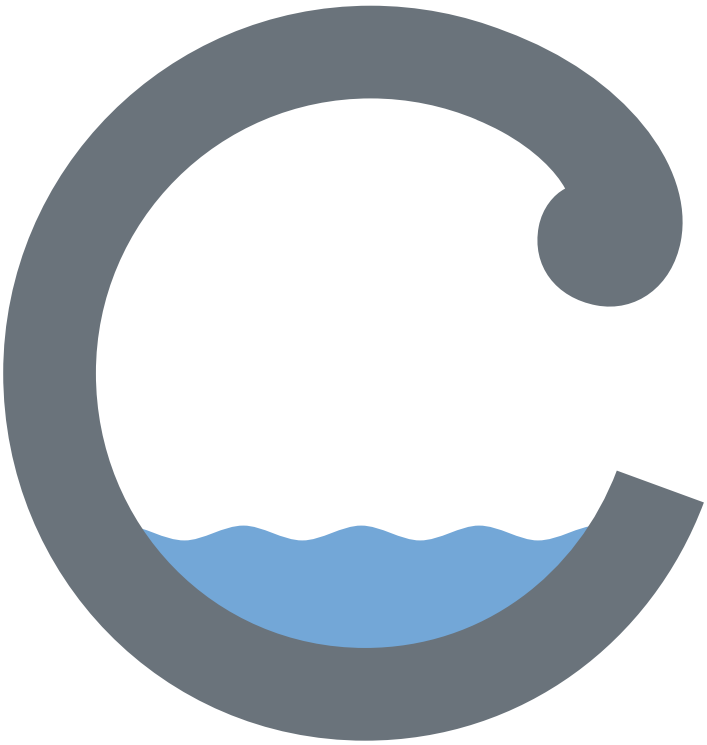
Waller Creek District

ADDENDUM ONE TO THE WATERLOO CONSTRUCTION PHASE PLAN

Proposing Party: Waller Creek Conservancy



13 February 2019

Waller Creek Conservancy
PO Box 12363
Austin, Texas 78711
512-541-3520
www.wallercreek.org

13 February 2019

Ms. Melba Whatley
Vice President
Waller Creek Local Government Corporation (LGC)

RE: Waller Creek District: Addendum One to the Waterloo Construction Phase Plan

Dear Melba:

Enclosed herewith you will find Addendum One to the Waterloo Construction Phase Plan including the construction of Sector 9. Please refer to the enclosed Exhibit F for a Project Budget including identification of funding sources.

Addendum One to the Waterloo Construction Phase Plan includes the construction of the bank and creek restoration along Waller Creek, generally referred to as Sector 9, and rerouting of overhead utilities. This work is within Waterloo Park north of the dam and south of 15th Street, see Exhibit A Project Area Diagram. This work will be concurrent with the work contained in the *Waterloo Construction Phase Plan* approved by the LGC in December 2018.

The Joint Development Agreement, Section 3, identifies the documentation required for each proposed phase plan. The attached check-list identifies all of the submission requirements including those applicable to this Phase Plan and where they can be found in this document.

If you have questions or concerns, please let me know and we will address them quickly.

Sincerely,

_____

Peter Mullan Date
Chief Executive Officer
Waller Creek Conservancy
Proposing Party

Waller Creek Conservancy
PO Box 12363
Austin, Texas 78711
512-541-3520
www.wallercreek.org

The Phase Plan described in this document has been reviewed and approved specific to the scope described herein.

_____

Ms. Melba Whatley Date
Vice President
Waller Creek Local Government Corporation
LGC Representative

_____

Ms. Kristin Pipkin Date
Waller Creek District Program Manager
Watershed Protection Department, City of Austin
Responding Party/City Representative

_____

Ms. Liana Kallivoka Date
Assistant Director
Parks and Recreation Department, City of Austin
Responding Party/City Representative

Waller Creek District

ADDENDUM ONE TO THE WATERLOO CONSTRUCTION PHASE PLAN

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SUPPORTING SUPPLEMENTAL DOCUMENTATION	Separate document

WALLER CREEK PHASE PLAN PROPOSAL CHECKLIST

Project: Waller Creek District –

ADDENDUM ONE TO THE WATERLOO CONSTRUCTION PHASE PLAN

PAGE #	JDA SECTION*	TOPIC	DESCRIPTION	EXHIBITS
na	3.03 B.	Responding Party Review	Complete before submission to LGC	
na		Cover Letter		
na		Front Cover	Add before submission to LGC	
na		Table of Contents		
na		Check List		
1	3.04 A.1	General	Exec Summary - general outline of the project	
3, 11			Schedule with milestones & projected completion	Exhibit B
13			Implementation plan	Exhibit D
4, 12	3.04 A.2 (i)	Identify Team	List all professionals and their discipline	Exhibit C
2	3.04 A.2 (ii)	Construction Delivery Method	Proposed Construction Delivery Method	
3	3.04 A.2 (iii)	Designate the Reviewer of Construction Schedule	Project Director or Managing Party	
	3.04 A.2 (iv)	Design Material	Prelim site plans, architectural plans, elevations, other design materials	
10	3.04 A.3	Project Map	Map of District showing Limits of Phase Plan Area	Exhibit A
4, 16	3.04 A.4	Project Budget	All Phase Plan costs including allowances and contingencies	Exhibit E
		Including:	List of funding sources	
5			List where funds are to be held	
5			List constraints on use of funds	
6			Post construction budget - capital repairs, operating and maintenance budgets	
5	3.04 A.5	Cost Overrun Plan	Identify how any cost overruns will be funded	
6	3.04 A.6	Compliance with Foundational Articles	If the proposed project does not comply with the terms of the JDA, the proposed modification to the JDA is provided here	
6	3.04 A.7	Third Party Agreements	Outline any third-party agreements that will need to be obtained	
6, 18	3.04 A.8	Procurement Process Requirements	If funded in part by the City, comply with City Code and other applicable law	Exhibit G
			Local Government Code Sections 252 and 271	
			Texas Transportation Code Chapter 432	
6	3.04 A.9	MWBE Participation	If funded in part by the City, outline plan	
7, 21	3.04 A.10	Public Improvement Projects/Approvals and Permits	Identify responsibilities for obtaining approvals from Government Authorities for design and construction	Exhibit H
6	3.04 A.11	Operations & Maintenance	Plan for obtaining approvals/permits and for paying for operations and maintenance	

WALLER CREEK PHASE PLAN PROPOSAL CHECKLIST

PAGE #	JDA SECTION*	TOPIC	DESCRIPTION	EXHIBITS
7	3.04 A.12	ID and Mapping Easements	Identify and map all easements and other real property interests	
5	3.04 A.13	Requirements on Use of Funds	Identify any requirements that apply to the use of tax-exempt obligations, grants or other funds	
7, 39	3.04 A.14	Insurance and Bonding	Provision of insurance and bonding in Article 9	Exhibit J
7	3.04 A.15	Use by City	Identify terms for use by the City	
7	3.04 A.16	Activities and Rates	Identify activities by groups	
8	3.04 A.17	Maintenance in ROW's	Identify of maintenance of District ROW's	
8	3.04 A.18	Utilities	Identify how utilities will be provided, cost of services, metering etc	
7, 22	3.04 A.19	Operations and Maintenance	Identify operations and maintenance standards	Exhibit I
8	3.04 A.20	Revenue Source and Fees	Create a pro forma re fees, licensing to cover Operation Expenses	
8	3.04 A.21	Commercial Design Standards	Identify if Comm Design Stds apply or waived	
8	3.04 A.22	License Agreements	Identify if License Agreements apply	
8	3.04 A.23	Naming Rights	Identify any license agreements necessary for naming rights	
8	3.04 A.24	Change in Ownership	Identify if there is a proposed change in ownership of a Public District Site	
9, 17	3.04 A.25	Capital Needs Timing	Identify the capital needs timing for City Planning purposes	Exhibit F
9	3.04 A.26	Payment to PARD or other City Departments	Identify how payments will be made to PARD or other City Depts for their operations	
9	3.04 A.27	Public Accessibility	Identify public accessibility and provisions thereof	
2, 9	3.04 A.28	Timing of transfers	Identify timing of transfers of improvements and land	
9	3.04 A.29	Maintain natural space	Identify the ways projects will be designed to maintain natural space	
9	3.04 A.30	Maintain flexibility of City owned properties	Identify how the flexibility of City Owned properties will be maintained	
9	3.04 A.31	Issues related to alcohol use	Identify any desired exemptions of City Code or park rules	
na	3.04 A.32	Other Relevant Info		

*THIS CHECKLIST IS BASED ON THE APRIL 16, 2014 WALLER CREEK DISTRICT JOINT DESIGN, DEVELOPMENT, MANAGEMENT AND OPERATION AGREEMENT (JDA)

Waller Creek District

ADDENDUM ONE TO THE WATERLOO CONSTRUCTION PHASE PLAN

Project Identification:

Title: Addendum One to the Waterloo Construction Phase Plan (or "Phase Plan")
Location: Waterloo Park –
Between 12th-15th Street south to north, and Red River-Trinity Street east to west along Waller Creek, and more specifically, the area referred to as Sector 9 in and adjacent to Waller Creek between the dam on the south and 15th Street on the north (see Exhibit A, Project Area Diagram)
Date: 13 February 2019

Unless otherwise specified herein, section reference shall refer to that certain Joint Design Development, Management and Operation Agreement by and among the City of Austin ("City"), Waller Creek Conservancy ("WCC") and Waller Creek Local Governmental Corporation ("LGC"), dated April 16, 2014 (the "JDA").

EXECUTIVE SUMMARY (3.04 A.1)

The Waller Creek Chain of Parks includes a one-and-a-half mile urban, riparian ecosystem that meanders southward from Waterloo Park at 15th Street, along the eastern edge of downtown Austin, ending at Lady Bird Lake. Once complete, the Waller Creek project will total 37 acres of connected urban green space and will feature four distinct beautifully designed park spaces, pedestrian and bicycle paths, a revitalized creek, and other urban amenities – a place where the environment, culture, health, adventure, and diversity converge. The revitalized Waller Creek will renew the natural environment, foster the creative arts, and nourish authentic and uplifting experiences that reflect Austin's diversity and dynamic spirit.

Waterloo Park is an 11-acre green space that will host a wide range of landscape experiences for play, leisure, and celebration of the natural environment. The greater Waller Creek trail system emerges into the park at 12th Street from the south and provides a flow of recreational visitors coming from downtown, Lady Bird Lake, and beyond. An accessible path network weaves through the site's dramatic topography, connecting a network of gardens, water features, gathering spaces, stands of mature trees, and a central "Clearing or Great Lawn" – a grand new civic space for Austin. The central clearing opens toward a Performance Venue (Moody Amphitheater), a permanent outdoor venue celebrating Austin as an international outdoor music destination. Open year round, the Amphitheater provides a new and dynamic music and arts experience in an urban park, providing diverse entertainment experiences that embody the values of the community.

Waterloo Park is in the heart of downtown within walking distance from the University of Texas, East Austin, and the State Capitol. This urban district is undergoing dramatic change with the Dell Medical School Campus, Brackenridge Hospital redevelopment, and the State Capitol Complex framing the site and creating a constituency that infuses the park with daily activity.

This Phase Plan includes the construction of the area referred to as Sector 9 of Waterloo Park and associated construction administration. Sector 9 refers to geographical boundaries containing in-channel creek work to improve

the ecological functioning of the creek and stabilize its banks. It also includes a modification to the flood plain, installation of handrails on existing infrastructure for public safety, and burial of an overhead power line. It realizes the drawings and specifications for Waller Creek Waterloo Park Part One: Parkland Sector 9.

The phase plan undertakes the construction of the geographical area referred to as Sector 9 within Waterloo Park along Waller Creek (see **Exhibit A, Project Area Diagram**).

> Sector 9 is bounded on the south by the Waller Creek dam. The western boundary of the Project area is the top of the creek bank and the eastern boundary is Red River Street. This project area includes the northeast corner of the park, both banks of Waller Creek north of the inlet pond, and area above the east inlet pond wall. The Inlet Facility, associated parking lot, inlet pond, and portions of the engineered creek banks are excluded from the L.O.W. of this construction project.

This addendum to the *Waterloo Construction Phase Plan* realizes the design work completed in the *Waterloo Park Construction Documents and Permitting Phase Plan* as well as *Addendums One* and *Two* and the *Tunnel Side Inlet Modifications & Waterloo Park Interim Design Phase Plan*. The work outlined in this addendum will be implemented concurrent with the *Waterloo Construction Phase Plan*. This Phase Plan will augment, incorporate, and advance the work done in previous phase plans, but not be duplicative of this work.

This Phase Plan utilizes the construction management expertise of DPR Construction (DPR, Construction Team), the firm selected for Construction Manager at Risk (CMAR) services for this Project, as well as construction administration performed by the Michael Van Valkenburgh Associates (MVVA, Landscape Architecture Team Lead).

This Phase Plan encompasses the following:

- Construction Administration
- Construction of Waterloo Parkland Sector 9
- Other Budget Items: Materials Testing, Builder's Risk Deductible, and Utilities Allowances

This project will require extensive coordination with the City of Austin Parks and Recreation Department (PARD), and the Watershed Protection Department (WPD).

All services performed under this Phase Plan shall be in accordance with the existing contractual agreements held by the WCC, applicable codes, including the City Code, and accepted industry standards. In accordance with the 3.04 A.28 of the JDA, any acquisitions either by fee simple or by easement will follow the Office of Real Estate's Standard Operating Procedures for approvals, land plans, land title surveys, Environmental Site Assessment Plans I and II, and title policies. No acquisitions are anticipated in this Phase Plan.

All Consultant documents shall be prepared using the English System of Weights and Measurements. It is assumed that CAD and PDF drawings are acceptable formats for submissions. Other file formats (e.g. MicroStation; AutoCAD Civil 3D) will be considered as needed on a case-by-case basis.

MAIN POINTS OF CONTACT

Proposing & Managing Party:

Waller Creek Conservancy

CEO: Peter Mullan, pmullan@wallercreek.org (512-541-3520)

Director of Planning & Design: John Rigdon, jrigdon@wallercreek.org (512-541-3520)

Capital Projects Manager: Kim Barker, kbarker@wallercreek.org (512-541-3520)

Responding Party:

City of Austin, Watershed Protection Department

Kristin K. Pipkin, kristink.pipkin@austintexas.gov (512-974-3315)

City of Austin, Parks and Recreation Department

Liana Kallivoka, liana.kallivoka@austintexas.gov (512-974-9455)

Construction Team Lead:

DPR Construction (DPR)

DPR Point of Contact: Bryan Lofton, bryanl@dpr.com, (512-801-2040)

Landscape Architecture Team Lead:

Michael Van Valkenburgh Associates (MVVA)

MVVA President and CEO: Michael Van Valkenburgh, Michael@mvvainc.com (718-243-2044)

MVVA Principal: Gullivar Shepard, gshepard@mccainc.com (718-243-2044)

MVVA Project Manager and Point of Contact: Timothy Gazzo, tgazzo@mvvainc.com (347-482-0490)

SCHEDULE (3.04 A.1)

The Notice to Proceed (N.T.P.) for this Phase Plan is anticipated to occur on February 13, 2019 following approval of the Phase Plan by the Waller Creek Local Government Corporation. This N.T.P. will include all work except physical in-channel construction for which a Nationwide Permit 27 is required from the United States Army Corps of Engineers. The N.T.P. for physical in-channel work will be issued when the permit is received, which is expected to occur in late May 2019.

The services associated with the Phase Plan shall be provided from mid-February 2019 – June 2020 with warranty inspections to follow one year later. DPR and MVVA fees have been calculated based on the Construction Schedule, which is shown in greater detail in **Exhibit B, Project Schedule**. In accordance with 3.04 A.2(iii) of the JDA, the Managing Party and a representative from the City will review and approve the construction schedule put forward by the CMAR, DPR.

PERFORMANCE PERIOD

The anticipated performance period is the next fifteen (15) months with warranty inspections to follow one year later. A more detailed Project schedule in shown in **Exhibit B, Project Schedule**.

