

**FUNDING AGREEMENT
BETWEEN
COLLIN COUNTY
AND THE
HEARD NATURAL SCIENCE MUSEUM & WILDLIFE SANTUARY
2018 PARKS AND OPEN SPACE BOND PROJECT 0118PG08**

That Collin County (hereinafter referred to as "County"), and the Heard Natural Science Museum & Wildlife Sanctuary, a Texas non-profit corporation, acting herein through its duly authorized representative (hereinafter referred to as the "Museum") enter into this Funding Agreement to set out the terms and conditions governing the award of County funds to the Museum for the purposes set out herein.

WHEREAS, the Commissioners Court finds that the expenditure of public funds to the Museum 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 **\$16,000** to the Museum for the purposes set forth in this Agreement; and

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

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

WHEREAS, the Museum 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 **\$16,000.00** to be used to support improvements for the Animal Exhibit Trail 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, the Museum shall abide by the terms and conditions of this Agreement.

ARTICLE II

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

- a. Approved by Museum'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

The Museum 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 the Museum for the purposes enumerated in Article I. The Museum asserts and agrees that the Museum is an independent contractor and not an officer, agent, servant or employee of Collin County. The Museum 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 the Museum, its officers, agents, employees, contractors, subcontractors and consultants. Further, this Agreement does not create a partnership or joint enterprise between County and the Museum.

ARTICLE V

The Museum estimates the total actual cost of the project to be approximately \$40,000.00. The County agrees to fund the cost to install or construct items described in Exhibit "A" in an amount not to exceed **\$16,000.00** as indicated in Article IV above. The County shall reimburse the Museum for invoices paid by the Museum for cost related to the Project on a dollar for dollar matching basis. The Museum shall be responsible for any costs, which exceed the total estimated project cost.

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

The Museum shall install a **project sign** identifying the project as being partially funded by the Collin County 2018 Parks and Open Space Bond Program. The Museum shall also provide **before, during and after photos** and **quarterly progress reports** in electronic format to the contact identified on Exhibit "A". Following completion of the Project, the Museum 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 2018 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 than those set forth herein, and this Agreement shall not create any rights in parties not signatories hereto.

ARTICLE XII.

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.

ARTICLE XIII.

EXPENSES FOR ENFORCEMENT. In the event either Party hereto is required to employ an attorney to enforce the provisions of this Agreement or is required to commence legal proceedings to enforce the provisions hereof, the prevailing Party shall be entitled to recover from the other, reasonable attorney's fees and court costs incurred in connection with such enforcement, including collection.

ARTICLE XIV.

FORCE MAJEURE. No party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement, when and to the extent such failure or delay is caused by or results from acts beyond the affected party's reasonable control, including, without limitation: acts of God; flood, fire or explosion; war, invasion, riot or other civil unrest; actions, embargoes or blockades in effect on or after the date of this Agreement; or national or regional emergency (each of the foregoing, a "Force Majeure Event"). A party whose performance is affected by a Force Majeure Event shall give notice to the other party, stating the period of time the occurrence is expected to continue and shall use diligent efforts to end the failure or delay and minimize the effects of such Force Majeure Event.

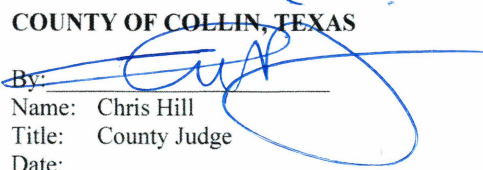
ARTICLE XV.

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

ATTEST:

By: _____
Name: _____
Title: _____
Date: _____

COUNTY OF COLLIN, TEXAS

By: 
Name: Chris Hill
Title: County Judge
Date: _____
Executed on this ____ day of _____,
20____, by the County of Collin,
pursuant to Commissioners' Court
Order No. _____.

APPROVED AS TO FORM:

By: _____
Name: _____
Title: _____
Date: _____

**HEARD NATURAL SCIENCE MUSEUM &
WILDLIFE SANTUARY**


By: 
Name: Sy Shahid
Title: executive Director
Date: 11/24/2020
Executed on behalf of the Heard Natural Science
Museum & Wildlife Sanctuary

EXHIBIT "A"

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

- ☐ Upgrade existing decomposed granite trail to concrete.

Total funding
County Project Code OI18PG08

\$16,000.00

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 Engineering
Tracy Homfeld
4690 Community Avenue, Suite 200
McKinney, Texas 75071
972-548-3733

Submission of electronic photos and quarterly reports:

Tracy Homfeld
thomfeld@co.collin.tx.us

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

Name: Sy Shahid
Address: Heard Museum
1 Nature Place, McKinney, TX 75069
Phone: 972.562.5566 X226
Fax: 972.548.9119
Email: sshahid@heardmuseum.org