

**COLLABORATIVE AGREEMENT  
FOR DEVELOPMENT OF THE TREELINE - ALLEN CREEK URBAN TRAIL**

This agreement, dated \_\_\_\_\_, 2019 is between the City of Ann Arbor ("City"), a Michigan municipal corporation with its address at 301 E. Huron St., Ann Arbor, MI 48104 and The Treeline Conservancy ("Conservancy"), a Michigan nonprofit corporation with its registered address at 525 W. William St., Ann Arbor, MI 48103.

**PURPOSE**

The purpose of this agreement is to establish a general framework for the creation of a public/private collaboration between the City and the Conservancy for funding, planning, constructing, and maintaining the Treeline - Allen Creek Urban Trail ("Treeline"). It will assist in defining the relationship between the parties to ensure that the goals of each are accomplished and driven by a shared desire to guide and advance the implementation of the Treeline Master Plan adopted by the City on December 18, 2017.

**GUIDING PRINCIPLES**

The guiding principles and assumptions for this agreement are as follows:

- By adopting the Treeline - Allen Creek Urban Trail Master Plan as part of the City's overall Master Plan, the intention to implement the Plan is now a City goal.
- The Treeline is a City project that is expected to involve collaboration with and funding support from the Conservancy, other nonprofits, as well as private donors.
- The Conservancy's mission is to support the Treeline by raising philanthropic capital to fund the Treeline, helping to direct the Treeline's implementation, including the planning, construction, and maintenance of the Treeline.

Therefore, the parties agree as follows:

### **RELATIONSHIP BETWEEN THE CITY AND THE CONSERVANCY**

- The Conservancy, although affiliated with the City by its mission, is an independent entity. The City acknowledges both the independence of the Conservancy and the cooperative relationship between the City and the Conservancy.
- As separate entities, each party is responsible for any liabilities and costs arising from its own action(s) and/or inaction(s), and for procuring its own insurance(s) for such liabilities and costs in policy amounts as each deems prudent.
- The City may, but is not obligated to, provide financial or in-kind support to the Conservancy.
- The parties shall keep each other apprised of their overall financial condition, as such condition may influence the positions or priorities that each adopts.
- Until an Executive Director of the Conservancy is hired, the Board Chair of the Conservancy shall be responsible for managing the day-to-day operations of the Conservancy, and will report to the Conservancy Board on Treeline-related discussions and activities shared between the City and Conservancy representatives. When an Executive Director is hired, this will be their responsibility.
- The Conservancy shall provide the City an annual report detailing the Conservancy's Treeline activities and finances for the year and including a list of Conservancy governing board directors and officers.
- While there is an understanding that the Conservancy exists to collaborate with the City in support of the Treeline, the City does not exercise the authority to designate the projects that the Conservancy chooses to fund, as the Conservancy is an independent entity. However, the Conservancy shall consult with the City prior to funding any project related to the Treeline.

- This agreement will be administered by the City Administrator or designated staff, who shall be responsible for all City actions, approvals, and reviews under this agreement. The Conservancy shall cooperate with the City Administrator and assigned City staff to implement this agreement and monitor the relationship between the City and the Conservancy.

## **IMPLEMENTATION**

- The parties will jointly create annual Implementation Plans that assign clear responsibility and accountability. This is intended to avoid duplication of effort and ensure that the development of the Treeline advances in a way that is supported by both parties. The annual Implementation Plan will set the general approach that the parties will follow. However, the parties will discuss and agree on a project-by-project basis if either party identifies a compelling reason to deviate from the general approach outlined in the Implementation Plan. The parties shall meet as necessary to jointly monitor the advancement of the annual Implementation Plan.
- The parties expect that the Treeline will be constructed in phases when the City has control of the necessary property and adequate funding exists.
- The parties expect that the City will bid for and enter contracts with third parties for planning, design, and construction of the Treeline and the Conservancy will participate in the preparation of the bid specifications and provide supplemental financial contributions to pay for the contracts.
- The parties shall collaboratively develop a trail ownership, operation, and maintenance structure when the appropriate time comes. The tentative expectation of the parties is that the City will own the Treeline infrastructure and that a third party will operate and maintain it. The parties acknowledge that the selection of a third party for operation and maintenance of the Treeline is subject to the City's procurement requirements. The parties expect that the Conservancy will develop the capacity to operate and

maintain the Treeline so that it will be qualified to be considered for selection as a third-party operator.

