



**Parks, Recreation  
and Historic Preservation**

**ANDREW M. CUOMO**  
Governor

**ERIK KULLESEID**  
Commissioner

June 28, 2021

Hudson Highlands Fjord Trail, Inc.  
c/o Scenic Hudson, Inc.  
One Civic Center Plaza  
Poughkeepsie, New York 12601  
Attn: Amy Kacala, Executive Director

**Re: Cooperative Agreement C003145 – Fjord Trail Project  
Amendment 1**

Dear Ms. Kacala,

The purpose of this letter is to make the amendments to Cooperative Agreement C003145 between the New York State Office of Parks, Recreation and Historic Preservation and Hudson Highlands Fjord Trail, Inc.

1. **Term.** Subsection (b) of Article One, Section Two of the agreement is hereby amended to read as follows:

(b) The parties may, by mutual agreement in writing and with the approval of the Office of the State Comptroller, renew this agreement for an unlimited number of additional terms equal to the initial term.

(i) The parties acknowledge that certain real estate contracts for the Fjord Trail Project might require a development or operating contract for the Fjord Trail Project be in place between State Parks at HHFT at all times. Accordingly, the parties shall complete any renewal at least six months prior to the Expiration Date of the then current term to avoid any gap in contracting

2. **Termination Upon Effectiveness of O&M Agreement.** Article Eight, Section One of the agreement is hereby amended to read as follows:

When requesting a Supplemental Agreement for the final phase of its development of the Fjord Trail Project, HHFT shall identify such phase as the final phase and request that the parties begin to prepare an O&M Agreement. Such O&M Agreement will restate, consolidate, and replace the operating and maintenance provisions of the agreement as then amended and supplemented on substantially the same terms, will be for a term of 20 years and renewable upon mutual agreement in writing and approval of the Office of the State Comptroller, and will thereafter govern all matters pertaining to the operation of the Fjord Trail Project. This agreement (as then amended and supplemented by all Supplemental Agreements) will terminate upon the O&M Agreement becoming effective.

3. **Attachment C.** Attachment C to the agreement is hereby replaced with the updated version of Attachment C attached to this letter amendment.

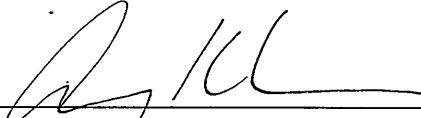
Please indicate your agreement to the amendment terms set forth in this letter by signing in the space provided below and returning a copy of this letter. This letter amendment will be effective once signed by both parties and approved by the Office of the State Comptroller.

Sincerely,



Thomas J. Alworth  
Executive Deputy Commissioner

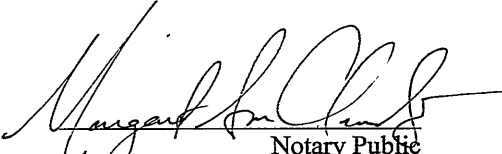
**Agreement by Hudson Highlands Fjord Trail, Inc.**

6/29/21   
Date: By: Amy Kacala, Executive Director

Acknowledgement

STATE OF New York )  
COUNTY OF Dutchess ) SS:

On this 29 day of June in the year 2021 before me, the undersigned a notary public in and for said state, personally appeared Amy Kacala, personally known, to me, or proved to me on the basis of satisfactory evidence to be the individual whose name is described within the instrument and acknowledged to me that he/she executed the same in his/her capacity as the Executive Director of Hudson Highlands Fjord Trail, Inc., and that by his/her signature on the instrument, the individual, or the person upon behalf of whom the individual acted, executed the instrument.

  
Notary Public  
Margaret Ann Clements  
Notary Public, State of New York  
Qualified in Albany County  
Reg No. 02 CL 6347521 exp 12/27/21

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Thomas J. Alworth  
Executive Deputy Commissioner

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APPROVED  
DEPT. OF AUDIT & CONTROL  
  
Jul 02 2021  
James M. Iwaneczko  
  
FOR THE STATE COMPTROLLER

Notary Public  
Margaret Ann Clements  
Notary Public, State of New York  
Qualified in Albany County  
Reg No. 02 CL 637521 exp 12/29/22

