

**FIRST AMENDED AND RESTATED
DEVELOPMENT
AND
MANAGEMENT AGREEMENT**

THE STATE OF TEXAS

COUNTY OF WILLIAMSON

THIS FIRST AMENDED AND RESTATED DEVELOPMENT AND MANAGEMENT AGREEMENT, hereinafter referred to as the "Agreement", is made and entered into by and between Williamson County, a body corporate and politic under the laws of the State of Texas, hereinafter referred to as "County," and Hill Country Cricket Association, Inc., a Texas non-profit 501(c3) corporation, hereinafter referred to as "HCCA".

WITNESSETH:

WHEREAS, the County has established the Southwest Williamson County Regional Park ("Park") with a Parks Department to be used by members of the general public; and

WHEREAS, HCCA desires to continue to assist County in the development and management of the cricket field, including the main pitch; existing netted practice facilities ("Original Nets"), a new netted practice facility ("New Nets"), and all cricket-related infrastructure, as depicted in the attached **Exhibit "A"** (collectively, the "Cricket Complex") located at the Park in exchange for HCCA's reserved use during specified times as well as public use so as to promote the sport and hobby of cricket;

WHEREAS, HCCA and County previously entered that certain Development and Management Agreement dated December 20, 2013, which had an expiration date of December 31, 2023 ("Original Agreement"); and

WHEREAS, since the commencement of the Original Agreement, HCCA has invested considerable funds and time into the development, construction and maintenance of the Cricket Complex; and

WHEREAS, HCCA and County now wish to continue their mutually beneficial development and management relationship pursuant to the amended and restated terms set out herein; and

NOW THEREFORE, for and in consideration of mutual covenants, agreements and benefits to the parties herein named, it is agreed as follows:

I. PUBLIC PURPOSE

The parties' performance of the agreements and obligations set out herein serves a public purpose of Williamson County, Texas, to-wit the development and management of a Cricket Complex that can be used and enjoyed by the general public as an additional parks and recreational feature offered by the County. The terms and conditions set out in this Amended and Restated Agreement are intended to serve as adequate controls to ensure that the public purpose is accomplished.

II. CONSIDERATION

The County's agreement to reserve the periods set out herein when the cricket field and Original Nets at the Park may be used by HCCA for its activities shall serve as adequate and sufficient consideration for HCCA's agreement to perform its obligations hereunder and thereby assist the County in the continued development and management of the Cricket Complex at the Park.

III. USE OF CRICKET COMPLEX

A. HCCA's Use of Cricket Complex. In exchange for good and valuable consideration described in this Amended and Restated Agreement and except as otherwise set out herein, the County will, for the term of this Amended and Restated Agreement, reserve portions of the Cricket Complex for HCCA's exclusive use during the specified time periods as follows (the "Reserved Period"):

- 1) Cricket Field and Main Pitch:
 - a) Saturdays and Sundays during the publicly advertised operational hours of the Park, as set by County;
 - b) On two weekends of each calendar year, to be chosen by mutual agreement between the parties at least 21 days in advance, for a weekend period beginning no earlier than 4:00 PM on Friday and ending no later than 10:00 PM on Sunday for a night tournament; provided, however, all use of the Cricket Complex during such night tournaments must be completed and concluded, with all lighting turned off, by no later than midnight on Friday and Saturday nights and no later than 10:00 PM on Sunday night in order to avoid disturbances to the adjacent residential neighborhood. Also, all amplified sound must end no later than 10pm each night;

- c) For two separate one-week periods (Monday through Sunday) each calendar year during the publicly advertised operational hours of the Park each day, to be chosen by mutual agreement between the parties at least 21 days in advance, for HCCA's youth cricket camps, which shall be open and available to non-HCCA members;
 - d) HCCA may, at its sole discretion, allow other individuals or groups to use the Cricket Complex during the Reserved Period without waiving its rights under this section; and
 - e) HCCA may organize events, including games and tournaments, at the Cricket Complex within the Reserved Period.
- 2) Original Nets: HCCA shall have exclusive use of the Original Nets that were constructed under the Original Agreement as follows:
- a) Weekends, Saturday and Sunday, during the publicly advertised operational hours of the Park; and
 - b) Upon completion of the New Nets identified below, on weekdays, Monday through Friday during the publicly advertised operational hours of the Park.