- Each party shall ensure that all information disseminated by that party (including marketing materials and funding applications) accurately represents the Treeline project and the positions and roles of the parties. Neither party shall have the authority, or purport to have the authority, to act as an agent for the other party or to bind the other party to any obligation.
- The parties may adopt additional agreements for specific projects.

### **FUNDRAISING**

- The City may pursue and accept all appropriate funding or donations for Treeline purposes, including grants, appropriate crowdfunding mechanisms, gifts of real estate or other property, and gifts of equipment and supplies.
- The Conservancy shall pursue and accept grants, private philanthropic financial donations and restricted or unrestricted gifts intended for endowment or capital use, gifts of real estate or other property, and gifts of equipment and supplies intended to advance, operate, or maintain the Treeline. The Conservancy shall not intentionally solicit or accept gifts for any use specified by a donor that is known to be inconsistent with the City's vision, mission, strategic priorities, goals, policies or procedures. The Conservancy shall consult with and permit the City to review the final application for a grant or other funding prior to submission by the Conservancy. The Conservancy must obtain written approval from the City prior to applying for or accepting funds to be used toward physical improvements on City property or easements.
- The Conservancy shall consult with the City on all marketing material produced by the Conservancy prior to using the material.
- The parties will keep each other apprised of fundraising efforts related to the Treeline.

- Funds generated by or gifts to the Conservancy shall be owned by the Conservancy and shall be maintained and/or distributed for the City's benefit as determined by the Conservancy Board. All funds received by the Conservancy for Conservancy purposes shall be maintained in accounts that are separate from City accounts, and Conservancy and City funds shall not be intermingled. The Conservancy shall be responsible for overseeing the management of funds that originate with its activities or are entrusted to it by its donors or grantors. The Conservancy may "capture" a certain portion of the gifts as an offset to its annual operating expenses, subject to applicable law.
- The Conservancy shall endeavor to create connections among foundations, the City, private funders, businesses, and community members and organizations to create a private donor base for the Treeline.
- The Conservancy shall provide the City Administrator and assigned City staff with a summary report of gifts received for the Treeline upon request.
- The Conservancy shall seek gifts that can benefit the Treeline, and coordinate with City staff regarding funding goals, programs or campaigns.
- The Conservancy shall confer with the City Administrator and/or assigned City staff before accepting gifts with any restrictive terms or conditions or gifts of real estate or equipment, and the parties shall advise donors that a restricted gift for the benefit of the City may not be accepted without City and Conservancy approvals.
- The parties will work to ensure prompt and relevant support for each other's fundraising efforts to further mutual effectiveness.
- The parties understand that the appropriate party will transfer funds that are under its control to the other when there is agreement about how these funds are to be used.

## **GENERAL PROVISIONS**

- The parties recognize that safeguarding donors' privacy is important to build trusting relationships and to encourage donors to view both organizations as trustworthy. The Conservancy acknowledges that the City may be required to disclose information under the Michigan Freedom of Information Act or other public disclosure laws. Unless required by law, the parties shall not disclose or use any private or confidential donor or employee information provided from one to the other except as provided in this agreement. This provision shall survive termination of this agreement.
- The Conservancy shall not discriminate on the basis of race, religion, color, national origin, gender, disability, age, sexual orientation or preference, or marital, parental, or veteran's status in its programs and activities, and shall comply with all applicable City laws and policies regarding nondiscrimination, including Chapter 112 of City Code.
- This agreement may be amended only in writing signed by an authorized representative of each party.
- Either party may terminate this agreement by sending written notice to the other party, which notice shall be effective upon receipt. This agreement shall terminate immediately in the event that the Conservancy dissolves or the Conservancy ceases to be a nonprofit corporation. Upon termination of this agreement, all monies and items of value received by or held by the Conservancy for the benefit of the City or the Treeline shall immediately be transferred to the City consistent with federal and state laws and any restrictions as may have been imposed by the donors, except to the extent the City specifically rejects some or all of the money or items.
- The signatures on this agreement may be delivered electronically in lieu of an original signature.

*(Signatures on the following pages)*

**CITY OF ANN ARBOR**

\_\_\_\_\_  
Christopher Taylor, Mayor

\_\_\_\_\_  
Jacqueline Beaudry, City Clerk

**Approved as to substance**

\_\_\_\_\_  
Howard S. Lazarus  
City Administrator

Date: \_\_\_\_\_

**Approved as to form**

\_\_\_\_\_  
Stephen K. Postema  
City Attorney

**THE TREELINE CONSERVANCY**

\_\_\_\_\_  
Date: \_\_\_\_\_

Joe E. O'Neal  
President of the Board of Directors