GENERAL SCOPE OF SERVICE REQUIREMENTS

An organizational diagram of work flow is in **Exhibit C, Organizational Chart** that describes the relationship between the landscape architecture design team, the CMAR, WCC and the City. In addition, more detailed explanations of the scope of services and deliverables is in **Exhibit D, Implementation Plan** for construction administration and construction services**.**

DESIGN TEAM & CONTRACTOR LIST (3.04 A.2 (i))

The following landscape architecture design team and CMAR will be responsible for delivering the area referred to as Sector 9 of Waterloo Parkland.

- Construction Manager at Risk: DPR Construction
- Landscape Architect Team Lead: Michael Van Valkenburgh Associates, Inc. (MVVA)
    - Local Landscape Architect: dwg
    - Civil Engineer: Big Red Dog Engineering (BRD)
    - Structural Engineering: Architectural Engineers Collaboration (AEC)
    - Mechanical, Electrical and Plumbing Engineer: EEA Consulting Engineers (EEA)
    - Geotechnical Engineering: Terracon Consulting Engineers
    - Soil Scientist: Olsson Associates
    - Irrigation Specialist: James Pole
    - Hydrologist: LimnoTech

CONTRACTING METHOD (3.04 A.2 (ii))

MVVA is currently working under Master Services Agreements with the WCC. DPR Construction is currently working under a Construction Manager at Risk (CMAR) Contract with the WCC that was executed fall 2018.

PROJECT BUDGET (3.04 A.4)

Exhibit E, Project Budget provides a detailed breakdown of the fees, a summary of the fees are as follows:

1. Construction Administration (MVVA):

    MVVA Team fees and reimbursables:

Professional Service Fees (MVVA):	$464,691
Reimbursable Expenses (MVVA):	$72,065

2. Construction (DPR):

Cost of the Work:	$5,465,792

    (Including $100,000 Allowance for Dewatering)

Construction Contingency (2%):	$104,105
General Conditions:	$502,852
CMAR Fee:	$253,031
Total Guaranteed Maximum Price, GMP	$6,325,780

3. **Allowances, Contingencies + Cost Overrun:**

Materials Testing Allowance:	$150,000
Utilities Allowance:	$225,000
Builder's Risk Deductible Allowance:	$60,000
Total of Allowances	$435,000
Change Order Contingency (8%)	$506,062
Cost Overrun Reserve (2%)	$126,516
Grand Total:	$7,930,114

The Grand Total will be split between Watershed Protection Department (WPD), the Parks and Recreation Department (PARD), and Waller Creek Conservancy (WCC). WPD will contribute an amount not to exceed $7,188,281 to fund the complete scope of this Phase Plan not including electrical work. PARD will contribute an amount not to exceed $666,833 to fund the removal and burial of overhead power line and other electrical scope of this Phase Plan including $150,000 of the Utilities Allowance. WCC to contribute an amount not to exceed $75,000 of the Utilities Allowance.

In accordance with Section 10.01 (Project Disbursement Fund Account) of the JDA, upon approval of regularly submitted invoices by the WCC, the City will disburse payment according to the appropriate Project Disbursement Fund Account. As required by Section 3.04 A.25 of the JDA, **Exhibit F, Capital Needs Projection** addresses the prime scope of work and the projected funding needs, excluding Allowances, Change Order Contingency, and Cost Overrun Reserve. Individual consultant fee proposals are included in the supporting Supplemental Documentation.

FUNDING SOURCES & REQUIREMENTS/CONSTRAINTS ON FUNDS (3.04 A.4 & 3.04 A.13)

This Phase Plan is funded by the City of Austin and Waller Creek Conservancy. A detailed breakdown of City of Austin funding sources can be found in the Addendum One to the Waterloo Construction Phase Plan Funding Letter.

COST OVERRUN PLAN (3.04 A.5)

In accordance with the JDA, the identification of the source of funds for the Cost Overrun Reserve are required. The Proposing Party must seek approval from the Responding Party to utilize Cost Overrun funding. The request to use Cost Overrun funds does not require LGC approval unless additional funding is needed. For this Phase Plan, there is a Cost Overrun Reserve of 2% of the GMP. Additionally, there is a 2% Construction Contingency held by DPR calculated on the cost of work within the GMP and a 8% Change Order Contingency calculated on the GMP and held by the owner team to address any changes or modifications in the construction project. WCC will communicate the use of the Change Order Contingency to the City. WPD will contribute $632,578 toward the Phase Plan Cost Overrun Reserve and

Contingencies, not including the Construction Contingency which is covered as part of the total GMP fee.

COMPLIANCE WITH FOUNDATIONAL ARTICLES (3.04 A.6)

Section 3.03 B of the JDA outlines the right of the parties to mutually agree to modification of foundational articles with respect to any phase of any project. In accordance with this section, and with the intent of formally making the change in a revised JDA currently under negotiation, the parties agreed to modify an article related to operations and maintenance funding through the *Waterloo Construction Phase Plan*:

1. In accordance with Section 3.04 A.4 of the JDA, the parties agreed to modify the requirement that 24 months of O&M funding be placed in the Project Disbursement Fund Account before construction authorization. At a date no later than the City's issuance of the certificate of occupancy for the Performance Venue, or the park opening, whichever is issued first, WCC shall provide evidence of funding (that can be independently verified by the City) for the estimated first year's operating costs at Waterloo Park as follows: (i) 6 months of funding deposited in the Project Disbursement Fund Account and (ii) 6 months of additional funding evidenced by pledges or similar instruments. Six months after the first rental of the Performance Venue, or the Park, WCC shall provide evidence of funding (that can be independently verified by the City) for the following year's operating costs at Waterloo Park as follows: (i) 6 months of funding for the purposes of and designated for operations and maintenance and, (ii) 6 months of additional funding evidenced by pledges or similar instruments.

This modification should be considered as in effect for the scope of this Phase Plan.

THIRD PARTY AGREEMENTS (3.04 A.7)

Pursuant to the JDA between the City and WCC, any third-party agreements needed to execute the work in the phase plan are noted in the Phase Plan document. No third party agreements are needed to executed the work in this Phase Plan.

PROCUREMENT PROCESS REQUIREMENTS & MWBE PARTICIPATION (3.04 A.8 & 3.04 A.9)

Pursuant to the JDA, any Project funded in part by the city must meet City ordinance and state law requirements for procurement, Local Government Code Sections 252, 271 and Texas Transportation Code Chapter 432. DPR has and will follow the necessary City procurement process and meet all City ordinance requirements for minority participation. The Sector 9 project goal is to obtain 9.62% MBE participation and 1.83% WBE participation. This goal was established by the City of Austin Small and Minority Business Resources (SMBR) Department. DPR will comply with all rules and recommendations established by the City SMBR office in an effort to reach these goals. During bidding, DPR hosted a subcontractor outreach event in order to increase interest in the Waterloo Park project. DPR will report MWBE participation percentages on a monthly basis throughout construction.

General MWBE Participation requirement information outlined in the JDA can be found in **Exhibit G, JDA Procurement Requirements**, in addition to an approved consultant list.

All of the Design Team consultants and subconsultants identified by name in this Project were under agreement prior to the execution of the JDA or have been selected utilizing methods that meet the City of Austin Ordinances for procurement of services. Any subsequent consultants will be selected utilizing the same.

APPROVALS & PERMITS (3.04 A.10)

The project manager and key consultants have the responsibility of obtaining approvals and permits from Governmental Authorities for design and construction if the project is a Public Improvement Project. The Site Development Permit (SPC-2017-0322C) for this scope was acquired on December 11, 2018 under the *Waterloo Park Construction Documents and Permitting Phase Plan* and *Addendum One to the Waterloo Park Construction Documents and Permitting Phase Plan*. See **Exhibit H, Waterloo Park Plan Permit**.

Any minor site permit corrections that result from the construction work proposed in the Phase Plan will be coordinated and addressed by the Design Team under the *Waterloo Construction Phase Plan*.

Additionally, a Nationwide 27 permit is required by the United States Army Corps of Engineers for in-channel work. This permit application is currently under review and is expected in late May 2019. A partial N.T.P. will be issued upon approval by the LGC for all scope of work in this Phase Plan except the physical in-channel work, with the in-channel physical work N.T.P. occurring after the Nationwide 27 permit is acquired.

OPERATIONS & MAINTENANCE RESPONSIBILITIES & STANDARDS (3.04 A.11 & 3.04 A.19)

The City and the WCC share responsibility for the operations and maintenance of Waterloo Park and must coordinate on these activities both during construction and upon completion of the project. In order to ensure effective management and communication, the parties have outlined policies and procedures that govern these activities. This agreement is outlined in **Exhibit I, Operations & Management Agreement for Waterloo Park.**

ADJACENT PROPERTY ACQUISITION (3.04 A.12)

The Phase Plan project boundary is located in existing parkland owned by PARD. No property acquisitions are intended as part of this Phase Plan.

INSURANCE & BONDING (3.04 A.14)

Insurance and Bonding information can be found in **Exhibit J, Insurance Certificates**. DPR will be providing bonding insurance for the construction, as required by the CMAR agreement.

ACTIVITIES & RATES (3.04 A.15 & 3.04 A.16)

The WCC, as the operator of the completed project, will take responsibility for the programming of Waterloo Park upon completion. Programs will be established in accordance with the WCC's mission and feedback from the community. Special attention will be given to programs that address issues of equity and inclusion of marginalized groups within the Austin community. In addition to many free programs, spaces will be rented from time-to-time by the WCC. Prior

to the park opening, the WCC will set a rate schedule for periodic rental of park spaces. These rates will be established through an analysis of existing comparable spaces in the region and will be updated on a regular basis.

The WCC will work with PARD and other City departments to allow City sponsored events in Waterloo Park that align with the mission of both the City and the WCC. The City will not be charged the applicable rental fees for this use. WCC will set aside a certain number of days for the free use by the City for public functions and City sponsored events, pursuant to Section 2.3(g) of the Master O&M Agreement.

MAINTENANCE OF DISTRICT ROW (3.04 A.17)

Maintenance of the ROW is the role of the City of Austin, as noted in the JDA Article 4, Section 4.03 and 6.03, unless otherwise agreed upon through a license agreement between the parties.

UTILITIES (3.04 A.18)

Utilities in Waterloo Park will be billed to DPR during construction.

REVENUE SOURCES & FEES (3.04 A.20)

In order to maintain and operate the park at the highest level, the WCC will utilize opportunities within the park to generate revenue. These opportunities include, but are not limited to, ticketed special events, fundraisers, park area rentals, and concession opportunities. Rates will be established based on the market and timing/frequency of these opportunities and will be balanced with the core mission of serving the community by creating parks for all. Programming plans will be presented annually to and reviewed by the Waller Creek LGC. Revenue opportunities will comply with the JDA and all applicable law.

COMMERCIAL DESIGN STANDARDS (3.04 A.21)

Unless otherwise indicated, commercial design standards outlined in the Waller District Design Guidelines will be followed under this Phase Plan.

LICENSE AGREEMENTS (3.04 A.22)

License agreements were secured as required by the permitting process for the scope of work contained in the *Waterloo Construction Phase Plan*. No separate license agreements are required for the scope contained within this Phase Plan.

NAMING RIGHTS (3.04 A.23)

The WCC has identified recognition opportunities in the Park for significant donors. These opportunities include various architectural features and park spaces of distinction. For example, the lead gift for Waterloo Park was a donation from the Moody Foundation who will be recognized in the naming of the amphitheater, the construction of which is contained in the *Waterloo Construction Phase Plan*. Other naming rights will be established in accordance with the JDA and Foundational articles.

CHANGE OF OWNERSHIP (3.04 A.24)

There are no changes of ownership anticipated with this Phase Plan.

CAPITAL NEEDS TIMING (3.04 A.25)

See Exhibit F, Capital Needs Projection addressing the anticipated project of the prime scope of work, which excluding Allowances, Change Order Contingency, and Cost Overrun Reserve.

PAYMENTS (3.04 A.26)

Currently no payments from the City are anticipated for operations during the construction of Waterloo Park.

PUBLIC ACCESSBILITY (3.04 A.27)

The design of Sector 9 meets the requirements of Texas Accessibility Standards (TAS) and City of Austin Code.

TIMING OF TRANSFERS (3.04 A.28)

There are no anticipated transfers of improvements or land to the City with this Phase Plan.

GREEN SPACE & FLEXIBILITY (3.04 A.29 & 3.04 A.30)

A core element of the approved Project Plan calls for conserving and maintaining natural space. This will be a guiding principal for all work on the Chain of Parks including Waterloo Park. The combined scope of this Phase Plan and the *Waterloo Construction Phase Plan* improves upon green space in the Waller Creek District through the creation of nearly 11 acres of new and restored park spaces, the planting of over 400 trees and thousands of plants, and the creation of nature-based play areas and landscapes.

A goal of the project team has been to maintain flexibility with respect to City owned land.

ALCOHOL USE IN THE PARK (3.04 A.31)

Waterloo Park will have controlled areas of permitted alcohol use. The right to do so will be provided through the administrative authority of the Parks Director at such a time as is appropriate.