B. General Public's Use of Cricket Complex. The following terms shall apply to the general public's use of the Cricket Complex:

- 1) Cricket Field and Main Pitch:
- a) At all times other than the Reserved Period, individuals and small groups of up to five individuals, including HCCA members that may be using the Cricket Field and Main Pitch during General Public use periods, may use the cricket field on a first-come, first-served basis or as otherwise managed by a County implemented reservation system as set out hereunder. The parties agree and acknowledge that the intent of this small group limitation is to prevent use of the Cricket Field and Main Pitch for purposes of organized training sessions, team practices and/or team play so that members of the General Public are not precluded from using the Cricket Field and Main Pitch at all times other than the Reserved Period. It is understood and acknowledged that, due to wear and tear, County may restrict use of the Main Pitch during non-reserved periods in order to help ensure longevity of the Main Pitch and immediate adjacent surrounding area.
 - b) Up to four hours during the week, as determined by the County in its sole discretion, for organized cricket related activities for individuals and small groups in excess of five individuals;
 - c) On Saturday and Sunday of the following holiday weekends: Memorial Day, 4th of July, Labor Day, and Thanksgiving;
 - d) Two additional weekends (Saturday and Sunday) each calendar year, for which County and HCCA will coordinate and confirm those weekends no later than January 15 of each calendar year;
 - e) County may choose, at its sole discretion, to implement and manage a fee-based reservation system for general public use of the Cricket Field and Main Pitch for time periods that do not conflict with the Reserved Period; and

- f) As owner of the Park, County may, at its sole discretion, stipulate additional rules and guidelines when necessary to help manage peak general public usage periods and to ensure good condition of the Cricket Field and Main Pitch.
- 2) New Nets: The general public may use the New Nets, as described hereinbelow, on weekends and weekdays during the publicly advertised operational hours of the Park, as managed by the County. County may choose, at its sole discretion, to implement and manage a fee-based reservation system for general public's use of the New Nets for time periods that do not conflict with the Reserved Period. The parties acknowledge that the general public's use of the New Nets may coincide with HCCA's Reserved Period for the Cricket Field and Main Pitch, but such use will not affect or preclude HCCA's use of the Cricket Field and Main Pitch during the Reserved Period or HCCA's use of the Original Nets.

C. Signage.

- 1) At appropriate locations within the Cricket Complex and the Park, County may post signs stating HCCA's Reserved Period, as well as other information related to the Cricket Complex and general public use;
- 2) With prior approval from the County's Parks Director, County will also provide a specific location for HCCA to install requested signage relating to the Cricket Complex. This signage must comply with all applicable code and rules in effect at the time of installation; and
- 3) HCCA will be permitted to maintain the small donor acknowledgement plaque in its present location, which was installed next to the Cricket Complex pursuant to the Original Agreement.

D. Rules and Regulations of Use. All use of the Cricket Complex is subject to County's established Park Rules and Regulations (<https://www.wilco.org/Departments/Parks-Recreation/Rules-and-Regulations>). County hereby acknowledges that any standards of conduct set by HCCA for members of their organization are separate and apart from County rules and regulations and shall not be the County's responsibility to enforce.

IV. HCCA COMMITMENTS AND OBLIGATIONS

A. New Nets. Within one hundred-twenty (120) calendar days from the Effective Date hereof, HCCA will either provide necessary funding to County to construct at least two new lanes of new net facilities or HCCA will independently contract, fund and complete the construction of at least two new lanes of new net facilities ("New Nets"). The proposed design and location of the New Nets must be presented to County for approval in advance of the commencement of any construction. Upon completion, the New Nets will be:

- 1) Managed and maintained by the County;
- 2) Made available for General Public use during the publicly advertised operational hours of the Park:

- a) County may require and collect use fees for the general public's use of the New Nets.
- b) County may require advanced reservations to secure use of the New Nets by the general public.

B. HCCA Maintenance. HCCA will conduct and provide the following maintenance on the Cricket Complex for the term of this Amended and Restated Agreement:

- 1) Any necessary topsoil and reseeded of the cricket field;
- 2) Maintenance of main pitch;
- 3) Maintenance of Original Nets and associated facilities;
- 4) Maintenance of the storage shed;
- 5) Wicket maintenance, repair, and replacement where and when necessary; and
- 6) Painting of or touch-ups to boundary lines of the cricket field.

Notwithstanding the above, HCCA is not responsible for watering or cutting of grass except as requested by County during a period of drought, as set forth herein. At all times, HCCA will determine the timing of maintenance and repairs, which maintenance tasks are necessary, and when replacement of field elements or equipment is appropriate, provided, however, if safety of users becomes compromised due to a lack of maintenance; if the Cricket Complex is not kept in a condition that a similarly situated cricket field and equipment should be kept for safe and productive play; or if HCCA's lack of maintenance causes the Cricket Complex to be incapable of use for its intended purposes, the County will insist appropriate maintenance and repairs are conducted and HCCA hereby agrees to immediately maintain and make any appropriate repairs. HCCA's performance of maintenance tasks does not waive County's obligations to provide maintenance and repairs, as required herein.