**Attachment C**  
**Requirements for Capital Projects**

- a) All Capital Projects to be undertaken by Licensee shall be approved in advance by State Parks in accordance with the License. Upon approval of a Capital Project by State Parks, the Licensee shall fully implement the approved project and all its individual elements at the direction of State Parks pursuant to the requirements contained herein. The Licensee is solely responsible for the full cost of implementing all approved projects.
- b) Designs for all projects proposed by Licensee shall be in compliance with the NYS Uniform Fire Prevention and Building Code (Building Code Designs shall be developed and signed by a professional engineer or architect licensed to practice in New York State. All designs for capital improvements shall be subject to the written review and approval of State Parks with respect to aesthetics and compliance with the Building Code, the State Historic Preservation Act, and the State Environmental Quality Review Act, prior to any bidding or award of contracts for such construction, or commencement of construction.
- c) Copies of all contracts, subcontracts, change orders, progress payment documents and related material shall be provided to State Parks within five business days upon request by State Parks.
- d) Throughout the construction phase of the project, the Licensee shall conduct regular "job meetings" to assess progress on the project, and produce written records of such meetings, with a copy to State Parks. At the discretion of State Parks, a representative may attend the job meetings at no cost to the Licensee.
- e) A schedule of construction activity shall be recommended by Licensee and approved by State Parks. Licensee shall not unreasonably interfere with normal park operations. Licensee shall avoid construction on those days when large park attendance can be reasonably anticipated, including major holidays such as Memorial Day, Independence Day (4th of July) and Labor Day.
- f) All construction and material costs and expenses in excess of original estimates for the approved project shall be the sole responsibility of the Licensee, and State Parks shall have no liability whatsoever for any additional expenses either to the Licensee or the Licensee's contractors, subcontractors, and/or suppliers. The Licensee assumes any and all additional and extra costs, including but not limited to costs and expenses associated with the upgrade of utilities, security and fire control systems, code compliance, delay for whatever cause, weather, and unknown or unforeseen conditions associated with the Site. State Parks shall have no obligation in law or in fact to expend funds or undertake any capital improvements as a result or consequence of any project undertaken, or condition encountered by the Licensee.
- g) Additional Insurance Required for Capital Improvements. In addition to the insurance required by the License, the Licensee shall require its contractors to carry Contractor's Liability Insurance which names State Parks and the Licensee as additional insured. Licensee shall provide to State Parks a copy of all insurance certificates evidencing coverage in compliance with this section. Such insurance shall include the following coverage:
- (1) Liability (including contractual liability) and Protective Liability to protect the Licensee and State Parks from any suits, actions, damages and costs of every name and description, with respect to all work performed by the Licensee's contractors and subcontractors;
  - (2) Owner's Protective Liability to protect State Parks with respect to all operations undertaken by the Licensee's contractors and subcontractors, including omissions and supervisory acts; and

(3) Completed Operations/Products Liability covering liability and damages arising between the date of final cessation of construction work and the date of final acceptance of the construction by State Parks; and

(4) Builder's Risk Insurance: Unless otherwise provided for in the License the Licensee's contractor shall maintain builder's risk insurance for the completed value of the Site on the All Risk Form.

h) Labor and Materials Bonds:

(1) Prior to the commencement of any construction work hereunder, Licensee shall furnish State Parks with evidence that it has procured a labor and materials payment bond from a corporate surety authorized to transact business in the State of New York, in a form satisfactory to State Parks, naming Licensee as principal, in an amount not less than one hundred (100%) percent of the total cost of the construction work to be undertaken by Licensee as approved by State Parks. Such bond shall guarantee payment for all materials, provisions, supplies, and equipment used in, upon, for, or about the performance of said construction work, and/or labor performed thereon of any kind whatsoever, and which unconditionally protects State Parks from any claims, liability, losses, or damages arising therefrom.

(2) As evidenced by certification by the engineer or architect of record for the project, State Parks shall authorize the reduction of the face value of the labor and materials bond on a monthly or other periodic basis to an amount equal to the remaining contract costs, including approved change orders.

i) It is expressly understood that failure of the Licensee to comply with the requirements for capital improvement projects, including maintaining the required insurance and bonds in full force throughout the performance of the approved project, shall be deemed a material breach of the License and may, at the election of State Parks, result in termination of the License without further notice. The Licensee shall notify State Parks immediately of any change in insurance or bonding status including, but not limited to, any change in carrier or surety.

If there are any discrepancies between this Attachment and the License, the language of the License shall prevail.