EXHIBIT A: PROJECT AREA DIAGRAM

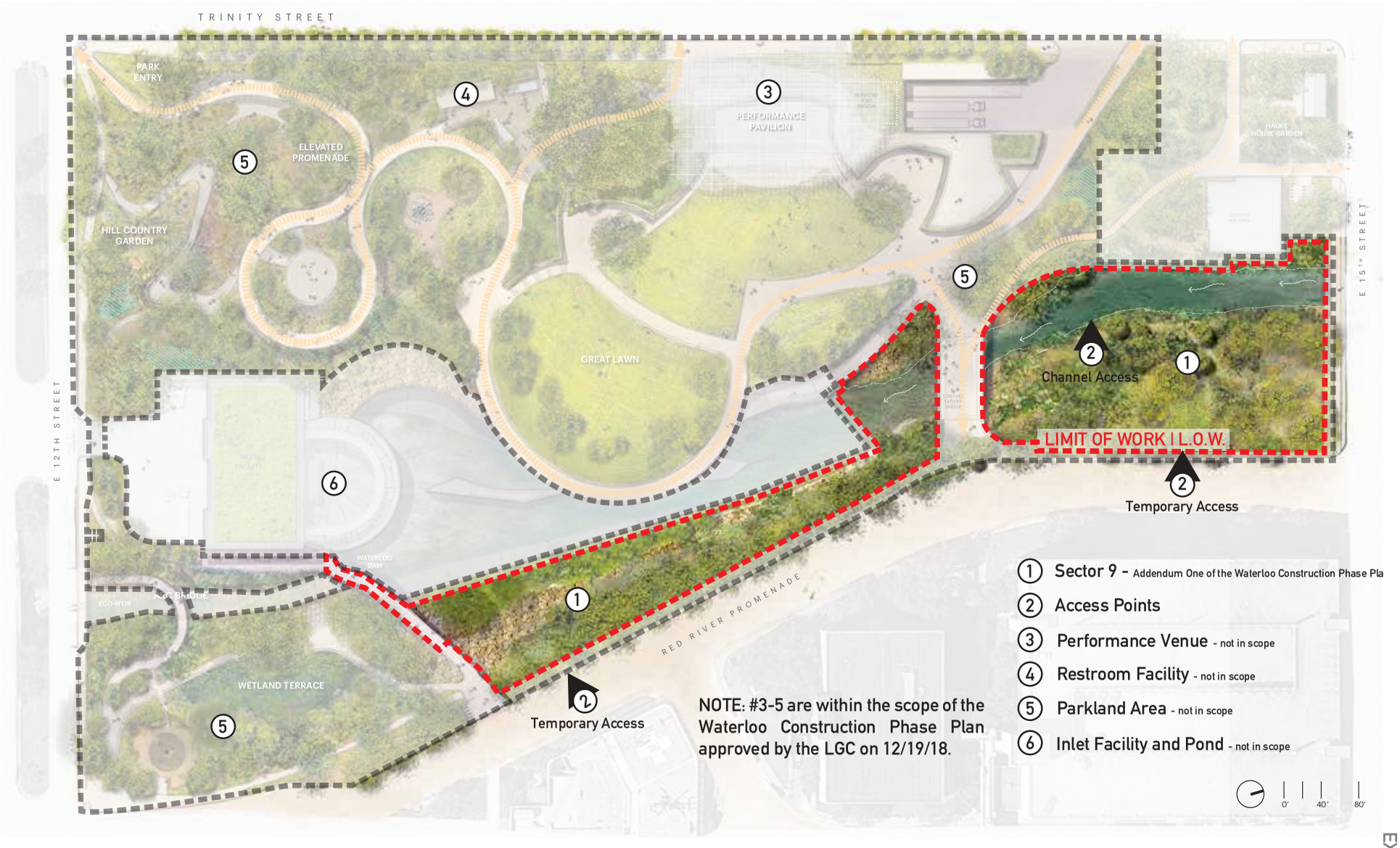


EXHIBIT B: PROJECT SCHEDULE

1. Notice to Proceed - Start
2. In-Channel Construction Work Begins
3. Substantial Completion
4. Final Completion

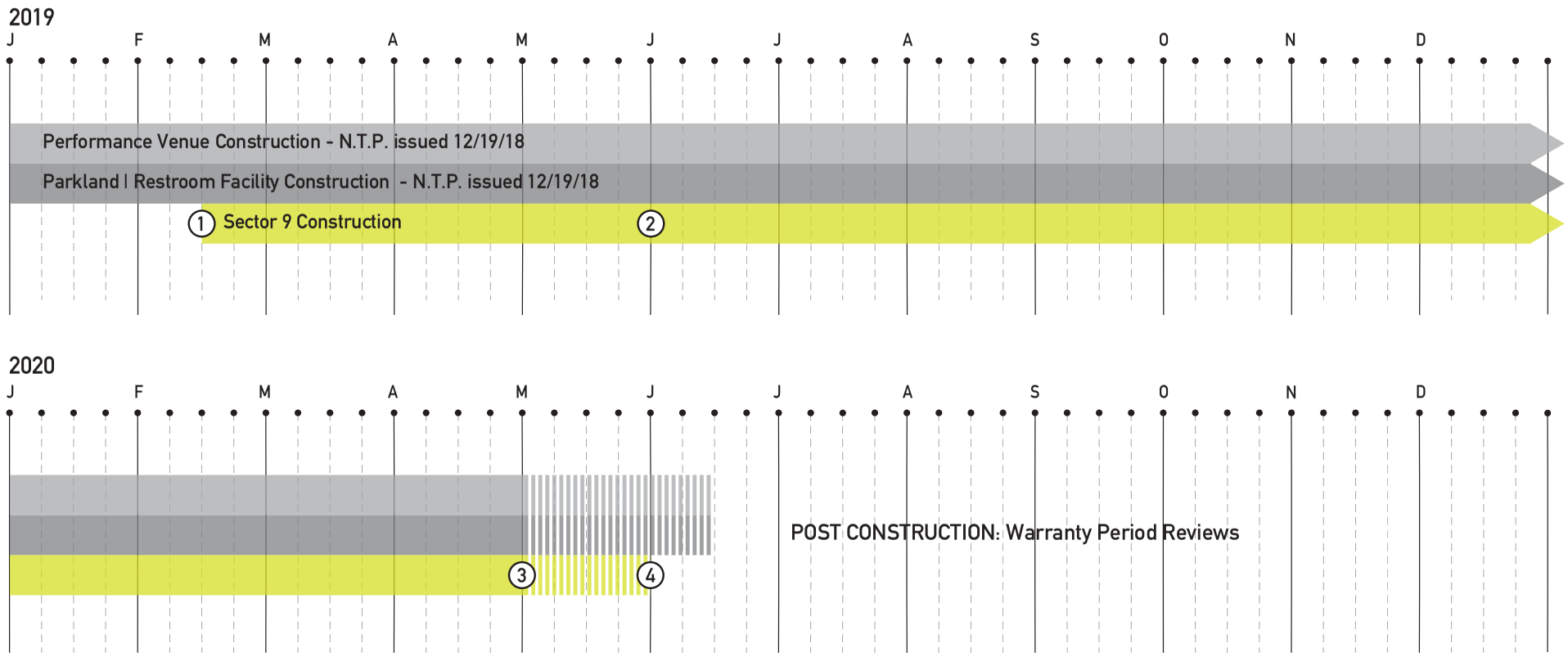


EXHIBIT C: ORGANIZATION CHART

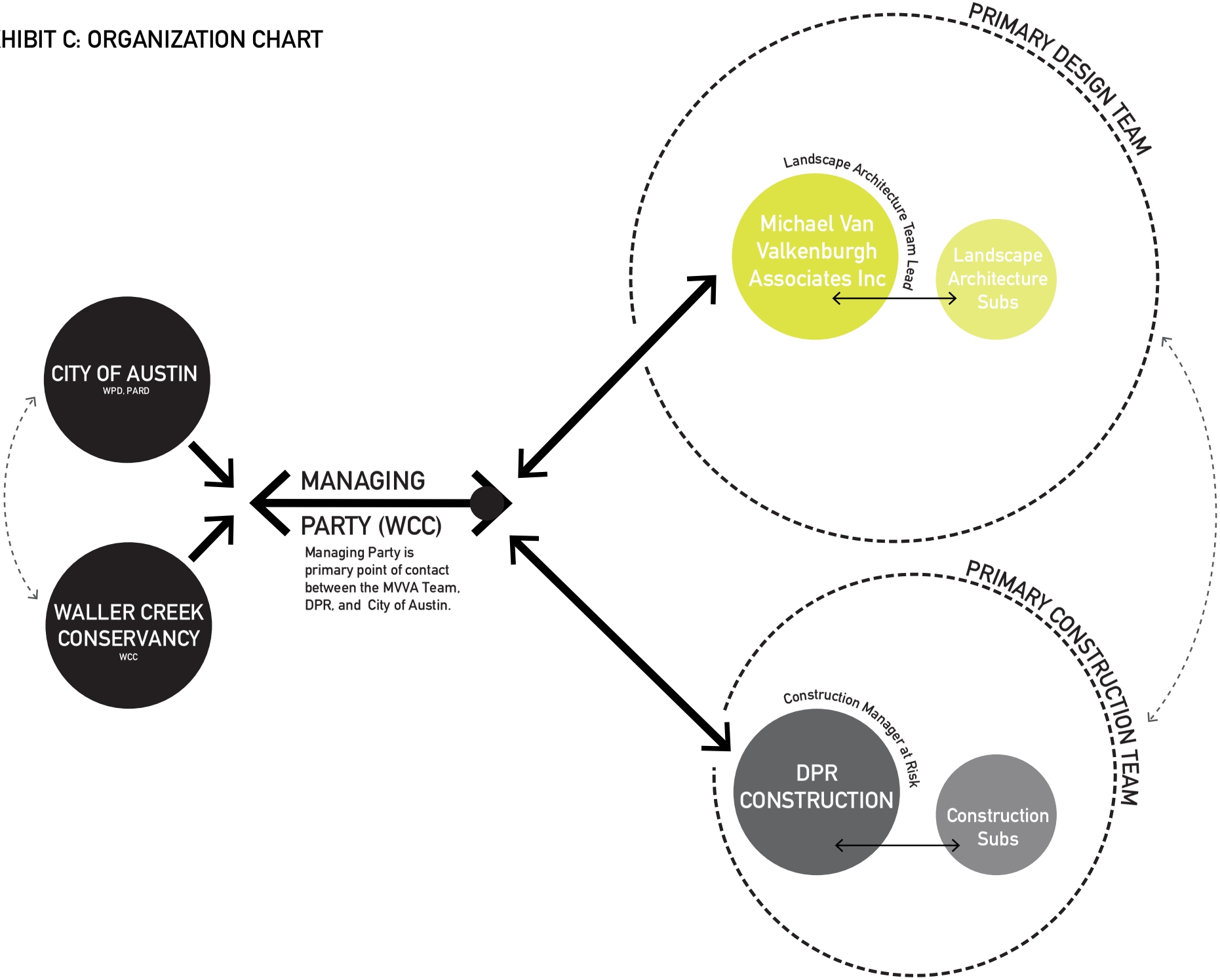


EXHIBIT D: IMPLEMENTATION PLAN

Title: Addendum One to the Waterloo Construction Phase Plan
Location: Waterloo Park –
Between 12th-15th Street south to north, and Red River-Trinity Street east to west along Waller Creek, and more specifically, the area referred to as Sector 9 in and adjacent to Waller Creek between the dam on the south and 15th Street on the north (see **Exhibit A, Project Area Diagram**)

SECTOR 9 CONSTRUCTION

This Phase Plan encompasses the construction phase of Sector 9 at Waterloo Park (between 12th and 15th Streets along Waller Creek) as shown in **Exhibit A, Project Area Diagram**. The DPR Construction team will coordinate as needed with the design team led by Michael Van Valkenburgh Associates (MVVA). This coordination will make sure that Sector 9 meets the design standards set forth by the Design Team.

CONSTRUCTION ADMINISTRATION (MVVA)

Sector 9 construction will last 15 months total plus warranty inspections and will require ongoing coordination with the owner (WCC & City), landscape architecture team lead (MVVA), and construction manager at risk (DPR) and associated contractors. This process assures the best quality control of the design elements and allows the team to be efficient and responsive. During the construction of Waterloo Park, the MVVA team will provide construction administration services including, but not limited to:

- Participating in weekly coordination meetings led by DPR Construction
- Reviewing and responding to RFI's associated with the Project
- Reviewing and responding to shop drawings from contractors
- Performing site visits and reviews during critical construction moments – including but not limited to mock-ups, material quality control and acquisition, testing, education meetings, and any other critical items outlined in the Specifications
- Develop and report Landscape Architecture Supplemental Instructions (LASI)
- Reviewing change orders and substitution requests
- Coordinating building permit corrections for landscape structures and features requiring building permits as they arise*
- Project Closeout:
    - Reviewing all payment applications submitted by the contractor and evaluating the level of completion for each item
    - Performing a punch list review prior to issuing letter of substantial completion
    - Submit as-built drawing set from Construction Manager (DPR)

- Participate in O&M warranty reviews
- Participate in the final inspections
- Attend on site review at the end of the warranty period

*Note that corrections to the Site Development Permit, if needed, will be completed under the *Waterloo Construction Phase Plan*.

CONSTRUCTION NARRATIVE (DPR)

1) **Site Access**: DPR plans to access the Sector 9 construction site by two entrance points illustrated in **Exhibit A, Project Area Diagram**. There is an entrance point on Red River Street north of 12th Street to access the east bank of the inlet pond. In addition, there is a channel access point on Red River Street just south of 15th Street taking advantage of gentler slopes in that area.

2) **Procurement & Technology Coordination**: Procurement of materials including buyout, shop drawing reviews and approvals, and product mock-ups will occur early in the schedule to secure premium cost and quality products and will run concurrently with the scope included in the *Waterloo Construction Phase Plan*.

3) **Overall Site Preparation**: Sector 9 construction will utilize the office and temporary utilities prepared for the scope in the *Waterloo Construction Phase Plan*. Site clearing and earthwork will then commence after the protection of existing features to remain, such as trees and vegetation protection zones. Grading will include soil balancing across the site. The overall site preparation elements include:

    a. Mobilization
    b. Site Clearing & Earthwork
    c. Channel Work including stonework
    d. Planting

4) **Sector 9 Construction**: Construction will run concurrently with the scope within the *Waterloo Construction Phase Plan* approved December 19, 2018. Construction work on Sector 9 will commence following Phase Plan approval to occur on February 13, 2019 with the exception of the in-channel work on Waller Creek. This work will start after receiving an approved Nationwide Permit 27 from the United States Army Corps of Engineers, slated to be issued in late May 2019.

5) **Inspections & Project Closeout**: At substantial completion (**Exhibit B, Project Schedule**) a site punch list will be developed and any corrections will be made by DPR. Final inspections will occur with key stakeholders before Project close out.

Project Management & Meetings

DPR will provide lead construction project management and be the primary point of contact for the Construction Team. This will include coordination among subcontractors via weekly team meetings and with the City, WCC, and MVVA. In addition, DPR will conduct the specified Pre-Construction conference with the Project stakeholders as a milestone alignment meeting. Additional milestone alignment meetings will be conducted as needed. DPR also will conduct pull planning meetings with the trade partners as needed.

EXHIBIT E: PROJECT BUDGET

ADDENDUM ONE TO THE WATERLOO CONSTRUCTION PHASE PLAN		
	Fees	Reimb
1. Construction Administration (MVVA)		
MVVA Landscape Architecture Team	$464,691	$72,065
Construction Administration Total	$464,691	$72,065
2. Construction (DPR)		
Cost of Work (including $100,000 Allowance for dewatering)	$5,465,792	
Construction Contingency (2%)	$104,105	
General Conditions	$502,852	
CMAR Fee	$253,031	
Guaranteed Maximum Price (GMP) Total	$6,325,780	--
3. Allowances, Contingencies + Cost Overrun		
Materials Testing Allowance	$150,000	
Utilities Allowance	$225,000	
Builder's Risk Deductible Allowance	$60,000	
Allowances Total	$435,000	
Change Order Contingency (8%)	$506,062	--
Cost Overrun Reserve (2%)	$126,516	--
SUMMARY		
1. Construction Administration	$536,756	--
2. Construction	$6,325,780	--
3. Allowances, Contingencies + Cost Overrun	$1,067,578	--
TOTAL	$7,930,114	--

EXHIBIT F: CAPITAL NEEDS PROJECTION

ADDENDUM ONE TO THE WATERLOO CONSTRUCTION PHASE PLAN		
		Total Fees*
		$6,862,536.00
Month	**Activity**	**Fees**
1	Construction & Construction Administration	$16,000.00
2	Construction & Construction Administration	$35,000.00
3	Construction & Construction Administration	$60,000.00
4	Construction & Construction Administration	$90,000.00
5	Construction & Construction Administration	$450,000.00
6	Construction & Construction Administration	$675,000.00
7	Construction & Construction Administration	$775,000.00
8	Construction & Construction Administration	$800,000.00
9	Construction & Construction Administration	$800,000.00
10	Construction & Construction Administration	$725,000.00
11	Construction & Construction Administration	$650,000.00
12	Construction & Construction Administration	$580,000.00
13	Construction & Construction Administration	$340,000.00
14	Construction & Construction Administration	$290,000.00
15	Construction & Construction Administration	$576,536.00
	TOTAL	$6,862,536.00
*Excludes Allowances, Contingencies and Cost Overrun Reserve		
Projections will fluctuate in response to adjustments in work flow		

EXHIBIT "G"

M/WBE REQUIREMENTS

(a) The Managing Party shall comply with the applicable standards and principles of the **M/WBE Program Ordinance** in the design and construction of Projects, provided, however, Contractors and their subcontractors under contracts executed and delivered by the Conservancy as of the date of this Agreement for the scope of work contemplated in the Design Plan approved by City Council shall not be required to comply with this Exhibit G. A change in the scope of work or Contractors or subcontractors, including adding Contractors or subcontractors shall require compliance with this Exhibit G. Prior to any changes or additions the Managing Party shall consult with and provide SMBR information regarding the proposed change in scope or change or deletions of Contractors or subcontractors to determine the necessary steps to achieve compliance with the M/WBE Program.

With respect to any design or construction projects for a Project, the Contractors shall meet the gender and ethnic-specific participation goals or subgoals for each year in which design or construction occurs as determined by the Director of SMBR in accordance with the M/WBE Program Ordinance and rules. Before advertising a bid for any portion of the design or construction work, the Managing Party shall submit to SMBR a copy of a proposed solicitation in order for the City to determine the gender and ethnic-specific participation goals or subgoals for the project. The determination by the Director shall be based on the proposed size, type and scope of work to be undertaken by the Managing Party and described in the bid documents, and the availability of each group of M/WBEs to perform elements of the work. The City may utilize either the cumulative M/WBE goal or the subgoals for each group of minority persons in the proposed solicitation, or set M/WBE participation goals for each Project as provided in City Code Section 2-9A-19 (*Establishment of MBE/WBE Participation Levels for Individual Contracts in Construction*), or as may subsequently be modified, amended or replaced. The Director shall have 10 Business Days from receipt of a bid package from the Managing Party in order to evaluate and determine the required level for utilization of M/WBE project or phase-specific goals or subgoals, and shall notify the Managing Party in writing of the Director's determination.

In an effort to meet the gender and ethnic-specific M/WBE utilization goals, the Managing Party shall implement an outreach program designed to solicit participation of M/WBEs. These outreach efforts should also target small businesses generally. The Managing Party may seek the assistance of SMBR in these outreach efforts as described in paragraph (b) below.

