

Bill No. <u>4177</u>

Ordinance No.\_\_\_\_\_

## INTRODUCED BY Aldermen Utt, Finley, stallmann, Roach, Fleming, weaver, Siegel, Bullington

# AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF BALLWIN TO EXECUTE A DECLARATION OF DEED RESTRICTION FOR HOLLOWAY PARK.

**WHEREAS**, the City of Ballwin was selected as a 2023 grant recipient for the Land and Water Conservation Grant Program, in order to partially fund the renovation of facilities at Holloway Park; and

WHEREAS, the Land and Water Conservation Fund Act and federal regulations require perpetual stewardship of Holloway Park as a recreational facility, consistent with the terms of the grant; and

**WHEREAS**, the City of Ballwin is required to record a Deed Restriction, affirming the City's obligation to operate New Ballwin Park in a manner consistent with federal regulations, in perpetuity and setting forth the potential remedies for noncompliance.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF BALLWIN, ST. LOUIS COUNTY, MISSOURI, AS FOLLOWS:

<u>Section 1</u>: The Mayor of the City of Ballwin is authorized to execute the Declaration of Deed Restriction attached hereto as Exhibit A.

<u>Section 2</u>: This ordinance shall be in full force and effect from after the date of its passage and approval and shall remain in effect until amended or repealed by the Board of Aldermen.

**PASSED** this \_\_\_\_\_ day of \_\_\_\_\_\_, 2023.

TIM POGUE, MAYOR

APPROVED this day of , 2023.

TIM POGUE, MAYOR

ATTEST:

ERIC STERMAN, CITY ADMINISTRATOR

Space above line reserved for recorder's use

## DECLARATION OF DEED RESTRICTION

THIS DECLARATION made this \_\_\_\_\_\_ day of \_\_\_\_\_\_, 2023, by City of Ballwin, Missouri, 1 Government Center, Ballwin, Missouri 63011 (hereinafter referred to as "Grantor"). Grantor hereby declares that the below-described real property ("Property") is and shall be held transferred, sold, and conveyed subject to the following conditions and restrictions in accordance with the covenants made for the award of grant funds in Project 29-01723 administered by the Missouri Department of Natural Resources ("Grantee"), P.O. Box 176, Jefferson City, MO 65102, through funds made available by the United States Grantee of Interior, National Park Service, Land and Water Conservation Fund (LWCF):

## SEE ATTACHED EXHIBIT A

In accordance with the LWCF grant award and 2 CFR 200.316, the Property has been improved with grant funds and must be held in trust as trustees for the beneficiaries of the program funds used to develop the Property by limiting use of the Property to outdoor recreational use, and maintaining and operating the Property consistent with 43 CFR Part 17 (civil rights laws), in perpetuity. This Declaration shall be binding upon Grantor and Grantor's heirs, successors, assigns and other transferees in interest (hereinafter "Transferees"), and shall run with the land. Each instrument hereafter conveying any interest in the Property or anyportion of the Property, shall contain a notice of this Declaration. Grantor, on its behalf and on behalf of all Transferees, grants to the Grantee's representatives the right of access at reasonable times in a reasonable manner for the purpose of inspection to determine compliance with these limitations.

Any act, conveyance, contract, or authorization by Grantor or Transferee, whether written or oral which would cause to be used, or would permit use of, the Property contrary to the terms of this Declaration, will be deemed a violation and breach. In accordance with the terms and conditions of the LWCF award, such other use without prior approval may constitute a conversion that will require purchase of replacement property. Proposals related to any portion of the Property for a different use must be approved in advance by National Park Service. Requests may be directed to Missouri Department of Natural Resources, Division of State Parks, attn.: Grants Management.

Failure to timely identify or enforce compliance with these activity and use limitations shall not bar subsequent enforcement or be deemed a waiver of right to take action. If any provision of this Declaration is found to be unenforceable in any respect, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.

IN WITNESS WHEREOF, this instrument is executed this \_\_\_\_\_ day of \_\_\_\_\_\_, 2023.

CITY OF BALLWIN, MISSOURI

By:

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

TIM POGUE, MAYOR

STATE OF MISSOURI

COUNTY OF ST. LOUIS

On this day of \_\_\_\_\_, 2023, before me personally appeared Tim Pogue to me personally known, who, being by me duly sworn, did say that he is the Mayor of Ballwin, Missouri, and that the foregoing instrument is acknowledged to be the free act and deed of the Grantor, and has been executed for the purposes stated herein.

