

**ORDINANCE NO. 20170831-022**

**AN ORDINANCE AMENDING THE STRATEGIC PARTNERSHIP AGREEMENT BETWEEN THE CITY OF AUSTIN AND THE TANGLEWOOD FOREST LIMITED DISTRICT.**

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

**PART 1.** The City Council approves the third amendment to the “Strategic Partnership Agreement between the City of Austin and Tanglewood Forest Municipal Utility District” substantially in the form of the attached Exhibit “A”.

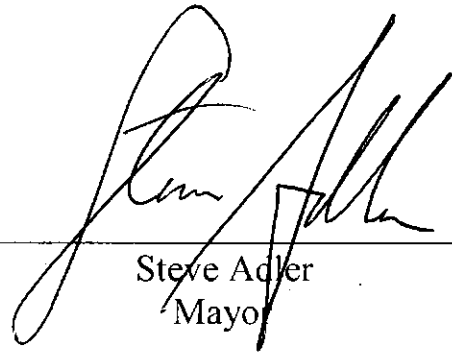
**PART 2.** The City Manager shall execute the amendment on behalf of the City.

**PART 3.** This ordinance takes effect on September 11, 2017.

**PASSED AND APPROVED**

\_\_\_\_\_, August 31, 2017

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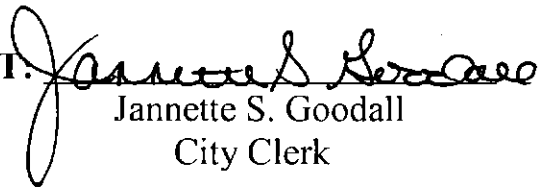
  
\_\_\_\_\_  
Steve Adler  
Mayor

**APPROVED:**



\_\_\_\_\_  
Anne L. Morgan  
City Attorney

**ATTEST:**

  
\_\_\_\_\_  
Jannette S. Goodall  
City Clerk

## **Exhibit A**

### **EXTENSION OF AND THIRD AMENDMENT TO THE STRATEGIC PARTNERSHIP AGREEMENT BETWEEN THE CITY OF AUSTIN AND TANGLEWOOD FOREST LIMITED DISTRICT**

This Extension of and Third Amendment to the Strategic Partnership Agreement Between the City of Austin and Tanglewood Forest Limited District (“Third Amendment”) is made and entered into by and between the City of Austin (“City”), a municipal corporation, acting by and through its duly-authorized City Manager, and Tanglewood Forest Limited District (“Limited District”), acting by the through its duly-authorized Board of Directors. Both City and Limited District act herein under the authority of Section 43.0751 of the Texas Local Government Code (“Code”), and City and Limited District may be collectively referred to as “Parties,” or individually as a “Party.”

#### **RECITALS**

WHEREAS, the City, the Tanglewood Forest Municipal Utility District (“MUD”) and the Limited District entered into the “Strategic Partnership between the City of Austin and the Tanglewood Forest Municipal Utility District for Annexation and Creation of a Limited District” (“Agreement”) effective December 22, 1997, and set forth the terms and conditions of the conversion of the MUD to the Limited District after full purpose annexation of the MUD’s territory into the corporate limits of the City;

WHEREAS, the approval and execution of the Agreement and the conversion of the MUD to the Limited District was accomplished in accordance with Section 43.0751 of the Code;

WHEREAS, the Agreement was amended effective February 28, 2000 by the “First Amendment to Strategic Partnership Agreement between the City of Austin and Tanglewood Forest Limited District” (“First Amendment”) to increase Limited District authority to expend funds for parks and recreational improvements;

WHEREAS, in accordance with the Code, the initial term of the Limited District was for a period of ten years, and expired on December 31, 2007;