For any year in which the Managing Party, the Contractors fail to meet each of the goals or subgoals established by the Director, the Managing Party, the Contractors must demonstrate good faith efforts to meet the goals as described in the M/WBE Program Ordinance. The Managing Party shall submit documentation demonstrating its own and

the Contractors' good faith efforts to meet the goals as is required under the following paragraph (d). If the Managing Party provides documentation to SMBR evidencing its own and its Contractors' good faith efforts, the Managing Party shall be deemed in compliance with this paragraph (a). Failure to perform this obligation shall be considered a material breach of this Agreement. The City acknowledges that this obligation does not require the Managing Party to modify, nullify or abrogate any contracts that the Managing Party has entered into before the Effective Date of this Agreement.

(b) The Managing Party shall apprise SMBR when the Managing Party desires assistance from SMBR in its efforts to meet the gender and ethnic specific M/WBE utilization goals. This assistance may include providing a list of certified M/WBE firms from which the Managing Party may solicit or cause the Contractors to solicit participation in the design and construction of any improvements, identifying potential scopes of work, establishing the bid packages, scheduling and hosting outreach meetings, and assisting the Managing Party, its Contractors in soliciting M/WBE firms to provide bids. The Managing Party is not required to solicit participation during a period in which the Managing Party is not engaged in designing and/or constructing a Project, but rather, the Managing Party is required to incorporate the standards and principles of the M/WBE Program Ordinance including the foregoing M/WBE utilization goals into its development process as and when such process exists in connection with a Project.

(c) The Managing Party shall provide monthly reports to SMBR no later than the 10th day of each month to track (i) the utilization on a percentage basis of M/WBE firms in the design and construction of the Projects; and (ii) a summary of the Managing Party's efforts to implement the standards and principles of the M/WBE Program Ordinance. SMBR shall provide the forms to be used by the Managing Party in submitting such reports.

(d) Within thirty (30) days of receipt of the Managing Party's final monthly report (as is required under paragraph (e) above for the preceding year, January 1st through December 31st (the "**SMBR Compliance Period**"), SMBR shall determine whether the Managing Party is in compliance with the requirements of this **Exhibit "G".**

Waller Creek Project
Approved Consultant List

Firm	Discipline	MWBE
2 x 4	signage consultant	
Access Partnership	accessibility specialist	
ACI Consulting	environmental consulting	
Altieri Sebor Wieber	mechanical, electrical, plumbing	
Altura Solutions	accessibility specialist	
American Construction Investigations	ADA consultant	
Applied Ecological Services	ecologist, bank stabilization	
Architectural Engineers Collaborative	structural engineer	
Arup USA Inc.	AV, Acoustical, lighting, IT, security	
Atelier 10	sustainability consultant	
Benz Resource Group	project management	WBE
Big Red Dog	civil engineering	
Brierly Assoc	geotech engineering	
CCM Consulting Group	construction auditing	
Chan & Partners	civil engr: subsurface utilities	
Charles Marsh Woodruff	geologic consulting	
Construction Specifications, Inc	specifications consultant	
Davey Resource Group	arborist	
Development Strategies	economic development	
Dr W. Todd Watson	plant pathologist	
dwg	landscape architect	
Eckersley Cladding Consultant	exterior cladding	
EEA Consulting	mechanical, electrical, plumbing	
ETM Associates	public space management	
Fluidity Design Consultants	water feature consulting	
GeoSolutions	geotech: slope stability	
Greenberg Consultants	urban design	
Guy Nordenson & Assoc	structural engineer	
Haynes Whaley Associates	structural engineer	
Henshell & Buccellato	waterproofing consultant	
Heritage Title Company	title and easement research	
HNTB	bridge design	
HNTB	traffic engineering	
Holt Engineering	geotech engineering	
Horton Lees Brogden Lighting	lighting	
HR&A	ecomonic development	
Hydrodramatics	water feature consulting	
Israel Berger and Associates	waterproofing consultant	
James Pole Irrigation Consultants	irrigation	
JGL Food Services Consultants	food service consultant	
Joshua Long	geographer	
Lady Bird Johnson Wildflower Center	ecologist, native plantings and management strategies	
Limnotech	hydrologist	
McGray & McGray	site surveying	
Metcalf Williams Stuart & Wolff	land use, zoning	
Michael Van Valkenburgh Assoc	landscape architect	
Olsson Assoc	soil scientist & ecosystem	
Persohn/Hahn Associates	elevator consultant	
Piscatello Design Centre	signage consultant	
ProjectProjects	graphic design	
Reginald Hough, FAIA	architectural concrete consultant	
Rolf Jensen & Associates	code consultant	
Shah Smith and Associates	commissioning agent	
Simpson Gumpertz & Heger	waterproofing consultant	
Skidmore, Owings & Merrill	structural engineer	
Stuart Lynn	cost estimating	
Sustainable Growth Texas	soil biology	
Terracon	geotech engineering	
Theatre Consultants Collaborative	theatre consultants	
Thomas Phifer & Partners	architect	
Tillett Lighting Design	lighting	
Transsolar Inc	sustainability consultant	
Urban Design Group	civil waterworks	WBE
Vermeulens	cost estimating	

EXHIBIT H: WATERLOO PARK PLAN PERMIT

CITY OF AUSTIN
One Texas Center-505 Barton Springs Road
Site Plan Permit

Application Date: 08/21/2017 **Site Plan Expiration Date: 12/11/2021**
Permit No.: SPC-2017-0322C
Project Name: Waterloo Neighborhood Park
Address or Location Description: 500 12TH ST
Watershed: Waller Creek
Owner of Property: City of Austin, Parks and Recreation Dept., Terry Jungman, Jr. (512) 974-2000
Address: 500 E 12th St., Austin, TX 78701
Owner's Representative: Big Red Dog Engineering, Thomas Lombardi, Jr. P.E. (512) 669-5560
Address: 2021 E 5TH STREET AUSTIN TX 78702
Legal Description: Lots 1 & 2, Waterloo Park Section 1

PERMIT IS HEREBY ISSUED FOR:

The construction of 9.97 acre park on a 10.58 acre lot, including 1.06 acres impervious cover, drainage, utility, grading, water quality, landscape, buildings and other improvements as shown on the approved site plan.

The project is located within the Waller Creek watershed and is subject to all watershed protection regulations as set forth in Chapter 25 of the City of Austin Code of Ordinances. This project is located within the City's Full-Purpose jurisdiction.

CONDITIONS OF PERMIT

It is agreed that the proposed development shall be performed and completed in accordance with the plans and specifications approved by the City of Austin Standard Specifications and Code requirements, and State of Texas construction safety statutes. All development approved by this permit is subject to the inspection and control of the City of Austin.

It is the responsibility of the permit holder to identify all utilities in the work area and to notify each utility of the scope of work in the immediate area of the utilities.

ENGINEER'S CERTIFICATION: Inspection and a "Certification of Completion" by a Texas Licensed Engineer is required for the development approved by this permit. No Certificate of Occupancy may be approved until the Engineer's Certification is filed. The engineer is responsible for the adequacy of the plans submitted with this application.

Signature of Applicant For COA Owner Date 12/11/18

Permit Approved by City of Austin Date 12/11/18

EXHIBIT I: OPERATIONS & MANAGEMENT AGREEMENT FOR WATERLOO PARK

OPERATING AND MANAGEMENT AGREEMENT

FOR WATERLOO PARK

BY AND AMONG

CITY OF AUSTIN, TEXAS

AND

WALLER CREEK CONSERVANCY

_____, 2018

OPERATING AND MANAGEMENT AGREEMENT FOR WATERLOO PARK

This OPERATING AND MANAGEMENT AGREEMENT (this "**Agreement**") is made and entered into as of the Effective Date (as defined below) by and between the **CITY OF AUSTIN, TEXAS**, a Texas home rule city and municipal corporation (the "**City**") and the **WALLER CREEK CONSERVANCY**, a Texas non-profit corporation (the "**WCC**"), collectively, the "Parties."

RECITALS:

WHEREAS, the Parties previously entered into the Waller Creek District Joint Design, Development, Management and Operation Agreement (the "JDA") in which the Parties agreed to their respective roles and responsibilities for the implementation of a schedule of improvements for the area of the City referred to as the Waller Creek District, including Waterloo Park, and the Operating and Management Agreement (the "OMA"), which governs WCC's operations and maintenance requirements for the Waller Creek District, including Waterloo Park; and

WHEREAS, once the construction of improvements in accordance with the Waterloo Construction Phase Plan is completed at Waterloo Park, WCC shall be operating and maintaining certain areas of the Park as required by agreements authorized by City Council, and the City will be operating and maintaining the Waller Creek Tunnel and the area's flood control improvements; and

WHEREAS, each Party's operations and maintenance impacts the other Party's operations and maintenance;

WHEREAS, the Parties desire to enter into this Agreement in order to set forth the Parties' respective rights, obligations and undertakings relating to construction of improvements in accordance with the Waterloo Construction Phase Plan and the time after completion of these improvements to Waterloo Park;

NOW, THEREFORE, for and in consideration of the mutual covenants, agreements and benefits to the Parties, it is agreed as follows:

AGREEMENT

ARTICLE I. DEFINITIONS

Section 1.1 Definitions. The following terms have the meanings set forth below:

"**Applicable Law**" means any law, statute, ordinance, rule, regulation, order or determination of the City or any federal, state, or local agency, department, commission, board, bureau, administrative or regulatory body or other instrumentality having jurisdiction related to the subject matter of this Agreement.

"**Artwork Infrastructure Project**" is the construction project projecting over the Inlet Pond completed by WCC within Waterloo Park.

"**City of Austin**" is the owner of the land comprising Waterloo Park and all associated improvements. The City of Austin is also the owner of the Waller Creek Flood Control Tunnel and related infrastructure. Additionally, the City of Austin has easements relating to right of way and utility infrastructure in areas immediately outside the park, and inside the park.

"**Effective Date**" means the last date on which this Agreement has been duly executed by both Parties.

"**Governmental Function**" means any regulatory, legislative, permitting, zoning, enforcement (including police power), licensing or other functions which the City is authorized or required to perform.

"**Moody Amphitheater**" means the 5,000 person capacity performance venue being constructed in Waterloo Park.

"**PARD**" means the City's Parks and Recreation Department.

"**Waller Creek Conservancy**" is the entity responsible for the operations of Waterloo Park and the Moody Amphitheater.

"**Waller Creek Flood Control Tunnel**" means the storm water infrastructure, and related infrastructure, that diverts flood waters along Waller Creek from 12th Street to Lady Bird Lake. This tunnel includes a significant facility in Waterloo Park that requires regular, ongoing operations, maintenance, and access.

"**Waterloo Park**" or "**Park**" is the 10.5-acre park bordered by 15th Street, 12th Street, Trinity Street, and Red River Street.

"**WPD**" means the City's Watershed Protection Department, which operates and maintains the Waller Creed Flood Control Tunnel and related flood control infrastructure.

Section 1.2 Points of Contact

For coordination of construction within and use of Waterloo Park, the following contacts shall be used in complying with the requirements of this Agreement:

WCC
John Rigdon (512-541-3520 x 112;
jrigdon@wallercreek.org
Kim Barker (512-541-3520 x 102)
kbarker@wallercreek.org

City – WPD
Kristin Kasper Pipkin (512) 974-3315
KristinK.Pipkin@austintexas.gov
Ramesh Swaminathan (512) 974-3541
Ramesh.Swaminathan@austintexas.gov

City – PARD
Kimberly McNeely (512) 974-6722
Kimberly.McNeely@austintexas.gov

A party may amend their designated contact(s) listed above by written notice to the other party.

ARTICLE II. WATERLOO PARK OPERATIONS & MAINTENANCE COORDINATION DURING CONSTRUCTION

WCC will construct improvements within Waterloo Park, in accordance with the requirements of the JDA and as approved by the Waller Creek Local Government Corporation as part of the Waterloo Construction Phase Plan, through its contractor. This construction is contemplated to commence and run from approximately December 2018 through to completion in summer 2020. WPD operates and maintains the Inlet Pond, Inlet Building, Waller Creek, and related flood control infrastructure, as well as the parking for these facilities. The operations and maintenance of these public facilities must continue through the construction period.

Section 2.1 Responsibilities of WCC

WCC's contractor will maintain and repair the construction fencing, gates, and interior access roads, which will shift in location over the duration of the construction project. WCC commits its contractor to conducting its construction activities in such a way that does not prevent or prohibit WPD from its regular maintenance and operational activities and emergency responses per the following:

1. WCC's contractor will ensure WPD and its agents are able to freely access the Inlet Pond and northern section of Waller Creek through the gate on Trinity Street weekdays from 7:00 a.m. through 4:00 p.m., and will provide a protocol for access outside of these hours.

2. WCC's contractor will ensure WPD and its agents have access to Waller Creek south of the dam. The exact means of access will need to be coordinated at the time of the request to avoid any potential safety hazards with adjacent construction.

3. WCC's contractor will ensure WPD and its agents have access to Waller Creek north of the 14th Street bridge. The exact means of access will need to be coordinated at the time of the request to avoid any potential safety hazards with adjacent construction.

4. WCC's contractor will keep a clean work site and immediately remove any materials or debris caused by construction activities from the Inlet Pond and Waller Creek.

5. WCC's contractor shall be responsible and able to perform all construction activities with a full Inlet Pond; provided, however, that nothing herein shall impact WCC's ability to build the Arc bridge, Sector 9 or the Inlet Bypass. If an empty Inlet Pond is required to perform a construction activity, WCC shall provide a detailed, written request to WPD that includes construction times, means, and methods. WPD will act in good faith to ensure that the work does not interfere with planned activities and/or flood readiness.

6. WCC's contractor will undertake any necessary bypass pumping and related temporary systems required to properly dewater the construction sites at its own cost and with its own equipment at all times during the course of the construction. Such systems shall be able to handle 28 cubic feet per second (cfs) of tunnel recirculation flows in addition to Waller Creek flows. Flow rates may occasionally exceed 28 cfs.

7. WCC's contractor will develop and maintain a master schedule with an additional 3-week look-ahead schedule. The schedules will include WPD routine maintenance activities and anticipated events when such information is provided by WPD to WCC's contractor.

8. Neither WCC nor its contractor will damage the Inlet Building, Inlet Pond, or other WPD Infrastructure. If WCC or its contractor causes damage, WPD may seek reimbursement from WCC for any necessary repairs for damage and WCC shall promptly reimburse WPD.

9. WCC's contractor will maintain a minimum vertical clearance of 13 feet and two inches (13'-2") at the Inlet Pond access ramp and under the Artwork Infrastructure Project in order to accommodate WPD's equipment height clearance.

10. Except for (i) the handrail on the dam and (ii) the handrail at the east wall of the Inlet Pond requested by WPD and approved as part of the Site Development Permit, WCC's contractor shall not install or attach temporary construction falsework, equipment, or other elements on or in Waller Creek Tunnel Infrastructure without prior, written approval from WPD, which shall not be unreasonably withheld or delayed.

Section 2.2 Responsibilities of WPD

WPD commits to conducting its maintenance and operational activities in such a way that does not prevent or prohibit WCC's contractor from its construction activities per the following:

1. WPD will keep a clean site and remove, without delay, any materials or debris caused by operations, maintenance, and construction activities from Waterloo Park within WCC's contractor's Limit of Work.

2. WPD will not utilize Waterloo Park for a lay down area to dry or stage debris removed from the Inlet Pond.

3. WPD will access the Inlet Building through the Inlet Building parking lot except where access is needed via the Inlet Pond.

4. WPD will not damage the construction fencing, gates, and interior access roads. If WPD causes damage, WCC may seek reimbursement from WPD for any necessary repairs for damage and WPD shall promptly reimburse WCC from lawfully available funds appropriated by the City Council during the fiscal year.

ARTICLE III. OVERVIEW OF THE PARK POST-CONSTRUCTION

Waterloo Park is a 10.5-acre park with a variety of landscape types and structures. WCC developed a detailed manual describing the tasks, hours, and costs of maintenance of the park after completion, as attached to this Agreement. This Agreement will be used by the WCC to create a staffing plan for Waterloo Park.

