Bill No. __4819__  
Requested by: Ryan Graham  
Sponsored by: Terry Hollander

AN ORDINANCE AUTHORIZING THE COUNTY EXECUTIVE TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF ST. PETERS AND THE DARDENNE CREEK DRAINAGE DISTRICT #3 FOR MAINTENANCE OF DARDENNE CREEK

WHEREAS, St. Charles County acquired a future park site along the Mississippi River at the mouth of the Dardenne Creek; and

WHEREAS, the City of St. Peters, Missouri (“City”) owns and operates Lakeside 370 Park, which is a public park adjacent to the Dardenne Creek approximately three and one-half miles upstream of the mouth of the Creek; and

WHEREAS, the City and County are planning on establishing a canoeing route between the two parks as a future recreational amenity available to the public; and

WHEREAS, blockages from felled trees and other debris currently present obstacles to canoe navigation on the Creek between the City’s Lakeside 370 Park and the crossing of Highway B over the Creek, which is a part of the aforementioned segment of the Creek being approximately 2.5 miles long along the Creek centerline; and
WHEREAS, this same stretch of creek runs along and through land maintained by the Dardenne Creek Drainage District #3 ("DCDD #3"); and

WHEREAS, DCDD #3 is willing to provide the labor, equipment, and debris disposal necessary to clear such obstacles from the Creek if the County and City contribute toward the cost of such efforts; and

WHEREAS, in Ordinance Nos. 18-069 and 19-010, the County Council previously authorized an intergovernmental agreement and expenditure to have the necessary creek clearance work performed, but flooding and/or other weather conditions prevented such work from taking place; and

WHEREAS, execution of the agreement will benefit the residents of St. Charles County and will serve a public purpose; and

WHEREAS, Section 70.220 RSMo. authorizes an intergovernmental agreement between political subdivisions for the purposes herein set out.

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

Section 1. The expenditure of up to a total expenditure of $24,485, with work to be completed by June 30, 2020 for the intergovernmental agreements as approved by Ordinance Nos. 18-069 and 19-010, is hereby authorized.
Section 2. The Cooperative Maintenance Agreement of Dardenne Creek shall be substantially the same in form and content as that attached hereto and incorporated herein by reference as EXHIBIT A.

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

Section 4. This ordinance shall be in full force and effect from and after the date of its passage and approval and such cooperative agreement shall be valid upon its lawful execution by the appropriate officials of each governmental entity entering into such agreement as required by Chapter 70 of the Revised Statutes of the State of Missouri.

DATE PASSED

DATE APPROVED BY COUNTY EXECUTIVE

____________________
CHAIR OF THE COUNCIL

____________________
COUNTY EXECUTIVE

ATTEST:

____________________
COUNTY REGISTRAR
CERTIFICATE OF DIRECTOR OF FINANCE

I certify that there is a balance otherwise unencumbered to the credit of the appropriation to which this ordinance is chargeable, and a cash balance otherwise unencumbered in the treasury to the credit of the fund from which payment is to be made, each sufficient to meet this obligation.

___________________________
Director of Finance

___________________________
Date
This Agreement is entered into as of the _____ day of _________________, 2020, between ST. CHARLES COUNTY, MISSOURI, a charter county and political subdivision of the state of Missouri (hereinafter referred to as “County”), the City of St. Peters, Missouri, a city of the fourth class and political subdivision of the State of Missouri (hereinafter referred to as “City”), and the DARDENNE CREEK DRAINAGE DISTRICT #3, a political subdivision of the State of Missouri formed pursuant to Missouri Statutes (hereinafter referred to as “DCDD”).

WHEREAS, a stretch of the Dardenne Creek (“Creek”) in St. Charles County runs from the City’s Lakeside 370 Park to the Mississippi River; and

WHEREAS, the County has recently acquired future park land at the location where the Creek flows into the Mississippi River; and

WHEREAS, the County and City desire to establish a recreational canoeing route along the Creek connecting the two park areas; and

WHEREAS, blockages from felled trees and other debris currently present obstacles to canoe navigation on the Creek between the City’s Lakeside 370 Park and the crossing of Highway B over the Creek, which is a part of the aforementioned segment of the Creek being approximately 2.5 miles long along the Creek centerline; and

