



NOTICE OF SPECIAL MEETING
Park Board of Trustees of the City of Galveston
Tuesday, August 13, 2019 at 1:30 p.m.
Park Board Plaza, Board Room - First Floor
601 Tremont Street, Galveston, Texas 77550

- I. Call Meeting To Order
- II. Pledge Of Allegiance
- III. Roll Call And Declaration Of A Quorum
- IV. Conflict Of Interest Declarations
- V. Requests To Address The Board

The public shall be allowed to address the Board regarding one or more agenda or non-agenda items. All requests to address the Board must be submitted in writing to the Board Reporter the day of the Board meeting. Each person shall be limited to three (3) minutes regardless of the number of items addressed.

- VI. Discuss And Review Interlocal Agreement Between The City Of Galveston And Park Board Of Trustees

Documents:

[DRAFT INTERLOCAL AGREEMENT - CITY OF GALVESTON 08-08-2019.PDF](#)
[CITY OF GALVESTON LISTING OF MATERIAL CHANGES.PDF](#)
[PARK BOARD LEGAL COUNSEL REVIEW.PDF](#)

- VII. Discuss Communication And Collaboration Channels Between The City Of Galveston And The Park Board Of Trustees
- VIII. Future Agenda Items
- IX. Announcements
- X. Adjournment

I certify that the above Notice of Meeting was posted in a place convenient to the public, in accordance with Chapter 551 of the Texas government Code, on or before August 9, 2019, 5:00 p.m.

Approved
Spencer Priest, Chair
Counsel

Approved as to Format
Carla Cotropia, Legal

Please Note Members of the City Council may be attending and participating in the discussion.

In accordance with the provisions of the Americans with Disabilities Act (ADA), persons in need of a special accommodation to participate in this proceeding shall, within three (3) days prior to any proceeding, contact the Park Board Administration

Office, 601 Tremont, Galveston Texas 77550 (409-797-5147)

INTERLOCAL AGREEMENT BETWEEN THE CITY OF GALVESTON AND THE PARK BOARD OF TRUSTEES OF THE CITY OF GALVESTON CONCERNING THE MANAGEMENT OF CITY PARKS, PAID PARKING, COLLECTION OF HOTEL OCCUPANCY TAX (HOT), AND MANAGEMENT OF SHORT- TERM RENTAL REGISTRY AND PROVISION OF COASTAL MANAGEMENT AND PUBLIC SPACE MAINTENANCE SERVICES

This Agreement is entered into by the City of Galveston (City) acting by and through its City Council and the Park Board of Trustees of the City of Galveston (Park Board) acting by and through its Board of Trustees.

WHEREAS, the City and Park Board are political subdivisions of the State of Texas and are authorized to enter into an agreement with each other relative to governmental functions and services by the Interlocal Cooperating Act, Texas Government Code, Chapter 791; and

WHEREAS, the Park Board manages and operates certain City owned parks and public beaches as described in City of Galveston Code of Ordinances, Sec. 26.54 and as set out in Exhibit A; and

WHEREAS, the Park Board receives Hotel Occupancy Tax (HOT) Funds dedicated to promote tourism, provide lifeguarding services and to clean and maintain public beaches as described in Texas Tax Code Chapter 351, Texas Tax Code Chapter 156 and Texas Natural Resource Code Chapter 61; and

WHEREAS, the City requires records and information to exercise its due diligence concerning City assets; and

WHEREAS, the Park Board desires to provide records and information to the City in support of its due diligence efforts and public transparency in the management of public assets and funds; and

WHEREAS, there is a benefit, including possible efficiencies, cost savings and revenue opportunities, to both the City and the Park Board, if dialogue, discussion and the exchange of documents occur between the City and Park Board; and

WHEREAS, there are three prior agreements between the City and Park Board, (1) July 14, 2009 Agreement related to Post Disaster Debris Removal; (2) November 17, 2014 Agreement for Matters Relating to the Seawall Paid Parking Program, the East End Lagoon, West Beach Maintenance, Seawall Littler Cleanup and Local HOT collection; and (3) May 3, 2016 Agreement for Seawall Boulevard Corridor Improvements. These prior agreements are terminated, and the relevant terms are incorporated and included into this Agreement.

THEREFORE, for the mutual premises contained herein, the City and Park Board do agree as follows:

1. Effective Date

This Agreement becomes effective upon signing by all parties and continues for two years. Thereafter, it shall continue on a year-to-year basis. Either party may terminate this Agreement by providing ninety (90) days written notice to the other party, provided that the termination notice does not occur before July 1 of each year. This allows the summer season to not be affected by a termination.

2. Laws and Restrictions

The City and Park Board comply with all applicable laws, statutes and City ordinances. Some but not all of these laws, statutes and City ordinances are stated in Exhibit B.

3. Budgets and Reports

Each year the Park Board provides draft budgets and reports for City owned assets which are presented to the Park Board's committees for review and analysis before being provided to the Park Board Trustees for final approval. These draft park budgets and reports include 1) Detailed Annual Budgets, 2) Business Plans, 3) Special Projects and 4) Five Year Capital Plans. The Park Board and City believe that interaction and discussion concerning these draft park budgets and reports will be productive and beneficial. When the Park Board presents its draft park budgets and reports to its committees, it will also provide copies to the City Manager or designee. If the City has recommended changes or comments, it will present them to the Park Board, in writing, no later than forty-five (45) days after they have received the draft budgets and reports. If there are no comments or suggestions after forty-five (45) days, the Park Board will assume that the City has neither changes nor comments.

4. Five Year Capital Plans

Annually the Park Board will present to Council its five-year capital improvement plan for City owned/managed assets. Approval of the capital improvement plan for City owned/managed assets does not exempt the Park Board from requirements set out in Ordinance Section 26-54 for repairs and capital investments over \$125,000.

