

**PARKLAND DONATION, IMPROVEMENT,
MAINTENANCE, AND PROGRAMMING AGREEMENT
(Festival Beach Food Forest at Edward Rendon Sr. Park at Festival Beach)**

This Parkland Donation, Improvement, Maintenance, and Programming Agreement (Festival Beach Food Forest at Edward Rendon Sr. Park at Festival Beach) (the “**Agreement**”) is made and entered into by and between **FRUITFUL COMMONS**, a 501(c)(3) nonprofit organization, and the **CITY OF AUSTIN, TEXAS**, a Texas home-rule municipal corporation, by and through its Parks and Recreation Department (“**PARD**”) (the “**City**”). (Fruitful Commons and the City are each a **Party** and together, the **Parties**.)

RECITALS

The City is the owner of certain parkland property located at 2101 Jessie E. Segovia Street in Austin and identified as Edward Rendon Sr. Park at Festival Beach, as shown on **Exhibit A** (the “**Park**”); and

In 2014, the City Council adopted the Holly Street/Edward Rendon Sr. Park at Festival Beach Vision Plan (the “**Vision Plan**”), which included direction to establish a food forest pilot program on two-thirds of an acre in the Park, on Festival Beach, with future phased expansion subject to City Council approval. The boundaries of the Festival Beach Food Forest are shown on **Exhibit B** and include the Parkland Improvements (the “**Food Forest**”); and

The purpose of the Food Forest is to provide fresh, healthy food to the East Cesar Chavez and Holly neighborhoods; and

The Festival Beach Food Forest, a project of Fruitful Commons, is committed to advancing the Austin Food Plan, Austin Climate Plan, and the PARD 2020-2030 Long Range Plan.

The Festival Beach Food Forest began as a volunteer organization working under the fiscal sponsorship of Urban Patchwork, a 501(c)(3) nonprofit organization, to establish a food forest in the Park; and

In 2015, the City entered into a Parkland Improvement Donation Agreement with Urban Patchwork to implement the Food Forest pilot program in accordance with the Vision Plan (“**Phase 1**”); and

Founders of the Festival Beach Food Forest worked with Urban Patchwork to implement Phase 1 of the Food Forest; and

In 2020, Fruitful Commons became a 501(c)(3) nonprofit organization, and the community leaders of The Festival Beach Food Forest shifted to Fruitful Commons as their fiscal sponsor; and

In 2021, the City Council approved Resolution No. 20210729-115 directing the appropriate City department (identified as the Parks and Recreation Department) to partner with Fruitful Commons to plan, design, implement, and maintain Phase 2, a three-acre expansion of the Food Forest, including installation and construction of the improvements described in **Exhibit C** (the “**Parkland Improvements**”); and

The City has determined that the public benefits of the Food Forest and the Park will be substantially enhanced by the installation and construction of the Parkland Improvements and by the maintenance and programming of the Parkland Improvements and the Food Forest by the Nonprofit; and

Fruitful Commons wishes to facilitate the goals stated above by designing, constructing, and installing the Parkland Improvements and by maintaining and programming the Food Forest, all at its sole cost, leveraging public funding;

NOW, THEREFORE, for and in consideration of the premises and mutual promises, and covenants, the Parties agree as follows:

I. DEFINITIONS

As used in this Agreement and any attachment or exhibit incorporated in it the following definitions have the meanings assigned to each:

Contractors means the contractor(s) or subcontractor(s) of the Nonprofit or the Nonprofit's successors or assigns, their employees, agents, materialmen, suppliers, and assigns employed to construct, install, maintain, and/or program the Parkland Improvements and/or the Food Forest.

Contractor Insurance Requirements means the insurance coverages required to be maintained by the Nonprofit's Contractors as described in **Exhibit D**.

Director means the Director of the Parks and Recreation Department or designee.

Easement Area means the current Austin Energy easements located within the Park, as shown on **Exhibit E**, and any future easements recorded by Austin Energy within the Park, as more fully described in **Section V(E)**.

Effective Date means the last date of execution of this Agreement by the Parties, provided both Parties must execute this document in order for it to be effective.

Maintenance Requirements means the requirements set forth in **Exhibit F** that the Nonprofit must adhere to in maintaining the Parkland Improvements and the Food Forest.

Nonprofit means Fruitful Commons and its successors and assigns.

Nonprofit Insurance Requirements means the insurance coverages required to be maintained by the Nonprofit as described in **Exhibit D**.

Park Rules means the applicable requirements and conditions of Chapter 8-1 of the Austin City Code, as it may be amended from time to time, relating to the administration of public parks, and the guidelines and rules established by PARD for the use and enjoyment of public parks, as they may be amended from time to time, and any successor to such Code, guidelines or rules.

Park Specs means the Construction in Parks Specifications set forth in Section 5 of the City's

Environmental Criteria Manual, as they may be amended or waived in writing by PARD from time to time, that the Nonprofit must adhere to in constructing the Parkland Improvements.

II. TERM

The term of this Agreement begins on the Effective Date and terminates five years after the date of the City's Acceptance Letter (as defined in **Section V(B)** below) (the "**Initial Term**"), it being understood and agreed to by the Parties that the installation and construction of the Parkland Improvements shall, unless otherwise agreed to in writing by the Parties, be completed within 5 years of the Effective Date; provided that the Initial Term may be extended for successive five-year terms upon written agreement by the Parties executed at least 180 days prior to the expiration of the then-current term. The Initial Term and any extensions are together, the "**Term**."

III. DESIGNATION OF PARTY REPRESENTATIVES

- A. The City designates the Director of PARD as its authorized representative to act on the City's behalf with respect to this Agreement and designates the Park Planning Division to be the main point of contact with the Nonprofit.
- B. The Nonprofit designates its Executive Director as its authorized representative to act on its behalf with respect to this Agreement and to be the main point of contact with the City. If the Nonprofit replaces its authorized representative or contract manager, it shall promptly send written notice of the change to the City's Program Manager, within the Park Planning Division. The notice shall identify a qualified and competent replacement and provide contact information.

IV. NONPROFIT'S COST RESPONSIBILITIES

- A. The Nonprofit has the exclusive right to fundraise for the Parkland Improvements and in doing so, will comply with all applicable City, State, and federal laws and regulations, including PARD's donor recognition guidelines and the City's sign regulations (City Code Chapter 25-10).
- B. Within 5 years of the Effective Date, or such additional time as agreed to in writing by the Parties (the "**Fundraising Deadline**"), the Nonprofit shall submit proof in a form reasonably acceptable to the City that it has raised sufficient funds to pay all costs associated with the Parkland Improvements before commencing.

V. NONPROFIT'S DESIGN AND CONSTRUCTION RESPONSIBILITIES

- A. PARD previously approved the Nonprofit's conceptual plans for the Parkland Improvements. Within 120 days of the Effective Date, or such additional time as agreed to in writing by the Parties, the Nonprofit shall submit construction plans to the City's Program Manager, as identified in **Section XVIII(M)** below, to include installation of irrigation and rainwater harvesting lines as needed to serve the Food Forest (the "**Irrigation Lines**"); a construction budget; and a construction schedule for the Parkland Improvements (collectively, the "**Construction Plans**"). The City shall approve, conditionally approve subject to additional requirements, or reject the Construction Plans, such response not to be unreasonably withheld, conditioned, or delayed. Upon final approval of the Construction Plans, PARD shall issue a notice to proceed. The Nonprofit shall not undertake any work on the Parkland Improvements until it receives such notice.

- B. Upon completion of the Parkland Improvements, the Nonprofit's authorized representative shall notify the City by e-mail that they have been completed (the "**Completion Notice**"). Within twenty-one (21) calendar days, or such additional time as the Parties may agree to in writing, of receipt of the Completion Notice, the City's Park Planning Division shall provide a list of items still requiring completion or accept the Parkland Improvements. Upon final acceptance of the Parkland Improvements, PARD shall issue an "**Acceptance Letter**." The City's failure to respond to a Completion Notice within 30 calendar days, or such additional time as agreed to in writing by the Parties, shall be deemed acceptance by the City.
- C. Notwithstanding the provisions of **Sections V(A) and (B)** above, the Parties may agree in writing to amend the scope and/or type of Parkland Improvements to be installed and constructed by the Nonprofit. The Nonprofit shall follow the process set out in **Sections V(A) and (B)** above for any such amended Parkland Improvements.
- D. The Nonprofit shall install Irrigation Lines to serve the Parkland Improvements and the Food Forest.
- E. The Nonprofit shall not build within the Easement Area and shall not use it for any purpose (including construction staging) other than implementation of the concept plant schedule (Exhibit C) without prior coordination with and approval from Austin Energy. Implementation of the concept plant schedule consists of installing or growing the plants as shown in the plan, maintaining them, and replacing them as needed. The Nonprofit shall not modify the plans shown in the concept plant schedule for the Easement Area without prior coordination with and approval from Austin Energy. The Nonprofit acknowledges that PARD has advised it that Austin Energy may relocate its current easements and/or record additional easements within the Park in connection with the Texas Department of Transportation's I-35 Capital Express Central Project. In such event, PARD agrees to provide the Nonprofit with an updated map showing the locations of any relocated or additional easements as soon as Austin Energy makes such information available to PARD and the Nonprofit agrees that it shall not build within or otherwise use for any purpose other than implementation of the concept plant schedule (Exhibit C) any relocated or additional Austin Energy easement within the Park without prior coordination with and approval from Austin Energy. The Nonprofit shall not modify the plans shown in the concept plant schedule for any relocated or additional Austin Energy easement within the Park without prior coordination with and approval from Austin Energy.
- F. Nonprofit shall have no right to place liens against the Park or the Food Forest and shall not allow its Contractors to place any such liens.
- G. Unless otherwise agreed to in writing by the City, the Nonprofit shall be responsible for all costs associated with the design, installation, and construction of the Parkland Improvements. Any increases in the actual costs of the Parkland Improvements, including cost increases, change orders and overruns, shall be borne by the Nonprofit, unless otherwise agreed to in writing by the City. "Costs" include, but are not limited to, consultant fees, design costs, landscaping costs, labor costs, site restoration and revegetation costs, materials costs, engineering costs, legal fees, utility connection fees, permits, inspection fees, insurance costs and any other costs incurred in the design or construction of the Parkland Improvements.

- H. The Nonprofit agrees to follow all City ordinances, resolutions, and other rules and regulations, including the Park Rules and Park Specs, and all other laws related to activities and construction on land owned by the City, as well as the bonding, procurement and competitive bidding State law requirements applicable to municipalities, all in the same manner that the City would be required to comply if the City was carrying out the activities and construction of the Parkland Improvements. If applicable, the Nonprofit shall comply with the accessibility provisions of (i) the Americans with Disabilities Act, 42 U.S.C. §12101, et seq., (ii) the Texas Architectural Barriers Act, Ch. 469, Texas Govt. Code, (iii) Americans with Disabilities Act Accessibility Guidelines, and (iv) the Texas Accessibility Standards. Nothing in this Section V(H) shall prevent or prohibit the Nonprofit or PARD from seeking or securing exceptions from, variances to, or waivers of City ordinances, resolutions, rules, or regulations, including the Park Rules or Park Specs.
- I. The Nonprofit shall not discriminate against any Contractors or applicants for employment because of race, creed, color, national origin, sex, age, religion, veteran status or sexual orientation. The Nonprofit shall take affirmative action to ensure that Contractors are treated during the construction and maintenance of the Parkland Improvements and the maintenance of the Food Forest without regard to race, creed, color, national origin, sex, age, religion, veteran status or sexual orientation. The Nonprofit shall, in all solicitations or advertisements for employment placed on or behalf of the Nonprofit, state that all qualified applicants shall receive consideration for employment without regard to race, creed, color, national origin, sex, age, religion, veteran status or sexual orientation.
- J. The Nonprofit and its Contractors shall perform the obligations set forth in the Agreement as independent contractors.
- K. The City is prohibited from contracting with or making prime or sub-awards to parties that are suspended or debarred, or whose principals are suspended or debarred, from entering into federal, State, or City contracts. By entering into this Agreement with the City, the Nonprofit certifies that neither it nor its principals are currently suspended or debarred from doing business with the federal government, as indicated by the General Services Administration's List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City.
- L. At the City's written request and prior to beginning construction of the Parkland Improvements, the Nonprofit shall provide proof that it has the ability to pay for all costs to be incurred under this Agreement. Such proof may include an independently certified financial statement or a construction budget approved by the construction lender funding the costs of construction of the Parkland Improvements.

