

Bill No. 5282

Ordinance No. 24-036

Requested by: Ryan Graham

Sponsored by: Tim Baker

AN ORDINANCE AUTHORIZING THE COUNTY EXECUTIVE TO EXECUTE AN INTERGOVERNMENTAL COOPERATION AGREEMENT WITH THE METROPOLITAN PARK AND RECREATION DISTRICT D/B/A THE GREAT RIVERS GREENWAY DISTRICT ("GREAT RIVERS GREENWAY") TO TRANSFER OWNERSHIP OF A PIECE OF PROPERTY ADJACENT TO HERITAGE PARK, AT NO COST, TO ST. CHARLES COUNTY

WHEREAS, the St. Charles County Charter, Article III, Section 3.608 provides that the County Executive shall ensure contracts are faithfully performed and cause to be instituted in the name of the County appropriate actions; and

WHEREAS, pursuant to Section 70.220 of the Revised Statutes of Missouri, a political subdivision of the state may contract and cooperate with any other political subdivision or agency of the state for the planning, development, construction, acquisition or operation of any common service; and

WHEREAS, the piece of property that is being transferred is currently owned and operated by Great Rivers Greenway, is approximately one acre in size and ownership will be transferred, at no cost, to St. Charles County for future operation and maintenance; and

WHEREAS, St. Charles County has determined that its citizens will benefit from the proposed transfer because the property is contiguous to Heritage Park and the Heritage Museum; and

WHEREAS, the additional acre will be used by the St. Charles County Parks and Recreation Department in the planned future development of Heritage Park.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COUNCIL OF ST. CHARLES COUNTY, MISSOURI, AS FOLLOWS:

Section 1. The County Executive is hereby authorized to execute the Intergovernmental Cooperation Agreement between the Metropolitan Park and Recreation District d/b/a The Great Rivers Greenway District and St. Charles County, Missouri, to transfer ownership of a piece of property adjacent to Heritage Park, at no cost, to St. Charles County.

Section 2. The agreement shall be substantially the same in form and content as that attached hereto as **EXHIBIT A** and incorporated herein.

Section 3. Compliance with all terms of the agreement shall be the responsibility of the Director of the Parks and Recreation Department.

Section 4. This ordinance shall be in full force and effect from and after the date of its passage and approval and such agreement shall be valid upon approval of the governing

body entering into such agreement as required by Chapter 70 of the Revised Statutes of the State of Missouri.

April 8, 2024
DATE PASSED

April 15, 2024
DATE APPROVED BY COUNTY EXECUTIVE

T. Hallander
CHAIR OF THE COUNCIL

[Signature]
COUNTY EXECUTIVE

ATTEST:

[Signature]
COUNTY REGISTRAR



EXHIBIT A

**INTERGOVERNMENTAL COOPERATION AGREEMENT
WITH ST. CHARLES COUNTY, MISSOURI**

THIS COOPERATION AGREEMENT is made and entered into this ____ day of _____, 2024 by and between the **METROPOLITAN PARK AND RECREATION DISTRICT d/b/a THE GREAT RIVERS GREENWAY DISTRICT** (“**DISTRICT**”) and **ST. CHARLES COUNTY, MISSOURI** (“**COUNTY**”).

WHEREAS, the **DISTRICT** is engaged in developing and constructing a series of parks, trails and greenways in the City of St. Louis, St. Louis County and St. Charles County, Missouri; and

WHEREAS, Sections 70.210 and 70.220 RSMo., as amended, authorize municipalities and political subdivisions to contract and cooperate with other municipalities and political subdivisions for the planning, development, construction, acquisition or operation of any public improvement or facility; and

WHEREAS, Section 67.1742(2) RSMo. provides that a metropolitan park and recreation district shall have the power to “Contract with public and private entities or individuals both within and without the state ... in furtherance of any of the purposes of the district;” and

WHEREAS, the **DISTRICT** owns certain real property located in St. Charles, Missouri as legally described and depicted on **Exhibit A** attached hereto (the “**PROPERTY**”); and

WHEREAS, the parties agree that the **PROPERTY** may be developed in connection with the Centennial Greenway and related improvements, including, but not limited to a trailhead facility and park open space (the “**PROJECT**”);

WHEREAS, the **DISTRICT** and the **COUNTY** wish to enter into an agreement by which (i) the **DISTRICT** agrees to donate the **PROPERTY** to the **COUNTY** in accordance with