5. Maximus Reports

The Park Board will provide copies of the current Maximus studies along with any updates to the City as they are produced.

6. Audit and Records

The Park Board has a financial audit prepared by an independent auditing firm each year and this audit is filed with the City. In addition, the City may request inspection and/or copies of any Park Board records and documents upon reasonable notice.

7. Hotel Occupancy Tax (HOT) and Beach User Fees (BUF)

The use of HOT and BUF are regulated by state statutes. The use of HOT and BUF are included each year in the Park Board's budgets and regular quarterly reports required by the Texas General Land Office (GLO). These reports will be provided to the City Manager or designee

when they are either 1) provided to the Park Board Committees or 2) provided to the GLO as required by law. The HOT collections are reported monthly to the City and the BUF collections are reported quarterly to the GLO and the City.

8. Disaster Recovery, FEMA and Property Insurance

The Park Board will be responsible for the emergency preparedness plans, protective and safety measures for people and property, securing all properties and facilities. The Park Board will maintain property and casualty insurance (hazard, windstorm, flood) for all city facilities and structures in an amount sufficient for replacement, inclusive of increased cost of compliance (if available). The City of Galveston will be listed as the owner of all City property under management of the Park Board for insurance and FEMA coverage/applications. All insurance policies will reflect the City as the property owner and as additionally insured. A current copy of the certificate of insurance for the properties will be provided to the City. The Park Board is responsible for the payment of the insurance premiums.

If any individual claim amount is greater than 51% of the insured value the City Council will make the determination with regard to the use of insurance or FEMA proceeds. The Park Board will make recommendations concerning the FEMA proceeds, but the Council will have final approval.

The Park Board Executive Director will be the applicant and will sign as the representative for FEMA Public Assistance Program requests and insurance claims for property damage. The Park Board will prepare and submit preliminary damage assessments for the City Manager or designee to review no later than 20 days following a declared disaster. When the project worksheets (PW) have been obligated, the Park Board will provide a finalized inventory of projects, values and scope of work to the City. Recommended changes for any alternate or improved Project will require City Council approval before submission to FEMA. The Park Board will ensure all claims are submitted timely and that proceeds are segregated from use for any other purpose. Copies of quarterly reports to FEMA will be also provided to the City Manager or designee.

The Park Board is responsible for all FEMA cost share or insurance deductibles. Disaster preparedness, recovery projects and local match for grants will be funded with parks and programs revenues, available fund balances, insurance proceeds, grants and donations received for the properties and facilities receiving the work. All proceeds will remain with the property that received the damage. The Park Board may request assistance from the City to fund emergency preparedness and disaster recovery projects. Disaster loans secured by City assets or cash flow from City assets must be approved by the City Council.

9. Liability Insurance

The Park Board will be responsible for providing liability insurance in an amount no less than \$1,000,000/\$3,000,000 on its activities that could affect City owned assets. The City will be named as an additional insured on the liability policies and provided a certificate of insurance. The City and Park Board agree that the actions of one entity does not constitute

actions by the other entity. The City is not responsible for the actions of the Park Board and the Park Board is not responsible for the actions of the City. Each entity can sue and be sued in their sole capacity.

10. Concession Agreements and Lease Agreements

The Park Board manages the surface leases with the GLO for public beaches. The Park Board will provide a copy of the surface lease to the City of Galveston. The Park Board manages concession agreements on the public beaches and in City owned parks. The City manages concession agreements in City owned parks and County beach parks. The City does not require or request approval of those concession agreements and has no restriction on their terms. Examples of concessions are vendors in mobile carts or trailers selling food, beverages or novelties, or renting umbrellas, chairs, jet skis and watercraft. Any lease of City parks managed by the Park Board, or lease of permanent structures or lease of personal or real property inside of City owned parks, cannot exceed three years without the prior approval of City Council.

Increases in available beach along Seawall Boulevard continue to add new concession areas. As these areas become available, the City will extend concession authority to the Park Board for the public beaches.

11. Permits

The City and Park Board desire to coordinate and provide operational cost savings for activities undertaken on the City's behalf. In that regard, if there is work performed by the Park Board on City owned assets, the City will waive City required permit fees and City required dumpster fees. If the Park Board is contracting with third party vendors to perform the work, all permit fees and dumpster fees are required to be paid to the City and are not waived.

12. Maintenance and Repairs

The revenues from each park managed by the Park Board will remain with the park that produced the revenue. All budgeted capital expenses and maintenance expenses for the parks will be reflected in each parks budget. As set out in Ordinance Section 26-54 any repairs or capital investments over \$125,000 will be submitted to City Council for their approval prior to being implemented. The Park Board will provide copies of the annual maintenance and repair programs as finalized in annual workplans and as scheduled in "Facility Dude" maintenance programming software. The annual maintenance and repair programs will be presented to the City Manager or designee. If after 45 days from receipt, if there are no recommended changes or suggestions, the Park Board will assume there the City has no recommended changes or suggestions to the maintenance and repair programs.

13. Procurement and Purchasing

The City and Park Board agree they may take part in joint purchases for goods, materials, equipment, supplies and services they may need to carry out their governmental functions, and that all parties will make reasonable efforts to allow the others to make purchases under its agreements. The City and Park Board agree to share the cost of the respective joint solicitations in a fair and equitable manner, to be agreed upon in connection with each such

solicitation. An Interlocal Agreement for Purchasing was executed by the City and Park Board memorializing this agreement on April 2, 2019.

14. Marine Debris Removal

The removal of marine debris on public beaches during a declared state of disaster is the duty of the General Land Office as stipulated in Chapter 61 of the Natural Resource Code. Reimbursement of costs incurred in coastal cleanup after a disaster requires coordination and approval of the GLO. The Park Board will continue to work with the GLO concerning this issue.