Waterloo Park is a complex site with overlapping operational responsibilities. The site includes the Flood Control Tunnel, Moody Amphitheater, Waller Creek, food trucks, and other flood control and park improvements. Coordination of operations will be essential to success because the site is geographically constrained and has limited street access.

ARTICLE IV. WATERLOO PARK OPERATIONS & MAINTENANCE RESPONSIBILITIES

Section 4.1 Responsibilities of WCC.

WCC has the primary responsibility for operations and maintenance of the WCC Area of Waterloo Park. WCC manages the Special Event Area and Park Operations Area, as depicted in Attachment A ("WCC Area"). The WCC is also primarily responsible for the operations and maintenance of the Moody Amphitheater.

Section 4.2 Responsibilities of WPD

WPD has primary responsibility for the operations and maintenance of the WPD Area, as depicted in Attachment A (the "WPD Area"), which includes the Waller Creek Flood Control Tunnel, Inlet Facility, Inlet Pond, and Creek Channel. WPD also manages the Standard Tunnel Operations area and the Tunnel De-Watering/Pond O&M Area.

Section 4.3 Coordination of Use of the WCC Area

WPD will seek to minimize its use of the WCC Area, as much as practicable. When WPD needs to utilize the WCC Area it will submit a written notice (email is acceptable) to WCC that provides:

1. A description of the area it needs to use, with that area shown on a map;
2. The specific days and times this use is needed;
3. A description of the reason for the use and the impact the use will have, including sound, equipment, odors, and potential disturbance to the primary operations of the WCC Area.

WPD shall submit this notice to WCC at least 48 hours prior to needing use of the WCC Area. If the days and times that WPD seeks to use the WCC Area interferes with WCC's pre-planned use of the WCC Area, WCC and WPD will negotiate, in good faith, alternate days and times that WPD may use the WCC Area.

In the event of an emergent situation, involving a threat to the public safety, health or welfare, WPD has the right to use the WCC Area as needed to abate that threat. WPD will give oral notice to WCC of the emergent situation, as soon as possible. WPD will follow up with written notice and explanation within a reasonable amount of time after emergency use. The Parties recognize that time is of the essence in providing this information to WCC to enable WCC to address any related issues that may have arisen from the emergency situation.

Section 4.4 Coordination of Use of the WPD Area

If WCC needs access to the WPD Area for maintenance, repairs, or improvements of WCC equipment or improvements constructed pursuant to the Waterloo Construction Phase Plan, it shall coordinate with WPD at least 48 hours prior to needing such access. If the days and times that WCC seeks to use the WPD Area interfere with WPD's pre-planned or storm event-caused use of the WPD Area, WCC and WPD will negotiate, in good faith, alternate days and times that WCC may use the WPD Area. WCC staff will be escorted and supervised by WPD during such access, which shall occur between the hours of 6:00 a.m. and 5:00 p.m. on weekdays.

Section 4.5 Coordination for Use of Shared Waterloo Park Areas

As depicted in Attachment A, there are roads in Waterloo Park ("Shared-Use Areas") that both WCC and WPD need to use for the operations and management of their respective areas. WCC and WPD will coordinate the use of these Shared-Use Areas, except in emergent situations when WCC or WPD must use the Shared-Use Areas to prevent or mitigate a threat to public safety, health or welfare.

The Points of Contact in Section 1.2 shall schedule monthly meetings, including additional attendees as needed, to provide a general overview of upcoming operations and management activities. These meetings are designed to share information, for awareness and coordination. The Parties will create and maintain a Shared-Use Area calendar. This will be a digital calendar that both Parties have access to and will update with upcoming events that utilize the Shared-Use Area. Tasks that require use of or access to the other Party's primary area will also be posted to the calendar.

In addition to the monthly coordination meetings, the Parties will meet in January and July to preview the coming six months. All anticipated activities at that time will be outlined on the calendar. It is understood that this will not be inclusive of all activities, but good-faith efforts will be made to include all known events.

The Parties will work together on a warning system for public safety for Waterloo Park, including features such as the Waller Creek Dam, trails, and shared access points.

Section 4.6 Special, Recurring Operations and Maintenance Tasks

Certain operational situations are anticipated that will require special coordination. These include, but are not limited to:

1. Special Events, Concerts, and large-scale maintenance activities in the Moody Amphitheater and the park areas.
2. Regular cleaning of the Waterloo Inlet Pond and related Flood Control Improvements.
3. Storm Events that impact the Waller Creek Flood Control Tunnel operations.
4. Construction of improvements to increase efficiency of the Flood Control Tunnel and related Flood Control Improvements.

For these special recurring events, the Parties will provide documentation of what activities and area uses will occur in the biennial meetings. This documentation will include the following information:

1. Details of the area of impact in written and map format;
2. The estimated duration of the special, recurring task, with a description of changes in operations and the impacts caused by these changes; including sound, equipment, odors, and potential disturbance to the primary operations of that area; and
3. Any other important information that the Parties should know, such as staffing and equipment impacts.

These Special task summaries will be kept on record for reference. If significant changes to the task are required for any particular event, the Parties will provide written notice of those modifications in advance of the work being initiated, when practical.

ARTICLE V. TERM OF AGREEMENT

Section 5.1 Initial Term.

The initial term of this Agreement commences on the Effective Date and terminates on January 31, 2042.

Section 5.2 Renewals

This Agreement will automatically renew for eight consecutive terms of 10 years each, unless the City or WCC give 180 days' prior written notice to the other Party of its election to not renew and for the Agreement to expire on the expiration of the term then in effect.

ARTICLE VI. LIABILITY

Section 6.1 Indemnification.

WCC COVENANTS AND AGREES TO FULLY INDEMNIFY, DEFEND AND HOLD HARMLESS THE CITY, ITS ELECTED OFFICIALS, AGENTS, EMPLOYEES, OFFICERS, DIRECTORS, AND REPRESENTATIVES, INDIVIDUALLY AND COLLECTIVELY, FROM AND AGAINST ANY AND ALL COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, PROCEEDINGS, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND SUITS OF ANY KIND AND NATURE, INCLUDING, BUT NOT LIMITED TO, INFRINGEMENT OR ALLEGED INFRINGEMENT OF ANY UNITED STATES PATENT OR COPYRIGHT THAT ARISE OUT OF ANY OF THE WORK PERFORMED BY, OR ON BEHALF OF, WCC, PERSONAL INJURY OR DEATH AND PROPERTY DAMAGE, DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO WCC'S BREACH OF THIS AGREEMENT, INCLUDING ANY ACTS OR OMISSIONS OF WCC, ANY AGENT, OFFICER, DIRECTOR, REPRESENTATIVE, EMPLOYEE OR PERSONNEL, CONSULTANT, CONTRACTOR OR SUBCONTRACTOR, AND THEIR RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, PERSONNEL, DIRECTORS AND REPRESENTATIVES IN BREACH OF THE

PERFORMANCE OF DUTIES OF THE CONSERVANCY UNDER THIS AGREEMENT. WCC SHALL PROMPTLY ADVISE THE CITY IN WRITING OF ANY CLAIM OR DEMAND AGAINST THE CITY KNOWN TO WCC RELATED TO OR ARISING OUT OF WCC'S ACTIVITIES RELATED TO THIS AGREEMENT AND SHALL INVESTIGATE AND DEFEND SUCH CLAIM OR DEMAND AT WCC'S EXPENSE TO THE EXTENT THE SAME IS COVERED BY WCC'S INDEMNITY UNDER THIS SECTION. EACH PARTY WILL HAVE THE RIGHT, AT ITS OPTION AND AT ITS OWN EXPENSE, TO PARTICIPATE IN SUCH DEFENSE WITHOUT RELIEVING WCC OF ANY OF ITS OBLIGATIONS UNDER THIS SECTION.

ARTICLE VII. DEFAULTS AND REMEDIES

Section 7.1 Defaults and Remedies.

If either Party believes that the other Party has defaulted under the terms of this Agreement, the non-defaulting Party must send written notice detailing the nature of the default of the alleged defaulting Party. The alleged defaulting Party shall have a reasonable period, not to exceed 30 days for any monetary default, or 90 days for any non-monetary default, after receipt of such notice to cure such alleged default to the reasonable satisfaction of the non-defaulting Party. However, if the nature of the non-monetary default is such that it cannot be reasonably cured within the 90-day period, the Party will not be in default unless it fails to commence the cure of the default within the 90-day period and fails to continue in a commercially diligent manner to complete the cure. Upon the failure of the alleged defaulting Party to cure the alleged default as set out above, the non-defaulting Party will have the right to pursue all remedies available at law or equity as a result of the alleged default, including the right to terminate this Agreement upon 30 days additional written notice to the alleged defaulting Party, unless such default is finally cured within the additional 30 day period.

For non-monetary defaults that may result in an inability of a Party to complete work or access the areas for which that Party is responsible, the Parties agree to work in good faith to contact each other and to address any such defaults in a time period not to exceed three business days.

ARTICLE VIII. NOTICES

Section 8.1 Delivery of Notice.

The Parties contemplate that they will engage in informal communications with respect to the subject matter of this Agreement. However, any formal notices or other communications required or permitted to be given by one Party to another by this Agreement shall be given in writing addressed to the Party to be notified at the address described below for the Party, (a) by delivering the same in person, (b) by depositing the same in the United States mail, certified, return receipt requested, postage prepaid, addressed to the Party to be notified, (c) by depositing the same with a nationally recognized courier service guaranteeing “next day delivery,” addressed to the Party to be notified, (d) by electronic mail with confirming copy sent by one of the methods described in subsections (a), (b) or (c) of this sentence or (e) by sending the same by telefax with confirming copy sent by one of the methods described in subsections (a), (b) or (c) of this sentence.

A notice delivered in accordance with the immediately preceding sentence will be deemed to have been given upon the date of delivery (or refusal to accept delivery) as indicated on the return receipt; provided, however, if such notice is not delivered or refused on a Business Day, then notice shall be deemed to have been given on the first Business Day following the actual date of delivery or refusal. For the purposes of notice, the addresses of the Parties, until changed as provided below, shall be as follows:

City:

Ramesh Swaminathan
Managing Engineer
City of Austin
411 Chicon
Austin, Texas 78702
512-974-3541
Ramesh.Swaminathan@austintexas.gov

With copies to:

Spencer Cronk
City Manager
City of Austin
301 W. 2nd Street, 3rd Floor
Austin, Texas 78701
512-974-2200
Spencer.Cronk@austintexas.gov

Anne Morgan
City Attorney
City of Austin
301 W. 2nd Street, 3rd Floor
Austin, Texas 78701
512-974-2507
Anne.Morgan@ austintexas.gov

Elaine Hart
Chief Financial Officer and Deputy City Manager
City of Austin
301 W. 2nd Street, 3rd Floor
Austin, Texas 78704
512-974-2283
elaine.hart@ austintexas.gov

Sara Hensley, CPRP
Interim Assistant City Manager
City of Austin
301 W. 2nd Street, 3rd Floor
Austin, Texas 78701
512-974-7717
sara.hensley@austintexas.gov

Sara Hartley
Interim Director
Watershed Protection Department
City of Austin
505 Barton Springs Road
Austin, Texas 78704
512-974-1444
Sara.Hartley@austintexas.gov

Conservancy: Peter Mullan
CEO
Waller Creek Conservancy
P.O. Box 12363
Austin, Texas 78711
512-541-3520

With copies to:

Chair
Waller Creek Conservancy
P. O. Box 12363
Austin, Texas 78711
512-541-3520

The Parties may, from time to time, change their respective addresses, and each has the right to specify as its address any other address within the United States of America by giving at least five days written notice to the other Parties.

ARTICLE IX. GENERAL PROVISIONS

Section 9.1 Independent Contractor. It is understood and agreed that the relationships among the City and WCC will be that of an independent contractor. Nothing contained in this

Agreement will be deemed or construed to (i) make the City the agent, servant or employee of WCC, (ii) make WCC the agent, servant or employee of the City, (iii) create any partnership, joint venture, or other association between the City and WCC.

Section 9.2 Waiver. The failure of any party to insist, in any one or more instances, on the performance of any of the terms, covenants or conditions of this Agreement, or to exercise any of its rights under this Agreement, will not be construed as a waiver or relinquishment by such party of such term, covenant, condition or right with respect to further performance.

Section 9.3 Reservation of Rights. To the extent no inconsistent with this Agreement, each Party reserves all rights, privileges, and immunities under Applicable Laws. The rights and remedies of the Parties under this Agreement shall not be mutually exclusive. The exercise of one or more of the provisions of this Agreement shall not preclude the exercise of any other provisions of this Agreement.

Section 9.4 Easements. This Agreement has no impact or effect on the rights and obligations of the Parties in any existing or future easements.

Section 9.5 Governing Law; Venue. This Agreement will be governed, construed and enforced in accordance with the laws of the State of Texas. Venue shall be in state courts in Travis County, Texas.

Section 9.6 Dates. If a Day requiring notice or action falls on a weekend or national or local holiday, the next non-weekend day or non-holiday shall be applicable.

Section 9.7 Severability. If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws, the legality, validity and enforceability of the remaining provisions of this Agreement will not be affected thereby, and this Agreement will be liberally construed so as to carry out the intent of the Parties to it.

Section 9.8 Parties in Interest. The terms of this Agreement will be binding upon, and inure to the benefit of, the Parties and their permitted successors and assigns. Nothing in this Agreement, whether express or implied, will be construed to give any person or entity (other than the Parties and their permitted successors and assigns) any legal or equitable right, remedy or claim under or in respect of any terms or provisions contained in this Agreement or any standing or authority to enforce the terms and provisions of this Agreement.

Section 9.9 Assignments. Neither Party may assign its rights or obligations under this Agreement without the prior consent of the other Parties.

Section 9.10 Amendments. This Agreement will not be modified or amended in any manner except by a writing signed by all the Parties.

Section 9.11 Entire Agreement. This Agreement represents the entire and integrated agreement between the Parties with respect to the subject matter of this Agreement. All prior negotiations, representations or agreements not expressly incorporated into this Agreement are superseded and canceled. The Parties contemplate amending this Agreement in writing to address specific operations and maintenance of each completed portion of the Project. In the event of a

conflict between this Agreement, the JDA, and the OMA, the JDA controls over the OMA and this Agreement and the OMA controls over this Agreement.

Section 9.12 Incorporation of Attachments. All attachments, exhibits, schedules, plans, and other documents attached to or referred to in this Agreement are incorporated into this Agreement by reference for the purposes described in this Agreement.

Section 9.13 Counterparts. This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument and any of the Parties hereto may execute this Agreement by signing any such counterpart.

Section 9.14 Captions. Captions and section headings appearing herein are included solely for convenience of reference and are not intended to affect the interpretation of any provision of this Agreement.

Section 9.15 Interpretation. The Parties acknowledge and represent that this Agreement has been jointly drafted by the Parties, that no provision of this Agreement will be interpreted or construed against any party solely because the party or its legal counsel drafted such provision and that each of them has read, understood, and approved the language and terms set forth herein.

Section 9.16 Capacity of the City. Without in any way limiting or extending the obligations, duties, covenants and agreements of the City as a Party to this Agreement, the Parties agree that any action, omission or circumstance arising out of the exercise or performance of the City's required Governmental Functions shall not cause or constitute a default by the City under this Agreement or any other document delivered in connection with this Agreement or give rise to any rights or claims for damages or injury against the City in its capacity as a Party to this Agreement. WCC's remedies for any injury, damage or claim resulting from any other action, omission or circumstance shall be governed by the laws and regulations concerning claims against the City as a home rule charter city. These provisions shall survive any termination of this Agreement.

Section 9.17 Capacity of Parties Acting on Behalf of the City. All references in this Agreement to employees, agents, representatives, contractors and the like of the City shall refer only to persons or entities acting on behalf of the City in its capacity as a Party to this Agreement, and all such references specifically exclude any employees, agents, representatives, contractors, elected officials and the like acting in connection with the performance of the City's required Governmental Functions.

Section 9.18 No Limitation on the City's Governmental Functions. The Parties acknowledge that no representation, warranty, consent, approval or agreement in this Agreement by the City (as a Party to this Agreement) shall be binding upon, constitute a waiver by or estop the City from exercising any of its rights, powers or duties in its required Governmental Functions. For example, approval by the City of this Agreement shall not constitute satisfaction of any requirements of, or the need to obtain any approval by, the City in the exercise of its Governmental Functions or as may be required under any Applicable Laws.