WHEREAS, the City and the Limited District then agreed to extend and renew the Limited District, as provided in the Code, for an additional ten year period commencing on the expiration of the initial ten year term, and continuing through December 31, 2017, all in accordance with Code Sections 43.0751 (f) and (g). The Agreement was amended, effective October 29, 2007, by the “Extension of and Second Amendment to Strategic Partnership Agreement between the City of Austin and Tanglewood Forest Limited District” (“Second Amendment”);

WHEREAS, the Second Amendment also amended three provisions of the Agreement to delete from the District's function the solid waste pick-up and disposal responsibility within the Limited District; expand the budget for replacement recreational facilities up to \$25,000 without the need for prior City approval; and add Greenbrier Park to the Limited District's park system and ownership;

WHEREAS, through this Third Amendment, the City and the Limited District desire to extend and renew the Limited District, as provided for in the Code, for an additional ten year period commencing on the expiration of the second ten year term on December 31, 2017, all in accordance with Code Sections 43.0751 (f) and (g); and

WHEREAS, also through this Third Amendment, the City and the Limited District further desire to amend and restate Article V, Section 5.01 of the Agreement as amended, in accordance with Code Section 43.0751(f)(8).

NOW, THEREFORE, for and in consideration of the mutual agreements, covenants, and conditions contained in this Third Amendment and other good and valuable consideration, the City and the Limited District agree as follows:

#### **AGREEMENT**

1. The City and the Limited District agree that the recitals stated above are true and correct and are incorporated in their agreement on this Third Amendment.
2. Extension and Renewal of the Limited District. The City and the Limited District agree that the Limited District shall be extended and renewed in accordance with Sections 43.0751(f) and (g) of the Code.
3. Amended and Restated Article V, Section 5.01. Due to the passage of time and two prior amendments, the City and the Limited District agree to amend and restate Article V, Section 5.01 as follows:

#### **ARTICLE V** **DISTRICT CONTINUATION AS A LIMITED DISTRICT** **FOR MAINTENANCE AND OPERATION OF** **PARKS AND RECREATION FACILITIES AND OTHER DUTIES**

##### **Section 5.01 Continuation as a Limited District.**

##### **A. Limited District Conversion**

Upon the effective date of the full purpose annexation, the District was automatically converted to a limited district under Section 43.0751 (f) (6) of the

Local Government Code and is now known as the "Tanglewood Forest Limited District."

**B. Boundaries**

The boundaries of the Limited District are coextensive with the boundaries of the District.

**C. Functions, Powers and Authority**

1. The Limited District shall exercise only those functions, powers, and authority vested in municipal utility districts under state law and, as required by the Texas Commission on Environmental Quality, that are necessary to perform the functions undertaken by the Limited District as described below.
2. The functions, powers and authority of the Limited District are to:
  - a) own, maintain, operate, and control the parks and recreational facilities located within the boundaries of the Limited District or owned by the Limited District outside its boundaries as described in this Agreement and contained in Exhibit "B" attached hereto;
  - b) provide security for the Limited District's parks and recreational facilities;
  - c) mow and maintain the landscaping and vegetation in:
    - i. the Slaughter Lane median;
    - ii. the medians and easements on both sides of the portion of Riddle Road that are within the Limited District;
    - iii. on Manchaca Road behind the fencing up to the Limited District's sign on that road; and
    - iv. the detention and drainage areas within the Limited District;
  - d) enforce restrictive covenants;
  - e) provide graffiti removal; and
  - f) create, promote, and sponsor Limited District activities to build community and goodwill throughout the Limited District. Community-building activity includes, but is not limited to, producing events in Limited District parks, pools and recreational facilities; creating community gardens, dog parks, or similar community areas; communicating with residents through newsletters and social media; working with local non-profit entities to implement community-building within the Limited District; and providing assistance to Kocurek Elementary School for school-sponsored events within the District.
3. The Limited District may also work with the Austin Police Department and its Community Policing Program to help control speed in school zones and on Limited District streets. With appropriate authorization, the Limited District may acquire and deploy speed-monitoring devices to make Limited District residents and visitors aware of their speed on streets within the Limited District.