15. Seawall Boulevard Corridor Improvements and Paid Parking on the Seawall

Incorporated into this Agreement are relevant terms from the May 3, 2016 Interlocal Contract Three Party Agreement for Seawall Boulevard Corridor Improvements, which is terminated.

The capital repair and replacement projects for the Seawall Corridor enhancements are funded from the Paid Parking Program revenues and implemented by the City. The use of the Seawall Parking revenues will be in compliance with GLO regulations governing the use of beach user fees and the requirements of the voter's referendum as set out in the special election. The collecting and accounting for the Seawall Paid Parking Program revenues is as follows: 75% for Seawall Corridor Enhancements including, but not limited to, lighting, bathrooms, showers and litter control, which is funded through debt service or maintenance and operations; 15% to be held in reserve for the replacement of capital improvements and sent quarterly to the City. Administrative expenses charged to the Seawall Paid Parking Program shall not exceed 10% and will be based on actual documented costs. In addition, the 10% collected in 2018-2019 will establish the cap which will not be exceeded as the result of increased fees established by a vote of the citizens.

All net revenue remaining will be remitted to the City on a quarterly basis for Seawall Enhancements. Neither the City nor the Park Board have authority to issue free seawall parking permits.

The Park Board will submit the quarterly beach user fee reports as required by the GLO. The City will report to the Park Board its expenditures of beach user fees so they can be included in the fee reports submitted by the Park Board. The Park Board will submit a copy of the GLO beach user fee report to the City when it submits it to the GLO.

The City will review the GLO beach user reports and may ask for additional information from the Park Board concerning the deposits and expenditures of revenue from the Seawall Paid Parking Program.

The City and Park Board will submit BUF reports to the GLO. If the GLO denies a fee submitted by the City, it will be a cost to the City. If the GLO denies a fee submitted by the Park Board, it will be a cost to the Park Board.

The City shall retain all fines collected for failing to purchase parking in the designated spaces delineated in the Seawall Paid Parking Program.

Beach Parks managed by the City (Pocket Parks) and Park Board (Apffel Park, Stewart Beach, Dellanera) will participate in a beach park reciprocity program which allows annual passes sold at their corresponding parks to be honored at all beach park locations. Seawall Urban Park parking spaces are not included in the beach park reciprocity program. Neither the City nor the Park board have the authority to issues free annual passes.

Annual passes sold via the PayByPhone App exclusively for Seawall Beach parking spaces are not included in the beach park reciprocity program and will not be honored at the beach parks.

The PayByPhone contract or the equivalent or replacement will be held by the City. The City will coordinate with PayByPhone or its equivalent to ensure that the Park Board has the ability to directly communicate. The City and Park Board agree to coordinate with each other concerning future contracts concerning the PayByPhone system or other system that affects the collection of paid parking revenue.

The Park Board may be requested to maintain a Call Center for Pay-By-Phone users for the Seawall Parking Program. The costs of the Call Center will be borne exclusively by Seawall Paid Parking revenues. The Call Center will be available 7 days a week from 10am to 6pm.

The City will maintain an island wide contract with G-Techna or its equivalent for the paid parking software. The City will pay all costs for the annual software licensing of G-Techna or its equivalent. The Park Board will purchase and maintain the supplemental G-Techna permit function on behalf of the City which will allow the Park Board to track annual passes and the City to process its residential permits.

The Park Board will provide an annual assessment of the state of capital improvements on the Seawall, and the City may include the Park Board in discussions concerning such improvements on the Seawall.

Capital assets of the Seawall Paid Parking Program shall remain the property of the City. Capital assets acquired via Seawall Paid Parking and other outside funding sources shall be transferred in whole to the Seawall Paid Parking program upon a cash basis payment value of the asset.

The Park Board is not responsible for enforcing parking violations in the neighborhoods and all enforcement in the neighborhoods surrounding Seawall Boulevard remains the responsibility of the City.

The Park Board will be responsible for litter control, graffiti control and rodent control along the seawall as well as all maintenance and janitorial services including the removal of trash from all newly installed bus shelters and the five restrooms located at 61st, 53rd, 45th, 29th and 19th streets along Seawall Boulevard. The costs for services to Seawall Corridor enhancements will

be an expense of the Seawall paid parking program. The cost of services for the remainder of the Seawall will be an expense of Park Board HOT funds dedicated to Seawall beach maintenance.

The Park Board will be responsible for all maintenance and upkeep of Seawall Corridor enhancements including landscaping for the installed planters located at 81st, 61st, 53rd and 33rd streets along Seawall Boulevard. Maintenance and upkeep is to include but not limited to general repairs, weeding, cigarette butt removal and cleaning. The City will be responsible for the costs of electricity for all lighting, cost for watering of any decorative vegetation and all capital costs for repairs or replacement of the lighted bollards, restrooms, bus shelters, and the structures at Fort Crockett Park. Restroom, landscaping, and the bus shelter servicing and cleaning costs will constitute part of the maintenance and upkeep costs and will be included in the annual budget submitted by the Park Board.

The Park Board will make recommendations to the City for needed capital replacements or major repair based on the previous year's servicing and other field observations. Major damage to Seawall Corridor enhancements will be reported to the City as soon as possible.

16. Park Closures

On or before March 1st the Park Board and City will share a list of potential park closure dates for traffic control, security or public safety purposes to be submitted to the GLO jointly for approval. The Park Board and City agree that if public safety is threatened, prior notice for closures may not be required. The Park Board will notify the City Manager or designee immediately upon the decision to close a recognized beach access point due to safety or health concerns. The City will notify the Park Board if the City elects to close recognized beach access points due to safety or health concerns.