Section 9.19 Annual Review of Agreement. Due to the long term nature of this Agreement, the Parties recognize the need to review this Agreement annually to determine if

provisions are adequate for the circumstances existing at such time. The Parties agree that such review may indicate the need to amend this Agreement and they agree to work in good faith to agree upon amendments and modifications to the Agreement in light of the results of this review.

[*Remainder of this page intentionally left blank; signature pages follow.*]

IN WITNESS WHEREOF, the City and the Conservancy have executed this Agreement as of dates below, to be effective as of the Effective Date.

WCC:

WALLER CREEK CONSERVANCY

By_____

Name:_____

Title:_____

Date:_____

CITY:

CITY OF AUSTIN, TEXAS

By_____

Name:_____

Title:_____

Date:_____

ATTEST:

_____

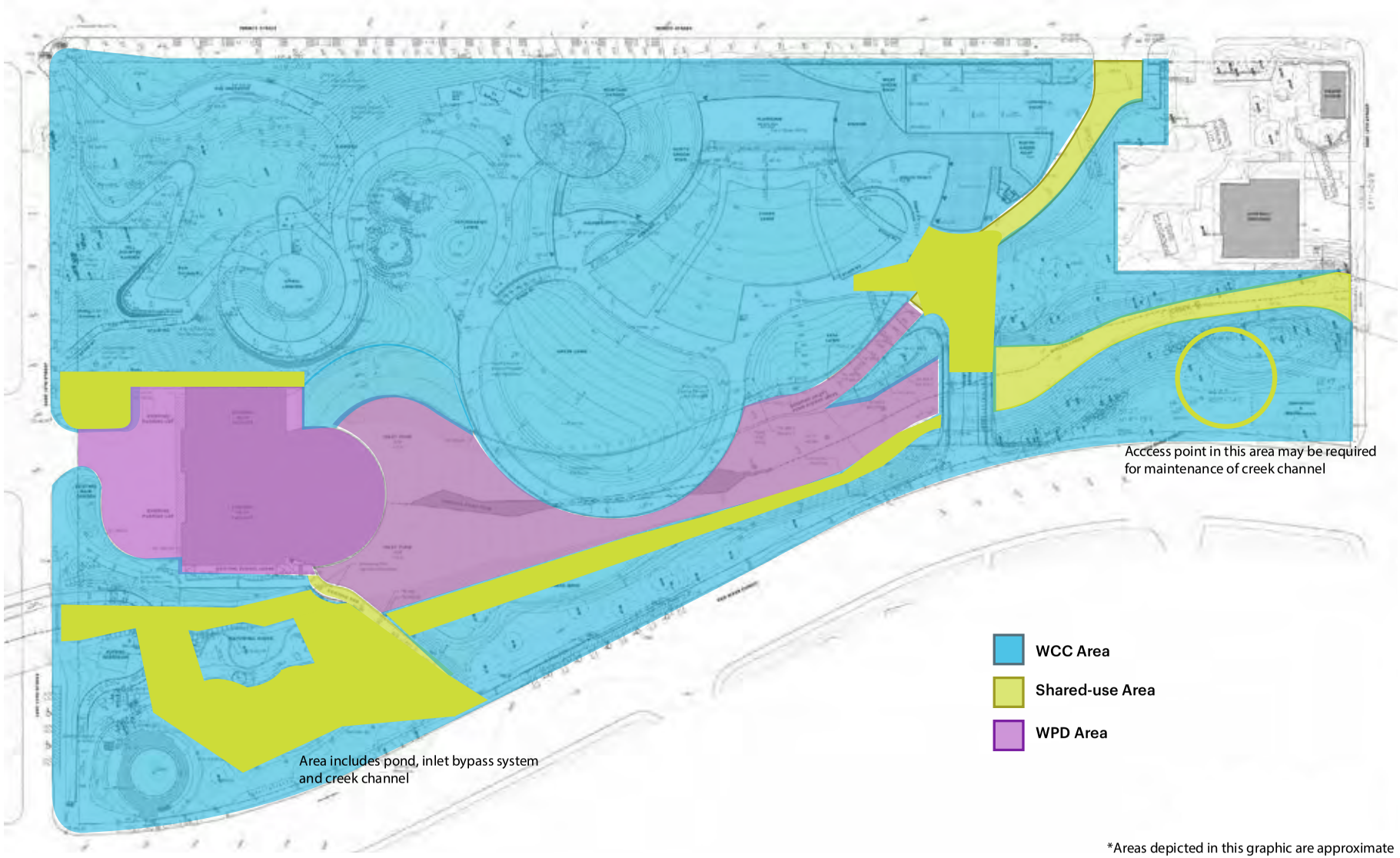
City Clerk

EXHIBIT "A"

WATERLOO PARK MAP

WATERLOO PARKLAND

O&M Use Areas



*Areas depicted in this graphic are approximate

EXHIBIT I

EXHIBIT J: INSURANCE CERTIFICATES

MICHVAN-01 DGHIGLIAZZA

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 10/31/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Ames & Gough
859 Willard Street
Suite 320
Quincy, MA 02169

CONTACT NAME:
PHONE (A/C, No, Ext): (617) 328-6555 FAX (A/C, No): (617) 328-6888
E-MAIL ADDRESS: boston@amesgough.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Travelers Property Casualty Company of America	25674
INSURER B : Charter Oak Fire Insurance Company A++ (XV)	25615
INSURER C : Travelers Indemnity Co. of America A++, XV	25666
INSURER D : Lexington Insurance Company A, XV	19437
INSURER E :	
INSURER F :	

INSURED
Michael Van Valkenburgh Associates, Inc.
231 Concord Street
Cambridge, MA 02138

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE	$ 1,000,000
	CLAIMS-MADE X OCCUR	X		6809H708658	05/01/2018	05/01/2019	DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 1,000,000
							MED EXP (Any one person)	$ 10,000
							PERSONAL & ADV INJURY	$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$ 2,000,000
	POLICY X PRO-JECT X LOC						PRODUCTS - COMP/OP AGG	$ 2,000,000
	OTHER:							$
B	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
	X ANY AUTO	X		BA4372L203	05/01/2018	05/01/2019	BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
C	X UMBRELLA LIAB X OCCUR						EACH OCCURRENCE	$ 10,000,000
	EXCESS LIAB CLAIMS-MADE	X		CUP5D158369	05/01/2018	05/01/2019	AGGREGATE	$ 10,000,000
	DED X RETENTION $ 10,000							$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						X PER STATUTE / OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y / N: N	N / A		UB4K673919	05/01/2018	05/01/2019	E.L. EACH ACCIDENT	$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	$ 1,000,000
D	Professional Liab.			031711009	05/01/2018	05/01/2019	Per Claim	5,000,000
D				031711009	05/01/2018	05/01/2019	Aggregate	5,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
All Coverages are in accordance with the policy terms and conditions.

RE: MVVA project #12003 – Waller Creek

Waller Creek Conservancy and the City of Austin shall be listed as additional insured with respects to general, auto, and umbrella liability where required by written contract.

CERTIFICATE HOLDER

Waller Creek Conservancy
211 E 7th St., Suite 712
Austin, TX 78701

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

ACORD 25 (2016/03)

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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 02/06/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Willis Insurance Services of California, Inc.
c/o 26 Century Blvd
P.O. Box 305191
Nashville, TN 372305191 USA

CONTACT NAME:
PHONE (A/C, No, Ext): 1-877-945-7378 FAX (A/C, No): 1-888-467-2378
E-MAIL ADDRESS: certificates@willis.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Liberty Insurance Corporation	42404
INSURER B : Great American E & S Insurance Company	37532
INSURER C : Indian Harbor Insurance Company	36940
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
DPR Construction, A General Partnership
9606 N. Mopac Expressway
Austin, TX 78759

COVERAGES **CERTIFICATE NUMBER:** W10063770 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE	$
	CLAIMS-MADE / OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$
							MED EXP (Any one person)	$
							PERSONAL & ADV INJURY	$
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$
	POLICY / PRO-JECT / LOC						PRODUCTS - COMP/OP AGG	$
	OTHER:							$
A	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$ 2,000,000
	X ANY AUTO						BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY / SCHEDULED AUTOS	Y	Y	AS7-661-066943-018	09/01/2018	09/01/2019	BODILY INJURY (Per accident)	$
	HIRED AUTOS ONLY / NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
	UMBRELLA LIAB / OCCUR						EACH OCCURRENCE	$
	EXCESS LIAB / CLAIMS-MADE						AGGREGATE	$
	DED / RETENTION $							$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N						PER STATUTE / OTH-ER	
	ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	N / A					E.L. EACH ACCIDENT	$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$
B	Contractor's Pollution Liability (w/ Mold)			CSE 1827545 05	09/01/2018	09/01/2019	Each Pollution Condition./Aggregate	$5,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
This Voids and Replaces Previously Issued Certificate Dated 12/14/2018 WITH ID: W9429946.
SEE ATTACHED

CERTIFICATE HOLDER

Waller Creek Conservancy
P.O. Box 12363
Austin, TX 78711

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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ADDITIONAL REMARKS SCHEDULE

AGENCY Willis Insurance Services of California, Inc.	NAMED INSURED DPR Construction, A General Partnership 9606 N. Mopac Expressway Austin, TX 78759
POLICY NUMBER See Page 1	
CARRIER See Page 1 / NAIC CODE See Page 1	EFFECTIVE DATE: See Page 1

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: 25 FORM TITLE: Certificate of Liability Insurance

Project: Waterloo Park, Amphitheater, and Sector 9

It is agreed that Waller Creek Conservancy, City of Austin Capital Contracting Office, and Waller Creek Local Government Corporation are named as Additional Insureds as respects to Auto Liability where required by written contract.

It is understood and agreed that this insurance is Primary and any other insurance maintained by the Additional Insureds shall be excess only and not contributing with this insurance where required by written contract.

A Waiver of Subrogation in favor of the Additional Insureds applies to the Auto Liability policy where required by written contract.

INSURER AFFORDING COVERAGE: Indian Harbor Insurance Company NAIC#: 36940
POLICY NUMBER: CEO 742082802 EFF DATE: 09/01/2017 EXP DATE: 09/01/2019

TYPE OF INSURANCE:	LIMIT DESCRIPTION:	LIMIT AMOUNT:
Professional Liability	Each Claim/Aggregate:	$5,000,000

ADDITIONAL REMARKS:
Annual Reinstatements of Limits apply to Professional Liability.

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SR ID: 17501799 BATCH: 1059343 CERT: W10063770

POLICY NUMBER: AS7-661-066943-018

COMMERCIAL AUTO
CA 20 48 10 13

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DESIGNATED INSURED FOR COVERED AUTOS LIABILITY COVERAGE

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

This endorsement identifies person(s) or organization(s) who are "insureds" for Covered Autos Liability Coverage under the Who Is An Insured provision of the Coverage Form. This endorsement does not alter coverage provided in the Coverage Form.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured: DPR Construction, A General Partnership

Endorsement Effective Date: 09/01/2018

SCHEDULE

Name Of Person(s) Or Organization(s): ANY PERSON OR ORGANIZATION WHOM YOU HAVE AGREED IN WRITING TO ADD AS AN ADDITIONAL INSURED, BUT ONLY TO COVERAGE AND MINIMUM LIMITS OF INSURANCE REQUIRED BY WRITTEN AGREEMENT, AND IN NO EVENT TO EXCEED EITHER THE SCOPE OF COVERAGE OR THE LIMITS OF INSURANCE PROVIDED IN THIS POLICY
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

Each person or organization shown in the Schedule is an "insured" for Covered Autos Liability Coverage, but only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured provision contained in Paragraph **A.1.** of Section **II** – Covered Autos Liability Coverage in the Business Auto and Motor Carrier Coverage Forms and Paragraph **D.2.** of Section **I** – Covered Autos Coverages of the Auto Dealers Coverage Form.

© Insurance Services Office, Inc., 2011

Policy Number: AS7-661-066943-018
Issued by: Liberty Insurance Corporation

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DESIGNATED INSURED - NONCONTRIBUTING

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
GARAGE COVERAGE FORM
MOTOR CARRIERS COVERGE FORM
TRUCKERS COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

This endorsement identifies person(s) or organization(s) who are "insureds" under the Who Is An Insured Provision of the Coverage Form. This endorsement does not alter coverage provided in the Coverage form.

Schedule

Name of Person(s) or Organizations(s):
ANY PERSON OR ORGANIZATION FOR WHOM YOU PERFORM WORK UNDER A WRITTEN CONTRACT IF THE CONTRACT REQUIRES YOU TO OBTAIN THIS AGREEMENT FROM US, BUT ONLY IF THE CONTRACT IS EXECUTED PRIOR TO THE INJURY OR DAMAGE OCCURING

Regarding Designated Contract or Project:
AS REQUIRED BY A WRITTEN CONTRACT OR AGREEMENT ENTERED INTO PRIOR TO A LOSS

Each person or organization shown in the Schedule of this endorsement is an "insured" for Liability Coverage, but only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured Provision contained in Section II of the Coverage Form.

The following is added to the **Other Insurance Condition:**

> If you have agreed that this policy will be primary and without right of contribution from any insurance in force for an Additional Insured for liability arising out of your operations and the agreement was executed prior to the "bodily injury" or "property damage", then this insurance will be primary and we will not seek contribution from such insurance.

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POLICY NUMBER: AS7-661-066943-018

COMMERCIAL AUTO
CA 04 44 10 13

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US (WAIVER OF SUBROGATION)

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

SCHEDULE

Name(s) Of Person(s) Or Organization(s):
ANY PERSON OR ORGANIZATION FOR WHOM YOU PERFORM WORK UNDER A WRITTEN CONTRACT IF THE CONTRACT REQUIRES YOU TO OBTAIN THIS AGREEMENT FROM US, BUT ONLY IF THE CONTRACT IS EXECUTED PRIOR TO THE INJURY OR DAMAGE OCCURING.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The **Transfer Of Rights Of Recovery Against Others To Us** condition does not apply to the person(s) or organization(s) shown in the Schedule, but only to the extent that subrogation is waived prior to the "accident" or the "loss" under a contract with that person or organization.

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Policy Number: AS7-661-066943-018
Issued by LIBERTY INSURANCE CORPORATION

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NOTICE OF CANCELLATION TO THIRD PARTIES

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE PART
MOTOR CARRIER COVERAGE PART
GARAGE COVERAGE PART
TRUCKERS COVERAGE PART
EXCESS AUTOMOBILE LIABILITY INDEMNITY COVERAGE PART
SELF-INSURED TRUCKER EXCESS LIABILITY COVERAGE PART

Schedule		
Name of Other Person(s) / Organization(s):	**Email Address or mailing address:**	**Number Days Notice:**
Waller Creek Conservancy	P.O. Box 12363 Austin, TX 78711	30
	Kim Barker kbarker@wallercreek.org	

A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the persons or organizations shown in the Schedule above. We will send notice to the email or mailing address listed above at least 10 days, or the number of days listed above, if any, before the cancellation becomes effective. In no event does the notice to the third party exceed the notice to the first named insured.

B. This advance notification of a pending cancellation of coverage is intended as a courtesy only. Our failure to provide such advance notification will not extend the policy cancellation date nor negate cancellation of the policy.

All other terms and conditions of this policy remain unchanged.