**D. No Water or Wastewater Systems; Use of Drainage and Detention Areas**

1. The Limited District will not own, operate, or maintain, water, wastewater or drainage systems.
2. The Limited District may mow, maintain, and use the detention and drainage areas within the Limited District for recreational purposes.

**E. Term**

1. The Limited District's initial term was for 10 years, ending December 31, 2007.
2. The Limited District's second term was also for 10 years, ending December 31, 2017.
3. By agreement, the Parties continued and extended the Limited District for a third, 10 year term.
4. At the conclusion of the third 10 year term on December 31, 2027, the future terms of the Limited District shall automatically renew for successive 10 year terms unless one Party, by and through its duly-authorized governing body, provides written notice to the other Party at least 12 months in advance of the end of the then-existing term if the Party does not wish to renew the term of the Limited District.
5. Prior to the 12 month notification window in Section E (4) above, the Limited District's Board President, General Manager, or General Counsel shall contact the City of Austin's Parks and Recreation Department to discuss the Limited District and share its then-current projects and concerns.
6. Upon final dissolution of the Limited District, the City shall assume all assets, liabilities, indebtedness, and obligations of the Limited District.
7. Upon final dissolution of the Limited District, the City agrees to provide services for the territory within the Limited District in accordance with the Service Plan attached to the Agreement as Exhibit "A."

**F. Use of Parks and Recreational Facilities**

1. All of the Limited District's parks and recreational facilities described in Exhibit "B" shall be available for the benefit, use, and enjoyment of all the citizens of the City.
2. The Parties agree that the Limited District shall assess necessary fees and charges for the use of the recreational facilities by the residents of the Limited District.
3. City residents who do not reside in the Limited District shall be charged no more than the City summer pass rate for swimming pool use as that rate is amended from time to time. The Limited District shall set a daily rate fee for pool use at a uniform level for all City residents.

**G. City Obligation and Police Protection**

The Parties agree that the City shall have no obligation during the existence of the Limited District to perform the functions undertaken by the Limited District; provided, however, the Limited District's rights to provide security for its parks and

recreational facilities shall not diminish the City's obligations to provide adequate police protection in accordance with the requirements of State law.

**H. No Conveyance; Exceptions for Permits and Reservations**

1. The Limited District shall not sell, convey, lease, mortgage, transfer, or assign or otherwise alienate any of its parks, pool or other recreational facilities to a third party.
2. The Limited District shall not approve a program or project that requires the use or taking of its parks, pool, or other recreational facilities or that would otherwise require findings under Section 26.001 of the Texas Parks and Wildlife Code.
3. The Limited District shall not sell, convey, lease, mortgage, transfer, assign or otherwise alienate any of its surplus assets to a third party without the prior approval of the City Manager or his/her designee, which approval shall not be unreasonably withheld.
4. In the event the Limited District sells, conveys, leases, mortgages, transfers, assigns or otherwise alienates any of its parks, pool, or recreational facilities to a third party, or if the Limited District sells, transfers, conveys, leases, mortgages, assigns or otherwise alienates any of its surplus assets to a third party without the prior written consent of the City, the sale, transfer, conveyance, lease, mortgage, assignment or alienation shall automatically cause the Limited District to be dissolved without the necessity of any further action by the City, whether litigation or otherwise, and all assets, indebtedness, and liabilities of the Limited District shall be assumed by the City.
5. Notwithstanding the foregoing, the Limited District may offer permits, allow reservations, and assess fees for commercial and reserved use of its parks, pool, and recreational facilities.
  - a) Commercial use, including exercise groups, personal trainers and tennis coaches. The City's Parks and Recreation Department's "Commercial Use of Dedicated Parkland for Personal Training and Other Outdoor Professional Services" application and permit, as it may be amended from time-to-time, shall be used as a guide by the Limited District in instituting rules, permits and fees for commercial use of Limited District parks and recreational facilities.
  - b) Reservations. The Limited District may allow members of the public to reserve the Limited District's park areas and recreation facilities for special events. The City's Parks and Recreation Department's reservation procedures and policies shall be used as a guide by the Limited District in instituting rules, permits, and fees for such reservations.
  - c) In no event may the Limited District's fees be higher than those charged by the City for the same permitted or reserved use.
  - d) The Limited District's issuance of a permit, reservation, or charging of a fee in these instances does not constitute a sale, conveyance, lease,

