

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

**BAYPORT EASEMENT AGREEMENT**

OWNER(S) \_\_\_\_\_  
\_\_\_\_\_

OWNER'S ADDRESS: \_\_\_\_\_  
\_\_\_\_\_

PHA: PORT OF HOUSTON AUTHORITY OF HARRIS COUNTY, TEXAS,  
a political subdivision of the State of Texas

PHA's ADDRESS: 111 East Loop North, Houston, Texas 77029  
Attn: Senior Vice President and General Counsel

PROPERTY: See Exhibit "A" attached and incorporated by this reference

THIS BAYPORT EASEMENT AGREEMENT (the "Agreement") is entered into by Owner and PHA as of the date set forth below, with reference to the following:

**RECITALS**

- A. Owner owns fee simple title to the Property and its improvements, located in Harris County, Texas.
- B. PHA is the owner and operator of Bayport Container and Cruise Terminal (the "Terminal") and is sponsor of the Bayport Mitigation Solution Program (the "Program").
- C. Owner intends to participate in and receive the benefits of the Program.
- D. Owner intends to convey to PHA an easement on the Property, on the terms herein.
- E. Capitalized terms not otherwise defined in this Agreement shall have the meanings set forth above.

## AGREEMENT

For good and valuable consideration, receipt of which is hereby acknowledged, the parties agree as follows:

1. Grant of Easement. Owner grants and conveys to PHA, and PHA's successors and assigns who at any time own the Terminal or any interest in the Terminal, a perpetual, non-exclusive permanent right and easement ("Easement") over, on, across, and through the Property, permitting any and all nuisances inherent in the construction, development, operations, or maintenance of the Terminal, or caused by activities related to the construction, development, operation, or maintenance of the Terminal, including, but not limited to, noise, light, vibrations, emissions, and all other effects as may be inherent in such activities, provided however that such construction, development, operations, and maintenance do not violate state, federal, and international statutes and regulations applicable thereto.

2. Character of Easement.

a. PHA's rights under this Agreement and Easement are appurtenant to and for the benefit of the Terminal, including any and all future additions to the Terminal, and for the benefit of (i) PHA, and its successors and assigns, who at any time own the Terminal or any interest in the Terminal; and (ii) PHA's guests, licensees, and invitees, including any and all vessel operators calling at the Terminal and Users as defined in PHA's published Tariffs ("Easement Beneficiaries").

b. This Agreement and Easement burden the Property, whether or not the Agreement or Easement is referenced or described in any conveyance of the Property.

c. This Agreement and Easement shall run with the Property and bind and inure to the benefit of the parties and their respective heirs, successors, and assigns.

d. This Agreement and Easement and the rights and obligations hereunder are nonexclusive, permanent, and perpetual for the benefit of PHA and the Terminal.

4. Release of Claims. Owner, on its behalf and on behalf its heirs, successors, and assigns, including successor owners of the Property and occupants of the Property, waives, releases, and discharges PHA, its commissioners, officers, directors, employees, representatives, agents, successors, assigns, and Easement Beneficiaries, from any and all present and future damages, claims, liabilities, losses, obligations, costs, expenses, lawsuits, actions, or demands, known or unknown, whether in tort, contract, or otherwise, caused by or alleged to be caused by, arising out of, or occurring by reason of, the nuisances inherent in the construction, development, operations, or maintenance of the Terminal or caused by activities related to the construction, development, operation, or maintenance of the Terminal, provided however that such construction, development, operations, and maintenance do not violate state, federal, and international statutes and regulations applicable thereto, and Owner hereby covenants not to sue on claims within this release.

5. General Provisions.

a. No changes or additions shall be made to this Agreement except by a written amendment executed by the parties.

b. PHA represents that the individual executing this Agreement on its behalf is empowered to bind the PHA. The individual(s) executing this Agreement on behalf of Owner represent that they are empowered to bind the Owner.

c. If any provision in this Agreement is void or unenforceable but does not destroy the basis of the bargain among the parties, the unenforceability shall not affect any other provision, and the provision shall be severed from this Agreement, which shall otherwise remain in full force and effect, and this Agreement shall be deemed reformed to replace the provision with a valid and enforceable provision as similar as possible in effect to the void or unenforceable provision.

d. Owners represent and warrant that Owners are the owners in fee simple of the Property, and that at the time of executing this Agreement Owners have full ownership rights and powers to convey the Easement free and clear from all other grants, bargains, sales, liens, taxes, assessments and encumbrances of whatever kind or nature, except as disclosed to PHA in a commitment for title insurance obtained by PHA prior to or in conjunction with execution and recording this Agreement.

DATED this \_\_\_\_\_, 20\_\_.

OWNER(S):

\_\_\_\_\_  
Name: \_\_\_\_\_  
(Type or Print)

\_\_\_\_\_  
Name: \_\_\_\_\_  
(Type or Print)

PORT OF HOUSTON AUTHORITY

By \_\_\_\_\_  
Title: \_\_\_\_\_  
Name: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Counsel

OWNER ACKNOWLEDGEMENT

THE STATE OF TEXAS           §  
  §  
COUNTY OF HARRIS           §

This instrument was acknowledged before me on \_\_\_\_\_, 20\_\_,  
by \_\_\_\_\_.

\_\_\_\_\_  
Notary Public, State of Texas

THE STATE OF TEXAS           §  
  §  
COUNTY OF HARRIS           §

This instrument was acknowledged before me on \_\_\_\_\_, 20\_\_,  
by \_\_\_\_\_.

SAMPLE

\_\_\_\_\_  
Notary Public, State of Texas

PHA ACKNOWLEDGEMENT

THE STATE OF TEXAS           §  
  §  
COUNTY OF HARRIS           §

This instrument was acknowledged before me on \_\_\_\_\_, 20\_\_,  
by \_\_\_\_\_, \_\_\_\_\_, of the Port of  
Houston Authority of Harris County, Texas, a political subdivision of the State of Texas, on  
behalf of the Port of Houston Authority.

\_\_\_\_\_  
Notary Public, State of Texas

EXHIBIT "A"

PROPERTY LEGAL DESCRIPTION

SAMPLE