VI. NONPROFIT'S MAINTENANCE RESPONSIBILITIES

- A. Except as provided in **Section XVII** below, during the Term, and subject to the terms and provisions of this Agreement, the Nonprofit shall, at its sole expense, keep and maintain, or cause to be kept and maintained, and operate, or cause to be operated, the Parkland Improvements and the Food Forest in a good state of appearance and repair (except for normal wear and tear) in compliance with the Maintenance Requirements set forth in **Exhibit F**, all at the sole expense of the Nonprofit.

- B. Notwithstanding the provisions of **Section VI(A)** above, PARD shall be solely responsible for the maintenance of all trees not planted by the Nonprofit within the Food Forest. For any trees or other improvements not already approved in the site plan process, the Nonprofit shall receive approval for a Community Activated Park Project (CAPP) prior to planting any trees. PARD shall provide written approval through the CAPP Program or from the Park Planning Division, such approval not to be unreasonably withheld, conditioned, or delayed.
- C. To the extent applicable, the Nonprofit shall comply with the City's water and energy conservation rules and regulations applicable to the installation, construction, use, and maintenance of the Parkland Improvements and the Food Forest. These rules and regulations are at <http://www.austintexas.gov/department/water-conservation>.
- D. Neither the Nonprofit nor its employees, agents, or volunteers shall cause or permit any hazardous materials to be brought upon, kept, used, stored, generated, or disposed of in, on, or about the Food Forest or transported to or from the Food Forest.
- E. Except for vehicles needed for maintenance or repair of the Food Forest, the Nonprofit shall not allow any vehicle in the Food Forest.
- F. The Nonprofit shall not charge admission fees, concession fees, rent, or other charges for use of the Park Improvements or the Park.
- G. The Nonprofit shall provide written notice to the City's Program Manager of any damage (except for normal wear and tear), vandalism, needed repairs, or safety issues within the Food Forest within 24 hours of becoming aware of the issue. If the damage, vandalism, needed repairs, or safety issues occurred while the Nonprofit's staff was on the premises of the Food Forest, the Nonprofit shall complete the needed work on a timely basis and promptly notify the City's Program Manager in writing of its completion. If the damage, vandalism, needed repairs, or safety issues did not occur while the Nonprofit's staff was on the premises of the Food Forest, PARD shall complete the needed work on a timely basis.
- H. Upon written notification to the Nonprofit, the City has the right to approve any company hired or otherwise placed under contract by the Nonprofit for the maintenance of the Parkland Improvements and/or the Food Forest, such approval not to be unreasonably withheld, conditioned, or delayed. The Nonprofit shall provide to the City the name of the individual or company, the work plan, and evidence that the individual or company is bonded and insured.

VII. NONPROFIT'S PROGRAMMING RESPONSIBILITIES

- A. Subject to the terms and conditions of this Agreement, the Nonprofit shall have the right to schedule, organize, promote, and conduct activities and uses in the Food Forest on its own initiative in accordance with its Annual Programming Plan (as defined in **Section VII(C)** below) and with City processes.
- B. The Nonprofit has submitted an initial programming plan for the programming of the Food Forest, attached as **Exhibit G**, which has been approved by the City's Program Manager. The Initial

Programming Plan includes a programs and activities schedule and covers the time period through September 30, 2025.

- C. Not later than October 1 following the Effective Date and not later than each subsequent June 1 during the Term, the Nonprofit shall submit an annual programming plan for the programming of the Food Forest for the upcoming calendar year (the “**Annual Programming Plan**”) to the City’s Program Manager for written approval (such approval not to be unreasonably delayed, conditioned, or withheld). The Annual Programming Plan shall be in a form reasonably acceptable to the City and include a programs and activities schedule for the upcoming calendar year and a report regarding the then-current calendar year’s programming, events, and activities. All approved Annual Programming Plans shall be incorporated into and made a part of this Agreement.
- D. The Nonprofit shall submit in writing any amendment it desires to make to the then-current Annual Programming Plan to the City’s Program Manager for written approval or rejection (such response not to be unreasonably delayed, conditioned, or withheld).
- E. The Nonprofit will comply with the communication guidelines set out in PARD’s *Best Practices for Public Transparency and Joint Messaging*.
- F. Except as provided for in the approved Annual Programming Plan, the Nonprofit shall not charge admission fees, concession fees, rent, or other charges for use of the Parkland Improvements or the Food Forest.
- G. Except as otherwise provided this Agreement, the Annual Programming Plan shall (i) comply with the Park Rules, (ii) comply with all other applicable laws and governmental regulations, rules and orders now in effect or that may be adopted relating to the programming of the Food Forest, and (iii) secure all applicable permits and licenses required for the programming of the Food Forest.
- H. The Nonprofit shall not close or otherwise restrict access to any portion of the Food Forest or the Park that is open to the public.
- I. If either Party believes the Parkland Improvements and/or the Food Forest are being overused, it shall promptly notify the other Party’s Program Manager. If the other Party agrees that overuse is occurring, the Parties shall work in good faith to develop a mutually agreeable plan to alleviate the overuse.

VIII. CITY’S RESPONSIBILITIES

- A. The City grants the Nonprofit and its Contractors the right to enter the Park (the “**Temporary Right of Entry**”) and a temporary license for access over, under, across, and upon the Park and the Food Forest for the purpose of constructing and maintaining the Parkland Improvements (the “**Temporary Access License**”). The Temporary Right of Entry and Temporary Access License (together, the “**Access Rights**”), unless extended in writing by the City’s Program Manager, shall expire automatically at midnight on the date this Agreement is terminated. The Access Rights relate solely to the Nonprofit’s rights related to the design, construction, and maintenance of the Park Improvements. The Parties agree that the Nonprofit and its licensees, guests, and invitees

shall have the same access and rights to use the Park and the Food Forest as public parkland as the public and shall have access to the Park and the Food Forest seven days a week, from 5 A.M. until 10 P.M.

- B. The City shall comply with its maintenance responsibilities as set forth in **Exhibit F**.
- C. PARD staff will assist in securing all permits and approvals necessary to construct and maintain the Parkland Improvements and to program the Food Forest. The Nonprofit and its Contractors will coordinate with the City's Program Manager to provide information that is necessary or that will facilitate applications for permits and approvals.
- D. Following the City's issuance of the Acceptance Letter described in **Section V(B)** above, the City may, in its sole discretion, undertake maintenance in the Food Forest, repair or modify the Parkland Improvements, or construct additional improvements, provided the City gives at least 60 days written notice to the Nonprofit before commencing any non-emergency repair, modification, or construction.
- E. The City retains the right to inspect construction of the Parkland Improvements and to exercise its rights or duties in order to ensure compliance with applicable laws in the Park. The City may conduct periodic and regular inspections of the Parkland Improvements and the Food Forest to ensure that the Nonprofit is complying with fire, safety and sanitation regulations and other applicable provisions contained in this Agreement. The City will notify the Nonprofit of its findings and specify any items needing attention in order to comply with legal requirements.
- F. The City retains the right to close the Park and/or Food Forest to the public if the City, in its sole discretion, determines that a condition of the Park and/or the Food Forest poses an immediate, serious threat to the public health or safety. In such a circumstance, the City will provide the Nonprofit with notice of, and the reason for, the closure as soon as reasonably practicable, but is not required to provide notice to the Nonprofit prior to the closure.
- G. Upon termination of this Agreement, the City will assume sole responsibility, at its sole cost, for maintenance of the Food Forest.
- H. The City retains complete title to and full rights of ownership of the Food Forest during and after the Term of this Agreement and of the Parkland Improvements during and after their construction.

IX. ADDITIONAL CONSTRUCTION IN FOOD FOREST

- A. If, after the City has issued the Acceptance Letter described in **Section V(B)** above, the Nonprofit wishes to undertake additional alterations, improvements, or new construction work (including, but not limited to, utilities or signage) to the Parkland Improvements and/or the Food Forest (including, but not limited to, utilities or signage) the Nonprofit shall first obtain written approval from the City's Program Manager, such approval not to be unreasonably withheld, conditioned, or delayed. If such additional work requires new permits or site plan corrections, the City's Program Manager shall timely review such plans or corrections.
- B. In performing or conducting the activities described in **Section IX(A)** above, the Nonprofit shall minimize the impact of such activities on the public's use of the Food Forest and the Park to the

greatest extent feasible. In addition, except for routine, day-to-day maintenance and operation, the Nonprofit will reasonably notify and coordinate with the City's Program Manager regarding these activities.

X. INSURANCE

During the Term, the Nonprofit shall procure and maintain insurance coverages, and shall require its Contractors to maintain in full force and effect insurance coverages, in accordance with the requirements set forth in **Exhibit D**.

XI. CONDITION OF PREMISES; DISCLAIMER OF WARRANTIES

Except as otherwise expressly provided in this Agreement, neither the City nor any agent, employee, or representative of the City makes or has made any warranties or representations, express or implied, with respect to the physical condition of the Food Forest or the Park or their fitness or suitability for any particular use.

XII. NO RECOURSE

No recourse shall be had against any elected official, director, officer, attorney, agent, or employee of the City, whether in office on the Effective Date of this Agreement or after such date, for any claim based upon this Agreement.

XIII. ASSIGNMENT

The Nonprofit shall not assign or otherwise transfer its interests in this Agreement without the prior written consent of the City, which consent may be withheld in the City's sole discretion. The Nonprofit acknowledges that the City must be assured that any assignee has the financial and development capabilities to satisfy its obligations under the Agreement and if the assignee does not have such capabilities, the City may require a guaranty or similar assurance of such obligations. The City shall not assign or transfer its interest in this Agreement without the prior written consent of the Nonprofit, which consent may be withheld in the Nonprofit's sole discretion.

XIV. FORCE MAJEURE

- A. Each Party to this Agreement agrees to excuse the failure of the other Party to perform its obligations under this Agreement to the extent that failure is caused by an event of Force Majeure. Force Majeure means acts and events not within the control of the Party and which the Party could not use due diligence to avoid or prevent. Events of Force Majeure include:
- i. The total or partial destruction of the Park or the Park Improvements by any cause, casualty, or unforeseen occurrence;
 - ii. The imposition of local, State or federal measures, orders, declarations, travel restrictions, quarantines, or isolation in response to the outbreak of an infectious disease, epidemic or

pandemic in the City that involves, includes, or affects the Park, the Park Improvements, or the ability to appropriately deploy employees or contractors;

- iii. Lightning, earthquakes, fires, storms, floods, and landslides;
- iv. An act of terrorism, strike, sabotage, civil disturbance, or disaster declaration;
- v. Circumstances beyond the Party's control that render the Party's performance impossible.

Force Majeure does not include economic or market conditions which affect a Party's cost but not its ability to perform.

- B. The Party invoking Force Majeure shall give timely and adequate notice to the other Party of the event by telephone or e-mail, and then the Party must promptly provide written notice of the Force Majeure as described in **Section XVIII(N)**. The Party shall use due diligence to remedy the effects of Force Majeure as soon as reasonably possible. If a Party's performance is delayed by the event of Force Majeure, the Parties shall mutually agree to extend the time for the completion of obligations by a period of time reasonably necessary to overcome the effect of the Force Majeure event; provided, however, that if a Party is unable to perform for more than 90 days, the non-affected Party shall have the right to terminate this Agreement upon written notice to the affected Party delivered prior to the date that performance resumes.

