed until conditions improve or are repaired to a safe and rideable condition, to the City's satisfaction

I. All Existing Trails and Future Trails subject to this Licensee Agreement will be formally inspected by Licensee on not less than a quarterly basis to ensure that the trails are being maintained and remain safe and usable. Licensee will send reports of such inspections to the Parks and Recreation Director or Assistant Director on a quarterly basis.

J. Licensee must follow the IMBA Guidelines for a Quality Trail Experience, GQTE for trail maintenance standards for any other items that are not specifically addressed in this License Agreement.

K. Licensee will promote proper trail etiquette and provide educational instruction to its members and other trail users in the community to encourage safe and reasonable trail usage and to prevent user conflict. Such etiquette and educational information may include, but is not limited to, posting educational materials online and providing sample wording for warning signs.

L. Licensee will provide technical support and assistance to the City on other off-road bicycling related work projects, and discuss and identify opportunities for cooperation on mutually beneficial projects, programs, and activities.

M. Licensee will not use the City's logo in any marketing or other materials. Licensee may use the City's name for promotional purpose only with the written consent of the City. No use of the City's name may be made for any commercial purpose.

5. City Rights and Obligations.

A. The City will make available the Licenses Premises to the Licensee for the Licensed Purposes.

B. The City will promote off-road cycling related recreational and educational activities, in its sole discretion.

C. The City will provide some maintenance for the Licensed Premises, to the extent the needed maintenance is not delegated to Licensee hereunder or exceeds the scope of Licensee's authorization herein. No evening or weekend maintenance will be performed by City staff.

D. The City may support its single track trails by providing signage and informational kiosks as necessary, and in its sole discretion, to increase the community's recreational experience. Nothing herein will be construed to obligate the City to spend funds on such signs and kiosks.

E. The City acknowledges that the Licensed Premises are not appropriate for the use of motorized off-road vehicles. The City will make reasonable effort to enforce its ordinances, rules, and regulations that prohibit the operation or parking of any motorized vehicle in an area not specifically designated or intended to be used for the parking or movement of motorized vehicles. Provided, however, the City will have no liability to Licensee for failure to enforce such ordinances, rules, and regulations.

F. Nothing herein will be construed to obligate the City to spend or otherwise allocate funds for the Licensed Purposes for the Licensed Premises.

6. Future Trails.

A. New single track trail segments proposed by Licensee must be approved by the City's Parks and Recreation Director in writing. Requests for new trails by Licensee must include the location on a map, projected route, distance, and estimated difficulty rating.

B. Licensee will use the IMBA Trail Difficulty Rating System as a standard for rating the trails. Nothing rated over "More Difficult" (Blue Square) will be allowed.

C. Licensee will flag any proposed route for new trail on site and the City's Parks and Recreation Department must be notified for review and approval prior to starting any work.

D. Licensee will avoid the unnecessary removal of foliage when building a trail. Any living tree with a trunk diameter greater than 3 inches (diameter at chest height or DBH) will not to be removed unless approved by the City in writing. Trees requested for which removal is requested must be flagged for identification and approval prior to being removed.

E. Trails must be easy and intuitive to follow with clear entry and exit points.

F. Within thirty (30) days of receiving a request from Licensee for the construction of a new trail or a walkthrough, the City's Parks and Recreation Department will notify Licensee in writing of its approval or denial of such a request. Provided, however, if there is a concern that a trail segment could cause opposition from surrounding residents, this 30-day timeframe may be exceeded to receive community and/or PARCS Board input. If the proposed trail is within 35 feet of the back fence of an adjacent property, the owner will be notified by City staff. If the proposed new trail is in a park with no other trails, or would be a major change to

an existing trail, the proposed route will be presented to the PARCS Board for review and comment.

G. Any modifications to a new trail must be performed by Licensee before the trail is opened.

H. Licensee must follow IMBA Guidelines for a Quality Trail Experience, GQTE for new trail construction.

I. All new trail construction must minimize future erosion and minimize tree removal.

7. Rogue Trails.

A. Licensee will abstain from and discourage rogue trail building on the Licensed Premises. Any rogue trails discovered to be constructed on the Licensed Premises will be destroyed or removed by Licensee within fifteen (15) days after their discovery.

B. Licensee will report rogue trail activity to the City's Parks and Recreation Department the next business day after discovering such activity. Licensee will take active steps to prevent rogue trails through its social media and physical trail remediation. This includes, but is not limited to, blocking undesired and/or unapproved trail routes with branches or barricades to prevent continued access.