17. Collection of Hotel Occupancy Taxes (HOT)

The collection of HOT is set out in the November 17, 2014 Interlocal Cooperation Agreement between the City and Park Board of Trustees for Matters Relating to the Seawall Paid Parking Program, the East End Lagoon, West Beach Maintenance, Seawall Litter Cleanup and Local Hotel Occupancy Tax Collections which is terminated, and all relevant terms are included in this Agreement. The Administrative Agreement which delineated responsibilities in the November 17, 2014 Interlocal Agreement are also terminated.

Reports concerning the HOT collections are provided to the City monthly. The Park Board shall maintain complete and accurate financial records for the collection of all HOT taxes and the Park Board will provide the City monthly reports of HOT collections that delineate HOT payments, interest and penalties collected. Final reports will be sent to the City's Finance Director monthly no later than the end of the following month of collections.

Monthly HOT reports will include a listing of all paid accounts. Accounts that are over 30 days delinquent will be issued a "payment past due and late fee" notification by the Park Board.

Accounts that are 90 days delinquent shall be referred to the City Finance Director. All collected fines and penalties are paid to the City. All interest paid remains with the HOT account. The City is solely responsible for negotiating and/or resolving all disputed HOT issues. All expenses incurred with the collection and disbursement of HOT is a Park Board expense. Any costs associated with litigation or disputes over HOT is a City expense.

The Park Board will work collectively with the City Auditor on the development of an annual audit calendar. The Park Board will select and contract the independent auditor to conduct the annual audits.

The City Auditor will develop selection criteria to ensure a statistically accurate sample of HOT accounts is audited each fiscal year. Utilizing these criteria, the City Auditor will provide a list of accounts subject to the independent audit firm consistent with the approved audit calendar.

The City retains the right for the City Auditor to conduct a contemporaneous audit of HOT contributions from local properties. The Auditor will obtain City Council approval in advance of conducting this type of review.

As per City Ordinance, the Park Board will collect a \$50 registration fee for each new short-term rental (STR). Any property not previously listed on the HOT rolls who wishes to enroll as a STR will be required to pay a onetime \$50 fee. All generated registration fees will accrue at the Park Board. The Park Board distributes HOT as required by state statute, bond obligations and City directives.

18. Special Events, excluding Mardi Gras, on the Seawall

Special Events sometimes occur on the Seawall. When an Event promoter, other than for Mardi Gras, desires to have an event on the Seawall, they must pay a BUF if any paid parking spaces on the Seawall are unavailable to the public. The City of Galveston is responsible for the negotiation of all special event contracts which close city streets. The Park Board is responsible for the collection and reporting of BUF on the Seawall and if this situation occurs, accounting and reporting must be made to the GLO. When a contract is signed with a promoter, the Park Board will be provided a copy of applicable sections to facilitate and support its BUF reporting. Payments for the spaces will be invoiced by the Park Board based on copies of the contracts from the City and paid in the month that they are occupied by the promoter. Additionally, spaces accounted for in the Beach Access Plan that have been allocated for commercial use will be inventoried and invoiced annually. Copies of the invoice and payments will be submitted to the Park Board for inclusion in the quarterly BUF report.

19. Seaweed Removal from the Pocket Parks Beachfront

The Park Board will conduct seaweed relocation services as the Pocket Parks as scheduled at Dellanera Park. The cost of personnel and equipment for this seaweed relocation will be invoiced as set out in paragraph 21. The Park Board will not provide beach grooming, but relocation as required by law and in compliance with the Park Board's permit SWG-2014-00448.

The City will obtain all relevant GLO required permits for beach cleaning and provide a copy to the Park Board by March 1st of each year. If the City has not processed the appropriate permits, the Park Board will not be obligated to provide services.

20. Trash Pickup and Lifeguard Services on the Public Beaches

The Park Board receives HOT funds dedicated to clean, maintain and provide lifeguard services at public beaches as defined in Texas Natural Resource Code section 61.063. There is no requirement for lifeguard towers in the west end. The location of the lifeguard towers is at the discretion of the Park Board and Galveston Island Beach Patrol.

The City will advise its vendors at the pocket parks that trash cans maintained by the Park Board are for public use only and not for vendor business operation usage.

21. Funding for Services to Clean and Maintain Beach Access Points and the Seawall Beach

Clean and Maintain beaches as described in Natural Resource Code Sec. 61.063 means the collection and removal of litter and debris and the supervision and elimination of sanitary and safety conditions that would pose a threat to personal health or safety if not removed or otherwise corrected and includes the employment of lifeguards, beach patrols and litter patrols.

The Park Board receives HOT funds to promote tourism, provide lifeguarding services and to clean and maintain public beaches with the exception of Jamaica Beach and the Galveston Island State Park. The Park Board will maintain public beaches, select City of Galveston beach access points and the Seawall beaches free of litter and debris, provide solid waste removal, maintain vehicular access, maintain signage, inform the City of needed replacements and replace bollards and place temporary bathrooms at access points designated by the City. The Park Board will also maintain the Seawall earthen beach access ramps and indemnify, to the extent allowed by law, the City and County.

The Park Board will provide an itemized invoice to the City for services requested by the City that are outside of its areas of responsibility. These itemized invoices will reflect the Park Boards actual cost of the equipment usage using the most recently published FEMA Schedule of Equipment Rates and actual cost of the personnel. Invoices will be sent to the City Manager or designee.

The City agrees to pay the Park Board the itemized invoice amounts reflecting the direct costs associated with these services. The City may dispute any amount they disagree with by doing so within 20 business days of receiving the invoice. If no objection is made within 20 business days, the Park Board may assume there is no dispute and the City will pay the invoiced amount within 30 days.