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the requirements herein; and (ii) **COUNTY** agrees to develop said **PROPERTY** in accordance with the requirements herein, and take on future operational and maintenance responsibilities with respect to the same; and

NOW, THEREFORE, in consideration of the foregoing and the following mutual covenants, terms and conditions, the **DISTRICT** and the **COUNTY** agree as follows:

1. **Deed Restriction; Conveyance of the Property**: The **DISTRICT** shall (i) cause a deed restriction to be placed on the **PROPERTY** limiting the use of the **PROPERTY** only (a) to park and recreational purposes, specifically including a public hiking and biking trail, (b) to agricultural uses (but only to the extent the **PROPERTY** is used for such purposes as of the date hereof), and (c) prohibiting commercial uses thereon (excepting use by **COUNTY** for park concessions) (the "**DEED RESTRICTION**") and (ii) convey the **PROPERTY** to the **COUNTY** via Special Warranty Deed, upon satisfaction of all of the conditions set forth in this **COOPERATION AGREEMENT**.

2. **Date and Manner of Settlement**.

- a. At the **COUNTY's** cost, the **COUNTY** shall order a current title report for the **PROPERTY** (the "**TITLE REPORT**") issued by the **TITLE COMPANY** (defined below).
- b. The transfer of the **PROPERTY** to the **COUNTY** and consummation of the transaction contemplated hereunder (the "**SETTLEMENT**") shall occur on the date that is ten (10) days after the later of delivery by the **TITLE COMPANY** of the **TITLE REPORT** (such date being the "**Settlement Date**") to **COUNTY**. The Settlement shall be coordinated with Security Title Insurance Agency, LLC ("**TITLE COMPANY**"), having an address at 26 Crossroads Plaza, O'Fallon, MO 63368, and shall occur in the offices of the Title Company, by escrow, unless otherwise agreed to by the parties hereto.

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- c. The following deliveries shall be made at Settlement:
- i. The **DISTRICT** shall convey the **PROPERTY** to the **COUNTY** by Special Warranty Deed (the "**DEED**") containing the **DEED RESTRICTION**, subject to all matters which would be revealed or disclosed by an accurate survey or physical inspection of the property, current taxes and other general or special assessments, reservations in patents and all easements, rights of way, encumbrances, liens, covenants, conditions, restrictions, obligations, and liabilities as appear of record, and zoning ordinances and regulations and any other laws, ordinances and governmental regulations and restrictions regulating the use, occupancy or enjoyment of the **PROPERTY**.
 - ii. The **COUNTY** and **DISTRICT** shall execute and deliver any other instruments or documents reasonably or customarily required or requested by the **DISTRICT**, **COUNTY**, or the **TITLE COMPANY** in order to consummate this transaction and effect the conveyance of the **PROPERTY** to the **COUNTY**.

3. **Future Operation and Maintenance Responsibilities**: The parties agree that upon completion of the conveyance of the **PROPERTY** to the **COUNTY**, the **COUNTY** will be responsible for the day-to-day operation and maintenance of the **PROPERTY**, subject to the conditions below:

- a. **COUNTY** shall routinely perform maintenance of the **PROPERTY** to remove all trash and debris that would unreasonably interfere with the operation of the **PROPERTY**.

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- b. **COUNTY** shall at all times comply with applicable laws and regulations in maintaining and operating the **PROPERTY**.
- c. The parties agree that upon completion of the **PROJECT**, the trailhead facility, park open space, and any related improvements, the **COUNTY** will be responsible for the day-to-day operation and maintenance of the **PROJECT**, the trailhead facility, and any related improvements. Such operation and maintenance responsibilities will be memorialized in the **CONSTRUCTION, OPERATIONS, AND MAINTENANCE AGREEMENT**.

4. **Future Access to the Property:** The **COUNTY** hereby agrees and shall be required to grant to the **DISTRICT** all temporary and permanent easements (including but not limited to construction easements), licenses, and other access rights over and across the **PROPERTY** as the **DISTRICT** shall reasonably require in its discretion for the construction, operation, and maintenance of the **PROJECT**, trailhead facility, and related improvements.

