
AMENDMENT NUMBER ONE
TO THE
PARKLAND IMPROVEMENT, DONATION, AND MAINTENANCE AGREEMENT
(VIOLET CROWN TRAIL-VELOWAY TO CIRCLE C METROPOLITAN PARK)

Dated: _____, 2023

This Amendment Number One to the Parkland Improvement, Donation, and Maintenance Agreement (Violet Crown Trail-Veloway to Circle C Metropolitan Park) ("**Amendment One**") is made and entered into by and between the **HILL COUNTRY CONSERVANCY**, a Texas domestic non-profit corporation (the "**Partner**") and the **CITY OF AUSTIN, TEXAS**, a Texas home rule municipal corporation organized and existing under the laws of the State of Texas (the "**City**") (each a "**Party**" and collectively the "**Parties**") for the purposes and considerations stated below:

WHEREAS, the City and the Partner desire to amend the Parkland Improvement, Donation and Maintenance Agreement (Violet Crown Trail-Veloway to Circle C Metropolitan Park) (the "**Original Agreement**") to (a) modify the construction cost associated with the Park Improvements of the Original Agreement; and

WHEREAS, Section XV.H. of the Original Agreement allows amendments, provided such amendments are made in writing and executed by each Party;

NOW, THEREFORE, in consideration of the mutual benefits and promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged by both Parties, the Parties agree to be bound to the obligations and to the performance and accomplishment of the hereinafter described modifications, alterations and changes to the Original Agreement in the following respects only, and all other terms and conditions shall remain as stated in the Original Agreement:

Section 1 City and Partner agree to amend the Partner's Cost and Construction Responsibilities in Section IV. to replace the existing language in Subsection L with the following:
L. Once PARD issues the "Notice to Proceed", Partner shall submit monthly invoices to the PARD representative for review, approval and reimbursement of Partner by City, up to the amount of the Maximum City Contribution (as defined in Section V.F.). Invoices must include:

- i. Subcontract Utilization Form;
- ii. Resources Allocation Plan;
- iii. Standard City of Austin Consultant Cover Sheet for Payment; and
- iv. Copies of all receipts submitted for reimbursement..

Section 2 City and Partner agree to amend the Responsibilities of the City in Section V. to add a new Subsection F. to read:

F. City will be responsible for construction costs associated with the Park Improvements through reimbursement in an amount not to exceed \$2,100,000 (Two Million, One Hundred Thousand and No/100 Dollars) (the "Maximum City Contribution") of the construction costs. City will reimburse Partner from time to time for paid invoices within thirty (30) days of receipt of paid invoices by the City. Partner may suspend work in the event such invoices are not reimbursed to Partner within any such 30-day period. Any increases in the actual costs of the Park Improvements, including cost increases, change orders and overruns, will be borne by Partner unless due to unknown or unforeseen conditions or other factors outside of Partner's reasonable control, or unless otherwise agreed to in writing by the City. "Costs" include, but are not limited to, consultant fees, design costs, landscaping costs, labor costs, site restoration and re-vegetation costs, materials costs, engineering costs, legal fees, insurance costs and any other costs incurred in the design and construction of the Park Improvements. Partner may request an increase to the Maximum City Contribution if the construction costs exceed the Maximum City Contribution if Partner has not executed a contract with the Contractor.

Section 3 City and Partner agree to amend the Suspension; Termination; Default; Remedies in Section VIII. to add a new Subsection G. to read:

G. If Partner requests an increase to the Maximum City Contribution and the City does not increase the Maximum City Contribution, Partner may terminate Amendment Number One and this Agreement. If Partner terminates this Agreement or Amendment Number One, Partner must comply with the provisions described in Section VIII, Subsection B of this Agreement.

Section 4 Unless waived or consented to by the holder of the encumbrance, this Amendment One is made and accepted subject to all easements, covenants, restrictions, liens, and other encumbrances of record in Travis County, Texas, affecting the Park Improvements as that term is defined in the Original Agreement.

Section 5 All capitalized terms not otherwise defined in this Amendment One have the meanings assigned to them in the Original Agreement.

Section 6 This Amendment One may be executed in multiple counterparts, each of which shall be considered an original, but all of which together shall constitute one agreement.

THIS WRITTEN AMENDMENT TO THE ORIGINAL AGREEMENT, THE ORIGINAL AGREEMENT, AND ANY OTHER AGREEMENTS OR WRITTEN DOCUMENTS REFERRED TO BY SUCH AGREEMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

HILL COUNTRY CONSERVANCY

Kathy Miller, Chief Executive Officer

Date: _____

CITY OF AUSTIN, TEXAS

BY ITS PARKS AND RECREATION DEPARTMENT

Kimberly McNeeley, Director

Date: _____

APPROVED AS TO FORM:

CITY LAW DEPARTMENT

By: _____
Assistant City Attorney

Date: _____