C. HCCA's Miscellaneous Commitments and Obligations. HCCA shall also:

- 1) Promote youth cricket and positive coaching at the Cricket Complex;
- 2) Provide advertising, promotion, and administration necessary to facilitate hosted events and, where events involve other venues, endeavor to maximize the number of participants and audience who visit and use the Cricket Complex and the Park;
- 3) Not interfere with County's management and assessment of fees for general public use of the Cricket Complex during times outside the Reserved Period;
- 4) Refrain from using the ground after heavy rains when such usage would adversely affect field conditions;
- 5) Make its best efforts to assist County with watering in periods of heavy drought, when the County so requests;
- 6) Not permit at the Park any disorderly conduct or practice in violation of any federal, state or municipal laws, rules, regulations or ordinances or of a sort likely to bring discredit upon Williamson County or its governing body, or which, in the opinion of the County, are contrary to good morals or that are otherwise objectionable; and

- 7) Ensure that notice is given to all its members, contractors, subcontractors, volunteers, and any other party associated with HCCA that any access to non-public or non-paved areas of the Park with a motorized vehicle or equipment are approved in advance by the County and that crossing the train tracks with a motorized vehicle or equipment is not allowed except at designated and marked vehicle crossing locations and that all applicable traffic laws are to be followed at all times within the Park. In accordance with this provision, HCCA hereby agrees to be responsible for coordinating and ensuring the funding of any necessary track repairs resulting from prohibited motorized vehicle or equipment crossings by any of HCCA's members, contractors, subcontractors, volunteers or any other party associated with HCCA.

V. COUNTY COMMITMENT AND OBLIGATIONS

A. County hereby agrees to the following commitments and obligations:

- 1) Assume maintenance and management responsibilities of the New Nets following construction;
- 2) Except as otherwise set forth herein, assume management of the Cricket Complex during general public use time periods;
- 3) Conduct the following maintenance for the term of this Amended and Restated Agreement:
 - a) Regular watering and cutting of the cricket field grass, on a reasonable schedule to be determined by County;
 - b) Watering and cutting of the cricket field grass for specific events, as requested by HCCA in advance of events and to be coordinated with County at least 21 days in advance;
 - c) Cleaning and upkeep of the Park parking spaces and restrooms in the proximity of the Cricket Complex.
 - d) To the extent possible and reasonably practical, provide and make available existing Park parking spaces and restroom facilities for cricket related events, provided HCCA coordinates and schedules such events with the County at least 21 days in advance;
 - e) Help ensure authorized, safe and appropriate use of the Cricket Complex during general public use; provided, however, HCCA shall be responsible to ensure authorized, safe and appropriate use of the Cricket Complex during any Reserved Period;
 - f) Refrain from leasing or reserving the Cricket Complex or any component for other users in any way that violates this Amended and Restated Agreement; and
 - g) Permit HCCA to provide volunteer or fee-based coaching and instruction to all its members during the Reserved Period.

HCCA hereby acknowledges and agrees that County's performance of maintenance tasks does not waive County's obligations to provide maintenance and repairs, as required herein.

VI. TERM

Subject to the termination rights set out herein, this Amended and Restated Agreement shall continue in full force and effect until December 31, 2028. In the event the County wishes to relocate the Cricket Complex or any portion thereof prior to the termination of this Amended and Restated Agreement, County shall provide, using its best efforts, a mutually agreeable ground that would be reasonably equal or similar to the current location of the Cricket Complex, and all other terms and conditions of this Amended and Restated Agreement shall remain in place unless changed by mutual written agreement.

VII. REPRESENTATIONS

A. County Representations. County represents that it has not entered into any agreements conflicting with this Amended and Restated Agreement and that it has full freedom and authority to enter this Amended and Restated Agreement. County represents that, to the best of its knowledge and belief, entering this Amended and Restated Agreement does not violate any County responsibilities to the public or state or federal laws. County believes it has the funding to support its obligations under this Amended and Restated Agreement; provided, however, the obligations of the County under this Amended and Restated Agreement do not constitute a general obligation or indebtedness of County for which County is obligated to levy, pledge, or collect any form of taxation. In addition to the any other termination rights hereunder, it is understood and agreed by the parties that County shall have the right to terminate this Agreement at the end of any County fiscal year if the governing body of County does not appropriate sufficient funds as determined by County's budget for the fiscal year in question, and that County may effect such termination by giving written notice of termination at the end of its then-current fiscal year.