Notary Public

Printed Name or seal

My Commission expires:

#### EXHIBIT A

#### LEGAL DESCRIPTION

#### PARCEL 1:

tract of land in Sections 34, 35 and 26, Township 45 North, Range 4 East, St. Louis 1 unty, Missouri, and being more particularly described as follows: Beginning at a , int in the West line of Holloway Road, 30 feet wide, at its intersection with the uth line of Section 26, Township 45 North, Range 4 East, said point being 30 feat st, measured at right angles, of the North and South center line of Section 26, ) ence Westwardly along the South line of Section 26, North 89 degrees 52 minutes West 0.01 feet to a point, said point being the Northwest corner of property of Julius cool; thence Southwardly along Julius Koebel's West line, South-O. degrees 15 minutes seconds West 399.38 feet to Julius Koebel's Southwest corner; thence Eastwardly ong Koebel's South line South 89 degrees 49 minutes 20 seconds East 540.02 feet to a int in the West line of Holloway Road, 30 fect wide; thence Southwardly along the West i ne of Holloway Road, 30 feet wide, South 0 degrees 15 minutes 20 seconds East 764.12 I et to a point; thence Southwestwardly along the cutoff at turn in Holloway Road, South dogroes 04 minutes 20 seconds West 63.27 feet to a point; thence Westwardly along e North line of Holloway Road Morth 39 degrues 36 minutes 20 seconds West 617.67 feet ( ) a turn in said road; thence Southwestwardly along the Northwest line of said Holloway ad South 35 degrees 00 minutes 40 seconds West 77.35 feet to a point; thenco luaving id road and running along the North line of property now or formerly of Oliver, North 1 degrees 42 minutes 40 seconds West 639.84 feet to a point; thence continuiny along 1 iver's property line North 50 degrees 26 minutes 40 seconds West 306,84 feet to a int of curve; thence Northwestwardly along a curve to the left having a radius of 100 feet 637.05 foot to a point of tangency; thence continuing Westwardly along the with line of maid Oliver's property and its prolongation North B6 degrees 56 minutes ( noconds Wont 524.09 foot to a point; thence North 89 dagrees 01 minutes 40 seconds at 183.63 foot to a point of curve, thence Northwestwardly along a curve to the ght having a radius of 525 foot, 331.09 foot to a point of they may then o North 2 degrees 53 minutes 40 seconds West 277.74 feet to a point in the Mast line of Kahro .11 View Plat 2; thence Northwardly along the East line of said Kehrs Mill View Plat 2 orth 0 degrees 13 minutes West 25.15 feet to a point; thence North 78 degrees 00 inutes 40 seconds East 634.54 feet to a point; thence North 89 degrees 51 minutes 40 econds East 500 feet to a point; thence North 45 degrees 21 minutes 40 seconds East 37.88 feet to a point; thence south 44 degrees 38 minutes 20 seconds East 267.53 feet o a point; thence South 78 degrees 37 minutes 20 seconds East 325 feet to a point; hence South 31 degrees 37 minutes 20 seconds East 295 feet to a point; thence South 6 degrees 37 minutes 20 seconds East 155 feet to a point; thence North 76 degrees 22 inutes 40 seconds East 190 feet to a point; thence North 1 degree 22 minutes 40 seconds ast 210 feet to a point; thence North 31 degrees 37 minutes 20 seconds West 530.73 feet to a point; thence North 48 degrees 51 minutes 40 seconds East 545 feet to a point; shance North 74 degrees 22 minutes 40 seconds East 190 feet to a point; thence North 7 degrees 22 minutes 40 seconds East 550 feet to a point; thence North 9 degrees 37 unutos 20 seconds West 550 feet to a point; thence North 0 degrees 02 minutes 20 seconds West 412 feet to a point; thence North 25 degrees 57 minutes 30 seconds East 137.72 feet to a point; thence North 08 degrees 34 minutes 40 seconds East 267.53 feet to a point in the West line of Holloway Road, 30 feet wide; thence Southwardly along the West line of said Holloway Road South 0 degrees 02 minutes 20 seconds East 772.66