The Park Board may request the use of City equipment and City personnel to operate the equipment. If this occurs, the Park Board will pay the City the actual cost of the personnel and the equipment cost using the most recently published FEMA Schedule of Equipment. The City will invoice the Park Board for these services. The Park Board may dispute any amount they disagree with by doing so within 20 business days of receiving the invoice. If no objection is made within 20 business days, the City may assume there is no dispute and the Park Board will pay the invoiced amount within 30 days.

The City may request the use of Park Board equipment and Park Board personnel to operate the equipment. If this occurs, the City will pay the Park Board the actual cost of the personnel and equipment cost using the most recently published FEMA Schedule of Equipment. The Park Board will invoice the City for these services. The City may dispute any amount they disagree with by doing so within 20 business days of receiving the invoice. If no objection is made within 20 business days, the Park Board may assume there is no dispute and the City will pay the invoiced amount within 30 days.

The Park Board will identify and install signage on the access points and adjoining beachfront. The City will provide the signage at its cost. Any non-beachfront signage or bollards needed at the pocket parks or pocket park parking lots will be the responsibility of the City. The Park Board will install, maintain and repair all bollards on the beachfront and access points. The Park Board will not be responsible for repairs or capital improvements to the City or privately - owned beach walk over ramps.

22. East End Lagoon Nature Park

The City owns an area north of Apffel Park known as the East End Lagoon (EEL). By City Ordinance the City assigned management and control of the EEL to the Park Board. The Park Board maintains an advisory committee, which includes a representative from the City, to offer suggestions for the development of the EEL and seek funding to support future improvements.

The City will make its best efforts to locate a funding source for infrastructure improvements such as drainage management and make its best efforts to upgrade Boddeker Drive.

The City and Park Board have agreed on a five year development plan for East End Lagoon. The plan, while authorized, will require approval of all capital expenditures in excess of \$125,000 as stipulated in Ordinance 26-54. The Park Board will actively seek grant fund funds for the proposed projects and request minimal financial support from the City of Galveston for the initial five years of the development plan.

23. Transition Plan for Dellanera RV Park, Seawolf Park and Seawall Paid Parking

The City and Park Board agree to develop a revised management plan for operations and maintenance of Seawolf and Dellanera Parks By no later than December 31, 2019 This plan must insure the City receives maximum revenue in support of its Parks operations and facilitate the change by no later than March 31, 2020.. This may include outsourcing the management of

these parks via public offering, revisions to the existing management agreement with the Park Board or return of park management to the City. The recommendation will incorporate a collective effort, yet remain the decision of the City. The Park Board will not materially change or modify Park operations during this period.

24. Indemnification

THE CITY SHALL, TO THE EXTENT ALLOWED BY LAW, HOLD HARMLESS, INDEMNIFY AND DEFEND THE PARK BOARD, ITS OFFICERS, AGENTS AND EMPLOYEES FROM ANY LIABILITY, CAUSES OF ACTION, DAMAGES, JUDGMENTS, COSTS, CHARGES, EXPENSES AND ATTORNEYS' FEES ARISING FROM OR UNDER THE ACTIONS OF THE CITY, ITS OFFICERS, AGENTS OR EMPLOYEES.

THE PARK BOARD SHALL, TO THE EXTENT ALLOWED BY LAW, HOLD HARMLESS, INDEMNIFY AND DEFEND THE PARK BOARD, ITS OFFICERS, AGENTS AND EMPLOYEES FROM ANY LIABILITY, CAUSES OF ACTION, DAMAGES, JUDGMENTS, COSTS, CHARGES, EXPENSES AND ATTORNEY'S FEES ARISING FROM OR UNDER THE ACTIONS OF THE CITY, ITS OFFICERS, AGENTS OR EMPLOYEES

25. No Assignment

This Agreement shall not be assigned in whole or in part.

26. Notice

Any notice required to be given shall be deemed to have been given when sent by mail, hand delivery or email address to the City Manager or the Park Board Executive Director.

This Agreement is effective upon the signing by all parties.

City of Galveston

Office of the City Manager
Brian Maxwell
832 Rosenberg
Galveston, Texas 77550
Phone: 409-763-6564
Fax: 409-762-8911

By: _____

Date: _____

Park Board of Trustees

Executive Director
Kelly de Schaun
601 23rd Street
Galveston, Texas 77550
Phone: 409-797-5000