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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 02/06/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Willis Insurance Services of California, Inc.
c/o 26 Century Blvd
P.O. Box 305191
Nashville, TN 372305191 USA

CONTACT NAME:
PHONE (A/C, No, Ext): 1-877-945-7378 FAX (A/C, No): 1-888-467-2378
E-MAIL ADDRESS: certificates@willis.com

INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A :	National Union Fire Insurance Company of P	19445
INSURER B :	Allied World Assurance Company US Inc	19489
INSURER C :	Illinois National Insurance Company	23817
INSURER D :	Starr Indemnity & Liability Company	38318
INSURER E :		
INSURER F :		

INSURED
DPR Construction, A General Partnership
9606 N. Mopac Expressway
Austin, TX 78759 USA

COVERAGES **CERTIFICATE NUMBER:** W10063769 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	[X] COMMERCIAL GENERAL LIABILITY [ ] CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: [ ] POLICY [X] PRO-JECT [ ] LOC [ ] OTHER:	Y	Y	GL6412150	03/01/2017	03/01/2022	EACH OCCURRENCE	$ 2,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 500,000
							MED EXP (Any one person)	$ 10,000
							PERSONAL & ADV INJURY	$ 2,000,000
							GENERAL AGGREGATE	$ 4,000,000
							PRODUCTS - COMP/OP AGG	$ 4,000,000
								$
	AUTOMOBILE LIABILITY [ ] ANY AUTO [ ] OWNED AUTOS ONLY [ ] SCHEDULED AUTOS [ ] HIRED AUTOS ONLY [ ] NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident)	$
							BODILY INJURY (Per person)	$
							BODILY INJURY (Per accident)	$
							PROPERTY DAMAGE (Per accident)	$
								$
B	[ ] UMBRELLA LIAB [X] OCCUR [X] EXCESS LIAB [ ] CLAIMS-MADE [ ] DED [ ] RETENTION $			0310-2093	06/01/2016	03/01/2022	EACH OCCURRENCE	$ 25,000,000
							AGGREGATE	$ 25,000,000
								$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N [ ] (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N / A	Y	SEE BELOW**	03/01/2018	03/01/2019	[X] PER STATUTE [ ] OTH-ER	
							E.L. EACH ACCIDENT	$ 1,000,000
							E.L. DISEASE - EA EMPLOYEE	$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	$ 1,000,000
D	Excess Liability			1000022918	06/01/2016	03/01/2022	Each Occurrence:	$25,000,000
							Aggregate:	$25,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

This Voids and Replaces Previously Issued Certificate Dated 12/14/2018 WITH ID: W9429945.

Project: Waterloo Park, Amphitheater, and Sector 9

It is agreed that Waller Creek Conservancy, City of Austin Capital Contracting Office, and Waller Creek Local Government Corporation are named as Additional Insureds as respects to General Liability where required by written

CERTIFICATE HOLDER

Waller Creek Conservancy
P.O. Box 12363
Austin, TX 78711

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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AGENCY CUSTOMER ID: _____

LOC #: _____

ADDITIONAL REMARKS SCHEDULE

AGENCY		NAMED INSURED
Willis Insurance Services of California, Inc.		DPR Construction, A General Partnership 9606 N. Mopac Expressway Austin, TX 78759 USA
POLICY NUMBER See Page 1		
CARRIER See Page 1	NAIC CODE See Page 1	EFFECTIVE DATE: See Page 1

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: 25 FORM TITLE: Certificate of Liability Insurance

contract.

It is understood and agreed that this insurance is Primary and any other insurance maintained by the Additional Insureds shall be excess only and not contributing with this insurance where required by written contract.

A Waiver of subrogation in favor of the Additional Insureds applies to the General Liability and Workers' Compensation policies where required by written contract and as permitted by law.

Coverage as evidence above for General Liability, Workers' Compensation and Excess Liability extends to Named Insured and their respective Enrolled Subcontractors of any tier under a CCIP.

**Separate assigned Workers' Compensation Policy numbers apply to each Enrolled Contractor.
Workers' Compensation Program Policy #WC 037-08-4288

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SR ID: 17501799 BATCH: 1059343 CERT: W10063769

POLICY NUMBER: GL 641-2150

COMMERCIAL GENERAL LIABILITY
CG 20 37 07 04

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Location And Description Of Completed Operations
WHERE REQUIRED BY WRITTEN CONTRACT	
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

Section II - Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard."

ISO Properties, Inc., 2000

POLICY NUMBER: GL 641-2150

COMMERCIAL GENERAL LIABILITY
CG 20 10 07 04

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Location(s) Of Covered Operations
ANY PERSON OR ORGANIZATION WHOM YOU BECOME OBLIGATED TO INCLUDE AS AN ADDITIONAL INSURED AS A RESULT OF ANY WRITTEN CONTRACT OR AGREEMENT YOU HAVE ENTERED INTO.	
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. **Section II - Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

© ISO Properties, Inc., 2004

ENDORSEMENT

This endorsement, effective 12:01 A.M. 03/01/2017 forms a part of

policy No. GL 641-21-50 issued to DPR CONSTRUCTION, A GENERAL PARTNERSHIP

by NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY COVERAGE FOR SPECIFIED PERSONS OR ORGANIZATIONS NAMED AS ADDITIONAL INSUREDS - ONGOING AND COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

The following paragraph is added to **SECTION II - WHO IS AN INSURED** and applies only to persons or organizations we have added to your policy as additional insureds by endorsement to comply with insurance requirements of written contracts relative to: a) the performance of your ongoing operations for the additional insureds; or b) "your work" performed for the additional insureds and included in the "products-completed operations hazard":

This insurance is primary over any similar insurance available to any person or organization we have added to this policy as an additional insured. However, this insurance is primary over any other similar insurance only if the additional insured is designated as a named insured in the Declarations of the other similar insurance. We will not require contribution of limits from the other similar insurance if the insurance afforded by this endorsement is primary.

This insurance is excess over any other valid and collectible insurance, whether primary, excess, contingent or on any other basis, if it is not primary as defined in the paragraph above.

All other terms and conditions of the policy are the same.

Authorized Representative or Countersignature (in States Where Applicable)

POLICY NUMBER: GL 641-21-50

COMMERCIAL GENERAL LIABILITY
CG 24 04 05 09

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE

Name Of Person Or Organization: PURSUANT TO APPLICABLE WRITTEN CONTRACT OR AGREEMENT YOU ENTER INTO
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The following is added to Paragraph **8. Transfer Of Rights Of Recovery Against Others To Us** of **Section IV - Conditions:**

We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard". This waiver applies only to the person or organization shown in the Schedule above.

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TEXAS WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

This endorsement, effective 12:01 AM 03/01/2018 forms a part of Policy No. WC 037-08-4288

Issued to DPR CONSTRUCTION, A GENERAL PARTNERSHIP

By ILLINOIS NATIONAL INSURANCE CO.

This endorsement applies only to the insurance provided by the policy because Texas is shown in Item 3.A. of the Information Page.

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule, but this waiver applies only with respect to bodily injury arising out of the operations described in the Schedule where you are required by a written contract to obtain this waiver from us.

This endorsement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

The premium for this endorsement is shown in the Schedule.

Schedule

1. ( ) Specific Waiver

   Name of person or organization

   (X) Blanket Waiver

   Any person or organization for whom the Named Insured has agreed by written contract to furnish this waiver.

2. Operations: DPR CONSTRUCTION, A GENERAL PARTNERSHIP
   WRAP-UP CCIP

3. Premium:

   The premium charge for this endorsement shall be 2 percent of the premium developed on payroll in connection with work performed for the above person(s) or organization(s) arising out of the operations described.

4. Advance Premium:

Countersigned by _____

Authorized Representative

WC 42 03 04 B
(Ed. 6-14)

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ENDORSEMENT #

This endorsement, effective 12:01 A.M. 03/01/2018 forms a part of

Policy No. GL 641-21-50 issued to DPR CONSTRUCTION, A GENERAL PARTNERSHIP

By: NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA

LIMITED ADVICE OF CANCELLATION PROVIDED VIA E-MAIL TO ENTITIES OTHER THAN THE FIRST NAMED INSURED

This policy is amended as follows:

In the event that the **Insurer** cancels this policy for any reason other than non-payment of premium, and

1. the cancellation effective date is prior to this policy's expiration date;

2. the **First Named Insured** is under an existing contractual obligation to notify a certificate holder when this policy is canceled (hereinafter, the "Certificate Holder(s)") and has provided to the **Insurer**, either directly or through its broker of record, the email address of a contact at each such entity; and

3. the **Insurer** received this information after the **First Named Insured** receives notice of cancellation of this policy and prior to this policy's cancellation effective date, via an electronic spreadsheet that is acceptable to the **Insurer**,

the **Insurer** will provide advice of cancellation (the "Advice") via e-mail to each such Certificate Holders within [30] days after the **First Named Insured** provides such information to the **Insurer**; provided, however, that if a specific number of days is not stated above, then the Advice will be provided to such Certificate Holder(s) as soon as reasonably practicable after the **First Named Insured** provides such information to the **Insurer**.

Proof of the **Insurer** emailing the Advice, using the information provided by the **First Named Insured**, will serve as proof that the **Insurer** has fully satisfied its obligations under this endorsement.

This endorsement does not affect, in any way, coverage provided under this policy or the cancellation of this policy or the effective date thereof, nor shall this endorsement invest any rights in any entity not insured under this policy.

The following Definitions apply to this endorsement:

1. **First Named Insured** means the Named Insured shown on the Declarations Page of this policy.
2. **Insurer** means the insurance company shown in the header on the Declarations page of this policy.

All other terms, conditions and exclusions shall remain the same.

_____
AUTHORIZED REPRESENTATIVE

Notification to: Waller Creek Conservancy
P.O. Box 12363
Austin, TX 78711
Kim Barker
kbarker@wallercreek.org

107414 (03/11)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ENDORSEMENT #

This endorsement, effective 12:01 A.M. 03/01/2018 forms a part of

Policy No. WC 037-08-4288 issued to DPR CONSTRUCTION, A GENERAL PARTNERSHIP

By: ILLINOIS NATIONAL INSURANCE CO.

LIMITED ADVICE OF CANCELLATION PROVIDED VIA E-MAIL
TO ENTITIES OTHER THAN THE NAMED INSURED
(WORKERS' COMPENSATION ONLY)

This policy is amended as follows:

In the event that the **Insurer** cancels this policy for any reason other than non-payment of premium, and

1. the cancellation effective date is prior to this policy's expiration date;

2. the **Named Insured** or, if applicable, any other employers named in Item 1 of the Information Page is under an existing contractual obligation to notify a certificate holder when this policy is canceled (hereinafter, the "Certificate Holder(s)") and the **Named Insured** has provided to the **Insurer**, either directly or through its broker of record, the email address of a contact at each such entity; and

3. the **Insurer** received this information after the **Named Insured** receives notice of cancellation of this policy and prior to this policy's cancellation effective date, via an electronic spreadsheet that is acceptable to the **Insurer**,

the **Insurer** will provide advice of cancellation (the "Advice") via e-mail to each such Certificate Holders within [30] days after the **Named Insured** provides such information to the **Insurer**; provided, however, that if a specific number of days is not stated above, then the Advice will be provided to such Certificate Holder(s) as soon as reasonably practicable after the **Named Insured** provides such information to the **Insurer**.

Proof of the **Insurer** emailing the Advice, using the information provided by the **Named Insured**, will serve as proof that the **Insurer** has fully satisfied its obligations under this endorsement.

This endorsement does not affect, in any way, coverage provided under this policy or the cancellation of this policy or the effective date thereof, nor shall this endorsement invest any rights in any entity not insured under this policy.

The following definitions apply to this endorsement:

1. **Named Insured** means the first named employer in Item 1 of the Information Page of this policy.
2. **Insurer** means the insurance company shown in the header on the Information Page of this policy.

All other terms, conditions and exclusions shall remain the same.

_____
AUTHORIZED REPRESENTATIVE

Notification to: Waller Creek Conservancy
P.O. Box 12363
Austin, TX 78711
Kim Barker
kbarker@wallercreek.org

WC990056 (4/11)

PERFORMANCE BOND

Liberty Mutual Insurance Company
The Continental Insurance Company
Fidelity and Deposit Company of Maryland

Bond No.: 018222309 / 30038629 / 9289950

CONTRACTOR:
(Name, legal status and address)
DPR Construction, A General Partnership
9606 North Mopac Expressway, Suite 300
Austin, TX 78759

SURETY:
(Name, legal status and principal place of business)
Liberty Mutual Insurance Company
175 Berkeley Street, Boston, MA 02116
The Continental Insurance Company
151 N Franklin Street, Chicago, IL 60606
Fidelity and Deposit Company of Maryland
1299 Zurich Way, Schaumburg, IL 60196

OWNER:
(Name, legal status and address)
Waller Creek Conservancy
1111 Red River Street
Austin, TX 78701

CONSTRUCTION CONTRACT
Date: 10/9/2018
Amount: $6,325,780.00 (Six Million Three Hundred Twenty Five Thousand Seven Hundred Eighty and 00/100 Dollars)
Description: GMP 2 - Waller Creek Waterloo Park Part One: Parkland, Sector 9
(Name and location)

BOND
Date: 2/7/2019
(Not earlier than Construction Contract Date)
Amount: $6,325,780.00 (Six Million Three Hundred Twenty Five Thousand Seven Hundred Eighty and 00/100 Dollars))
Modifications to this Bond: [X] None [ ] See Section 16

CONTRACTOR AS PRINCIPAL
Company: DPR Construction, A General Partnership
(Corporate Seal)

Signature: Michele Leiva
Name and Title: Michele Leiva, CFO

SURETY
Company: Liberty Mutual Insurance Company, The Continental Insurance Company & Fidelity and Deposit Company of Maryland
(Corporate Seal)

Signature: Catherine Thompson
Name and Title: Catherine Thompson, Attorney In Fact

(Any additional signatures appear on the last page of this Performance Bond.)

(FOR INFORMATION ONLY — Name, address and telephone)

AGENT or BROKER:
Willis of North Carolina, Inc.
P.O. Box 31817
Charlotte, NC 28231-1817
704-376-9161

OWNER'S REPRESENTATIVE:
(Architect, Engineer or other party)

The Company executing this bond vouches that this document conforms to American Institute of Architects Document A312, 2010 edition

§ 1 The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

§ 2 If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Section 3.

§ 3 If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after

- **.1** the Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Section 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;
- **.2** the Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and
- **.3** the Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.

§ 4 Failure on the part of the Owner to comply with the notice requirement in Section 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

§ 5 When the Owner has satisfied the conditions of Section 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

§ 5.1 Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;

§ 5.2 Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;

§ 5.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Section 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or

§ 5.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:

- **.1** After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or
- **.2** Deny liability in whole or in part and notify the Owner, citing the reasons for denial.

§ 6 If the Surety does not proceed as provided in Section 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Section 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

§ 7 If the Surety elects to act under Section 5.1, 5.2 or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication, for

- **.1** the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
- **.2** additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Section 5; and
- **.3** liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

§ 8 If the Surety elects to act under Section 5.1, 5.3 or 5.4, the Surety's liability is limited to the amount of this Bond.

§ 9 The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors and assigns.

§ 10 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

§ 11 Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

§ 12 Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.

§ 13 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

§ 14 Definitions

§ 14.1 Balance of the Contract Price. The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to the Contractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

§ 14.2 Construction Contract. The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

§ 14.3 Contractor Default. Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

§ 14.4 Owner Default. Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

§ 14.5 Contract Documents. All the documents that comprise the agreement between the Owner and Contractor.

§ 15 If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

§ 16 Modifications to this bond are as follows:

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL	**SURETY**
Company:	Company: *(Corporate Seal)*
Signature: _____	Signature: _____
Name and Title:	Name and Title:
Address:	Address:

PAYMENT BOND

Liberty Mutual Insurance Company
The Continental Insurance Company
Fidelity and Deposit Company of Maryland

Bond No.: 018222309 / 30038629 / 9289950

CONTRACTOR:
(Name, legal status and address)
DPR Construction, A General Partnership
9606 North Mopac Expressway, Suite 300
Austin, TX 78759

SURETY:
(Name, legal status and principal place of business)
Liberty Mutual Insurance Company
175 Berkeley Street, Boston, MA 02116
The Continental Insurance Company
151 N Franklin Street, Chicago, IL 60606
Fidelity and Deposit Company of Maryland
1299 Zurich Way, Schaumburg, IL 60196

OWNER:
(Name, legal status and address)
Waller Creek Conservancy
1111 Red River Street
Austin, TX 78701

CONSTRUCTION CONTRACT
Date: 10/9/2018
Amount: $6,325,780.00 (Six Million Three Hundred Twenty Five Thousand Seven Hundred Eighty and 00/100 Dollars)
Description: GMP 2 - Waller Creek Waterloo Park Part One: Parkland, Sector 9
(Name and location)

BOND
Date: 2/7/2019
(Not earlier than Construction Contract Date)
Amount: $6,325,780.00 (Six Million Three Hundred Twenty Five Thousand Seven Hundred Eighty and 00/100 Dollars)
Modifications to this Bond: [X] None [ ] See Section 18

CONTRACTOR AS PRINCIPAL
Company: DPR Construction, A General Partnership
(Corporate Seal)

Signature: Michele Leiva
Name and Title: Michele Leiva, CFO

SURETY
Company: Liberty Mutual Insurance Company, The Continental Insurance Company & Fidelity and Deposit Company of Maryland
(Corporate Seal)

Signature: Catherine Thompson
Name and Title: Catherine Thompson, Attorney In Fact

(Any additional signatures appear on the last page of this Payment Bond.)

