



# Status Update on 2018 JDA Amendments

LGC Meeting | December 18, 2020



# AGENDA

- PURPOSE
- STATUS UPDATE
- NEXT STEPS
- SCHEDULE





# PHASE 2 | 2018 JDA AMENDMENTS

- PURPOSE:** Complete JDA Amendments per [Council Ordinance No.20180524-013](#) (2018 JDA Amendments).
- STATUS:** JDA Amendments are under development with City Law.
- ISSUE:** More time is needed to finalize the draft document; the schedule will be adjusted accordingly. The extended schedule does not impact active projects within the District (i.e. Waterloo and Creek Delta). In addition, this extension gives us the time and opportunity to finalize both the JDA and the O&M agreement as one comprehensive effort by the March LGC Meeting.
- NEXT STEPS:** Finalize draft amendments and submit to WGC and LGC Counsel for review by mid-January.
- SCHEDULE:** Present final draft Amendment Two to the JDA and O&M Agreement to LGC at the March LGC meeting for discussion and possible action.
- ADDITIONAL INFORMATION:**
- Status Update on the Phase 2 - 2018 JDA Amendments was presented to the LGC on September 16, 2020. ([see presentation here](#))

# PURPOSE

**ORDINANCE NO. 20180524-013**

AN ORDINANCE AUTHORIZING NEGOTIATION AND EXECUTION OF AN AMENDMENT TO THE JOINT DEVELOPMENT AGREEMENT BETWEEN THE WALLER CREEK CONSERVANCY, THE CITY OF AUSTIN AND THE WALKER CREEK LOCAL GOVERNMENT CORPORATION; APPROVING THE AMENDED DESIGN PLAN FOR THE DISTRICT; AND WAIVING CERTAIN CODE PROVISIONS IN FURTHERANCE OF THE AGREEMENT.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

**PART 1. Findings.** The city council finds that:

- (A) The area of the City referred to as the Waller Creek District is a prominent geographic feature that helped to shape the historical evolution of the City.
- (B) The City has constructed a flood control tunnel along Waller Creek to remove 28 acres of property from the 100-year flood plain and facilitate the enhancement and revitalization of the Waller Creek District and the surrounding area.
- (C) The Waller Creek Conservancy is a 501(c)(3) entity formed in 2010 to facilitate and aide the City in the City's enhancement and development of the Waller Creek District by raising private funds to defray the costs of amenities and to eventually assist in operating and managing the chain of parks and other facilities in the Waller Creek District.
- (D) In cooperation together, the Waller Creek Conservancy and the City created and processed an international design competition for the Waller Creek District.
- (E) After Council approved the design for the Waller Creek District, Council approved a Waller Creek District Joint Design, Development, Management and Operation Agreement and related documents between the City of Austin, Waller Creek Conservancy, and the Waller Creek Local Government Corporation concerning the revitalization of the Waller Creek District (Agreements) between the Waller Creek Conservancy, the City, and the Waller Creek Local Government Corporation.
- (F) Pursuant to the Agreements, the parties have worked together to design and begin building some of the improvements envisioned in the approved design.
- (G) In furtherance of the Agreements, Council is extending the Waller Creek Tax Increment Reinvestment Zone No. 17 (TIRZ) in time to provide funding for the

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“The City Manager is authorized to negotiate and execute an amendment to Waller Creek District Joint Design, Development, Management and Operation Agreement and related documents between the City of Austin, Waller Creek Conservancy, and the Waller Creek Local Government Corporation concerning the revitalization of the Waller Creek District, including all terms and conditions deemed necessary, advisable, or required by the City Manager or City Attorney.”

Reference: Council Ordinance No.20180524-013

# PURPOSE

**REQUIRED AMENDMENTS TO THE BYLAWS, IDA AND O&M AGREEMENT**

**BYLAWS**

**Board of Directors**

- Number of board members increased to ten members. The additional board member will be a City representative moving the board to a 50/50 split between City of Austin (City) and Waller Creek Conservancy (WCC).