B. HCCA Representations. HCCA represents that it has not entered into any agreements conflicting with this Amended and Restated Agreement and that it has full freedom and authority to enter this Amended and Restated Agreement. HCCA represents that, to the best of its knowledge and belief, entering this Amended and Restated Agreement does not violate any HCCA responsibilities to the public or state or federal laws. HCCA believes it has the funding to support its obligations under this Amended and Restated. HCCA further represents that is a Texas non-profit 501(c3) corporation in good standing with state and federal agencies and that it intends to maintain and use the Cricket Complex solely to promote the sport of cricket among the public in and around Williamson County, including but not limited to, by organizing teams, engaging in coaching, hosting games and tournaments, and actively promoting its activities among the public.

VIII. TERMINATION FOR BREACH

If either party commits an Event of Breach (a breach of any of the covenants, terms and/or conditions of this Amended and Restated Agreement), the non-breaching party shall deliver written notice of such Event of Breach to the breaching party. Such notice must specify the nature of the Event of Breach and inform the breaching party that unless the Event of Breach is cured

within thirty (30) days of receipt of the notice, additional steps may be taken to terminate this Amended and Restated Agreement. If the Breaching party begins a good faith attempt to cure the Event of Breach within thirty (30) days, then and in that instance, the thirty (30) day period may be extended by the non-breaching party, so long as the breaching party continues to prosecute a cure diligently to completion and continues to make a good faith attempt to cure the Event of Breach. If, in the opinion of the non-breaching party, the breaching party does not cure the breach within thirty (30) days or otherwise fails to make any diligent attempt to correct the Event of Breach, the breaching party shall be deemed to be in breach and the non-breaching party may, in addition to seeking any remedies available at law or in equity, terminate this Amended and Restated Agreement.

IX. TERMINATION FOR CONVENIENCE

Either party may terminate this Amended and Restated Agreement for convenience and without cause or further liability upon one (1) year's written notice to the other party. No penalty will be assessed for a party's termination of this Amended and Restated Agreement for convenience.

X. INDEMNITY

HCCA EXPRESSLY AGREES TO INDEMNIFY AND HOLD THE COUNTY, ITS AGENTS, EMPLOYEES AND OFFICERS (THE FOREGOING ARE COLLECTIVELY REFERRED TO HEREIN AS "COUNTY"), HARMLESS FROM AND AGAINST ALL CLAIMS, LAWSUITS AND RELATED EXPENSES IN ANY MANNER ARISING OUT OF THE USE OF THE PARK AND ALL ACTIVITIES OF HCCA, ITS OFFICERS, DIRECTORS, EMPLOYEES, CONTRACTORS, REPRESENTATIVES, MEMBERS, AGENTS, GUESTS, INVITEES AND VOLUNTEERS INCIDENT TO THIS AGREEMENT. HCCA WAIVES AND RELEASES ANY CAUSE OF ACTION OR RIGHT OF RECOVERY WHICH HCCA MAY HAVE AGAINST COUNTY FOR ANY LOSS OR DAMAGE TO HCCA'S PERSONAL PROPERTY LOCATED AT THE PARK.

XI. LIMITATION OF LIABILITY

A. IN NO EVENT SHALL HCCA OR COUNTY HAVE ANY LIABILITY TO THE OTHER PARTY OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, CONSEQUENTIAL, EXEMPLARY, OR SPECIAL DAMAGES OF ANY KIND OR NATURE HOWEVER CAUSED INCLUDING BUT NOT LIMITED TO LOST PROFITS AND LOSS OF GOODWILL.

B. TO THE EXTENT AUTHORIZED BY LAW, COUNTY HEREBY AGREES TO HOLD HARMLESS HCCA FROM ALL CLAIMS, LAWSUITS AND RELATED EXPENSES ARISING OUT OF THE GENERAL PUBLIC'S USE OF THE NEW NETS ONCE CONSTRUCTED BY HCCA AND FROM ALL CLAIMS, LAWSUITS AND RELATED EXPENSES ARISING OUT OF THE GENERAL PUBLIC'S USE OF THE CRICKET COMPLEX DURING TIMES OUTSIDE OF THE RESERVED PERIOD. THIS PROVISION SHALL NOT AFFECT THE NO WAIVER OF IMMUNITIES PROVISION SET OUT HEREIN.

XII. COMPLIANCE WITH LAWS, RULES AND REGULATIONS

In performing the obligations required of it under the terms of this Amended and Restated Agreement, HCCA will comply with all applicable federal, state, county and city ordinances, rules and regulations, now and hereafter in force, which are applicable to the HCCA's operation of the events and performance hereunder. HCCA will also observe and comply with all rules as may be prescribed by the County 's Parks Director.