C. Licensee may not take any action, other than that provided in this Section 7, to prevent rogue trails or discourage rogue trail building. If Licensee observes persons constructing rogue trails, it may not take any action to stop or interfere in such construction, but will instead notify the City's Parks and Recreation department in accordance with 7(b) above.

8. Trail Features.

A. As used in this License Agreement, "trail features" means the technical trail features, whether natural, enhanced, or constructed, that make up single track trails in the City. Examples of trail features include, but are not limited to, rollers, berms, and jumps.

B. All trail features must meet the insurance underwriting requirements of Licensee's insurance policy provided hereunder.

C. All features that are targeted to, or most safely used by, riders with advanced skills must have "ride-around" alternatives.

D. Bridges that are designed to get users over a wet location, and that do not have a ride around, must be a minimum of 36" wide.

E. All exceptions to these criteria must be approved by the City's Parks and Recreation Director or Assistant Director before construction begins.

F. Unapproved or unacceptable trail features will be destroyed or removed by Licensee within forty-eight (48) hours after their discovery.

G. Trail features may be constructed or improved along existing trails to add interest and create variety.

H. Trail features will be maintained by Licensee to a good, safe, rideable quality. Features that are not maintained or become unsafe will be removed.

I. The City may remove any and all unapproved trail features or existing trail features that have become unsafe, in its sole discretion.

J. All trail features must be submitted (drawings and specifications with dimensions) to the City and receive written approval prior to implementation and completion. The City must be notified when such trail features are installed, and City inspection and approval is required before the trail features will become permanent.

9. Trail Signs.

A. Trail informational signage is subject to the City's ordinances, rules, regulations, and policies. Any signage requested by Licensee must be approved in writing by the City's parks and Recreation Director. All costs, including design and installation, will be at the expense of Licensee, and upon installation such signs will become City property.

B. Approved signage must be clear, visible, and unobtrusively placed at approved trailheads.

C. Signs must use natural colors so that they are in harmony with natural areas.

10. Termination.

A. Either party may terminate this License Agreement at any time during the then current term, with or without cause, by giving the other party written notice at least thirty (30) days prior to the termination date.

B. If any part of the Licensed Premises is so damaged or destroyed by Licensee's use so that it may not be used for its intended purpose, as determined by the City, this License Agreement will immediately terminate on the date of the damage or destruction.

11. Damage to Licensed Premises.

Licensee shall immediately notify the City of any and all damages resulting from, arising out of, or caused to the Licensed Premises, including, but not limited to, damages to the single track trails and landscaping which is caused by Licensee, its authorized representatives, agents, and invitees, Licensee agrees to pay and to be liable and solely responsible for any and all damages to the Licensed Premises resulting from or relating in any way to the use of the Licensed Premises by

Licensee or its authorized representatives, agents, and invitees. The costs and the repair of all such damages and such repairs shall be completed in a timely manner acceptable to City. The foregoing shall survive any termination of this License Agreement for a period of one (1) year from the date of termination.

12. Representations; Condition of Licensed Premises.

A. THE CITY MAKES NO WARRANTY OR REPRESENTATION TO LICENSEE OF ANY KIND (EXPRESS OR IMPLIED) REGARDING THE SUITABILITY OF OR COMPLIANCE WITH APPLICABLE LAWS BY THE LICENSED PREMISES, OR ANY PORTION THEREOF, FOR ANY ASPECT OF THE USE LICENSEE EXPECTS OR INTENDS TO MAKE OF THE LICENSED PREMISES. ACCORDINGLY, LICENSEE ACKNOWLEDGES AND AGREES THAT IT HAS MADE AN ADEQUATE INVESTIGATION AND INSPECTION OF THE LICENSED PREMISES AND HAS MADE ITS OWN DETERMINATION REGARDING THE SUITABILITY OF THE LICENSED PREMISES FOR LICENSEE'S PROPOSED USE AND IS SATISFIED WITH THE CONDITION, FITNESS, AND ORDER THEREOF.

B. LICENSEE ACCEPTS THE LICENSED PREMISES "AS-IS". THE CITY MAKES NO REPRESENTATION TO REPAIR ANY EXISTING DEFICIENCIES. COMMENCEMENT OF THE USE OF THE LICENSED PREMISES BY LICENSEE SHALL BE CONCLUSIVE THAT THE LICENSED PREMISES WAS IN GOOD REPAIR AND SATISFACTORY CONDITION, FITNESS, AND ORDER WHEN SUCH USE COMMENCED.