**IDA**

**Term**

- The initial term of the JDA expires in January 2033. Amendment will extend the initial term of the JDA to January 2042 to match the term of the TIF.

**Design Plan**

- Amendment will include updated Design Plan showing current project designs, as attached.

**Funding**

- Update WCC and City financial commitments to align with TIF Project Plan, including the addition of TIF funding and fundraising milestones per the attached schedule.
- Individual capital projects, either for design or construction, will be fully funded prior to execution, through a combination of allocation of City funds and pledges from WCC and other private sources.

**Project Implementation and Procurement**

- Amendment will clarify the Phase Plan process, including review and approval provisions, to insure timely implementation of projects and long-term operations and maintenance.
- Clarify procurement process when projects are funded solely through private funding.

**Capital Repair Fund**

- Amendment will revise Capital Repair Fund provision by (1) moving the provision to the O&M Agreement and (2) clarifying amount required to be set aside for Capital Repair Fund

**Art in Public Places (AIPP)**

- Clarify process between WCC and City on AIPP projects in the Waller Creek District.

**Other**

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**Operation and Maintenance (O&M) Agreement**

**Term**

- The initial term of the O&M Agreement expires in January 2033. Amendment would extend the initial term of the O&M Agreement to 2042 to match the term of the TIF.

**Operations and Management Roles and Responsibilities**

- Given the Conservancy's primary operational and funding responsibility for the parks, amendment will provide the Conservancy the ability to maximize its earned revenue opportunities to support maintenance and operations of the parks, including agreements with third parties, provided, however, that revenues from operations are restricted to paying for park maintenance and operations and such agreements will not be written as leases or in any other manner that would be considered alienation of park land under the City Charter.
- Amendment will provide greater specificity on the park facilities and amenities intended for the project, including the amphitheater and food service operations. Amendment will clarify protocols for operation of the amphitheater, including permitting, sale of food and beverages, and new City sound ordinance requirements for downtown music venues.
- Amendment will clarify that the City will have approval over the permanent sign plan and sign types within the District, to be developed by the Conservancy. The Conservancy will have approval over other marketing, promotion and other advertising of the project all in accordance with the Quality Standard.
- Amendment will clarify the parties' intention to establish park curfew hours that reflect the park design which will include lighting for public use in the evening, and anticipated programming of the parks suited to their downtown location.
- Update O&M Agreement to clarify roles and responsibilities regarding creek and tunnel management.

**Other**

- Such other revisions necessary to update the documents to reflect current project parameters.

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## **ADDITIONAL INFORMATION:**

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## PROGRESS TO DATE:

### September Activities -

- ☒ 09.16.2020 - LGC Meeting: 2018 JDA Amendments Status Update

### October Activities -

- ☒ 10.06.2020 - Staff Workshop #1
- ☒ 10.14.2020 - LGC Meeting: Amendment One to JDA APPROVED
- ☒ 10.16.2020 - Staff Workshop #2
- ☒ 10.21.2020 - Staff Workshop #2 - Follow Up
- ☒ 10.30.2020 - Executive Direction Meeting

### November Activities -

- ☒ 11.04.2020 - Staff Deadline for supplement documents to JDA.
- ☒ 11.06.2020 - Staff Deadline to provide comprehensive policy edits to the JDA
- ☒ 11.13.2020 - JDA Amendments under develop by City Legal

### December Activities -

- ☐ 12.18.2020 - LGC Meeting: 2018 JDA Amendment Status Update

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## EXTENDED SCHEDULE ACTIVITIES:

### December Activities -

- ☒ 12.18.2020 - LGC Meeting: 2018 JDA Amendment Status Update

### January Activities -

- ☐ 01.04.21 - 01.31.2021 - DOCUMENT DEVELOPMENT

### February Activities -

- ☐ 02.01.2021 - 02.26.2021 - FINALIZE DOCUMENTATION

### March Activities -

- ☐ 03.10.2021 - LGC Meeting: PRESENT Amendment Two to JDA + O&M Agreement

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# SCHEDULE

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