XIII. HCCA POINT OF CONTACT

The primary and official contact for HCCA will be the then current President. The HCCA will provide written notice to County of the name and address of the person holding said office. HCCA will give written notice to County of subsequent change in said office.

XIV. NOTICES

Any notice herein provided to be given to County shall be mailed to:

Williamson County Judge
710 Main Street, Suite 101
Georgetown, Texas, 78626

With copy to: Williamson County Parks Director
219 Perry Mayfield
Leander, TX 78641

The name and address to which any notice herein provided to be given to HCCA shall be mailed:

Hill Country Cricket Association
8710 Sea Ash Circle
Round Rock, TX 78681

In the event a party's address changes, such party must immediately notify the other party, in writing, of such change. All notices must be sent by registered or certified United States Mail, return receipt requested, postage prepaid, addressed as herein provided, and shall, for the purposes of this Amended and Restated Agreement, be deemed to have been received by the addressee on the business day next following the date of mailing.

XV. VENUE AND GOVERNING LAW

Each party to this Amended and Restated Agreement hereby agrees and acknowledges that venue and jurisdiction of any suit, right, or cause of action arising out of or in connection with this Amended and Restated Agreement shall lie exclusively in Williamson County, Texas, and the parties hereto expressly consent and submit to such jurisdiction. Furthermore, except to the extent that this Amended and Restated Agreement is governed by the laws of the United States, this Amended and Restated Agreement shall be governed by and construed in accordance with the laws of the State of Texas, excluding, however, its choice of law rules.

XVI. RELATIONSHIP OF THE PARTIES

Each party to this Amended and Restated Agreement, in the performance of this Amended and Restated Agreement, shall act in an individual capacity and not as agents, employees, partners, joint ventures or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever.

XVII. NO WAIVER OF IMMUNITIES

Nothing in this Amended and Restated Agreement shall be deemed to waive, modify or amend any legal defense available at law or in equity to County, its past or present officers, employees, or agents, nor to create any legal rights or claim on behalf of any third party. County does not waive, modify, or alter to any extent whatsoever the availability of the defense of governmental immunity under the laws of the State of Texas and of the United States.

XVIII. NO WAIVER

The failure or delay of any party to enforce at any time or any period of time any of the provisions of this Amended and Restated Agreement shall not constitute a present or future waiver of such provisions nor the right of either party to enforce each and every provision. Furthermore, no term or provision hereof shall be deemed waived and no breach excused unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by any party to, or waiver of, a breach by the other, whether expressed or implied, shall not constitute a consent to, waiver of or excuse for any other, different or subsequent breach.

XIX. EXTENT AND EFFECT OF AMENDED AND RESTATED AGREEMENT

This Amended and Restated agreement shall replace, supplant, and supersede the Original Agreement as of the Effective Date hereof. HCCA hereby acknowledges and agrees that this

Amended and Restated Agreement controls and affects the existing improvements described herein as being a part of the Cricket Complex and that it does not preclude County from constructing cricket improvements, not described as a part of this Amended and Restated Agreement, nor does it control, touch or concern any future cricket related improvements not described as a part of this Amended and Restated Agreement that may be constructed by County in the future.

XX. AMENDMENTS; ENTIRE AGREEMENT & EFFECTIVE DATE

Any oral representations or modifications concerning this Amended and Restated Agreement are of no force or effect excepting a subsequent modification in writing signed by all the parties hereto. This Amended and Restated Agreement constitutes the entire agreement between the County and the HCCA. If any portion of this Amended and Restated Agreement at any time or to any extent is held invalid or unenforceable, the remainder of this Amended and Restated Agreement will not be affected thereby.

IN WITNESS WHEREOF, this instrument, in duplicate originals, has been executed by the parties hereto as follows to be effective as of the date of the last party's execution ("Effective Date"):

- a. It has been executed by the County Judge of the County, on behalf of the County pursuant to an Order of the Commissioners Court of the County so authorizing.
- b. It has been executed by the President of HCCA, pursuant to a resolution of the governing body of said HCCA so authorizing.

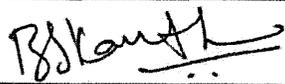
HILL COUNTRY CRICKET ASSOCIATION	WILLIAMSON COUNTY, TEXAS
	
Srikanth Bandlamudi, President	Bill Gravell, Jr., County Judge
Date: <u>Dec 16</u> , 2021	Date: _____, 2021

Exhibit "A"

Cricket Complex