By: _____

Date: _____

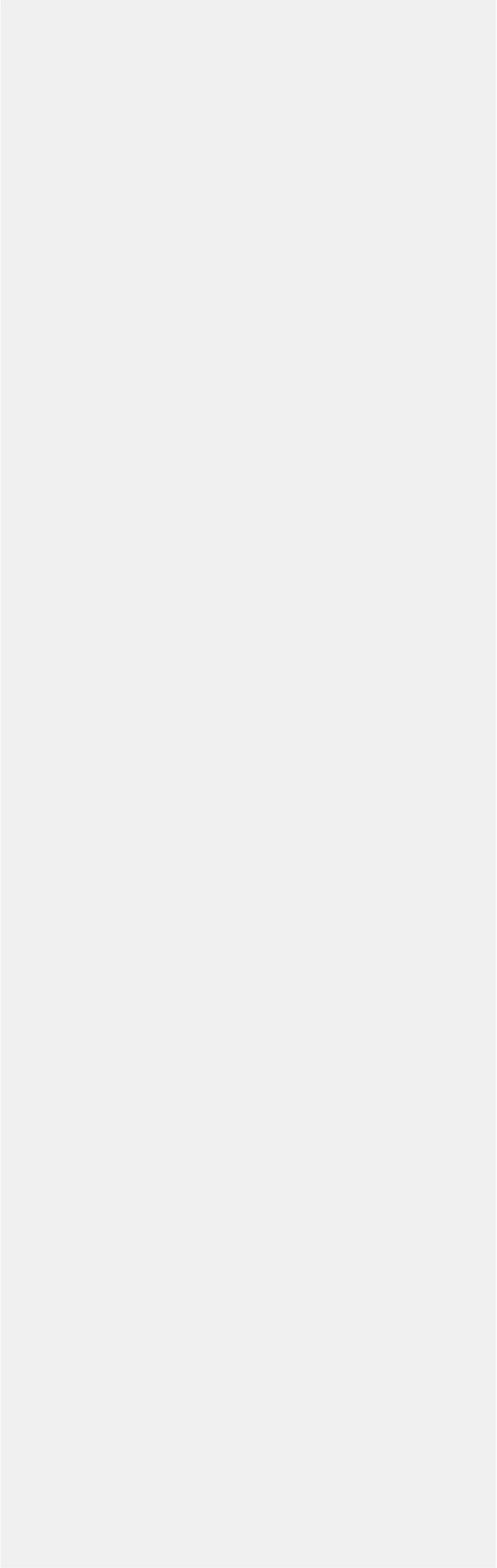


EXHIBIT A

Properties Managed by the Park Board as described more fully in Ordinance, Chapter 26-54

- 1: Stewart Beach
- 2: Beaches Adjacent to Galveston County Beach Pocket Parks
- 3: Pelican Island Park
- 4: R.A. Apfel Park
- 5: All property comprising 64.5 acres, more or less described in Deed to City of Galveston from the United States of America, dated April 15, 1976
- 6: The area commonly known as East End Lagoon
- 7: All that property commonly referred to as the former Coast Guard LORAN station
- 8: West End Park
- 9: Reclaimed submerged lands, 10th Street to 61st Street
- 10: All the beachfront property west of 61st Street to 69th Street
- 11: The parcel of land legally described as a 2.76 acre tract of part of Block 66, part of Block 65, part of 6th Street, part of Avenue L and part of 7th Street

12. Access points listed as Public Beaches

Formatted: Strikethrough

DRAFT

EXHIBIT B

1. Texas Local Government Code Section 306.011 et seq.
2. Texas Local Government Code, Chapter 102 (Municipal Budget)
3. Texas Local Government Code, Chapter 252 (Municipal Authority to Purchase and Contract)
4. Texas General Land Office (GLO) Beach User Fee requirements (BUF)
5. Local Hotel Occupancy Tax (HOT) rules including a limitation of actual administrative costs not to exceed 10%
6. City of Galveston Codes of Ordinances Section 26-52 (Records)
7. City of Galveston Codes of Ordinances Section 26-54 (Areas Under the Control of the Park Board)
8. Texas Tax Code Section 156.2511 (HOT for beaches)
9. Texas Natural Resource Code Sec. 61.063 (Clean and Maintain Beaches)
10. Texas Tax Code Chapter 351 (Collection and Distribution of Local HOT)
11. City Ordinance 15-002 (operation of short-term rentals)
12. May 14, 2011 Special Election for the authorization to charge a fee for parking on the Seawall
13. List of City of Galveston Beach Access points maintained by the Park Board

DRAFT

Exhibit A

Sec. 26-54. - Areas under control of board.

[SHARE LINK TO SECTION](#)[PRINT SECTION](#)[DOWNLOAD \(DOCX\) OF SECTION](#)[EMAIL SECTION](#)[COMPARE VERSIONS](#)

(a)

The following property owned, leased, or otherwise under the care, control and custody of the city are hereby placed under the management and control of the board created in this article:

(1)

Stewart Beach. A recreational and amusement park known and designated as "Stewart Beach", located in the city on East Beach and, bounded on the north by the county Seawall right-of-way, on the south by the line of ordinary high tide of the Gulf of Mexico, on the east by the eastern boundary of the Michael Menard Grant and an extension thereof southerly into the waters of the Gulf of Mexico, and on the west by the fence on the eastern boundary of the children's playground established by Galveston County on Block No. 66 (being that property conveyed to the City of Galveston by the Galveston City Company by general warranty deed dated July 31, 1940).

(2)

Beaches adjacent to Galveston County Beach Pocket Parks. The following property adjacent to the properties commonly known as county beach pocket parks (being the county beach pocket parks placed under the management of the park board by separate agreement between the county commissioners and park board):

a.

Beachfront property between the westernmost boundary of Dellanara Park and the easternmost boundary of Galveston County Pocket Park Number One;

b.

Beachfront property not to exceed five hundred (500) feet east and west of Galveston County Beach Park Two; and,

c.

Beachfront property not to exceed five hundred (500) feet east and west of Galveston County Pocket Park Three.

d.

All beachfront property located directly in front of residential subdivisions within these boundaries shall be excluded from the park board's management and control.

(3)

Reserved.

(4)

Pelican Island Park. Beginning at Point "3" (also known as Point "H") on Pelican Island Harbor Line as approved by J.M. Wainwright, Assistant Secretary of War, under date of September 24, 1921; thence along and with said harbor line on a bearing of S17°35'38"W a distance of 2200 feet; thence N61°00'W a distance of 800 feet; thence N17°35'38"E a distance of 285.00 feet; thence N72°24'22"W a distance of 346.00 feet; thence N14°58'09"E a distance of 610.00 feet; thence S72°24'22"E a distance of 374.00 feet; thence N17°35'38"E a distance of 1305.64 feet; thence S61°00'E a distance of 800 feet to the point of beginning and containing 44.642 acres, more or less.

(5)

R.A. Apfel Park. The following property known as R.A. Apfel Park:

a.

All of that property, comprising 390.629 acres, more or less, more particularly described in Deed to City of Galveston from the United States of America, dated April 9, 1975, recorded in the Deed Records of Galveston County in Book 2567 at page 606 et seq.

b.