#### PARCEL 2:

A brant of land in Scotions 34, 35 and 26, Township 45 North, Range 4 Bast, St. Louis Cousty, Microurf, and being more particularly described as follows: Beginning at a point in the West line of Holloway Road, 50 feet wide, at its interecession with the South Line of Section 26, Township 45 North, Range 4 Bast, ould point bring 30 feet West, measured at right anyles, of the North and South center line of Section 26; thenes Westwardly along the South line of Section 26, North 69 degrees 28 minutes West, 540,01 feet to a point, caid point being the

- Northwest conner of property of Julius Koobel; thence Southwardly along Julius Kosbol's West Line, South O degrees 13 minutes 20 seconds West, 990.38 feet to Julius Konbol's Bouthmoot corner, thence Restwardly along the South 160 South 69 degrees 49 minutes 20 seconds Rast 540.02 feet to a point in the West line of Holloway Read, 30 feet wide; thence Southwardly along the West line of Holloway Read, 30 feet wide; thence Southwardly along the West line of Holloway Read, 30 feet wide; bouth O degrees 15 minutes 20 seconds Rest 760.12 feet to a point; thence Southwastwardly along the cutoff at turn in Holloway Read, South 45 degrees 04 minutes 20 seconds West 63.37 foot to a point; thence
- Wootwardly along the North Line of Holloway Road, North 69 degrees 36 minutes 20 occurses wert 617.67 feet to a turn in said read; thence Southersotwardly along the Northwest line of oaid Holloway Road, South 39 degrees 00 minutes 40 seconds West 77.38 feet to a point; thence loaving said road and running along the North line of property new or formerly of Oliver, North 84 degrees 42 minutes 40 seconds Woot, 699.64 feet to a point; thence continuing along Oliver's property line North 20 degrees 36 minutes 40 seconds West 305.64 feet to a point of curve;
- thence Northeestwardly along a curve to the laft having a rodius of 1000 feet, - 637.08 feet to a point of tanyonoy; thenes continuing Westmirdly along the North line of said Oliver's property and its prolongation North 86 degrees 96 minutes 40 econnis West 524.09 feet to a point; thance North 89 degroes Ol minutes 40 econdo west 193.63 feet to a point of curves thence Northenetwandly along a curve to the sight having a sadius of 585 fact, 331.09 fest to a point of tangens, thense North 53 depress 55 minutes 40 seconds Mest 277.74 feet to a point in the Bast Line of Nehro Mill View Plat 3; thence Northwardly along the East Line of said Kohro Mill View Plat 3, North O Copress 13 minutes West 35.15 fast to a - point; thense North 70 degrees 00 pinkes 40 promis Hast, 434.54 Keet to a point theres North 59 degrees 51 minutes 40 cesende Bast 500 feet to a point; theres North 45 deproon 31 minutes 40 occande Bast 237.68 feet to a point; thomas South 63 degrees 33 minutes 20 percents East 267.56 Apat to a point; thenes South 70 dograde 27 uisuted 20 seconds Rast 195 fort to a point; thence South 31 degrees 37 minutes 20 cencade Bast 295 fest to a print; should Bouth 76 degrees 37 minute 20 concerns Bast 155 fast to a point; thomas North 76 degrees 22 minutes 60 cosend Rant, 190 fort to a point; thunce North & degree 22 minutes 40 ecconds Bast 210 - Icol to a point; thank North Bl degrees if aimites 20 accords West 530.73 fort to a point; thence North 48 degrees \$1 minutes 40 seconds most \$45 feet to a point; thence North 74 depress 33 minutes 40 eccende Mast, 190 feat to a point; thense North 67 depress 23 minutes 40 coconds East 550 fest to a point; theneo

North 9 degrees 97 minutes 30 seconds West 350 feat to a point; themes North 0 degrees 02 minutes 20 seconds West 412 feat to a point; themes North 35 degrees 37 minutes 30 seconds Bast, 397.72 feat to a point; themes North 35 degrees 34 minutes 40 seconds Bast, 397.72 feat to a point; themes North 68 degrees 34 - 20 feat wide; themes Southward; along the West line of Holloway Read 0 degrees 03 minutes 30 seconds Bast, 778.86 feat to the point of beginning.