(FOR INFORMATION ONLY — Name, address and telephone)

AGENT or **BROKER:**
Willis of North Carolina, Inc.
P.O. Box 31817
Charlotte, NC 28231-1817
704-376-9161

OWNER'S REPRESENTATIVE:
(Architect, Engineer or other party)

The Company executing this bond vouches that this document conforms to American Institute of Architects Document A312, 2010 edition

§ 1 The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.

§ 2 If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies and holds harmless the Owner from claims, demands, liens or suits by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.

§ 3 If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Section 13) of claims, demands, liens or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety.

§ 4 When the Owner has satisfied the conditions in Section 3, the Surety shall promptly and at the Surety's expense defend, indemnify and hold harmless the Owner against a duly tendered claim, demand, lien or suit.

§ 5 The Surety's obligations to a Claimant under this Bond shall arise after the following:

§ 5.1 Claimants, who do not have a direct contract with the Contractor,

- **.1** have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
- **.2** have sent a Claim to the Surety (at the address described in Section 13).

§ 5.2 Claimants, who are employed by or have a direct contract with the Contractor, have sent a Claim to the Surety (at the address described in Section 13).

§ 6 If a notice of non-payment required by Section 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Section 5.1.1.

§ 7 When a Claimant has satisfied the conditions of Sections 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:

§ 7.1 Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and

§ 7.2 Pay or arrange for payment of any undisputed amounts.

§ 7.3 The Surety's failure to discharge its obligations under Section 7.1 or Section 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Section 7.1 or Section 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.

§ 8 The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Section 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.

§ 9 Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.

§ 10 The Surety shall not be liable to the Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to, or give notice on behalf of, Claimants or otherwise have any obligations to Claimants under this Bond.

§ 11 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

§ 12 No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Section 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

§ 13 Notice and Claims to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.

§ 14 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

§ 15 Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.

§ 16 Definitions

§ 16.1 Claim. A written statement by the Claimant including at a minimum:

- **.1** the name of the Claimant;
- **.2** the name of the person for whom the labor was done, or materials or equipment furnished;
- **.3** a copy of the agreement or purchase order pursuant to which labor, materials or equipment was furnished for use in the performance of the Construction Contract;
- **.4** a brief description of the labor, materials or equipment furnished;
- **.5** the date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
- **.6** the total amount earned by the Claimant for labor, materials or equipment furnished as of the date of the Claim;
- **.7** the total amount of previous payments received by the Claimant; and
- **.8** the total amount due and unpaid to the Claimant for labor, materials or equipment furnished as of the date of the Claim.

§ 16.2 Claimant. An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.

§ 16.3 Construction Contract. The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.

§ 16.4 Owner Default. Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

§ 16.5 Contract Documents. All the documents that comprise the agreement between the Owner and Contractor.

§ 17 If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

§ 18 Modifications to this bond are as follows:

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL		**SURETY**	
Company:	*(Corporate Seal)*	Company:	*(Corporate Seal)*
Signature:		Signature:	
Name and Title:		Name and Title:	
Address:		Address:	

This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

Certificate No: **8196939**

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint,
Andrew M. Bennett, Jennifer B. Gullett, Noah William Pierce, John F. Thomas, Catherine Thompson, Amy R. Waugh

all of the city of Charlotte state of NC each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 3rd day of October, 2018.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

By: David M. Carey, Assistant Secretary

State of PENNSYLVANIA
County of MONTGOMERY ss

On this 3rd day of October, 2018 before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at King of Prussia, Pennsylvania, on the day and year first above written.

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Teresa Pastella, Notary Public
Upper Merion Twp., Montgomery County
My Commission Expires March 28, 2021
Member, Pennsylvania Association of Notaries

By: Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV – OFFICERS: Section 12. Power of Attorney.
Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII – Execution of Contracts: Section 5. Surety Bonds and Undertakings.
Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation – The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization – By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 7th day of February, 2019.

By: Renee C. Llewellyn, Assistant Secretary

LMS-12873 LMIC OCIC WAIC Multi Co_062018

Not valid for mortgage, note, loan, letter of credit, currency rate, interest rate or residual value guarantees.

To confirm the validity of this Power of Attorney call 1-610-832-8240 between 9:00 am and 4:30 pm EST on any business day.

Important Notice

TO OBTAIN INFORMATION OR TO MAKE A COMPLAINT:

You may write to Liberty Mutual Surety at:

Liberty Mutual Surety
Interchange Corporate Center
450 Plymouth Road, Suite 400
Plymouth Meeting, PA 19462-8284

You may contact the Texas Department of Insurance to obtain information on companies, coverages, rights or complaints at:

1-800-252-3439

You may write the Texas Department of Insurance:

P. O. Box 149104
Austin, TX 78714-9104
Fax: (512) 475-1771
Web: http://www.tdi.state.tx.us
E-mail: ConsumerProtection@tdi.state.tx.us

Premium or Claim Disputes

Should you have a dispute concerning a premium, you should contact the agent first. If you have a dispute concerning a claim, you should contact the company first. If the dispute is not resolved, you may contact the Texas Department of Insurance.

Attach This Notice To Your Policy:

This notice is for information only and does not become a part or condition of the attached document.

Liberty Mutual.

NOTIFICACION IMPORTANTE

PARA OBTENER INFORMACION O REALIZAR UNA QUEJA:

Usted puede escribir la notificación y dirigirla a Liberty Mutual Surety en la siguiente dirección:

Liberty Mutual Surety
Interchange Corporate Center
450 Plymouth Road, Suite 400
Plymouth Meeting, PA 19462-8284

Usted puede contactar al Departamento de Seguros de Texas para obtener informacion acerca de las compañías, coberturas, derechos o quejas:

1-800-252-3439

Usted puede escribir al Departamento de Seguros de Texas a la siguiente dirección:

P. O. Box 149104
Austin, TX 78714-9104
Fax: (512) 475-1771
Web: http://www.tdi.state.tx.us
E-mail: ConsumerProtection@tdi.state.tx.us

Disputas acerca de primas o reclamos

En caso de que usted quiera elevar una disputa concerniente al tema de primas, por favor contacte en primer lugar a su agente. Si el tema de la disputa es relativo a un reclamo, por favor contacte a la compañía de seguros en primer término. Si usted considera que la disputa no es apropiadamente resuelta en estas instancias, entonces usted puede contactar al Departamento de Seguros de Texas..

Adjunte esta notificacion a su póliza:

Esta notificación es a los solos fines de su información y la misma no forma parte o condiciona de manera alguna el documento adjunto.

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That The Continental Insurance Company, a Pennsylvania insurance company, is a duly organized and existing insurance company having its principal office in the City of Chicago, and State of Illinois, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

Matthew W Varner, Carol S Card, Jennifer B Gullett, Catherine Thompson, Individually

of Charlotte, NC, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind them thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the insurance company and all the acts of said Attorney, pursuant to the authority hereby given is hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law and Resolutions, printed on the reverse hereof, duly adopted, as indicated, by the Board of Directors of the insurance company.

In Witness Whereof, The Continental Insurance Company has caused these presents to be signed by its Senior Vice President and its corporate seal to be hereto affixed on this 11th day of October, 2011.

The Continental Insurance Company

Stathy Darcy — Senior Vice President

State of Illinois, County of Cook, ss:

On this 11th day of October, 2011, before me personally came Stathy Darcy to me known, who, being by me duly sworn, did depose and say: that she resides in the City of Glenview, State of Illinois; that she is a Senior Vice President of The Continental Insurance Company, a Pennsylvania insurance company, described in and which executed the above instrument; that she knows the seal of said insurance company; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said insurance company and that she signed her name thereto pursuant to like authority, and acknowledges same to be the act and deed of said insurance company.

OFFICIAL SEAL
ELIZA PRICE
NOTARY PUBLIC - STATE OF ILLINOIS
MY COMMISSION EXPIRES:09/17/13

My Commission Expires September 17, 2013

Eliza Price — Notary Public

CERTIFICATE

I, Mary A. Ribikawskis, Assistant Secretary of The Continental Insurance Company, a Pennsylvania insurance company, do hereby certify that the Power of Attorney herein above set forth is still in force, and further certify that the By-Law and Resolution of the Board of Directors of the insurance company printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said insurance company this 7 day of February, 2019.

The Continental Insurance Company

Mary A. Ribikawskis — Assistant Secretary

Form F6850-1/2011

Authorizing By-Laws and Resolutions

ADOPTED BY THE BOARD OF DIRECTORS OF THE CONTINENTAL INSURANCE COMPANY:

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the Board of Directors of the company.

"Article VI-Execution of Documents

Section 3. Appointment of Attorney-in-Fact. The Chairman of the Board of Directors, the President or any Executive or Senior Vice President may, from time to time, appoint by written certificates attorneys-in-fact to act in behalf of the Company in the execution of policies of insurance, bonds, undertakings and other obligatory instruments of like nature. Such attorneys-in-fact, subject to the limitations set forth in their respective certificates of authority shall have full power to bind the Company by their signature and execution of any such instruments and to attach the seal of the Company thereto. The Chairman of the Board of Directors, the President or any Executive or Senior Vice President or the Board of Directors, may, at any time, revoke all power and authority previously given to any attorney-in-fact.

This Power of Attorney is granted and is signed by facsimile under and by the authority of the following Resolution adopted by the Executive Committee of the Board of Directors of The Continental Insurance Company by unanimous written consent dated the 13th day of January, 1989:

RESOLVED, that the signatures of such officers and the seal of the Company may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Company when so affixed and in the future with respect to any bond, undertaking or contract of suretyship to which it is attached."

State of Texas

Claim Notice Endorsement

To be attached to and form a part of Bond No. 30038629.

In accordance with Section 2253.021(f) of the Texas Government Code and Section 53.202(6) of the Texas Property Code any notice of claim to the named surety under this bond(s) should be sent to:

CNA Surety
151 N. Franklin St.
Chicago, IL 60606

Telephone: (312) 822-5000

Form F6944

ZURICH AMERICAN INSURANCE COMPANY
COLONIAL AMERICAN CASUALTY AND SURETY COMPANY
FIDELITY AND DEPOSIT COMPANY OF MARYLAND
POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That the ZURICH AMERICAN INSURANCE COMPANY, a corporation of the State of New York, the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, a corporation of the State of Maryland, and the FIDELITY AND DEPOSIT COMPANY OF MARYLAND a corporation of the State of Maryland (herein collectively called the "Companies"), by **MICHAEL BOND, Vice President,** in pursuance of authority granted by Article V, Section 8, of the By-Laws of said Companies, which are set forth on the reverse side hereof and are hereby certified to be in full force and effect on the date hereof, do hereby nominate, constitute, and appoint **John F. THOMAS, Walter CALDWELL, Jennifer B. GULLETT, Catherine THOMPSON, Amy R. WAUGH and Carol S. CARD, all of Charlotte, North Carolina, EACH** its true and lawful agent and Attorney-in-Fact, to make, execute, seal and deliver, for, and on its behalf as surety, and as its act and deed: **any and all bonds and undertakings,** and the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Companies, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the ZURICH AMERICAN INSURANCE COMPANY at its office in New York, New York., the regularly elected officers of the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY at its office in Owings Mills, Maryland., and the regularly elected officers of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at its office in Owings Mills, Maryland., in their own proper persons.

The said Vice President does hereby certify that the extract set forth on the reverse side hereof is a true copy of Article V, Section 8, of the By-Laws of said Companies, and is now in force.

IN WITNESS WHEREOF, the said Vice-President has hereunto subscribed his/her names and affixed the Corporate Seals of the said **ZURICH AMERICAN INSURANCE COMPANY, COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, and FIDELITY AND DEPOSIT COMPANY OF MARYLAND,** this 18th day of April, A.D. 2017.

ATTEST:

ZURICH AMERICAN INSURANCE COMPANY
COLONIAL AMERICAN CASUALTY AND SURETY COMPANY
FIDELITY AND DEPOSIT COMPANY OF MARYLAND

By: _____
Assistant Secretary
Dawn E. Brown

_____
Vice President
Michael Bond

State of Maryland
County of Baltimore

On this 18th day of April, A.D. 2017, before the subscriber, a Notary Public of the State of Maryland, duly commissioned and qualified, **MICHAEL BOND, Vice President, and DAWN E. BROWN, Assistant Secretary,** of the Companies, to me personally known to be the individuals and officers described in and who executed the preceding instrument, and acknowledged the execution of same, and being by me duly sworn, deposeth and saith, that he/she is the said officer of the Company aforesaid, and that the seals affixed to the preceding instrument are the Corporate Seals of said Companies, and that the said Corporate Seals and the signature as such officer were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporations.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year first above written.

_____
Constance A. Dunn, Notary Public
My Commission Expires: July 9, 2019

POA-F 177-0035B

EXTRACT FROM BY-LAWS OF THE COMPANIES

"Article V, Section 8, Attorneys-in-Fact. The Chief Executive Officer, the President, or any Executive Vice President or Vice President may, by written instrument under the attested corporate seal, appoint attorneys-in-fact with authority to execute bonds, policies, recognizances, stipulations, undertakings, or other like instruments on behalf of the Company, and may authorize any officer or any such attorney-in-fact to affix the corporate seal thereto; and may with or without cause modify of revoke any such appointment or authority at any time."

CERTIFICATE

I, the undersigned, Vice President of the ZURICH AMERICAN INSURANCE COMPANY, the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, and the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, do hereby certify that the foregoing Power of Attorney is still in full force and effect on the date of this certificate; and I do further certify that Article V, Section 8, of the By-Laws of the Companies is still in force.

This Power of Attorney and Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the ZURICH AMERICAN INSURANCE COMPANY at a meeting duly called and held on the 15th day of December 1998.

RESOLVED: "That the signature of the President or a Vice President and the attesting signature of a Secretary or an Assistant Secretary and the Seal of the Company may be affixed by facsimile on any Power of Attorney...Any such Power or any certificate thereof bearing such facsimile signature and seal shall be valid and binding on the Company."

This Power of Attorney and Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY at a meeting duly called and held on the 5th day of May, 1994, and the following resolution of the Board of Directors of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at a meeting duly called and held on the 10th day of May, 1990.

RESOLVED: "That the facsimile or mechanically reproduced seal of the company and facsimile or mechanically reproduced signature of any Vice-President, Secretary, or Assistant Secretary of the Company, whether made heretofore or hereafter, wherever appearing upon a certified copy of any power of attorney issued by the Company, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the corporate seals of the said Companies, this 7th day of February, 20 19.

Gerald F. Haley

Gerald F. Haley, Vice President

TO REPORT A CLAIM WITH REGARD TO A SURETY BOND, PLEASE SUBMIT ALL REQUIRED INFORMATION TO:

Zurich American Insurance Co.
Attn: Surety Claims
1299 Zurich Way
Schaumburg, IL 60196-1056

Fidelity and Deposit Companies

Home Office: 3910 Keswick Road Baltimore, MD 21211

IMPORTANT NOTICE

To obtain information or make a complaint:

You may call the Fidelity and Deposit Company of Maryland, Colonial American Casualty and Surety Company, and/or Zurich American Insurance Company's toll-free telephone number for information or to make a complaint at:

1-800-654-5155

You may contact the Texas Department of Insurance to obtain information on companies, coverages, rights, or complaints at:

1-800-252-3439

You may write the Texas Department of Insurance:

P.O. Box 149104
Austin, TX 78714-9104
FAX # (512) 475-1771

PREMIUM OR CLAIM DISPUTES: Should you have a dispute concerning the premium or about a claim, you should first contact Fidelity and Deposit Company of Maryland or Colonial American Casualty and Surety Company. If the dispute is not resolved, you may contact the Texas Department of Insurance.

ATTACH THIS NOTICE TO YOUR POLICY: This notice is for information only and does not become a part or condition of the attached document.

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