XV. LIABILITY AND INDEMNIFICATION

- A. **THE NONPROFIT SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY, ITS OFFICERS, APPOINTED OR ELECTED OFFICIALS, EMPLOYEES, AGENTS, REPRESENTATIVES, SUCCESSORS AND ASSIGNS (THE "INDEMNIFIED PARTIES") AGAINST ALL COSTS, LIABILITIES, DAMAGES, CLAIMS, SUITS, ACTIONS, AND CAUSES OF ACTIONS (THE "CLAIMS"), ARISING, DIRECTLY OR INDIRECTLY, OUT OF (A) A BREACH OF THIS AGREEMENT OR VIOLATION OF LAW BY THE NONPROFIT, ITS OFFICERS, AGENTS, EMPLOYEES, SUCCESSORS OR ASSIGNS, (THE "THE NONPROFIT PARTIES"); (B) A FALSE REPRESENTATION OR WARRANTY MADE BY THE NONPROFIT PARTIES IN THIS AGREEMENT; OR (C) THE NEGLIGENCE, WILLFUL MISCONDUCT, OR BREACH OF A STANDARD OF STRICT LIABILITY BY THE NONPROFIT PARTIES IN CONNECTION WITH THIS AGREEMENT. CLAIMS TO BE INDEMNIFIED UNDER THIS ARTICLE INCLUDE, BUT ARE NOT LIMITED TO, CLAIMS FOR BODILY INJURY OR DEATH, OCCUPATIONAL ILLNESS OR DISEASE, LOSS OF SERVICES WAGES OR INCOME, DAMAGE, DESTRUCTION OR LOSS OF USE OF PROPERTY, AND WORKERS' COMPENSATION CLAIMS. THE NONPROFIT'S OBLIGATIONS UNDER THIS ARTICLE ARE NOT EXCUSED IN THE EVENT A CLAIM IS CAUSED IN PART BY THE ALLEGED NEGLIGENCE OR WILLFUL MISCONDUCT OF THE INDEMNIFIED PARTIES.**
- B. The City shall give the Nonprofit written notice of a Claim asserted against an Indemnified Party. The Nonprofit shall assume on behalf of the Indemnified Parties and conduct with due diligence and in good faith the defense of all Claims against the Indemnified Parties. The Indemnified Parties shall have the right (but not the obligation) to participate in the defense of any claim or

litigation with attorneys of their own selection without relieving the Nonprofit of any obligations in this agreement. In no event may the Nonprofit admit liability on the part of an Indemnified Party without the written consent of City Attorney.

- C. Maintenance of the insurance required under this Agreement shall not limit the Nonprofit's obligations under this Article. The Nonprofit shall require all successors and assigns to indemnify the City as provided in this Article.
- D. The Parties acknowledge and agree that in no event shall the Nonprofit have legal responsibility or liability for Claims that are caused by a person who is not an employee, agent, volunteer, participant, invitee, or guest of the Nonprofit.

XVI. DISPUTE RESOLUTION

- A. In the event of a dispute, the Parties shall attempt in good faith to informally negotiate a resolution. Either Party may make a written request for a meeting between representatives of each Party, and the meeting shall occur within 14 calendar days after receipt of the request. The Parties may agree in writing to additional meetings, and each Party will send at least one representative with decision-making authority to each meeting. If the Parties have not succeeded in negotiating a resolution of the dispute within 30 days of the last meeting, they shall proceed directly to mediation as described below. Informal negotiation may be waived by a written agreement signed by both Parties, in which event the Parties shall proceed directly to mediation as described below.
- B. The Parties shall act in good faith to select a mediator within 30 calendar days of the date of the written agreement waiving informal negotiations or within 60 calendar days of the last informal negotiation meeting. If the time period for selecting a mediator has expired with no agreement, the mediator shall be selected by the Travis County Dispute Resolution Center. Mediation will take place in Austin, Texas and the Parties shall share the costs of mediation equally. The Parties agree to participate in mediation in good faith for up to 30 calendar days from the date of the first mediation session. Neither Party may file suit until at least 45 calendar days after the date of the first mediation session.
- C. The Parties may agree in writing to change any of the time periods specified in this Section XVI.

XVII. SUSPENSION; TERMINATION; DEFAULT; REMEDIES

- A. At any time during construction of the Parkland Improvements and for good cause, as determined in the City's sole discretion, the City may suspend the work (or any portion of it) for not more than ninety (90) calendar days by providing at least fifteen (15) calendar days' written notice to the Nonprofit. The notice shall provide the date on which the Nonprofit will resume the work, and the Nonprofit shall resume on that date.
- B. Either Party may terminate this Agreement for convenience with 180 calendar days written notice to the other Party. Upon receipt of the notice, the Party receiving the notice shall immediately stop performance of services (unless the Notice directs otherwise) and deliver all documents, programs, reports, and materials accumulated in performing this Agreement (whether finished or in process) to the Party giving the notice within thirty (30) calendar days, or as otherwise stated in the Notice. If the Nonprofit terminates this Agreement prior to the City's issuance of the

Acceptance Letter, then the Nonprofit shall pay all outstanding costs and obligations incurred in connection with construction of the Parkland Improvements up to the date of termination.

- C. If either Party breaches its obligations under this Agreement, the other party will notify the breaching party in writing of the specific breach(es). The breaching Party will have thirty (30) calendar days from receipt of the notice in which to cure the breach(es). If the breach cannot be reasonably cured within the 30 calendar days and the breaching Party has diligently pursued such remedy as is reasonably necessary to cure the breach, then the Parties may agree in writing to an extension of the period during which the breach must be cured.
- D. If the breach is a material breach of the Agreement, and if the breaching Party has not cured it within the required time, then the non-breaching Party, at its sole option, may terminate the Agreement. This termination shall be made by sending written notice (the "**Notice of Termination**") to the breaching Party and will be effective for all purposes when deposited in the U.S. Mail, postage prepaid and mailed Certified Mail, Return Receipt Requested.
- E. Upon termination of the Agreement, the City may, but is not obligated to, assume possession and control of the Park Food Forest and/or any contract documents or contract rights related to construction or maintenance of the Parkland Improvements and/or the Food Forest. In such event, the Nonprofit shall be relieved of liability for any claims, injuries or losses resulting from negligent acts or omissions of the City, its employees, or agents.
- F. In the event of a material breach by the Nonprofit, termination of the Agreement pursuant to **Section XVII(D)** above does not relieve the Nonprofit of its obligation to pay any sum or sums due and payable to the City under the Agreement at the time of termination, or any claim for damages then or previously accruing against the Nonprofit under the Agreement. Any such termination shall not prevent the City from enforcing the payment of any such sum or sums or claim for damages by any remedy provided for by law, or from recovering damages from the Nonprofit for any default under the Agreement. All of the City's rights, options, and remedies under this Agreement are cumulative, and none of them is exclusive of any other.

XVIII. MISCELLANEOUS PROVISIONS

- A. This Agreement constitutes the entire agreement between the Parties. Any previous agreement, assertion, statement, understanding, or other commitment before the date of this contract, whether written or oral, will have no force or effect.
- B. Each Party warrants and represents that the person signing this Agreement on its behalf is authorized to do so, that it has taken all action necessary to approve this Agreement, and that this Agreement is a lawful and binding obligation of the Party, except as may be limited by applicable bankruptcy, insolvency, or similar laws affecting creditor's rights, or, with respect to the City, governmental immunity under the Constitution and laws of the State of Texas.
- C. The Parties bind themselves and their successors in interest, assigns and legal representatives to this Agreement.

- D. Regardless of the actual drafter of this Agreement, this Agreement will, in the event of any dispute over its meaning or application, be interpreted fairly and reasonably, and neither more strongly for or against any party.
- E. This Agreement may be executed in counterparts, including both counterparts that are executed on paper and counterparts that are in the form of electronic records and are executed electronically.
- F. If the final judgment of a court of competent jurisdiction invalidates any part of this Agreement, the remaining parts will remain in full force and effect.
- G. This Agreement is made, and shall be construed and interpreted under, the laws of the State of Texas. Mandatory venue for any lawsuit arising out of this Agreement shall be in a court located in Austin, Travis County, Texas.
- H. This Agreement may be amended only by a writing properly executed by each of the Parties. Provided the amendment does not obligate the City to pay an amount in excess of the then-current administrative authority of the City Manager, and the form of amendment is approved by the City Law Department, the Director is authorized to execute any amendment to the Agreement on behalf of the City without authorization by the City Council.
- I. The Nonprofit acknowledges that the City has provided notice of Article VIII, Section 1 of the Austin City Charter, which prohibits the payment of any money to any person who is in arrears to the City for taxes, and of Section 2-8-3 of the Austin City Code concerning the right of the City to offset indebtedness owed to the City.
- J. The City is prohibited from contracting with or making prime or sub-awards to parties that are suspended or debarred, or whose principals are suspended or debarred, from entering into federal, State, or City contracts. By entering into this Agreement with the City, the Nonprofit certifies that neither it nor its principals are currently suspended or debarred from doing business with the federal government, as indicated by the General Services Administration's List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City.
- K. The Nonprofit acknowledges that the City has provided notice that the City's payment obligations to the Nonprofit, if any, are payable only from funds appropriated or available for the purpose of this Agreement. If the City does not appropriate funds for this Agreement, or if there are no other lawfully available funds for this Agreement, the City shall provide notice to the Nonprofit of the failure of City to make an adequate appropriation for any fiscal year to pay the amounts due under the Agreement or the reduction of any appropriation to an amount insufficient to permit City to pay its obligations under the Agreement.
- L. If at any time the City fails to enforce this Agreement, whether or not any violations of it are known, such failure shall not constitute a continuing waiver or estoppel of the right to enforce the Agreement.
- M. Except as otherwise expressly provided in this Agreement, neither the City nor any agent, employee, or representative of the City makes or has made any warranties or representations,

express or implied, with respect to the physical condition of the Courts or NWRC their fitness or suitability for any particular use.

- M. All official communications and notices required to be made under this Agreement will be deemed made if sent U.S. first class mail, postage prepaid, or by email to the Parties at the addresses listed below:

If to the City:

Jesús Aguirre, or successor, Director
Parks and Recreation Department
City of Austin
P. O. Box 1088
Austin, Texas 78767
E-mail: JesusS.Aguirre@austintexas.gov

With a copy to the City's Program Manager:

Christine Chute Canul, or successor
Parks and Recreation Department
City of Austin
P. O. Box 1088
Austin, Texas 78767
E-mail: christine.canul@austintexas.gov

If to the Nonprofit:

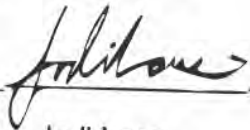
Jodi Lane, or successor, Executive Director
Fruitful Commons
1217 Alegria Rd
Austin, TX 78757
Email: jodi@fruitfulcommons.org

With a copy to the Nonprofit's Phase 2 Coordinator for Festival Beach Food Forest:

Aly Tharp, or successor, Festival Beach Food Forest Purpose Circle Coordinator
1217 Alegria Rd
Austin, TX 78757
Email: alytharp@gmail.com

[Remainder of page intentionally blank]

FRUITFUL COMMONS

By: 

Name: Jodi Lane

Title: Executive Director, Fruitful Commons

Date: July 2, 2025

**CITY OF AUSTIN, TEXAS,
BY AND THROUGH ITS PARKS AND RECREATION DEPARTMENT**

By: Jesús Aguirre
Digitally signed by Jesús Aguirre
Date: 2025.07.07 15:49:32 -05'00'

Jesús Aguirre, Director

Date: _____

APPROVED AS TO FORM:

CITY LAW DEPARTMENT

By: 
Assistant City Attorney

Date: July 3, 2025

Exhibits:

- Exhibit A: Edward Rendon Sr. at Festival Beach Park Map
- Exhibit B: Food Forest as shown in Holly Shores/Edward Rendon Sr. at Festival Beach Vision Plan
- Exhibit C: Parkland Improvements
- Exhibit D: Insurance Requirements
- Exhibit E: Easement Area
- Exhibit F: Maintenance Requirements
- Exhibit G: Initial Programming Plan