C. Licensee shall maintain the Licensed Premises in compliance with all applicable local, state, and federal laws and rules and in a manner which will not interfere with the City's or the public's reasonable use of the Licensed Premises. Upon cancellation or termination of this License Agreement, Licensee shall immediately remove its personal property, if any, from the Licensed Premises. Should Licensee fail to remove any personal property by the required date, the City may elect to retain possession of the property, sell the property and keep the proceeds, or have the property moved at the expense of the Licensee.

D. Upon termination of this License Agreement, Licensee shall leave the Licensed Premises in substantially the same condition as received, except for enhancement, improvements, and ordinary wear and tear.

E. Licensee shall not store any materials on the Licensed Premises.

F. Licensee shall keep the Licensed Premises free of debris and anything reasonably determined to be of a dangerous, noxious, or offensive nature or which would create a hazard or undue vibration, heat, noise, or interference.

G. Licensee shall not make any alterations or improvements to the Licensed Premises, save and except for those specifically authorized herein.

13. Compliance with Laws.

Licensee's use of the Licensed Premises shall at all times comply with all laws, ordinances, rules, regulations, orders, or directives of any governmental authority, and will not commit or allow to be committed any public or private nuisance on the Licensed Premises. This includes securing and maintaining all necessary permits, if any.

14. Complaints.

Licensee shall be solely responsible for responding to and resolving, to the City's satisfaction, any complaints regarding, arising from, or related to, the Licensee use of the Licensed Premises.

15. Claims.

The City shall not be liable for any claims, losses, or actions (including attorney's fees) for any injury to a person or damage to or loss of property on or about the Licensed Premises in connection with the license granted hereunder, caused by Licensee, its agents, employees, invitees, or by any other person entering or using the Licensed Premises under express or implied invitation of Licensee, or arising out of Licensee's use of the Licensed Premises. Licensee agrees to use reasonable efforts to include in its contracts with any third parties the obligation for such parties to indemnify and hold City harmless from any and all loss and expense (including without limitation, attorney's fees) resulting from claims and damages caused by, arising out of, or incurred in connection with, the exercise by Licensee of its rights under this License Agreement

16. Indemnity.

LICENSEE HEREBY COVENANTS, REPRESENTS, AND RELEASES THE CITY, ITS OFFICERS, AGENTS, EMPLOYEES, ATTORNEYS, AND REPRESENTATIVES OF THE CITY AND ITS/THEIR SUCCESSORS, IN BOTH THEIR INDIVIDUAL AND OFFICIAL CAPACITIES, AND THE AFFILIATES OF AND PERSONS AND ENTITIES RELATED TO ALL OF THE FOREGOING, INDIVIDUALLY AND COLLECTIVELY, (COLLECTIVELY REFERRED TO AS "CITY-RELATED PARTIES") FROM, AND SHALL INDEMNIFY, DEFEND, AND HOLD THE CITY-RELATED PARTIES HARMLESS AGAINST ALL ALLEGATIONS, CLAIMS (INCLUDING WITHOUT LIMITATION CLAIMS OF PERSONAL INJURY, ENVIRONMENTAL INJURY, BODILY INJURY, SICKNESS, DISEASE, DEATH, PROPERTY DAMAGE, CONSEQUENTIAL DAMAGES, DESTRUCTION, OR OTHER IMPAIRMENT), DEMANDS, LEGAL ACTIONS, EQUITABLE ACTIONS, COSTS (INCLUDING ALL COURT COSTS, REASONABLE ATTORNEYS' FEES, EXPERTS' FEES OR OTHER COSTS INCURRED IN CONNECTION WITH INVESTIGATING, PREPARING, PROSECUTING OR SETTLING ANY LEGAL OR ALTERNATIVE DISPUTE RESOLUTION ACTION OR PROCEEDING), EXPENSES, LIABILITIES, ASSESSMENTS, TAXES, COSTS, FEES, LIENS, PENALTIES, FINES, LOSSES, DAMAGES, JUDGMENTS, OR PENALTIES OF WHATEVER NATURE OR

DESCRIPTION, WHETHER KNOWN OR UNKNOWN (COLLECTIVELY "LIABILITIES") INCURRED BY ANY CITY-RELATED PARTY, WHICH LIABILITIES, DIRECTLY OR INDIRECTLY, IN WHOLE OR IN PART, AROSE FROM OR MAY IN THE FUTURE ARISE FROM, OR ARE ALLEGED TO HAVE ARISEN FROM, ANY OF THE FOLLOWING:

- A. LICENSEE'S EXERCISE OF ITS RIGHTS UNDER THIS LICENSE AGREEMENT;
- B. LICENSEE'S ACTIVITIES UNDER THE LICENSE, INCLUDING ANY DELIBERATE, INTENTIONAL, RECKLESS, AND/OR NEGLIGENT ACT(S) OR OMISSION(S) OR WILLFUL MISCONDUCT OF LICENSEE, ANY AGENT, OFFICER, DIRECTOR, REPRESENTATIVE, EMPLOYEE, CONSULTANT, CONTRACTOR, SUBCONTRACTOR, OR INVITEE OF LICENSEE AND THEIR RESPECTIVE OFFICERS, AGENTS EMPLOYEES, DIRECTORS AND REPRESENTATIVES WHILE IN THE EXERCISE OF THE RIGHTS OR PERFORMANCE OF THE DUTIES UNDER THIS LICENSE AGREEMENT; AND
- C. LICENSEE'S USE, OCCUPATION, MANAGEMENT, IMPROVEMENT, ENHANCEMENT, ADDITION TO, MAINTENANCE, CONSTRUCTION, OR DEVELOPMENT OF THE LICENSED PREMISES.

FOR PURPOSES OF THIS INDEMNITY AND RELEASE, THE TERM "ARISE FROM" MEANS OCCURS IN CONNECTION WITH OR AS A RESULT OF OR IS CAUSED BY.

17. **Insurance.**

Licensee shall procure and maintain throughout the term of this License Agreement insurance in the types and amounts shown on attached Exhibit "B", which is attached to and incorporated herein by reference. Licensee agrees that it will include City as an additional insured.

18. **No Real Property Interest.**

Licensee's rights are limited to use of the Licensed Premises for the Licensed Purposes, and Licensee's rights to use the Licensed Premises for the Licensed Purposes are limited to the specific license rights created by this License Agreement, which creates only a license. The City does not by this instrument intend to create a lease, easement, or other real property interest. Licensee shall have no real property interest in the use of the Licensed Premises for the Licensed Purposes. This License Agreement will not be recorded by either party hereto.

19. **Miscellaneous.**

A. Entire Agreements and Amendments. This License Agreement sets forth all of the understandings of the parties. No modifications of this License Agreement shall be allowed without the written consent of both City and Licensee.

B. Unlawful Use. Licensee and its employees and agents must not use or knowingly allow any other person to use the Licensed Premises in violation of any federal, state, county, or local regulation, order, law, or ordinance applicable to the Licensed Premises.

C. Notices. Any notice given under this License Agreement must be in writing and may be sent by mail; be delivered in person to the Licensee, its officers, employees, or agents; be posted on the Licensed Premises; by mail or courier, or by telecopier; addressed as follows, or as the City or Licensee may hereafter designate by written notice:

To the City: Director of Parks & Recreation
 City of Sugar Land
 PO Box 110
 Sugar Land, Texas 77487

To Licensee: Ryan Strohl
 Fort Bend Mountain Bike Association
 1750 Berkoff Dr.
 Sugar Land, TX 77479
 (713) 320-1356
 crstrohl@yahoo.com

With a Copy to: Anthony Baber
 Fort Bend Mounty Bike Association
 1311 Tahoe Valley Ln.
 Sugar Land, TX 77479
 (469) 877-1216
 Anthony_baber@yahoo.com

D. Assignment, Transfer, and Sublicense. The license granted herein is personal to Licensee. Licensee may not sell, assign, or transfer this License Agreement or sublicense any portion of the Licensed Premises to any other person.

E. No Third Party Beneficiaries. No person or entity shall be a third party beneficiary to this License Agreement or shall have any right or cause of action hereunder.

F. Submission of License Agreement and Authority. The submission of this License Agreement for examination does not constitute an offer to license the Licensed Premises, and this License Agreement becomes effective only upon the full execution by City and Licensee. Licensee warrants to City that the person or persons executing this License Agreement on behalf of Licensee has the full right, power, and authority to enter into and execute this License Agreement on Licensee's behalf and that no consent from any other person or entity is necessary as a condition precedent to the legal effect of this License Agreement.

G. Subject to Appropriations/Statutory Limitations. Any obligation or liability of the City arising in any way from this License Agreement is subject to, limited by, and contingent upon the appropriation and availability of funds, as well as the damage limits and notice

requirements provided for in state law, including the Tort Claims Act. This License Agreement is not intended to create any rights or causes of action in any third parties or to increase the City's liability above the limits established by law.