All of that property, comprising 64.5 acres, more or less, described in Deed to City of Galveston from the United States of America, dated April 15, 1976, recorded in the Deed Records of Galveston County, Texas, in Book 2687 at page 11 et seq.

c.

Reserved.

d.

The area commonly known as the East End Lagoon;

e.

All of that property, commonly referred to as the former Coast Guard LORAN station, and consisting of roughly two hundred forty and seventy-five hundredths (240.75) acres, including perpetual easements, described in the quitclaim deed dated July 22, 2005 from the United States of America to the city on file with the county clerk of the County of Galveston and identified as instrument GAC 2005056034.

(6)

West End Park. All of that property, comprising 16.29 acres, more or less, described in that certain deed dated April 5, 1978, from Charter Land and Housing Corporation to the City of Galveston, recorded in Book 2965, page 476, of the Deed Records of Galveston County, Texas, and the right-of-way of 7-Mile Road lying south of FM 3005, same being situated between, adjacent to and contiguous with Blocks 421 and 422 in Section 1, T&L Survey.

(7)

Reserved.

(8)

Reclaimed submerged lands, 10th Street to 61st Street. All of those submerged lands that are reclaimed by the Beach Renourishment Project during fiscal 1994-95 between 10th Street and 61st Street.

(9)

61st Street to 69th Street. All of the beachfront property west of 61st Street to 69th Street. Such property shall remain public beach.

(10)

The parcel of land legally described as "a 2.76 acre tract out of part of Block 66, part of Block 65, part of 6th Street, part of Avenue L and part of 7th street in the City and County of Galveston, Texas".

(b)

The city council expressly reserves the right and authority to hereafter place other beach parks and facilities of said city under the management and control of board.

(c)

For purposes of this section, the term management and control shall not be construed to:

(1)

Authorize the park board of trustees to enter into leases with third parties exceeding a period of three (3) years. Any lease for a period in excess of three (3) years including options to renew shall be submitted to city council for approval.

(2)

Authorize the park board of trustees to make any new capital improvements on the property placed under their management and control without the prior approval of council; or

(3)

Authorize the park board of trustees to undertake any maintenance or repair of existing structures if the cost of such maintenance or repair exceeds one hundred twenty-five thousand dollars (\$125,000.00) without the prior approval of council.

(Code 1960, §§ 15-22, 15-23; Ord. No. 78-32, § 1, 4-13-78; Ord. No. 85-40, § 1, 6-13-85; Ord. No. 86-44, § 1, 9-11-86; Ord. No. 89-6, § 3, 1-12-89; Ord. No. 90-31, § 2, 5-3-90; Ord. No. 93-54, § 2, 5-28-93; Ord. No. 93-100, § 2, 10-14-93; Ord. No. 93-114, § 2, 12-9-93; Ord. No. 94-63, § 2, 10-13-94; Ord. No. 94-74, § 2, 11-17-94; Ord. No. 98-4, § 2, 1-28-98; Ord. No. 04-080, § 2, 8-26-04; Ord. No. 05-088, § 2, 12-22-05; [Ord. No. 16-041, § 2, 5-26-16](#); [Ord. No. 17-005, § 3, 1-26-17](#); [Ord. No. 17-018, § 2, 2-23-17](#); [Ord. No. 17-052, § 3, 8-10-17](#))

Editor's note— Ord. No. 04-080, § 2, adopted August 26, 2004, enacted provisions intended for use as subsection (a)(5). Inasmuch as there are already provisions so designated, and at the discretion of the editor, said provisions have been redesignated as subsection (a)(10).

DRAFT

City of Galveston & Park Board Interlocal Listing of Material Changes

Length of Agreement:

- 2-year agreement with an annual renewal thereafter

Incorporation of Prior Agreements:

- Incorporates the following agreements
 - July 14, 2009 Agreement for Post Disaster Debris Removal
 - November 17, 2014 Agreement for Seawall Paid Parking Program, East End Lagoon, West Beach Maintenance, Seawall Littler Cleanup and Local HOT Collection
 - May 3, 2016 Agreement for Seawall Boulevard Corridor Improvements

Budgets and Reports:

- When the Park Board presents its draft park budgets and reports to its committees, it will also provide copies to the City Manager or designee for review and comment
- Reports include but are not limited to
 - Draft Budgets, Business Plans Five Year Capital Plans
 - Hotel Occupancy Tax and Beach User Fees
 - Special Projects

Disaster Recovery, FEMA and Property Insurance

- The City of Galveston will be listed as the owner of all City property under management of the Park Board for insurance and FEMA coverage/applications
- Proceeds from insurance and or FEMA claims will be restricted and can only be used for replacement and repairs of the insured property
- The Park Board will make recommendations concerning the FEMA proceeds, but the Council will have final approval
- Recommended changes for any Alternate or Improved Project will require City Council approval
- Copies of quarterly reports to FEMA will be provided to the City Manager or designee
- The Park Board will maintain property and casualty insurance and be responsible for the payment of insurance premiums

Concession and Lease Agreements:

- The City does not require or request approval of concession agreements with vendors operating on public beaches such as mobile food and beverage, umbrella and chair, jet skis etc. and has no restriction on their terms
- Any lease of City parks managed by the Park Board, or lease of permanent structures or lease of personal or real property inside of City owned parks, cannot exceed three years without the prior approval of City Council

Seawall Parking and Beach User Fees:

- Administrative fee for seawall parking will be capped at the 2018-2019 level and not adjusted upward based on a change in the fees approved by the citizens of Galveston.
- Neither then Park Board nor the City can issue free beach access or seawall parking passes.

