

~~SGT~~ PWLCTMN

~~AB~~ ETEC

~~DM~~ Polk County

December

FIRST AMENDMENT TO AMENDED AND RESTATED  
MEMORANDUM OF UNDERSTANDING

This First Amendment to the Amended and Restated Memorandum of Understanding dated as of May 1, 2023 (the "Agreement") (this "Amendment") is made and entered into effective as of the 1st day of May, 2023 (the "First Amendment Effective Date"), by and among Polk County, Texas (the "County"), the Piney Wood Lakes Chapter Texas Master Naturalists ("PWLCTMN"), a Texas corporation recognized by the IRS as a 501(c)(3) non-profit organization maintaining beneficial management of natural resources and areas in Polk, San Jacinto, Trinity and Tyler Counties; and East Texas Electric Cooperative, Inc., ("ETEC"), a non-profit electric cooperative that is the Federal Energy Regulatory Commission ("FERC") licensee for a hydroelectric project at Lake Livingston Dam in Polk County. Each of the County, PWLCTMN, and ETEC may be referred to herein as a "Party" and collectively as the "Parties" to this Amendment.

WHEREAS, the Parties entered into the Agreement on effective as of May 1, 2023; and

WHEREAS, the Parties desire to amend the Agreement as set forth herein.

NOW, THEREFORE, for and in consideration of the mutual agreements set forth herein, together with other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties, The County, PWLCTMN, and ETEC agree as follows:

AMENDMENT

A. Section 3 of the Agreement shall be replaced in its entirety with the following:

3. PWLCTMN, agrees to INDEMNIFY, DEFEND, AND HOLD HARMLESS ETEC, Polk County, the Polk County Commissioners Court, and the Polk County Judge from any loss, liability, or damage they may suffer as a result of any claims, demands, costs, or judgments against them arising from the acts or omissions of PWLCTMN, its members, agents, or employees in connection with this Agreement, including but not limited to PWLCTMN's design, construction, and maintenance of the Birdwatching Platform.

B. General Provisions.

1. All of the other terms and conditions of the Agreement shall remain in full force and effect as written. In the event of a conflict between the terms and conditions of the Agreement and this Amendment, the terms and conditions of this Amendment shall control.
2. This Amendment constitutes the entire understanding of the Parties with respect to the subject matter of this Amendment. No amendment, modification, or alteration of any term

of this Amendment shall be binding on either Party unless it is in writing, dated subsequent to the date of this Amendment and fully executed by the Parties.

3. This Amendment may be executed in one or more counterparts, each of which will be deemed to be an original of this Amendment and all of which, when taken together, will be deemed to constitute one and the same agreement. The exchange of copies of this Amendment and of signature pages by electronic means shall constitute effective execution and delivery of this Amendment as to the Parties and may be used in lieu of the original Amendment for all purposes. Signatures of the Parties transmitted by electronic means shall be deemed to be their original signatures for all purposes.
4. Each Party represents and warrants that the person who signs below on behalf of such Party has received all requisite authorizations required to execute this Amendment on behalf of such Party and to bind such Party to this Amendment.
5. This Amendment extends to and is binding upon the Parties and their respective successors and permitted assigns.
6. Any provision of this Amendment which is prohibited or deemed unenforceable in any jurisdiction will be ineffective to the extent prohibited or unenforceable, but only in such jurisdiction, and without invalidating the remaining provisions of this Amendment, and the validity of the remaining provisions are not affected thereby.

IN WITNESS WHEREOF, the Parties have caused this Amendment to be duly executed by their respective authorized representatives and shall be effective as of the First Amendment Effective Date.

<b>East Texas Electric Cooperative, Inc.</b> By: <u><i>AJ Goff</i></u> Name: <u>AJ Goff</u> Title: <u>General Manager and CEO</u>	<b>Polk County, Texas</b> By: <u><i>Sydney Murphy</i></u> Name: <u>Sydney Murphy</u> Title: <u>Polk County Judge</u>
<b>Piney Wood Lakes Chapter Texas Master Naturalists</b> By: <u><i>Susan G. Tullos</i></u> Name: <u>Susan G. Tullos</u> Title: <u>President</u>	