Attachments:

Exhibit A: Edward Rendon Sr. at Festival Beach Park Map

Exhibit B: Food Forest as shown in Holly Shores/Edward Rendon Sr. at Festival Beach Vision Plan

Exhibit C: Parkland Improvements

Exhibit D: Insurance Requirements

Exhibit E: Easement Area

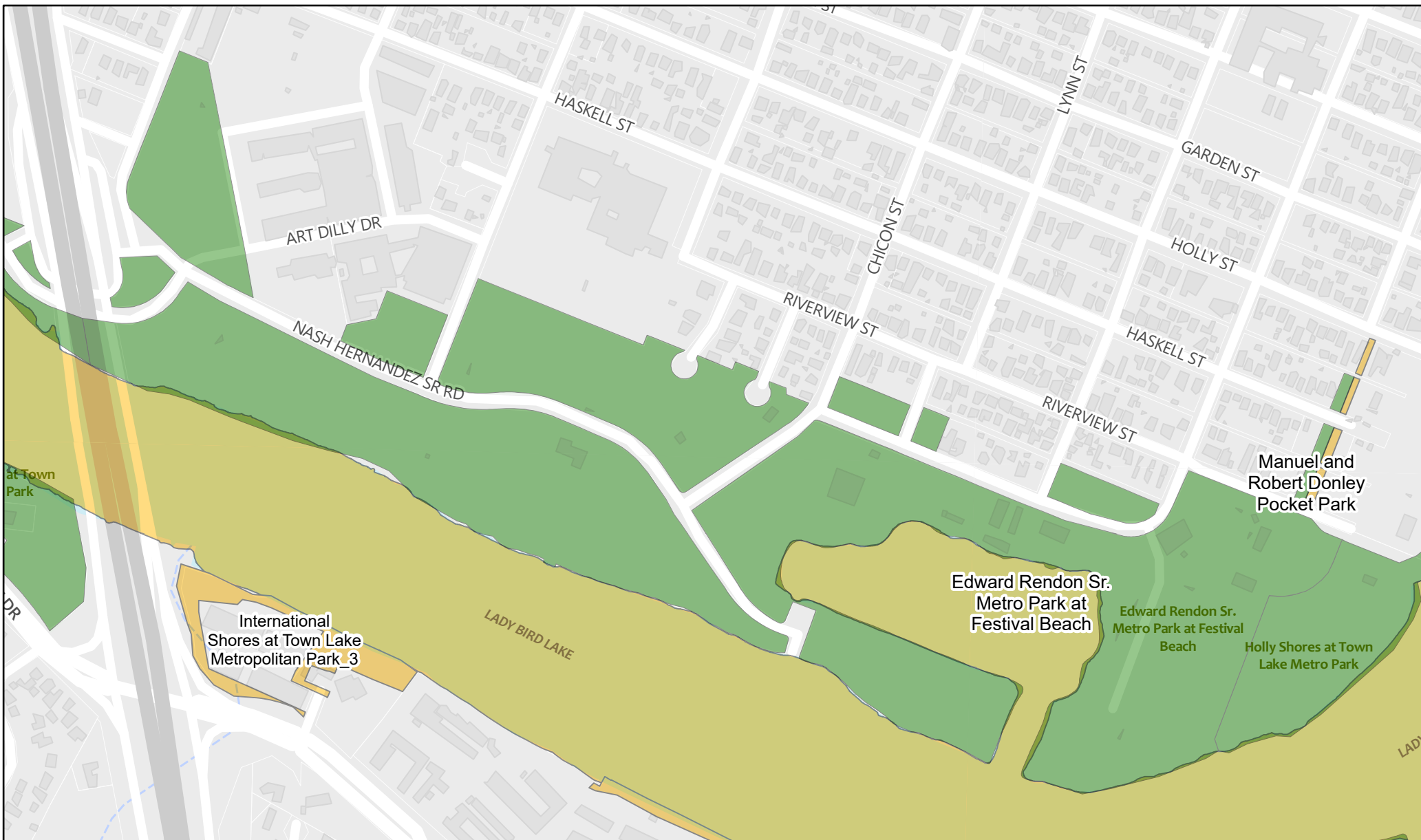
Exhibit F: Maintenance Requirements

Exhibit G: Initial Programming Plan

Exhibit A

Edward Rendon Sr. at Festival Beach Park Map

[see attached]



04 March 2025

ArcGIS Web Map



0 0.045 0.09



mi

1:6,789

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. This product has been produced by the City of Austin for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

Exhibit B

Food Forest as shown in Holly Shores/Edward Rendon Sr. at Festival Beach Vision Plan

[see attached]

Maintain the simple, tranquil character of the West Park

(Proposed)

The areas of shade trees and lawn can be significantly improved in terms of habitat quality, ecological function and overall appearance with the removal of invasive species, soil amendment, native planting, thinning the tree canopy and small adjustments to the topography to collect and infiltrate stormwater. Native turf meadows and regulated mowing regimes will encourage species diversity and reduce water use.

Adding shade trees will improve the comfort of park facilities, especially around the Martin Pool. Improvements to the riparian habitat at the lake edge will help control erosion, filter sediment and pollutants carried in stormwater, support the health of the aquatic ecosystem, and provide flood control.

Improving the area under I35, with improved lighting, signage, clearly defined pedestrian, bicycle and vehicular areas, and a new fishing deck protecting the lake edge will create a welcoming threshold to Holly Shores, a place of orientation before entering the park.

LEGEND

- 1. Deck Under I-35 & Footbridge**
- 2. ADA Accessible Paths**
- 3. Retain Existing Shade Trees & Lawn**
- 4. 8'W Pedestrian Trail**
- 5. 11'W Bicycle Trail**
- 6. Nash Hernandez Building**
- 7. Food Forest**
- 8. Existing Parking**
- 9. Enhance Existing Park Facilities**
- 10. Boat Launch**
- 11. Enhance Lake Edge Habitat**



Figure 92.
West Park Proposed
Illustrative Plan

Exhibit C

Parkland Improvements

[see attached]

Site Plan Areas

-  Festival Beach Community Garden
-  Festival Beach Food Forest Phase 1

Grey areas =
Maintenance (no build) Zones

This site map only shows existing trees and planting to be added in phase 2.1.

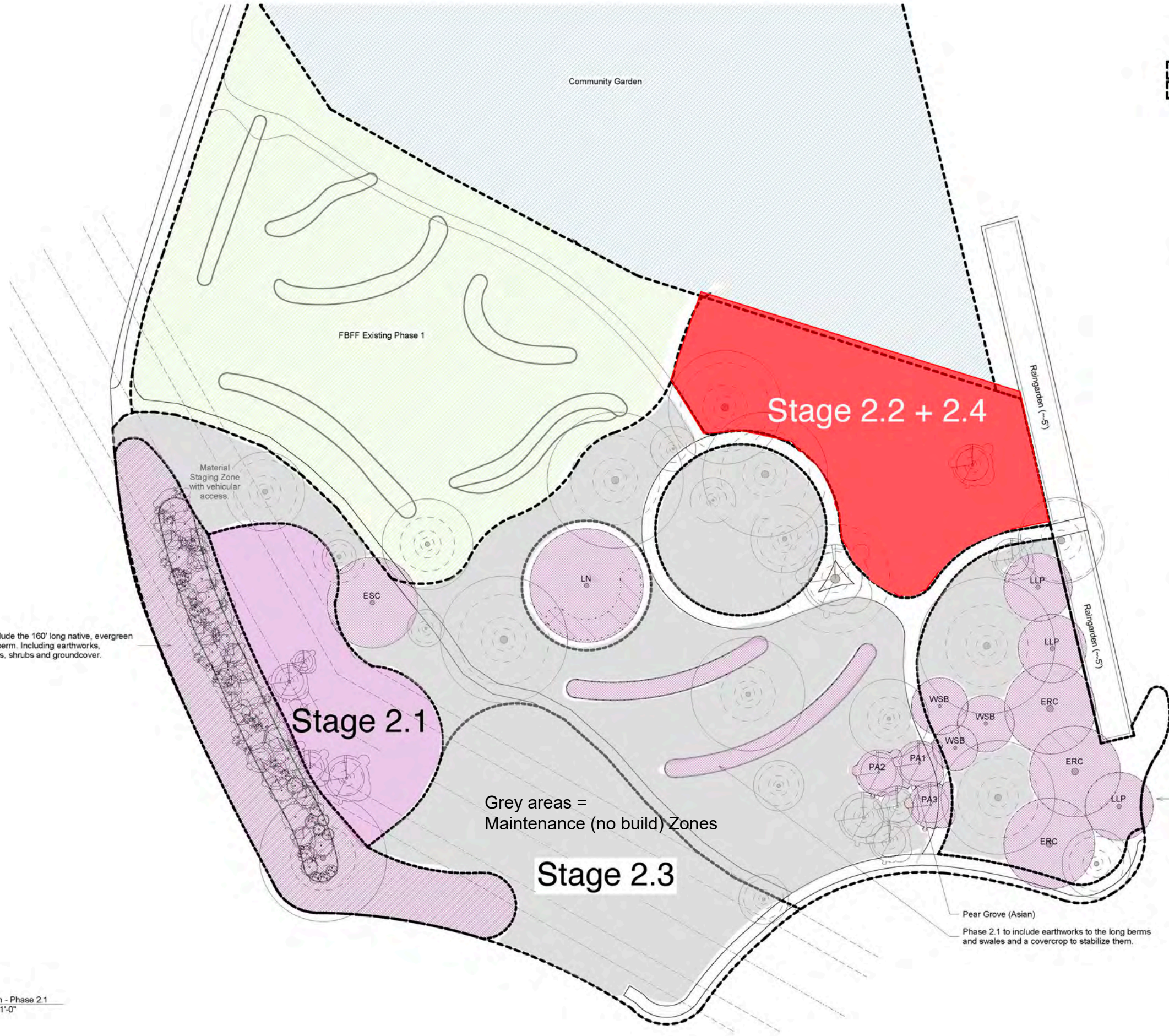
Phase 2.1 Planting List		
Key	Species	Count
AO	Anacacho Orchid	3
BC	Barbados Cherry	3
CL	Cherry Laurel	3
ERC	Eastern Red Cedar	3
ESC	Escarpment Cherry	1
FI	False Indigo	3
KW	Kidney Wood	4
LLP	Loblolly Pine	3
LN	Linden	1
ML	Mountain Laurel	10
MW	Wax Myrtle	4
OLM	Olive (Mission)	3
PA1	Chojuro Pear	1
PA2	Sheinko Pear	1
PA3	Shinseiki Pear	1
RD	Roughleaf Dogwoods	2
SEG	Evergreen Sumac	5
ST	Silk Tassels	2
WSB	Western Soapberry	3
YH	Yaupon Holly - Standard	8

Phase 2.1 to include the 160' long native, evergreen thicket on wide berm. Including earthworks, understory trees, shrubs and groundcover.

Material Staging Zone with vehicular access.

Phase 2.1 to include the new canopy trees for the whole phase 2 area.

Pear Grove (Asian)
Phase 2.1 to include earthworks to the long berms and swales and a covercrop to stabilize them.



