

RESOLUTION NO. _____

A RESOLUTION APPROVING A UTILITY AND ACCESS EASEMENT AGREEMENT WITH THE STATE OF TENNESSEE FOR A WATERLINE INSTALLED IN WARRIOR'S PATH STATE PARK AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT

WHEREAS, in 2019, the city was requested to install a larger waterline on Warrior's Path State Park property to serve their new marina and recreation building; and

WHEREAS, the waterline was installed in 2022, and the State of Tennessee has provided a permanent utility easement for this public waterline on State property.

Now therefore,

BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN AS FOLLOWS:

SECTION I. That the Utility and Access Easement Agreement with the State of Tennessee for a waterline on Warrior's Path State Park property to serve their new marina and recreation building is approved.

SECTION II. That the mayor, or in his absence, incapacity, or failure to act, the vice-mayor, is authorized and directed to execute, in a form approved by the city attorney and subject to the requirements of Article X, Section 10 of the Charter of the City of Kingsport, a Utility and Access Easement Agreement with the State of Tennessee for a waterline on Warrior's Path State Park property to serve their new marina and recreation building, to deliver the agreement and take any and all action as may be required on the part of the city to carry out, give effect to, and consummate the transactions contemplated by the agreement and this resolution as set out below:

UTILITY AND ACCESS EASEMENT AGREEMENT TR# 23-03-003

This Utility and Access Easement Agreement ("**Easement Agreement**") is made and entered into by and between the **STATE OF TENNESSEE ("GRANTOR")** and **CITY OF KINGSFORT ("GRANTEE")**.

WITNESSETH

The GRANTOR, for and in consideration of mutual benefits which will accrue to the GRANTOR and the general public, and the covenants, agreements, conditions and understandings to be performed and observed by the GRANTEE, as hereinafter set forth, does hereby grant unto the GRANTEE, its successors and assigns, a permanent utility easement to construct, operate, maintain, repair, replace and inspect utility facilities (collectively, the "Easement"), located at 490 Hemlock Road, Kingsport, Sullivan County, Tennessee (the "Easement Area"). The Easement Area is more particularly described on Exhibit A as a 15' wide easement consisting of 21,876 square feet, and on Exhibit B as a 15' wide easement consisting of 12,937 square feet, and the Easement Area is depicted on Exhibit C. Unless noted otherwise in the Easement Area, it is agreed that the Easement Area shall include an additional temporary construction easement as required and necessary to install, replace and maintain the facilities and lines beyond the permanent easement.

This area being a portion of the property conveyed to the State of Tennessee and recorded in deeds of record in Deed Book 134A, Page 466 and Deed Book 143A, Page 193 in the Register's Office of Sullivan County, Tennessee.

Now, therefore, the PARTIES for themselves, their successors in interest and assigns, as a part of the consideration hereof, do hereby covenant and agree that:

1. Neither the GRANTOR nor the GRANTEE shall bear any liability for losses, expenses, injuries, damages, or attorney's fees arising out of the acts or omissions of the other party related to said Easement.

2. The GRANTEE, its successors and approved assigns, shall maintain adequate public liability insurance, which may include self-insurance, and provide satisfactory evidence of such protection to the GRANTOR (upon the GRANTOR's request) with monetary limits of the GRANTEE's insurance not less than the monetary limits of liability provided by the Tennessee Governmental Tort Liability Act, T.C.A. § 29-20- 101, et seq., as it may be from time to time amended. The GRANTEE's successors and assigns agree to maintain public liability insurance with the limits of said insurance to be no less than the exposure and limits of the GRANTOR's liability under the Tennessee Claims Commission Act, T.C.A § 9-8-301 et seq., as it may be from time to time amended and/or construed by the Claims Commission and the courts and will provide satisfactory evidence of such protection to the GRANTOR.

3. The GRANTEE agrees to replace any affected fences, restore grade, seed, and straw in the Easement Area to as good or better condition as before the construction of the utility line or system to be constructed pursuant to this Easement Agreement.

4. a. The GRANTOR understands and agrees that GRANTEE has the right to keep the Easement Area free and clear of buildings, trees, and anything else that interferes with the installation, maintenance, and use of the utility lines on the Easement Area. In the interest of utility system safety, integrity and reliability, the GRANTOR agrees to allow GRANTEE to remove tree limbs, vines, and other vegetation to a minimum distance of 5' on each side of the utility facilities and lines installed across the Easement Area. The Easement Area will not be used for anything that in the judgment of GRANTEE might endanger or interfere with the use and operation of the utility facilities that are placed on the Easement Area. In this regard, the GRANTOR specifically agrees that no permanent structure will be erected on the Easement Area and that the GRANTOR will be responsible for the cost of removal if any such structure is erected in violation of this agreement.

b. The ground level of the Easement Area will not be changed without GRANTEE'S written approval in advance. Approval shall not be unreasonably withheld by GRANTEE.

5. GRANTEE shall have the reasonable right of ingress and egress over all adjacent land owned by the GRANTOR in the exercise of all rights reasonable and properly incident to the rights hereby expressly granted.

6. If at any time this Easement ceases to be used for the purpose stated herein, the Easement shall terminate.

7. The GRANTOR reserves the right to require GRANTEE to relocate the utility line or system constructed pursuant to this Easement Agreement at any time at the GRANTOR'S expense on the condition that GRANTOR shall provide GRANTEE reasonable notice of the need to relocate and shall provide GRANTEE with a substitute easement on the subject parcel that meets the engineering requirements of the GRANTEE.

IN WITNESS WHEREOF, the parties hereto have affixed their signatures as duly authorized officials of the respective parties hereto as of this the day of

2024.

[Acknowledgements Deleted for Inclusion in this Resolution]

SECTION III. That the mayor is further authorized to make such changes approved by the mayor and the city attorney to the agreement set out herein that do not substantially alter the material provisions of the agreement, and the execution thereof by the mayor and the city attorney is conclusive evidence of the approval of such changes.

SECTION IV. That the board finds that the actions authorized by this resolution are for a public purpose and will promote the health, comfort and prosperity of the citizens of the city.

SECTION V. That this resolution shall take effect from and after its adoption, the public welfare requiring it.

ADOPTED this the 1st day of October, 2024.

PAUL W. MONTGOMERY, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III, CITY ATTORNEY