H. Governing Law. This License Agreement shall be construed under and in accordance with the laws of the State of Texas and all obligations of the parties created hereunder are to be performed, and exclusive venue shall lie, in Fort Bend County, Texas.

I. Severability. In case any one (1) or more of the provisions contained in this License Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, that provision shall not affect any other provision hereunder.

J. Survival. The provisions of this License Agreement relating to indemnification shall survive any termination or expiration of this License Agreement. Additionally, any provisions of this License Agreement which require performance subsequent to the termination or expiration of this License Agreement shall also survive such termination or expiration.

K. Captions. The captions contained in this License Agreement are inserted for convenience only and are not intended to be part of this License Agreement. Such captions shall not affect or be utilized in the construction or interpretation of this License Agreement.

L. Relationship of City and Licensee. It is expressly understood that the City shall not be construed or held to be a partner, co-venturer, agent, or associate of the Licensee; it being expressly understood that the relationship between City and Licensee is and shall remain at all time that of a licensor and licensee.

M. No Enforcement Authority. Nothing contained herein delegates any of the City's regulatory authority or oversight over the Licensed Premises to Licensee. Licensee has no authority over other users of the Licensed Premises, and no authority to enforce provisions of this Agreement as to third parties, even if such persons are cutting rogue trails or otherwise committing destruction of the Licensed Premises.

IN WITNESS WHEREOF, this License Agreement has been duly executed as of the dates set forth below the signature lines for the parties hereto, but is made effective for all purposes as of _____, 2019 (the "Effective Date").

[Signature Page Follows]

**FORT BEND MOUNTAIN BIKE
ASSOCIATION ("LICENSEE")**

By: FBMBA Chairman
Name: [Signature] Castro
Its: _____
Date: 11/25/2019

CITY OF SUGAR LAND ("CITY")

By: _____
Name: _____
Its: _____
Date: _____

ATTEST:

Thomas Harris, III, City Secretary

APPROVED AS TO FORM:

Shea Smith, Assistant City Attorney

Attachments:

- Exhibit A - Map of Existing Trails
- Exhibit B - Insurance Requirements



JUSTIN P. BRINDLEY MOUNTAIN BIKE TRAIL

— MOUNTAIN BIKE TRAIL

CITY OF SUGAR LAND | PARKS AND RECREATION

SEPTEMBER 2019







RIVERPARK MOUNTAIN BIKE TRAIL

— MOUNTAIN BIKE TRAIL

CITY OF SUGAR LAND | PARKS AND RECREATION

SEPTEMBER 2019



EXHIBIT B

INSURANCE REQUIREMENTS - LICENSE AGREEMENT FOR THE USE, ENHANCEMENT, AND DEVELOPMENT OF THE CITY'S SINGLE TRACK MOUNTAIN BIKE TRAILS

The Licensee shall comply with each and every condition contained herein. The Licensee shall provide and maintain the minimum insurance coverage set forth below during the term of its agreement with the City. Any Subcontractors hired by the Licensee shall maintain insurance coverage equal to that required of the Licensee. It is the responsibility of the Licensee to assure compliance with this provision. The City of Sugar Land accepts no responsibility arising from the conduct, or lack of conduct, of any Subcontractor.

INSTRUCTIONS FOR COMPLETION OF INSURANCE DOCUMENT

With reference to the foregoing insurance requirements, Licensee shall specifically endorse applicable insurance policies as follows:

- A. The City of Sugar Land shall be named as an additional insured with respect to General Liability and Automobile Liability on a separate endorsement
- B. A waiver of subrogation in favor of The City of Sugar Land shall be contained in the Workers Compensation and all liability policies and must be provided on a separate endorsement.
- C. All insurance policies shall be endorsed to the effect that The City of Sugar Land will receive at least thirty (30) days' written notice prior to cancellation or non-renewal of the insurance.
- D. All insurance policies, which name The City of Sugar Land as an additional insured, must be endorsed to read as primary and non-contributory coverage regardless of the application of other insurance.
- E. Chapter 1811 of the Texas Insurance Code, Senate Bill 425 82(R) of 2011, states that the above endorsements cannot be on the certificate of insurance. Separate endorsements must be provided for each of the above.
- F. All insurance policies shall be endorsed to require the insurer to immediately notify The City of Sugar Land of any material change in the insurance coverage.
- G. All liability policies shall contain no cross liability exclusions or insured versus insured restrictions.
- H. Required limits may be satisfied by any combination of primary and umbrella liability insurances.
- I. Licensee may maintain reasonable and customary deductibles, subject to approval by The City of Sugar Land.
- J. Insurance must be purchased from insurers having a minimum AmBest rating of B+.
- K. All insurance must be written on forms filed with and approved by the Texas Department of Insurance. (ACORD 25 2016/03) Coverage must be written on an occurrence form.
- L. Contractual Liability must be maintained covering the Licensee's obligations contained in the License Agreement. Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent and shall contain provisions representing and warranting all endorsements and insurance coverages according to requirements and instructions contained herein.
- M. Upon request, Licensee shall furnish The City of Sugar Land with certified copies of all insurance policies.
- N. A valid certificate of insurance verifying each of the coverages required above shall be issued directly to the City of Sugar Land within ten (10) business days after the Effective Date of the License Agreement by the Licensee's insurance agent of record or insurance company. At the same time that the Certificate of Insurance is issued and sent to the City of Sugar Land, all required endorsements identified in sections A, B, C and D, above shall be sent to the City of Sugar Land. The certificate of insurance and endorsements shall be sent to:

City of Sugar Land
Purchasing Office
P. O. Box 110
Sugar Land, TX 77487-0110

emailed to: purchasing@sugarlandtx.gov
Faxed to: 281 275-2741

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City Staff shall determine the appropriate level of risk and assign the insurance requirements based on that risk.

Items marked "X" are required to be provided.

Coverages Required & Limits (Figures Denote Minimums)

☒ **Workers' Compensation** Statutory limits, State of TX.

☐ **Employers' Liability** \$500,000 per employee per disease / \$500,000 per employee per accident / \$500,000 by disease aggregate

☒ **Commercial General Liability:**

	<input checked="" type="checkbox"/> Very High/High Risk	<input type="checkbox"/> Medium Risk	<input type="checkbox"/> Low Risk
Each Occurrence	\$1,000,000	\$500,000	\$300,000
Fire Damage	\$300,000	\$100,000	\$100,000
Personal & ADV Injury	\$1,000,000	\$1,000,000	\$600,000
General Aggregate	\$2,000,000	\$1,000,000	\$600,000
Products/Compl Op	\$2,000,000	\$500,000	\$300,000
XCU	\$2,000,000	\$500,000	\$300,000

☒ **Automobile Liability:** (Owned, Non-Owned, Hired and Injury & Property coverage for all)

☐ **Very High/ High Risk** ☒ **Medium Risk** ☐ **Low Risk**

Combined Single Limits Combined Single Limits Combined Single Limits

\$1,000,000 Bodily \$500,000 Bodily \$300,000 Bodily

☐ **Garage Liability for BI & PD**

\$1,000,000 each accident for Auto, \$1,000,000 each accident Non-Auto

\$2,000,000 General Aggregate

☐ **Garage Keepers Coverage (for Auto Body & Repair Shops)**

\$500,000 any one unit/any loss and \$200,000 for contents

☐ **Umbrella each-occurrence with respect to primary Commercial General Liability, Automobile Liability, and Employers Liability policies at minimum limits as follows:**

Contract value less than \$1,000,000: not required

Contract value between \$1,000,000 and \$5,000,000: **\$4,000,000 is required**

Contract value between \$5,000,000 and \$10,000,000: **\$9,000,000 is required**

Contract value between \$10,000,000 and \$15,000,000: **\$15,000,000 is required**

Contract value above \$15,000,000: **\$20,000,000 is required**

Excess coverage over \$10,000,000 can be provided on "following form" type to the underlying coverages to the extent of liability coverage as determined by the City.

☐ **Professional Liability, including, but not limited to services for Accountant, Appraiser, Architecture, Consultant, Engineering, Insurance Broker, Legal, Medical, Surveying, construction/renovation contracts for engineers, architects, constructions managers, including design/build Contractors.**

Minimum limits of \$1,000,000 per claim/aggregate

This coverage must be maintained for at least two (2) years after the project is completed.

☐ **Builder's Risk (if project entails vertical construction, including but not limited to bridges and tunnels or as determined by the City of Sugar Land) Limit is 100% of insurable value, replacement cost basis**

☐ **Pollution Liability for property damage, bodily injury and clean up (if project entails possible contamination of air, soil or ground or as determined by the City of Sugar Land)**

☐ **Other Insurance Required:** _____

NOTE: The nature/size of a contract/agreement may necessitate higher limits than shown above. These requirements are only meant as a guide, but in any event, should cover most situations. Check with Purchasing & Risk Management if you need assistance or need additional information.