CONCEPT PLANT SCHEDULE

- FRUIT AND NUT TREE 42
 - Acca sellowiana / Pineapple Guava
 - Asimina incana / Woolly Pawpaw
 - Citrus japonica / Kumquat
 - Citrus x limon / Lemon
 - Cordia boissieri / Anacahuita
 - Crataegus mollis / Downy Hawthome
 - Diospyros texana / Texas Persimmon
 - Eriobotrya deflexa 'Coppertone' / Coppertone Loquat Multi-Trunk
 - Ficus carica Black Mission / Black Mission Fig
 - Ficus carica LSU Purple / LSU Purple Fig
 - Malpighia emarginata / Barbados Cherry
 - Malus x '20th Century' / 20th Century Apple
 - Moringa drouhardii / Madagascan Bottle Tree
 - Morus alba 'Pakistan' / Pakistan Mulberry
 - Olea europaea Mission / Mission Olive
 - Prunus mexicana / Mexican Plum
 - Prunus salicina 'Methley' / Methley Plum
 - Prunus salicina 'Santa Rosa' / Santa Rosa Plum
 - Prunus salicina 'Santa Rosa' / Santa Rosa Plum
 - Pyrus communis / Common Pear
 - Sambucus canadensis / American Elderberry
 - Tilia americana / American Linden
 - Zanthoxylum americanum / Common Pricklyash
 - Ziziphus jujuba / Chinese Jujube
- MEDICINAL TREES 13
 - Barrier Berms
 - Cordia boissieri / Anacahuita
 - Crataegus mollis / Downy Hawthome
 - Sambucus mexicana / Mexican Elderberry
 - Tilia americana / American Linden
 - Zanthoxylum americanum / Common Pricklyash
- BARRIER BERM 20
 - Native evergreen understorey
 - Dermatophyllum secundiflorum / Texas Mountain Laurel
 - Ilex vomitoria / Yaupon Holly
 - Myrica cerifera / Wax Myrtle
 - Rhus virens / Evergreen Sumac
- NITROGEN FIXERS 13
 - Aloystia virgata / Sweet Almond Bush
 - Gleditsia triacanthos / Honey Locust
 - Robinia pseudoacacia / Black Locust
- BENEFICIAL BERM TREES 10
 - Aesculus pavia / Red Buckeye
 - Amorpha californica / False Indigo
 - Sapindus drummondii / Western Soapberry
- TEXAS ECOREGIONS 12
 - Chilopsis linearis / Desert Willow
 - Juniperus virginiana / Eastern Red Cedar
 - Pinus taeda / Loblolly Pine
 - Prosopis x 'AZT' / AZT Thornless Mesquite
- EXISTING TREE

REFERENCE NOTES SCHEDULE

SYMBOL	DESCRIPTION	QTY	DETAIL
1	Barrier Berm		
2	Prairie		
3	Additional Crossing		
4	Rain Garden		
5	Nature Play		
6	Seating/Gathering Area		
7	Compass Garden		
8	Labyrinth/ Sacred Sound Circle		
9	Community Deck		
10	Paseo		
11	Berm, Typ.		
12	Swale, Typ.		
13	Water Reverence Opportunity		
14	Outdoor Kitchen/Pavillion Shade Structure		
15	Keyhole Kids Garden		
16	Keyhole Cultural Garden		
17	Outdoor Kitchen/Shed		




PHASE II CONCEPTUAL

Site Plan Areas

-  Festival Beach Community Garden
-  Festival Beach Food Forest Phase 1
-  Festival Beach Food Forest Phase 2
-  Zone extents / delineations

Phase 2.1 Legend

-  Included in Phase 2.1 and grant application
- This site map only shows existing trees and planting to be added in phase 2.1.

Phase 2.1 Planting List

Key	Species	Count
AO	Anacacho Orchid	3
BC	Barbados Cherry	3
CL	Cherry Laurel	3
ERC	Eastern Red Cedar	3
ESC	Escarpment Cherry	1
FI	False Indigo	3
KW	Kidney Wood	4
LLP	Loblolly Pine	3
LN	Linden	1
ML	Mountain Laurel	10
MW	Wax Myrtle	4
OLM	Olive (Mission)	3
PA1	Chojuro Pear	1
PA2	Sheinko Pear	1
PA3	Shinseiki Pear	1
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SEG	Evergreen Sumac	5
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Phase 2.1 to include the 160' long native, evergreen thicket on wide berm. Including earthworks, understorey trees, shrubs and groundcover.

Phase 2.1 to include the new canopy trees for the whole phase 2 area.

Pear Grove (Asian)

Phase 2.1 to include earthworks to the long berms and swales and a covercrop to stabilize them.

Community Garden

Shared area - FBFF Tool Shed and storage Zone

FBFF Existing Phase 1

Labyrinth of Native Grasses

Material Staging Zone with vehicular access.

ESC

LN

Raingarden (~5')

Raingarden (~5')

PA2

PA1

PA3

WSB

WSB

WSB

ERC

ERC

LLP

ERC

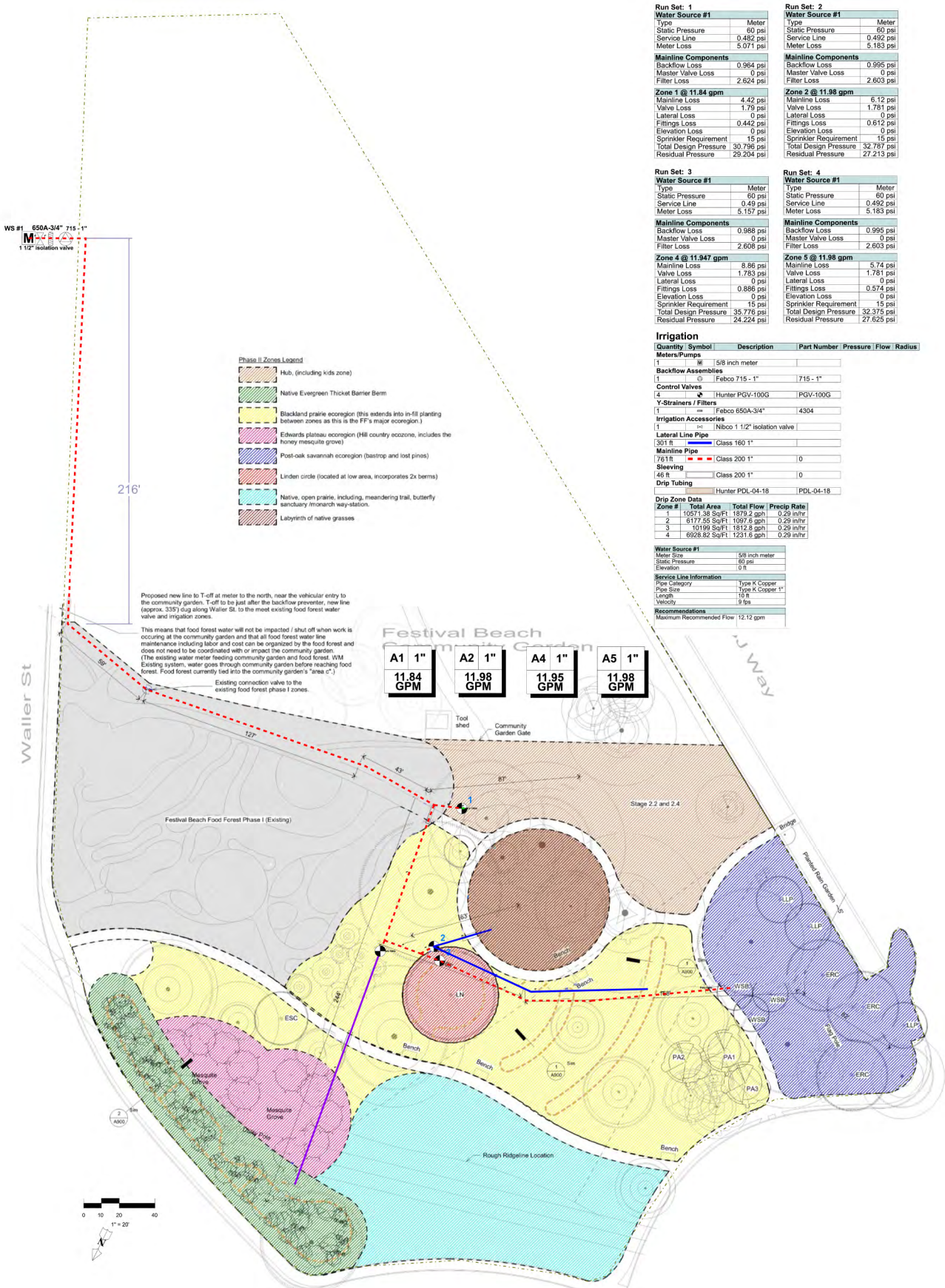
LLP

ERC

LLP

ERC

LLP



WS #1 650A-314" 715'-1"
 M
 1 1/2" isolation valve

- Phase II Zones Legend**
- Hub, (including kids zone)
 - Native Evergreen Thicket Barrier Bems
 - Blackland prairie ecoregion (this extends into in-fill planting between zones as this is the FF's major ecoregion.)
 - Edwards plateau ecoregion (Hill country ecoregion, includes the honey mesquite grove)
 - Post-oak savannah ecoregion (bastrop and lost pines)
 - Linden circle (located at low area, incorporates 2x berms)
 - Native, open prairie, including, meandering trail, butterfly sanctuary/monarch way-station.
 - Labyrinth of native grasses

Proposed new line to T-off at meter to the north, near the vehicular entry to the community garden. T-off to be just after the backflow preventer, new line (approx. 335') dug along Waller St, to the meet existing food forest water valve and irrigation zones.

This means that food forest water will not be impacted / shut off when work is occurring at the community garden and that all food forest water line maintenance including labor and cost can be organized by the food forest and does not need to be coordinated with or impact the community garden. (The existing water meter feeding community garden and food forest, WM Existing system, water goes through community garden before reaching food forest. Food forest currently tied into the community garden's "area c".)

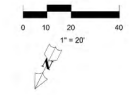
Existing connection valve to the existing food forest phase I zones.

A1 1"	A2 1"	A4 1"	A5 1"
11.84 GPM	11.98 GPM	11.95 GPM	11.98 GPM

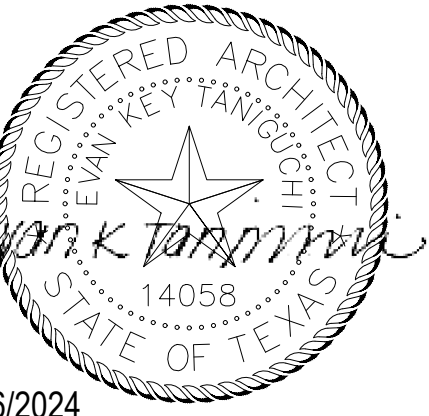
Run Set: 1		Run Set: 2	
Water Source #1		Water Source #1	
Type	Meter	Type	Meter
Static Pressure	60 psi	Static Pressure	60 psi
Service Line	0.482 psi	Service Line	0.492 psi
Meter Loss	5.071 psi	Meter Loss	5.183 psi
Mainline Components		Mainline Components	
Backflow Loss	0.964 psi	Backflow Loss	0.995 psi
Master Valve Loss	0 psi	Master Valve Loss	0 psi
Filter Loss	2.624 psi	Filter Loss	2.603 psi
Zone 1 @ 11.84 gpm		Zone 2 @ 11.98 gpm	
Mainline Loss	4.42 psi	Mainline Loss	6.12 psi
Valve Loss	1.79 psi	Valve Loss	1.781 psi
Lateral Loss	0 psi	Lateral Loss	0 psi
Fittings Loss	0.442 psi	Fittings Loss	0.612 psi
Elevation Loss	0 psi	Elevation Loss	0 psi
Sprinkler Requirement	15 psi	Sprinkler Requirement	15 psi
Total Design Pressure	30.796 psi	Total Design Pressure	32.767 psi
Residual Pressure	29.204 psi	Residual Pressure	27.213 psi
Run Set: 3		Run Set: 4	
Water Source #1		Water Source #1	
Type	Meter	Type	Meter
Static Pressure	60 psi	Static Pressure	60 psi
Service Line	0.49 psi	Service Line	0.492 psi
Meter Loss	5.157 psi	Meter Loss	5.183 psi
Mainline Components		Mainline Components	
Backflow Loss	0.988 psi	Backflow Loss	0.995 psi
Master Valve Loss	0 psi	Master Valve Loss	0 psi
Filter Loss	2.606 psi	Filter Loss	2.603 psi
Zone 4 @ 11.947 gpm		Zone 5 @ 11.98 gpm	
Mainline Loss	8.86 psi	Mainline Loss	5.74 psi
Valve Loss	1.783 psi	Valve Loss	1.781 psi
Lateral Loss	0 psi	Lateral Loss	0 psi
Fittings Loss	0.886 psi	Fittings Loss	0.574 psi
Elevation Loss	0 psi	Elevation Loss	0 psi
Sprinkler Requirement	15 psi	Sprinkler Requirement	15 psi
Total Design Pressure	35.776 psi	Total Design Pressure	32.379 psi
Residual Pressure	24.224 psi	Residual Pressure	27.625 psi