mortgage, transfer, assignment, or alienation of any of its parks, pool, or other recreational facilities.

**I. Park and Facility Acquisition**

1. The Limited District shall not acquire, purchase, or lease additional parks, pools or other recreational facilities, nor shall it expand any existing parks, pools or recreational facilities without the prior written approval of the City Manager or his/her designee.
2. The Limited District may acquire, purchase, or lease new or additional amenities (such as playground or sports equipment) for the Limited District's existing parks, pools, or other recreational facilities. Any new or replacement amenities or renovations of existing Limited District parks, pools, or other recreation facilities that will incur a cost in excess of \$50,000.00 shall require the prior written approval of the City Manager or his/her designee, which approval shall not be unreasonably withheld or delayed.
3. All improvements and maintenance must comply with all applicable requirements and specifications required by the Austin City Code, the Americans with Disabilities Act, and the Consumer Product Safety Commission.
4. A property description of any land included in any acquisitions, purchases or leases of additional parks or recreational facilities, or expansions of existing land held or used for parks or recreational facilities by the Limited District shall be added to the property descriptions of such lands included in Exhibit "B" to this Agreement, and such additional land shall be subject to the same conditions and restrictions applicable to the existing parks and recreational facilities. Any such property description shall be incorporated into this Agreement, and the City Manager or his/her designee is authorized to attach the property description to Exhibit "B" to the Agreement. However, the attachment to Exhibit "B" shall not require the additional approval of the City Council.

[end of Article V, Section 5.01 Amendment and Restatement]

4. Effective Date. This Extension and Third Amendment shall be effective as of the last date of execution by one of the Parties.

5. Continuation of Agreement. Except as herein amended, all other terms and conditions of the Agreement, as amended by both the First Amendment and the Second Amendment, remain in effect.

6. Mutual Benefit. Pursuant to Code Section 43.0751(p), the Parties agree that this Third Amendment provides benefits to each Party, including revenue, services, and regulatory benefits, that are reasonable and equitable with regard to the benefits provided by the other Party.

7. Entire Agreement. The Parties warrant and represent that this Third Amendment, along with the original Agreement, the First Amendment, and the Second Amendment, are the full and complete agreement of the Parties.

8. Recordation of Agreement. The Limited District agrees that it will record a copy of this Third Amendment in the Official Records of Travis County, Texas, within thirty (30) days of the effective date.

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CITY OF AUSTIN

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

TANGLEWOOD FOREST LIMITED DISTRICT

By: \_\_\_\_\_  
Catherine Rockwell  
President, Board of Directors

THE STATE OF TEXAS    §  
                                  §  
COUNTY OF TRAVIS    §

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 2017, by \_\_\_\_\_, \_\_\_\_\_ of the City of Austin, on behalf of the City.

(Seal)

\_\_\_\_\_  
Notary Public Signature

THE STATE OF TEXAS    §  
                                  §  
COUNTY OF TRAVIS    §

This instrument was executed before me on this \_\_\_\_ day of \_\_\_\_\_, 2017, by Catherine Rockwell, President of the Board of Directors of Tanglewood Forest Limited District, on behalf of the District.

(seal)

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

AFTER RECORDING, PLEASE RETURN TO:

Kelli A. N. Carlton  
The Carlton Law Firm, P.L.L.C.  
2705 Bee Cave Road, Suite 200  
Austin, Texas 78746