Funding Agreement
Between
Collin County
And
Trinity Trail Preservation Association

That Collin County (hereinafter referred to as "County"), and the Trinity Trail Preservation Association, a Texas non-profit corporation, acting herein through its duly authorized representative (hereinafter referred to as "Association")' enter into this Funding Agreement to set out the terms and conditions governing the award of County funds to Association for the purposes set out herein.

WHEREAS, the Commissioners Court finds that the expenditure of public funds to Association is in the best interest of Collin County and its citizens; and

WHEREAS, the County has determined that the parks and open space improvements may be constructed most economically by implementing this Agreement; and

WHEREAS, the Commissioners Court finds that expending public funds for the purpose stated above is a valid public purpose; and

WHEREAS, Collin County has Parks and Open Space Bond Funds to make available in the amount of $122,050.00 to Association for the purposes set forth in this Agreement; and

WHEREAS, the County and the Association find that this Agreement will benefit the residents of Collin County by providing additional and/or enhanced park, recreational and cultural facilities; and

WHEREAS, this Agreement will support or advance the mission of the Collin County Parks and Open Space Strategic Plan; and

WHEREAS, Association through the application process, has demonstrated that it has the ability to perform such services.

NOW, THEREFORE, for and in consideration of the covenants, obligations, and undertakings of each of the respective parties to the Agreement, the parties hereby agree as follows:

ARTICLE I

This Agreement provides the terms and conditions under which County will make available the sum of **$122,050.00** to be used to support the **East Fork Park Equestrian Campground** by providing funds for contracted services as described in the application. The source of these funds is County Park and Open Space bond funds. In consideration of Collin County providing funding specified herein, Association shall abide by the terms and conditions of this Agreement.

ARTICLE II

Association shall use any and all funds furnished by County under this Agreement for the purposes outlined herein and in Exhibit "A" (attached hereto).

1. Should the Association wish to utilize funds for any purpose other than those stated in the Application, the Association must obtain approval from the Association's Board and Collin County Commissions Court (the "Commissioners Court"). No change may occur unless:

   a. Approved by Association's Board, as evidenced by the official minutes of the Board authorizing the change;
   b. Review of proposed change by the Collin County Parks Foundation Advisory Board as evidenced by official minutes of the Board;
   c. Approval from Commissioners Court.

All expenditures of bond funds must comply with this Agreement and the attachments hereto.

Unexpended and unencumbered bond funds will revert to the County's Park and Open Space bond fund.

ARTICLE III

Association may not assign any interest in this Agreement, whether in whole or part, without prior approval of Commissioners Court as reflected by Commissioners Court Order.

ARTICLE IV

The County enters into this Agreement with Association for the purposes enumerated in Article I. Association asserts and agrees that Association is an independent contractor and not an officer, agent, servant or employee of Collin County. Association has exclusive control over the details of the activities necessary to accomplish the purposes outlined herein and in Exhibit "A", and is responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and consultants. The doctrine of respondent superior does not apply as between County and Association, its officers, agents, employees, contractors, subcontractors and consultants. Further, this Agreement does not create a partnership or joint enterprise between County and Association.

ARTICLE V

The Association estimates the total actual cost of the project to be $247,050.00. The County agrees to fund the cost to install or construct items described in Exhibit "A" in an amount not to exceed **$122,050.00**. The County shall reimburse the Association for invoices paid by the Association for cost related to the Project on a dollar for dollar matching basis.

Alternative payment schedules would require Commissioners Court approval. The Association shall be responsible for any costs that exceed the total estimated Project cost.

The Association shall install a **project sign** identifying the project as being partially funded by the Collin County 2003 Parks and Open Space Bond Program. The Association shall also provide **before, during and after photos** and **quarterly progress reports** in electronic format or via US mail to the contact identified on Exhibit "A". Following completion of the Project, the Association shall provide **an itemized final accounting of expenditures** including in-kind services or donations for the project. All projects for which the County has provided funds through its 2003 Parks and Open Space Bond Program must remain open and accessible to all County residents.

