

RESOLUTION NO. _____

A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING WITH HAWKINS COUNTY RELATIVE TO THE CONSTRUCTION OF A BRIDGE WITHIN BAYS MOUNTAIN PARK AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT

WHEREAS, Hawkins County was awarded a Tourism Enhancement Grant in the amount of \$100,000 for the construction of a bridge over Laurel Run Creek, within the boundaries of Bays Mountain Park; and

WHEREAS, Bays Mountain Park staff regularly program waterfall and wildflower hikes in the western portion of the park, and a crossing over Laurel Run Creek would be an additional asset to Bays Mountain Park and would benefit users of both Laurel Run Park and Bays Mountain Park; and

WHEREAS, staff recommends entering into a Memorandum of Understanding, with certain stipulations to ensure protection of Bays Mountain Park; and

WHEREAS, as this project will benefit Bays Mountain Park and therefore the city at large the Bays Mountain Park Commission recommends contributing \$5,000 to Hawkins County towards the project for which funding is available in account 612-4530-473.20-99.

Now therefore,

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

SECTION I. That the Memorandum of Understanding with Hawkins County for the construction of a bridge over Laurel Run Creek, within the boundaries of Bays Mountain Park, 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, the Memorandum of Understanding with Hawkins County for the construction of a bridge over Laurel Run Creek, within the boundaries of Bays Mountain Park, 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 this resolution and the agreement as set out below:

MEMORANDUM OF AGREEMENT

This Memorandum of Agreement (herein Memorandum) made and entered onto as of this the _____ day of _____, 2024, by and between the CITY OF KINGSFORT, TENNESSEE (herein "City"), and HAWKINS COUNTY, TENNESSEE (herein "County").

WITNESSETH:

WHEREAS, Laurel Run Park (herein Park) is a 440-acre park owned and operated by County; and
WHEREAS, Laurel Run Creek runs through the Park and adjacent properties; and

WHEREAS, a majority of the Park consists of wooded land along the lower slopes of City-owned Bays Mountain Park Conservation Area (herein Bays Mountain) containing hiking trails, abundant wildflowers, and a waterfall; and

WHEREAS, to fully access the Park users must wade across Laurel Run Creek which is often impassable due to high water; and

WHEREAS, County has been awarded funds by a Tennessee Tourism Enhancement Grant for the construction and maintenance of a pedestrian bridge over Laurel Run Creek; and

WHEREAS, City owns adjacent tax parcel 64.10, consisting of 45 acres; and WHEREAS, uncertainty exists as to the exact location at which the pedestrian bridge will be located; and

WHEREAS, to the extent the location of the pedestrian bridge may be on property owned by City, City and County desire to memorialize their mutual agreement as to the scope and objectives of the project and affirm their intent to proceed with the construction and maintenance of the pedestrian bridge for the mutual benefit of the Parties; and

WHEREAS, it is the intent of the Parties to enter into an Agreement satisfying the conditions required for County to receive the Tourism Enhancement Grant funds necessary to construct and maintain said pedestrian bridge; and

NOW, THEREFORE, in consideration of the premises and mutual covenants of the parties contained herein the parties agree as follows:

1. The term of the Agreement shall be fifty(50) years.

2. The bridge and appurtenant premises are believed to be generally located on tax parcel 64.10 approximately 0.7 miles by trail and 0.6 mile as the crow flies from the Laurel Run Trail head and as the crow flies approximately 4 miles from the Bays Mountain Park Nature Center.

3. County shall use the Premises solely for the purpose of constructing and maintaining a pedestrian bridge, and for no other purpose. County's access to the premises are subject to any restrictions City may place upon access to Bays Mountain Park. However, should County require access at alternate times it may request such alternate access, the approval of which shall not be unreasonably withheld.

4. County shall permit City to enter upon the Premises to inspect such repairs, improvements, alterations or additions thereto as may be required under the provisions of this Agreement. No compensation shall be asked or claim made by County by reason of any inconvenience or annoyance arising from anything that may be done in repairing, altering, working on or protecting the Premises or building. This section shall not be construed as imposing any duty on City to make any repairs, alterations or additions.

5. County shall ensure compliance with all federal, state, and local laws, rules, regulations and ordinances which control, limit, regulate, or pertain to earth moving activities should County engage in the same. County shall be responsible for obtaining all necessary permits and/or authorizations to engage in any earth moving activities. If at any time during or after of the term of this Agreement, the Premises are found to be in violation of any of the covenants set forth in this section due to acts or occurrences during the occupancy of County, or caused by County, then County shall diligently institute proper and thorough remediation procedures at County's sole cost.

6. Upon execution of this Agreement the Bays Mountain Park Commission shall submit to County a one-time payment of \$5,000.00. If for any reason the County does not complete the Laurel Run Creek Pedestrian Bridge within the Tourism Enhancement Grant contract period, the County shall return the \$5,000.00 payment to the Bays Mountain Park Commission.

7. Upon receipt and review by the Parties of the selected Contractor's engineering report and construction plans, the Parties shall enter into a Supplemental Agreement.

8. The Supplemental Agreement shall contain a detailed description of the location of the bridge and the appurtenant premises, as well as any other mutually agreed terms and conditions.

9. Any notice from City to County relating to the Premises or this Agreement shall be deemed duly served when sent to the last address designated by notice in accordance with this section, by certified or registered mail, return receipt requested, postage prepaid, or by recognized courier service with a receipt therefor, addressed to County Mayor's Office, 150 E. Washington Street #2, Rogersville, TN 37857. Any notice from County to City relating to the Premises or this Agreement shall be deemed duly served when personally delivered, or delivered to City by certified or registered mail, return receipt requested, postage prepaid, or by recognized courier service with a receipt therefor, addressed to City at 415 Broad Street, Kingsport, Tennessee 37660, Attention City Attorney or at City's last designated address. No oral notice or representation shall have any force or effect. Time is of the essence in the service of any notice.

IN WITNESS WHEREOF, the Parties hereto executed this Agreement in duplicate originals on the above date.

[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 2nd day of April, 2024.

PATRICK W. SHULL, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III, CITY ATTORNEY