Irrigation

Quantity	Symbol	Description	Part Number	Pressure	Flow	Radius
Meters/Pumps						
1	W	5/8 inch meter				
Backflow Assemblies						
1	Q	Fabco 715 - 1"	715 - 1"			
Control Valves						
1	V	Hunter PGV-100G	PGV-100G			
Y-Strainers / Filters						
1	Y	Fabco 650A-314"	4304			
Irrigation Accessories						
1	W	Nibco 1 1/2" isolation valve				
Lateral Line Pipe						
330 ft	W	Class 160 1"				
Mainline Pipe						
76 ft	W	Class 200 1"				
Sleeving						
46 ft	W	Class 200 1"				
Drip Tubing						
		Hunter PDL-04-18	PDL-04-18			
Drip Zone Data						
Zone #	Total Area	Total Flow	Precip. Rate			
1	10771.58 Sq/Ft	1879.2 gpm	0.29 in/hr			
2	6177.56 Sq/Ft	1097.6 gpm	0.29 in/hr			
3	10190 Sq/Ft	1812.6 gpm	0.29 in/hr			
4	6928.82 Sq/Ft	1231.6 gpm	0.29 in/hr			
Water Source #1						
Meter Size	5/8 inch meter					
Static Pressure	60 psi					
Elevation	0 ft					
Service Line Information						
Pipe Category	Type K Copper					
Pipe Size	Type K Copper 1"					
Length	15 ft					
Velocity	9 fps					
Recommendations						
Maximum Recommended Flow	12.12 gpm					

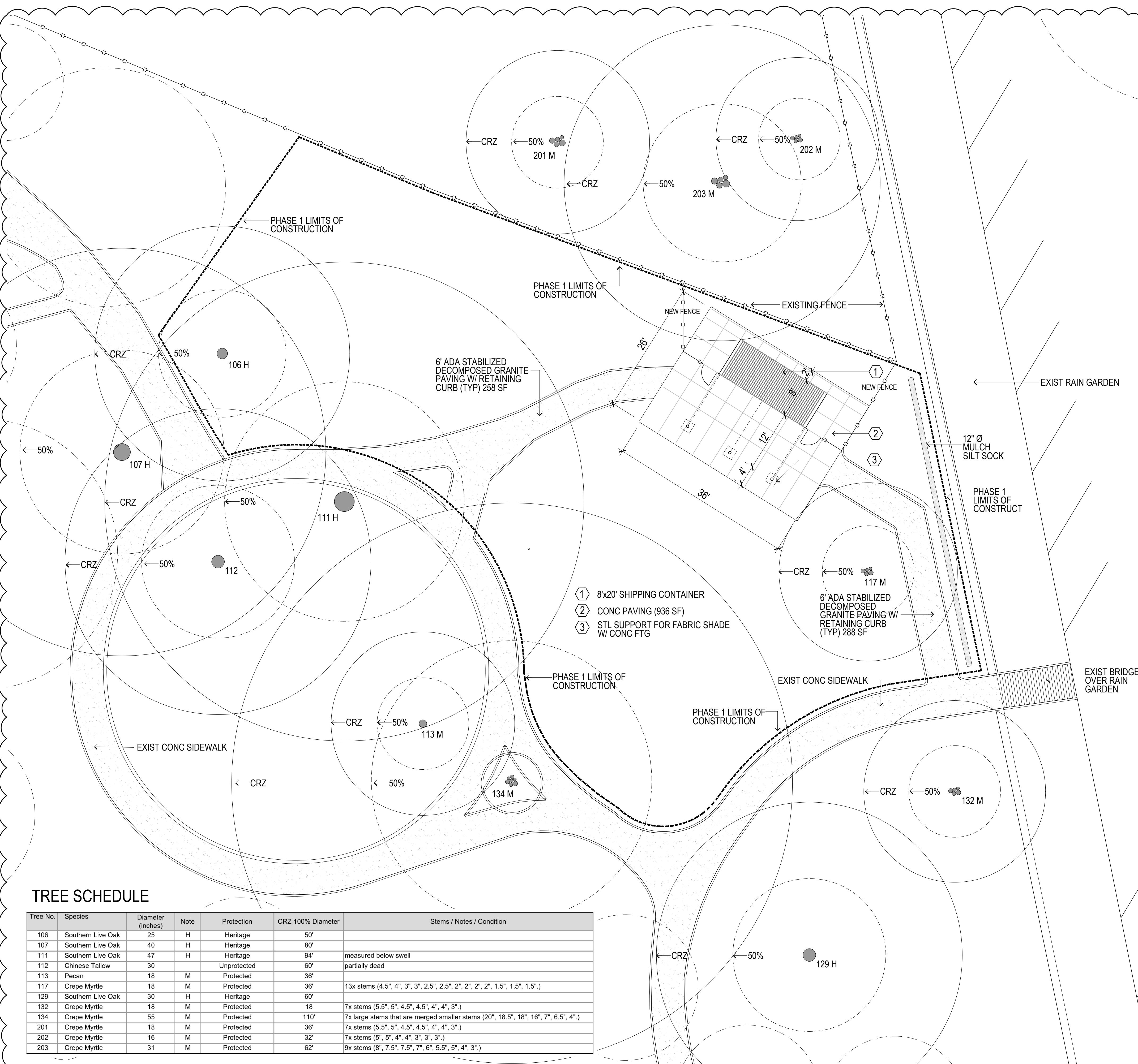


Nash Hernandez Senior Rd.



4/16/2024

Festival Beach Harvest Hub
SHIPPING CONTAINER RETROFIT
 Austin, Texas 78702
 25 1/2 Waller Street



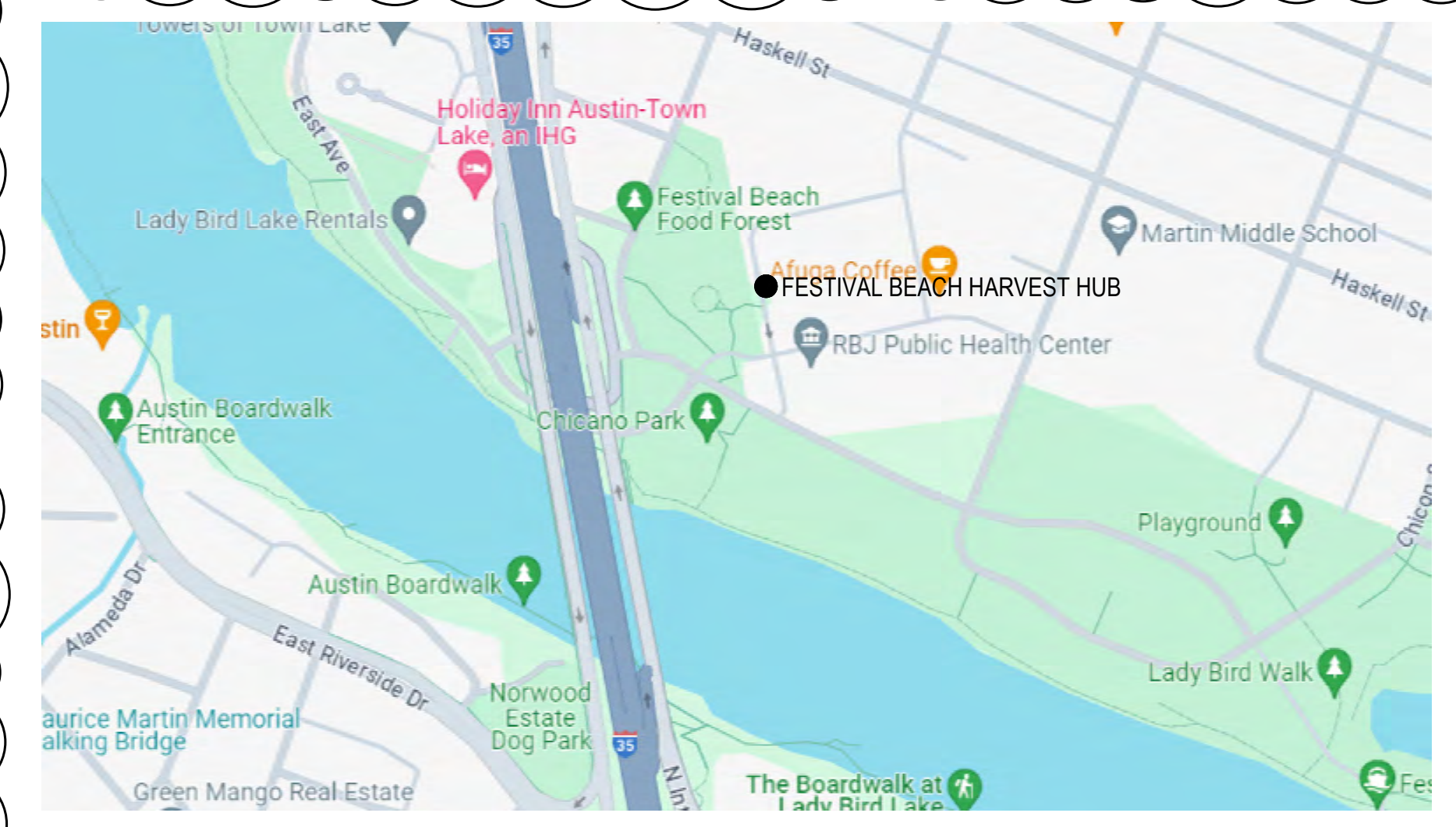
IMPERVIOUS COVER/ LIMITS OF CONSTRUCTION CALCULATIONS

SITE ELEMENT	AREA (S.F.)	COVERAGE
TOTAL LOT (REFER TO EXHIBIT C PLAN)	11,176.0 SF (26 ACRE)	
IMPERVIOUS COVER		
RETROFITTED SHIPPING CONTAINER	160.0	
CONCRETE PAVING	770.0	
CONCRETE PAVING	770.0	
TOTAL IMPERVIOUS COVER	936.0	8.4%
LIMITS OF CONSTRUCTION	2,132.2	

▲ SITE CALCULATIONS REVISED
NOTES ADDED

TREE PROTECTION/ ENVIRONMENTAL CONTROL NOTES

- No trees will be removed or disturbed.
- No construction activity will occur with the half-critical root zone of existing trees.
- Environmental controls, including tree protection and erosion control measures shall comply with City of Austin details.
- All areas disturbed by construction activity shall be restored with seeding or sodding as per City of Austin specifications.
- Refer Sheet A1.0 for Details

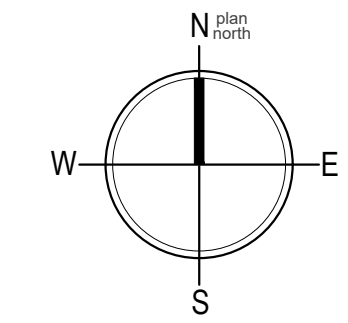


AREA MAP

TREE SCHEDULE

Tree No.	Species	Diameter (inches)	Note	Protection	CRZ 100% Diameter	Stems / Notes / Condition
106	Southern Live Oak	25	H	Heritage	50'	
107	Southern Live Oak	40	H	Heritage	80'	
111	Southern Live Oak	47	H	Heritage	94'	measured below swell
112	Chinese Tallow	30		Unprotected	60'	partially dead
113	Pecan	18	M	Protected	36'	
117	Crepe Myrtle	18	M	Protected	36'	13x stems (4.5", 4", 3", 3", 2.5", 2.5", 2", 2", 2", 1.5", 1.5", 1.5")
129	Southern Live Oak	30	H	Heritage	60'	
132	Crepe Myrtle	18	M	Protected	18	7x stems (5.5", 5", 4.5", 4.5", 4", 4", 3")
134	Crepe Myrtle	55	M	Protected	110'	7x large stems that are merged smaller stems (20", 18.5", 18", 16", 7", 6.5", 4")
201	Crepe Myrtle	18	M	Protected	36'	7x stems (5.5", 5", 4.5", 4.5", 4", 4", 3")
202	Crepe Myrtle	16	M	Protected	32'	7x stems (5", 5", 4", 4", 3", 3", 3")
203	Crepe Myrtle	31	M	Protected	62'	9x stems (8", 7.5", 7.5", 7", 6", 5.5", 5", 4", 3")