ARTICLE VI

INDEMNIFICATION. To the extent allowed by law, each party agrees to release, defend, indemnify, and hold harmless the other (and its officers, agents, and employees) from and against all claims or causes of action for injuries (including death), property damages (including loss of use), and any other losses, demands, suits, judgments and costs, including reasonable attorneys' fees and expenses, in any way arising out of, related to, or resulting from its performance under this Agreement, or caused by its negligent acts or omissions (or those of its respective officers, agents, employees, or any other third parties for whom it is legally responsible) in connection with performing this Agreement.

ARTICLE VII.

VENUE. The laws of the State of Texas shall govern the interpretation, validity, performance and enforcement of this Agreement. The parties agree that this Agreement is performable in Collin County, Texas and that exclusive venue shall lie in Collin County, Texas.

ARTICLE VIII.

SEVERABILITY. The provisions of this Agreement are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of this Agreement is for any reason held by a court of competent jurisdiction to be contrary to law or contrary to any rule or regulation having the force and effect of the law, the remaining portions of the agreement shall be enforced as if the invalid provision had never been included.

ARTICLE IX.

ENTIRE AGREEMENT. This Agreement embodies the entire Agreement between the parties and may only be modified in writing executed by both parties.

ARTICLE X.

SUCCESSORS AND ASSIGNS. This Agreement shall be binding upon the parties hereto, their successors, heirs, personal representatives and assigns. Neither party will assign or transfer an interest in this Agreement without the written consent of the other party.

ARTICLE XI.

IMMUNITY. It is expressly understood and agreed that, in the execution of this Agreement, neither party waives, nor shall be deemed hereby to have waived any immunity or defense that would otherwise be available to it against claims arising in the exercise of governmental powers and functions. By entering into this Agreement, the parties do not create any obligations, express or implied, other that those set forth herein, and this Agreement shall not create any rights in parties not signatories hereto.

ARTICLE XII.

TERM. This Agreement shall be effective upon execution by both parties and shall continue in effect annually until final acceptance of the Project.

ARTICLE XIII.

The declarations, determinations and findings declared, made and found in the preamble to this Agreement are hereby adopted, restated and made part of the operative provisions hereof.

ATTEST:

By: Georgia Shepherd
Name: Georgia Shepherd
Title: Administrative Secretary
Date: 4/6/09

COUNTY OF COLLIN, TEXAS

By: Keith Self
Name: Keith Self
Title: County Judge
Date: 4/6/09
Executed on this 6th day of April, 2009, by the County of Collin, pursuant to Commissioners' Court Order No. 2009-254-04-06.

APPROVED AS TO FORM:

By:_____
Name:
Title:
Date:_____

TRINITY TRAIL PRESERVATION ASSOCIATION

By: Tracy K. Malem
Name:
Title: President - past - Board Member
Date: 03/24/09
Executed on behalf of the Trinity Trail Preservation Association

EXHIBIT "A" **REVISED 4/2009**

The County will provide the following funding assistance for park and open space improvements:

- ❑ Grading, Excavation, Sub-grade compaction, finish grading
- ❑ Recycled concrete material and installation
- ❑ Engineering & surveying services, construction staking
- ❑ Electrical materials and installation
- ❑ Trenching machine
- ❑ Plumbing materials and installation
- ❑ Landscaping
- ❑ Materials for steel pipe pens
- ❑ Picnic table materials
- ❑ Covers for picnic tables
- ❑ Bronze Plaque
- ❑ **Entry Feature**
- ❑ **Covered Pavilion**

Total funding **$122,050.00**

Contact Information

The request for reimbursement should include copies of the invoice(s), check confirming payment, and any other supporting documentation submitted to:

Collin County
Special Projects
Teresa Nelson
825 N. McDonald Street, Suite 145
McKinney, Texas 75069
972-548-3744

Submission of electronic photos and quarterly reports:

Teresa Nelson
tnelson@collincountytexas.gov

Project Manager Contact: (must be able to answer specific questions regarding project)

Name: _____

Address: _____

_____

Phone: _____

Fax: _____

Email: _____