Permit Fees:

- If there is work performed by the Park Board on City owned assets, the City will waive City required permit fees and City required dumpster fees
- If the Park Board is contracting with third party vendors to perform the work, all permit fees and dumpster fees are required to be paid to the City and are not waived

Maintenance and Repairs:

- The revenues from each park managed by the Park Board will remain with the park that produced the revenue
- The Park Board will provide copies of the annual maintenance and repair programs as they are finalized to the City for review and comment

Seawall Paid Parking Reports and Usage of Revenues:

- The City and Park Board will submit Beach User Fee reports to the GLO. If the GLO denies a fee submitted by the City, it will be a cost to the City. If the GLO denies a fee submitted by the Park Board, it will be a cost to the Park Board
- The Park Board may be requested to maintain a Call Center for Pay-By-Phone users for the Seawall Parking Program. The costs of the Call Center will be borne exclusively by Seawall Paid Parking revenues.
- The costs for services to Seawall Corridor enhancements will be an expense of the Seawall paid parking program
- The cost of services for the remainder of the Seawall will be an expense of Park Board HOT funds dedicated to Seawall beach maintenance
- The Park Board will be responsible for all maintenance and upkeep of Seawall Corridor enhancements including landscaping for the installed planters located at 81st, 61st, 53rd and 33rd streets along Seawall Boulevard
- Restroom, landscaping, and the bus shelter servicing and cleaning costs will constitute part of the maintenance and upkeep costs of Corridor enhancements and will be included in the Seawall Urban Park annual budget submitted by the Park Board
- The City will be responsible for the costs of electricity for all lighting, cost for watering of any decorative vegetation and all capital costs for repairs or replacement of corridor improvements

Park Closures:

- On or before March 1st the Park Board and City will share a list of potential park closure dates for traffic control, security or public safety purposes to be submitted to the GLO jointly for approval

Payment of Seawall Beach User Fees from Special Event Promoters and for Commercial Use:

- When an Event promoter, other than for Mardi Gras, desires to have an event on the Seawall, they must pay a BUF if any paid parking spaces on the Seawall are unavailable to the public
- Spaces accounted for in the Beach Access Plan that have been allocated for commercial use will be inventoried and invoiced annually

Seaweed Removal at the Beach Pocket Parks:

- The City will obtain all relevant GLO required permits for beach cleaning and provide a copy to the Park Board by March 1st of each year
- The Park Board will conduct seaweed relocation services as the Pocket Parks as scheduled at Dellanera Park
- The cost of Park Board personnel and equipment for Pocket Park seaweed relocation will be invoiced to the City

Funding for Services to Clean and Maintain Seawall Beaches and Beach Access Points:

- Clean and Maintain beaches as described in Natural Resource Code Sec. 61.063 means the collection and removal of litter and debris and the supervision and elimination of sanitary and safety conditions that would pose a threat to personal health or safety if not removed or otherwise corrected and includes the employment of lifeguards, beach patrols and litter patrols
- The Park Board receives HOT funds (7 pennies) to promote tourism, provide lifeguarding services and to clean and maintain public beaches.
- The Park Board will maintain public beaches, select City of Galveston beach access points and the Seawall beaches free of litter and debris
- The Park Board will also maintain vehicular access and signage, place temporary bathrooms at access points designated by the City and maintain the Seawall earthen beach access ramps
- The Park Board will provide an itemized invoice to the City for services requested by the City that are outside of its areas of responsibility

Transition Plan for Dellanera RV Park and Seawolf Park:

- The City and Park Board agree to develop a revised management plan for operations and maintenance of Seawolf and Dellanera Parks.
- The plan must insure maximum return to the City in support of its Parks.
- Plan may include outsourcing the management of these parks via public offering, revisions to the existing management agreement with the Park Board or transition of management back to the City.

- No material changes will occur in Park operations during the preparation or implementation of the plan
- The recommendation will incorporate a collective effort, yet remain the decision of the City

Park Board Legal Counsel Review of Interlocal Changes

1. State owned beaches were changed to public beaches. Which is fine since there is an argument of privately owned.
2. On paragraph 12. Maintenance and repairs - this was added: The annual maintenance and repair programs will be presented to the City Manager of designee. If after 45 days from receipt, if there are no recommended changes or suggestions, the Park Board will assume the City has no recommended changes or suggestions to the maintenance and repair programs.
3. The Procurement and Purchasing paragraph 13 was re worded but seems fine.
4. Paragraph 15-seawall boulevard corridor and paid parking. Added that administrative expenses shall not exceed 10% and will be based on actual documented costs. In addition, the 10% collection in 2018-2019 will establish the cap which will not be exceeded as the result of increased fees established by a vote of the citizens.
5. Paragraph 15. Page 6. Added "Seawall Urban Park parking spaces are not included in the beach park reciprocity program. Neither the City nor the Park Board have the authority to issue free annual passes."
6. Paragraph 15. Page 7. Added "The cost of services for the remainder of the Seawall will be an expense of PB HOT funds dedicated to Seawall Beach maintenance."
7. Paragraph 18. Changes made to the special events parking issue. "When a contract is signed with a promoter, the Park Board will be provided a copy of applicable sections to facilitate and support its BUF reporting. Payments for the spaces will be invoiced by the PB based on copies of the contracts from the City and paid in the month that they are occupied by the promoter."
8. Seaweed removal from pocket parks will be invoiced as set out in paragraph 21.
9. Trash pickup. Kept our paragraph but removed the fines for violations by their vendors in putting their trash in the cans. Kept that they would advise them that was not acceptable.
10. Paragraph 21—reworded the invoicing section. "The PB will provide an itemized invoice to the City for services requested by the City that are outside of its areas of responsibility. Removed reference to Boddekker Drive, Cherry Hill and Apffel Road.
11. EEL—changed request available financial support from the City to —"request minimal financial support from the City...."
12. Paragraph 23—transition plan—This is similar to their last version which we modified. They excluded or proposed revision.