- ① 8'x20' SHIPPING CONTAINER
- ② CONC PAVING (936 SF)
- ③ STL SUPPORT FOR FABRIC SHADE W/ CONC FTG



SITE PLAN

SCALE: 1" = 20'-0"

▲ TREE CRZ INFO ADDED
▲ TREE SCHEDULE ADDED
▲ LIMITS OF CONSTRUCTION REVISED
▲ EROSION CONTROL ADDED

ISSUED:
BUILDING PERMIT SET
BUILDING PERMIT SET REVISIONS- 4/16/24

Project No.: TA-24-001
File: Commercial_Restaurant
Drawn by: EKT
Reviewed by: EKT
Date: 1/5/2024

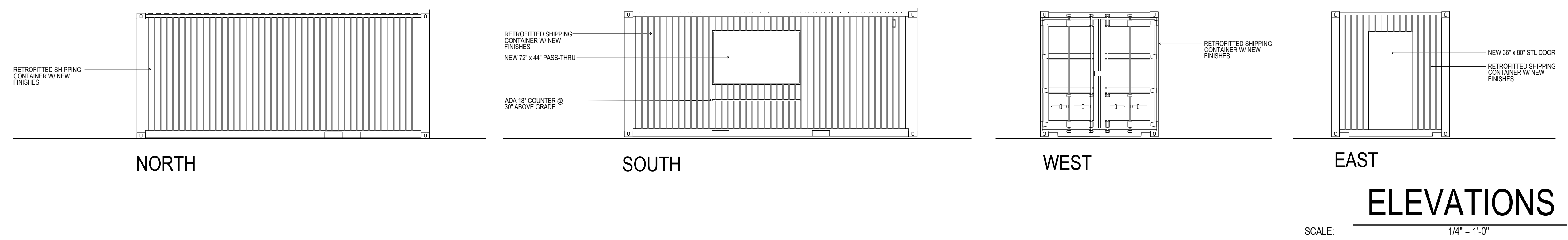
REVISIONS

▲	4/16/24- DSD MASTER COMMENTS
▲	
▲	
▲	

SHEET NUMBER:
A0.0

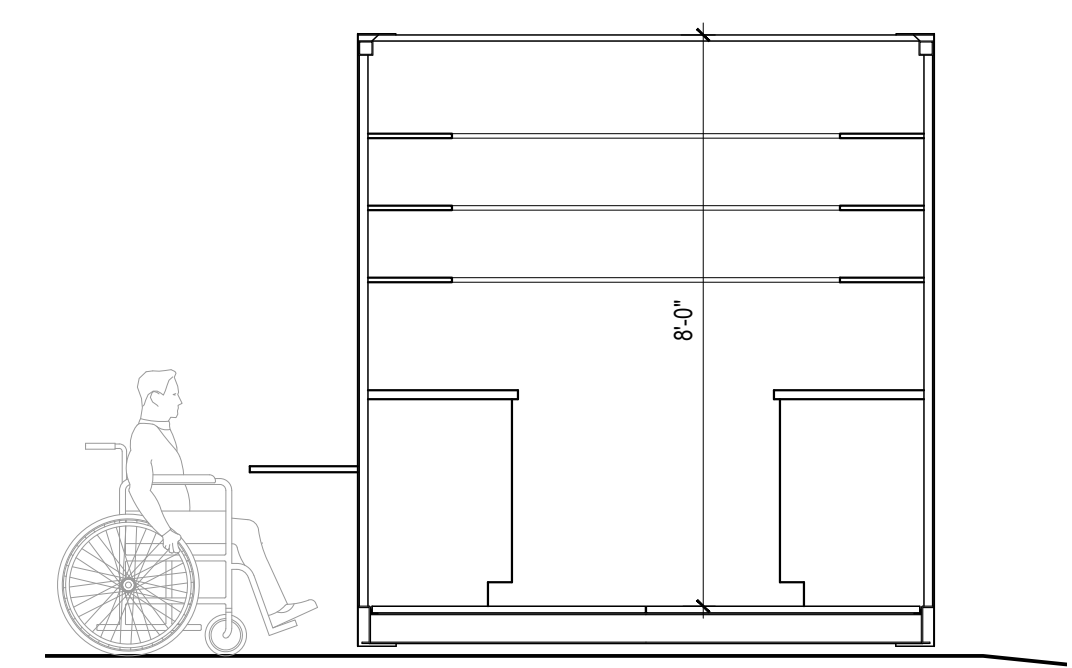


4/16/2024



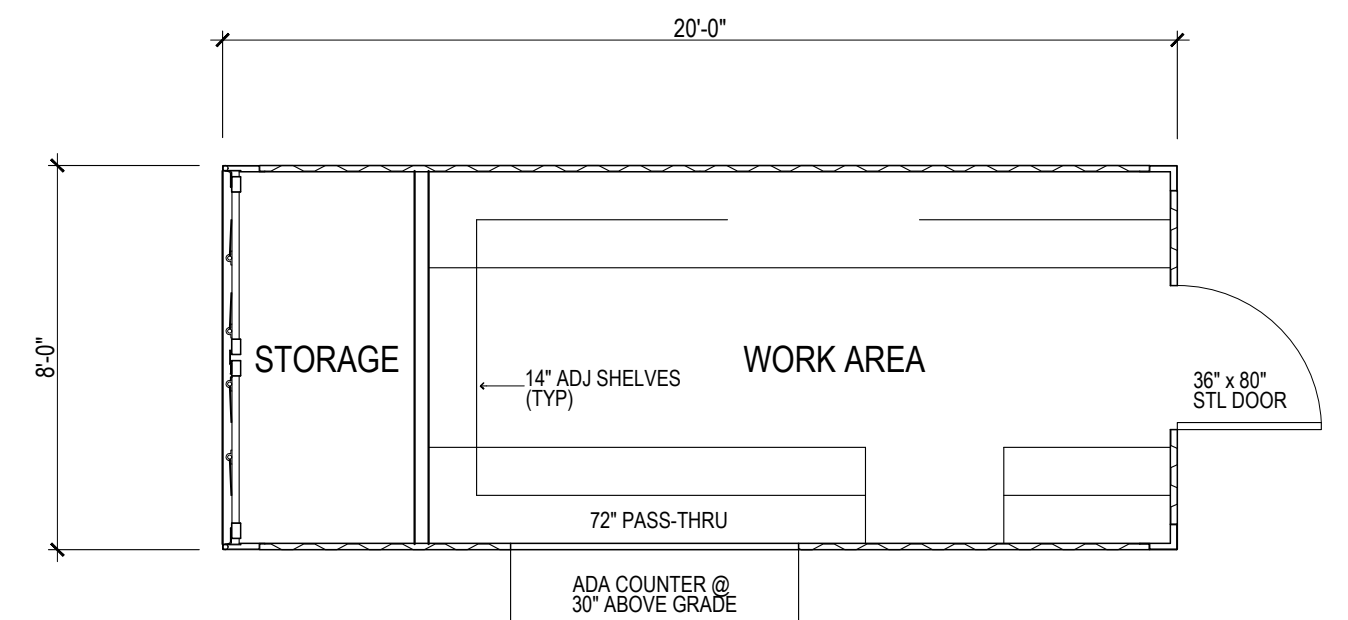
ELEVATIONS

SCALE: 1/4" = 1'-0"

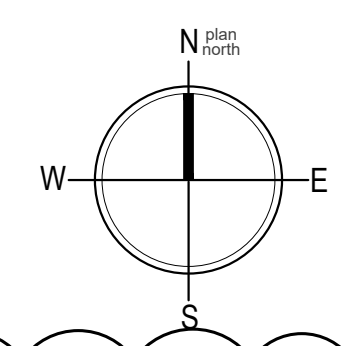


SECTION

SCALE: 3/8" = 1'-0"



FLOOR PLAN



SCALE: 1/4" = 1'-0"

COA DETAILS ADDED



TREE PROTECTION AND EROSION/SEDIMENT CONTROLS

CONTROLS: TREE PROTECTION

Protecting a tree's Critical Root Zone (CRZ) is crucial for tree survival during construction or demolition. All trees measuring 19" or greater in diameter (60" in circumference) are classified as protected and require a permit before construction or demolition. These CRZ protections also apply to any trees extending onto a property from neighboring properties.

Tree Measuring Tips

- Measure the trunk at 4.5 ft. above the ground to find the tree's diameter.
- Misshapen or Swollen Trunk:** if the bend or swell is on the trunk at 4.5 ft. from the ground, measure just below the distortion
- Multi-Trunk:** add the total diameter of the largest trunk to half the diameter of each additional trunk

CRZ Calculating Guidelines

Each inch of the tree's diameter = 1-foot radius of the full CRZ.

- Example: 20" diameter = 20 ft. radius, place fencing 20 ft. from all points of the tree

Full CRZ Protection

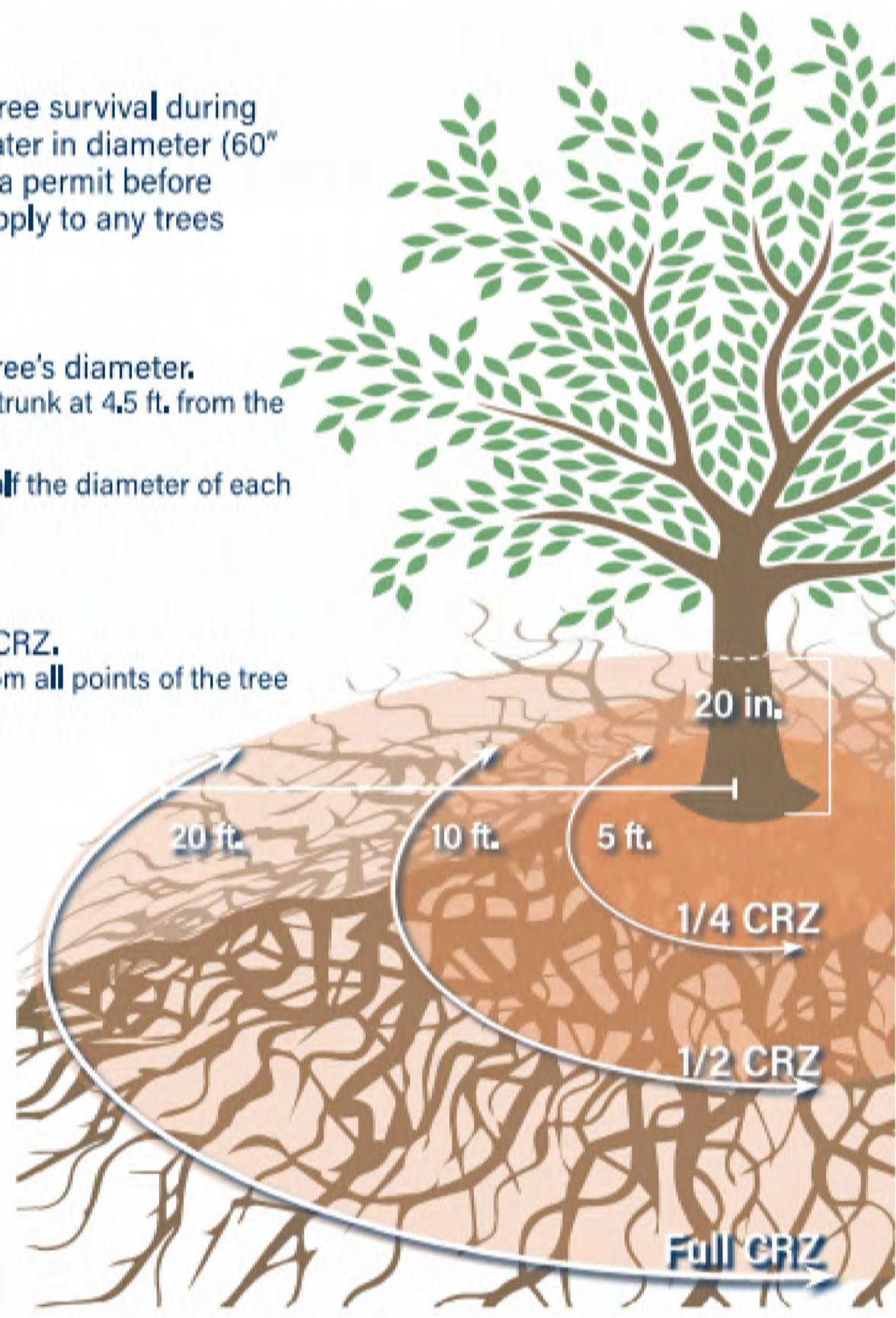
- Apply 8" of hardwood mulch within the entire Full CRZ
- Place 5 ft. tall chain-link fencing around the entire Full CRZ