5. **Condition of Property.**

- a. **COUNTY** acknowledges that the **DISTRICT** is making no representation or warranty, oral or written, regarding the **PROPERTY**, including but not limited to those concerning (i) the nature and condition of the **PROPERTY** and the suitability of the **PROPERTY** for any and all activities and uses which the **COUNTY** may elect to conduct thereon, or (ii) the manner, construction, condition and state of repair or lack of repair of any improvements located on the Property. **COUNTY** acknowledges that the **COUNTY** is accepting the **PROPERTY** based solely on the **COUNTY's** own independent investigations and findings and not in reliance on any information provided by the **DISTRICT** or the **COUNTY's** agents or contractors. Except as provided in the

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CONSTRUCTION, OPERATIONS, AND MAINTENANCE AGREEMENT,
COUNTY hereby confirms and agrees that if **SETTLEMENT** takes place (i) the **DISTRICT** shall have no liability, responsibility or obligation subsequent to **SETTLEMENT** with respect to any conditions, or as to any other matters whatsoever, respecting in any way the **PROPERTY**; (ii) the **COUNTY** hereby forever remises, releases, acquits and discharges the **DISTRICT**, its employees and agents from any and all claims, including, but not limited to, any claims arising under any environmental law, or under common law, that have been or may be asserted and that arise from or relate in any way to the condition of the **PROPERTY**; and (iii) the **COUNTY** hereby covenants not to sue the **DISTRICT**, its employees or agents for any claim, relating in any way to the condition of the Property.

- b. **NOTWITHSTANDING ANY OTHER PROVISION OF THIS COOPERATION AGREEMENT TO THE CONTRARY, THE COUNTY ACKNOWLEDGES AND AGREES THAT IN CONSIDERATION OF THE AGREEMENTS OF THE DISTRICT HEREIN, THE PROPERTY SHALL BE CONVEYED TO THE COUNTY ON AN "AS IS, WHERE IS" BASIS WITHOUT ANY SURVIVING REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, EITHER ORAL OR WRITTEN, MADE BY THE DISTRICT OR ANY AGENT OR REPRESENTATIVE OF THE DISTRICT WITH RESPECT TO THE PHYSICAL CONDITION OF THE PROPERTY, THE PROPERTY'S COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, OR WITH RESPECT TO THE EXISTENCE OR ABSENCE OF TOXIC OR HAZARDOUS MATERIALS, SUBSTANCES OR WASTES OR STORAGE TANKS IN, ON, UNDER OR AFFECTING THE PROPERTY. THE**

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DISTRICT HAS MADE AND HEREBY MAKES NO WARRANTY OR REPRESENTATION OTHER THAN AS SPECIFICALLY STATED HEREIN AND HEREBY DISCLAIMS ANY IMPLIED WARRANTY REGARDING THE FITNESS FOR PARTICULAR PURPOSE, QUALITY OR MERCHANTABILITY OF THE PROPERTY.

6. **Amendments, Changes and Modifications.** This COOPERATION AGREEMENT may be amended, changed, modified or altered only by written agreement of the DISTRICT and the COUNTY.

7. **Notices.** All notices or other communications required or desired to be given hereunder shall be in writing and shall be deemed duly given when mailed by first class, registered or certified mail, postage prepaid, addressed as follows:

District: Metropolitan Park and Recreation District d/b/a The Great Rivers
Greenway District
3745 Foundry Way, Suite 253
St. Louis, MO 63110
Attention: CEO

County: St. Charles County, Missouri
100 N. Third Street, Suite 216
St. Charles, MO 63301
Attention: County Counselor

8. **Breach and Termination.**

a. **County Default.** In the event of breach of any term or condition of this COOPERATION AGREEMENT by the COUNTY, and the COUNTY does not cure such breach within thirty (30) days after written notice from the DISTRICT specifying the breach (or if the breach cannot be cured within such thirty (30) day period, if COUNTY shall not within such thirty (30) day period commence such cure and thereafter diligently pursue the same to its completion), the DISTRICT shall have the right to terminate this

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COOPERATION AGREEMENT. Such termination shall be effective thirty (30) days after delivery of written notice of such termination to the **COUNTY**.

Additionally, the **DISTRICT** shall be afforded all rights and remedies at law or in equity against the **COUNTY**.

