



CITY OF HOUSTON

Parks and Recreation Department
A CAPRA Accredited Agency

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August 8, 2023

Clint B. Harbert
Houston Metropolitan Transit Authority
1900 Main Street
Houston, TX 77002

RE: METRORapid University Corridor Project – Official with Jurisdiction Consultation

Dear Mr. Harbert:

This letter is in response to our coordination and your request regarding the concurrence regarding following four park properties, Mandell Park, Peggy's Point Plaza Park, Peggy Park, and Diez Street Park and the METRORapid University project.

Coordination

METRO coordinated with HPARD staff in a meeting on May 22, 2023, regarding four park properties: Mandell Park, Peggy's Point Plaza Park, Peggy Park, and Diez Street Park where sidewalk and Americans with Disabilities Act (ADA) improvements are needed to meet COH sidewalk design requirements. During this meeting, METRO presented illustrations of improvements planned at Mandell Park, Peggy's Point Plaza Park, Diez Park and Peggy Park.

HPARD explained that the improvements could be made with a Right of Entry for METRO's Contractor as part of the construction activities for the Project for three parks: Mandell Park, Peggy Park, and Diez Street Park. METRO coordinated with HPARD attorneys and HPARD attorneys concluded that because no change in property ownership occurs; the proposed improvements will be minor to comply with the City sidewalk requirements; and will result in overall access improvement to the parks, Texas Chapter 26 requirement are not applicable to the proposed enhancement to the park properties. The parks will continue to function for its intended purposes and the COH will retain ownership of the property. METRO will also coordinate with COH Forestry Department for any tree removals and/or relocations that may occur with respect to these three parks.

The remaining park resource, Peggy's Point Plaza Park, is in the process of being decommissioned by HPARD and the City is preparing to host a Chapter 26 public hearing providing the state-required notification. The decommission of the park is expected to occur prior to 60 percent engineering plans (2024). Given that the park is scheduled to be decommissioned, the park is not considered a significant resource by the OWJ and is, therefore, not considered a resource afforded protection under Section 4(f).

Federal Regulations - Section 4(f) Regulation

Section 4(f) is a federal regulation (23 CFR 774) that applies to any U.S. Department of Transportation (DOT)- funded projects where a “use” of a Section 4(f) property¹, is planned. Section 4(f) only applies to “significant” publicly-owned parks and recreation areas that are open to the public. Significance for parks, recreation areas, and wildlife/waterfowl refuges is determined by the OWJ, in this case the HPARD, and must apply for the entirety of the resource to be considered significant.

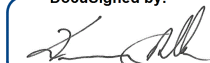
A permanent, temporary, or constructive use can only be approved if there is no feasible and prudent avoidance alternative and that the action has included all possible planning to minimize harm to the Section 4(f) property. FTA can make a *de minimis* determination if an impact is so minor as to not adversely affect the features, attributes or activities that qualify the property protection under Section 4(f).

The construction activities that would occur to make sidewalk and ADA improvements at Mandell Park, Peggy Park, and Diez Street Park will be minor and will be a *de minimus*. The METTRORapid University project will not adversely affect the activities, features or attributes that make the property eligible for Section 4(f) protection. In addition, the COH has determined that Peggy’s Point Plaza Park is no longer considered significant.

As the Official with Jurisdiction over Mandell Park, Peggy’s Point Plaza Park, Peggy Park, and Diez Street Park, I understand and concur that:

- Houston METRO’s Construction Contractor will be provided Right of Entry to complete the temporary construction activities associated with the University BRT Project to accommodate a shared use path/sidewalk and ADA improvements at Mandell Park, Peggy’s Point Plaza Park, and Diez Street Park. Construction impacts will be *de minimis* as defined herein and will result in improved sidewalks and pedestrian/bicycle access to the parks; and,
- Peggy’s Point Plaza Park is not a significant park resources for the Houston Parks and Recreation Department and the City intends to decommission the park prior to final design plan completion.
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Sincerely,

DocuSigned by:

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Kenneth Allen

Director, Houston Parks and Recreation Department

cc:

Jeatawn Degelia, City of Houston
Lisa Johnson, City of Houston
Brian Crimmins, City of Houston
Clint B. Harbert, Vice President, System & Capital Planning
Yuhayna Mahmud, Principal Planning Program Manager, METRO

¹ defined as a publicly owned land of a public park, recreation area, or wildlife and waterfowl refuge of nation, State, or local significance, or land of a historic site of national, State, or local significance.