1/2 CRZ Protection

- Apply 8" of hardwood mulch within the entire Full CRZ
- Fence as much of the Full CRZ as possible
- If fencing cannot be put around the Full CRZ, fencing can be pulled back but cannot cross into the 1/2 CRZ

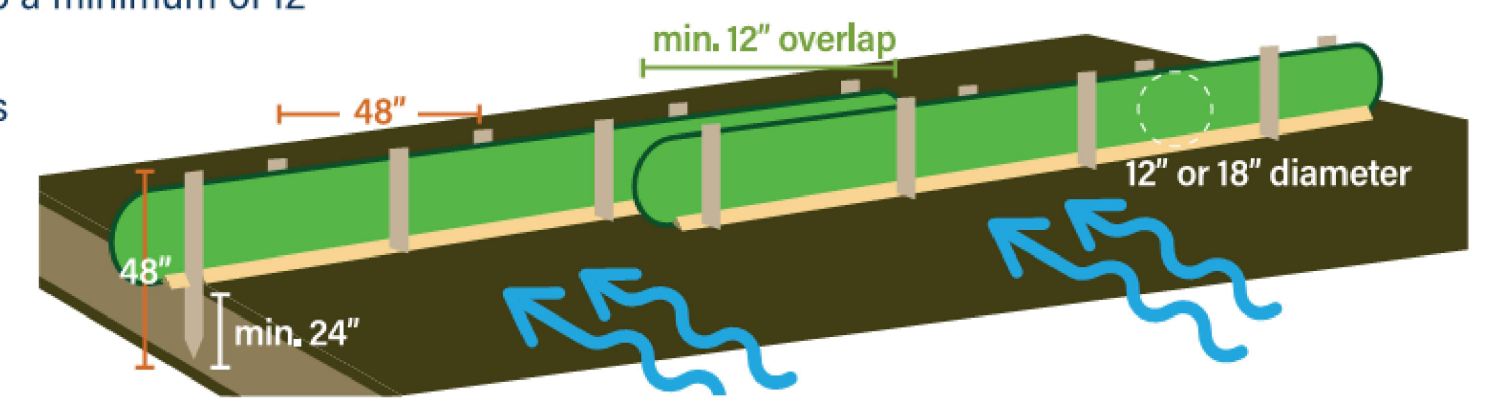
1/4 CRZ Protection

- Apply 8" of hardwood mulch within the entire Full CRZ
- NO IMPACTS are allowed in the 1/4 CRZ
- Vertically strap 2"x4"x6' or greater size lumber around the tree itself in areas where fencing is not an option
- Confirm with your inspector before installing protective planks in lieu of fencing



Mulch Socks: A mulch sock consists of material encased in a 12" or 18" diameter tube of mesh and provides an environmentally-sensitive alternative to silt fencing.

- Mulch material may consist of shredded bark, stump grindings and/or composted bark and should be produced from a 3" minus screening process. Do NOT use HAY/STRAW!
- Ends of adjacent socks should overlap a minimum of 12"
- Install using steel or wood posts (48" minimum) placed on 4 ft. (48") centers driven at least 24" into the ground on alternating sides of the sock
- Mulch socks should not be used on slopes greater than 2:1 or in concentrated flow area



Festival Beach Harvest Hub
SHIPPING CONTAINER RETROFIT
 Austin, Texas 78702
 25 1/2 Waller Street

ISSUED:
BUILDING PERMIT SET- 4/16/24

Project No.: TA-24-001
File: Commercial_Restaurant
Drawn by: EKT
Reviewed by: EKT
Date: 1/5/2024

REVISIONS
△ 4/16/24- DSD MASTER COMMENTS
△
△
△

SHEET NUMBER:
A1.0

Exhibit D

Insurance Requirements

[see attached]

Insurance Requirements

Partner and its Contractors are required to carry workers' compensation insurance, and general liability insurance with combined single coverage limits in an amount of not less than \$1,000,000.00 per occurrence. Within thirty (30) days of executing this Agreement, and prior to any maintenance activities in the Park, Partner shall furnish to the City the following current certificates of insurance:

A. Commercial General Liability insurance with a minimum bodily injury and property damage per occurrence limit of \$500,000 for coverages A & B. The policy shall contain the following provisions:

1. Blanket contractual liability coverage for liability assumed under this contract and all contracts relative to this Agreement.
2. Completed Operations/Products Liability for the duration of the warranty period.
3. Explosion, Collapse, and Underground (X, C, & U) coverage.
4. Independent contractors' coverage.
5. City of Austin listed as an additional insured, endorsement CG 2010.
6. 30-day Notice of Cancellation in favor of the City of Austin, endorsement CG 0205.
7. Waiver of Transfer Right of Recovery Against Others in favor of the City of Austin, endorsement CG 2404.

B. Business Automobile Liability insurance for all owned, non-owned and hired vehicles with a minimum combined single limit of \$500,000 per occurrence for bodily injury and property damage. Alternate acceptable limits are \$250,000 bodily injury per person, \$500,000 bodily injury per occurrence and at least \$100,000 property damage liability per accident. The policy shall contain the following endorsements in favor of the City of Austin:

1. Waiver of Subrogation, endorsement TE 2046A.
2. 30-day Notice of Cancellation, endorsement TE 0202A.
3. Additional Insured endorsement TE 9901B.

C. All Contractors and subcontractors providing services in the Easement Area shall carry insurance in the types and amounts indicated below for the duration of their contracts.

D. Specific Requirements for Partner Contractors and Subcontractors:

1. Workers' Compensation and Employers' Liability Insurance coverage with limits consistent with the statutory benefits outlined in the Texas Workers' Compensation Act (Section 401) and minimum policy limits for employer's liability of \$100,000 bodily injury each accident, \$500,000 bodily injury by disease policy limit, and \$100,000 bodily injury by disease each employee. The Contractor's policy shall apply to the State of Texas and include the following endorsements in favor of the City of Austin:
 - a. Waiver of Subrogation, form WC 420304.
 - b. 30-day Notice of Cancellation, form WC 420601.
2. Commercial General Liability Insurance with a minimum bodily injury and property damage per occurrence limit of \$500,000 for coverages A & B. The policy shall contain the following coverages:

- a. Blanket contractual liability coverage for liability assumed under this contract and all contracts relative to this project.
- b. Completed Operations/Products Liability for the duration of the Warranty period.
- c. Explosion, Collapse, and Underground (X, C, & U) coverage.
- d. Independent Contractors' coverage.
- e. City of Austin listed as an additional insured, endorsement CG 2010.
- f. 30-day Notice of Cancellation in favor of the City of Austin, endorsement CG 0205.
- g. Waiver of Transfer Right of Recovery Against Others in favor of the City of Austin, endorsement CG 2404.

Exhibit E

Easement Area

[see attached]

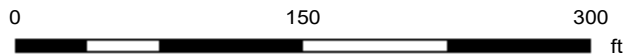


Property Profile



Legend

- Property
 - Addresses
 - Easement Polygons
 - Dedicated
 - Easement Annotation
- Easement Lines
 - DEDICATED
- Jurisdictions Fill
 - Jurisdiction
 - FULL PURPOSE



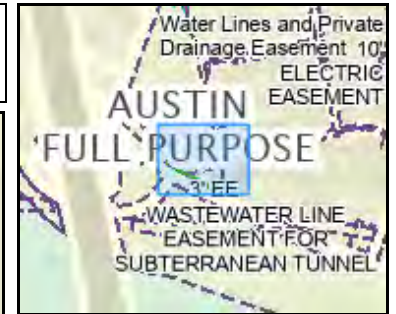
9/16/2024

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Notes



Property Profile



Legend

Property

Addresses



Easement Polygons



Easement Annotation

Easement Lines

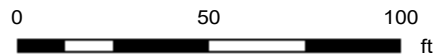


Jurisdiction



Jurisdictions Fill

Jurisdiction



9/25/2024

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Notes

Exhibit F

Maintenance Requirements

[see attached]

Maintenance Responsibilities

PARD and Partner will work together to inform and collaborate to assist one another in all maintenance responsibilities. PARD and Partner agree that maintenance is essential to maintain highest and best parties functionality, safety, and aesthetic value of the improvements. This can only be accomplished if both observe, report, and collaborate in the maintenance efforts.

Partner will keep, maintain, and operate the Park Improvements appearance and repair, except for reasonable wear and tear. Partner will be responsible for specified maintenance as outlined below after PARD issues an Acceptance Letter. Some Park Improvements such as new vegetation and aesthetic features may require more attention and maintenance in the first year(s) until fully established.

A. Partner will:

- a. maintain landscaping as shown in the concept plan (Exhibit A);
- b. perform tree care for all trees planted by the Partner in accordance with PARD Urban Forestry procedures, including the use of a certified arborist for overhead tree work;
- c. dispose of plant waste, via compost or removal from site;
- d. maintain all partner-built amenities, including
 - i. signage,
 - ii. seating and gathering area,
 - iii. community deck,
 - iv. labyrinth,
 - v. outdoor kitchen/pavilion shade structure
 - vi. shed,
 - vii. gardens, and
 - viii. irrigation system;
- e. carry out graffiti abatement as needed and when provided notice by PARD; and
- f. maintain existing decomposed granite trail surfaces, except for the replenishment of material;
- g. maintain new decomposed granite trail surfaces, including the replenishment of material;
- h. maintain 18 feet of vertical clearance and 11 feet of horizontal clearance for any areas serviced by PARD; and
- i. notify PARD in advance of any upcoming site development that will change PARD's maintenance responsibilities or access.

B. PARD will:

- a. replenish material for existing decomposed granite trail surfaces as needed;
- b. maintain any PARD drinking fountains;
- c. maintain curb & gutters;
- d. maintain and regularly empty PARD trash and recycling receptacles; and
- e. mow consistent with other areas of the Park, as documented in PARD's mow map.

Maintenance performed by Partner will be performed on an as-needed basis, and the type and frequency of maintenance will change seasonally based on use, weather, special events and other variables. PARD will perform both checks and maintenance on a more regular basis as part of their daily operations and management.

The City has the right to approve any company hired or otherwise placed under contract by Partner for any maintenance of the Park Improvements and the Park, but such approval will not be unreasonably withheld, conditioned or delayed. Partner will make readily available, upon request, the name of individuals and company and their company proof of adequate bond and insurance status as applicable.

Exhibit G

Initial Programming Plan

[see attached]