- b. District Default. In the event of breach of any term or condition of this **COOPERATION AGREEMENT** by the **DISTRICT**, and the **DISTRICT** does not cure such breach within thirty (30) days after written notice from the **COUNTY** specifying the breach (or if the breach cannot be cured within such thirty (30) day period, if the **DISTRICT** shall not within such thirty (30) day period commence such cure and thereafter diligently pursue the same to its completion), the **COUNTY** shall have the right to terminate this **COOPERATION AGREEMENT**. Such termination shall be effective thirty (30) days after delivery of written notice of such termination to the **DISTRICT**. Additionally, the **COUNTY** shall be afforded all rights and remedies at law or in equity against the **DISTRICT**.

9. Assignment. Neither party may assign its rights under this **COOPERATION AGREEMENT** without the written consent of the other.

10. Limitation of Liability. Under no circumstances shall either the **COUNTY** or the **DISTRICT** be liable to the other under any theory of tort, contract, strict liability or other legal or equitable theory for any punitive, special, incidental, indirect or consequential damages, each of which is excluded by agreement of the parties regardless of whether or not any of the parties have been advised of the possibility of such damages.

11. Waiver. The failure of one party to require performance of any provision of this **COOPERATION AGREEMENT** shall not affect that party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this **COOPERATION**

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AGREEMENT constitute a waiver of any subsequent breach or default or a waiver of the provision itself.

12. **Controlling Law/Venue.** This **COOPERATION AGREEMENT** shall be interpreted in accordance with the laws of the State of Missouri. Any action brought hereunder shall be brought in the Circuit Court of St. Louis County, Missouri or in the event of Federal jurisdiction, in the United States District Court, Eastern District of Missouri.

13. **Integration.** This **COOPERATION AGREEMENT** represents the entire integrated agreement between the **DISTRICT** and the **COUNTY**, and supersedes all prior negotiations, representations or agreements, either written or oral.

14. **Miscellaneous.** All captions and headings in this **COOPERATION AGREEMENT** are for convenience only and do not limit or describe the **COOPERATION AGREEMENT** herein. This is the entire agreement between the parties and no amendments or additions thereto shall be valid unless in writing and signed by all the parties. All representations, warranties and indemnities made hereunder shall survive the transfer of the title to the **PROPERTY** to the **COUNTY** and shall not be merged therein. This **COOPERATION AGREEMENT** shall be binding on, and shall inure to the benefit of all legal representations, heirs, executors, administrators, successors and assigns of the parties hereto. If any provision of this **COOPERATION AGREEMENT** shall be declared to be unenforceable by a court of competent jurisdiction, the remaining provisions hereof shall be valid and enforceable to the fullest extent permitted by law.

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[SIGNATURE PAGE FOLLOWS IMMEDIATELY]

WHEREFORE, the parties have set their hands the day and date first above written.

DISTRICT	COUNTY
Metropolitan Park and Recreation District d/b/a The Great Rivers Greenway District	St. Charles County, Missouri
By: _____ Susan Trautman Chief Executive Officer	By: _____ Print: _____ Title: _____

Approved as to Form: _____ Husch Blackwell LLP
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PROPERTY

Parcel ID: 3-0011-3280-00-0016.1000000

A tract of land being part of Lot No. 3 and part of Lot No. 31 of Block No. 8 of Steen and Cunningham's Survey of the St. Charles Commons, Township 46 North, Range 4 East, more particularly described as follows:

Beginning at the northernmost corner of a tract of the Adjusted Common Ground "A" of the Estates of Heritage Trails as indicated on the "Correction Plat of Lots 115, 123, 124, 125, 126, 127 and Common Ground 'A' of Estates at Heritage Trails" as recorded in Plat Book 42, Page 6 – 9 of the St. Charles County Recorders of Deeds office; said corner also being the easternmost corner of a tract of land owned by the Henry W. Finck Trust and being a point on the southwestern right of way line of Route 364 (Page Avenue); thence northwesterly along said right of way line, North 35 degrees 27 minutes 58 seconds West, 96.94 feet to a point; thence continuing along said right of way line, North 68 degrees 49 minutes 36 seconds West, 227.34 feet to a point; thence leaving said right of way line, South 00 degrees 59 minutes 07 seconds West, 110.34 feet to a point; thence South 17 degrees 40 minutes 22 seconds East, 196.95 feet to a point; thence North 57 degrees 09 minutes 42 seconds East, 250.71 feet to the point of beginning and containing 44,715 square feet (1.03 acres), more or less.