WHEREAS, DCDD is willing to provide the labor, equipment, and debris disposal necessary to clear such obstacles from the Creek if the County and City contribute toward the cost of such efforts; and

WHEREAS, the parties desire to enter into this agreement to specify their respective obligations regarding the clearance of obstacles in this segment of the Creek and Section 70.220 RSMo. authorizes the County, City, and DCDD to enter into this type of cooperative agreement; and

NOW, THEREFORE, the parties do hereby agree as follows:

General Terms

1. **Creek Maintenance Work.** DCDD shall use all reasonable efforts to remove felled trees and other debris from the Creek from the City’s Lakeside 370 Park to the crossing of Highway B over the Creek so that the Creek will be reasonably navigable by canoes. DCDD agrees to begin such work promptly after receipt of the two payments described below and to continue such work diligently until it is complete. This Agreement replaces the Cooperative Agreement for Maintenance of Dardenne Creek, entered March 27, 2019, among County, City and DCDD, and approved by County Ordinance 19-010.

2. **Cost Reimbursement by County.** County shall pay to DCDD, before work begins, a one-time, lump sum contribution of $24,485.00 as its share of compensation for the work described herein. DCDD shall not be responsible for accounting for any equipment, labor, or other costs expended.
3. **Cost Reimbursement by City.** City shall pay to DCDD, before work begins, a one-time, lump sum contribution of $5,015.00 as its share of compensation for the work described herein. DCDD shall not be responsible for accounting for any equipment, labor, or other costs expended.

4. **Completion of Work.** DCDD shall notify the parties when the work described herein is complete and provide the parties with the opportunity to inspect the subject segment of the Creek and raise any issues they find regarding the satisfactory completion of the work. In the event that a small number of additional trees were to fall into the Creek during the time DCDD is performing its work under this Agreement, DCDD agrees to use reasonable efforts to clear such debris. If, however, a large amount of debris collects in the subject segment of the Creek while the work is in progress, then the parties shall refine the scope of remaining work to be performed by DCDD and/or the payments called for in this Agreement accordingly.

5. **Informal Dispute Resolution.** The parties agree to meet, confer, and attempt to promptly resolve any disagreement over whether the work is complete, whether a large amount of additional debris collects in the Creek while the work is in progress, and how to resolve such other and further disputes as may arise under this Agreement.

**Liability to Third Parties**

6. DCDD shall indemnify, protect and hold harmless County and City from and against the loss, cost, claims, demands, damage and/or expense arising out of any demand, claim, suit or judgment for damages to property or injury to or death of persons, including the officers, agents and employees of either party hereto, and including payment under any workmen’s compensation law, or under any plan for employee’s disability or death benefit, which may arise out of or be caused in whole or in part by the fault, failure, negligence, or alleged negligence of DCDD, its agents, servants or employees in performing its obligations under this Agreement.

**Limitations**

7. This Agreement is not assignable by any party hereto.

8. The parties shall comply with all applicable laws, ordinances, rules, regulations and requirements now in force or which may hereinafter be put into force.

**Duration and Termination**

9. The initial term of this Agreement shall begin as of the effective date noted above and shall expire on June 30, 2020.

10. This Agreement may also be terminated by any party hereto at any time before payments are made to DCDD by giving advance written notice to the other parties at the addresses shown below. After such payments are made, only DCDD may terminate this Agreement. In the event DCDD terminates such agreement before the work described herein is complete, then DCDD shall promptly refund the full amount of the payments received from County and City pursuant to this Agreement to the payors.
Miscellaneous

11. The headings in this Agreement are for convenience only and neither limit nor amplify the provisions of this Agreement.

12. If any provision of this Agreement shall be found by a court of competent jurisdiction to be invalid or unenforceable, the same shall be reduced in scope and coverage to the extent necessary to render the same valid, and, if that is not possible, the remainder of this Agreement shall not be affected and shall continue in full force and effect.

13. No provision of this Agreement shall be construed against or interpreted to the disadvantage of a party by any court or other governmental authority by reason of such party having or being deemed to have structured or dictated such provision.

14. This Agreement constitutes the entire agreement of the parties hereto with respect to the subject matter hereof and supersedes all previous agreements relating to the subject flood gates. There are no contemporaneous agreements, written or oral, between the parties with respect to the subject matter hereof. This Agreement may be modified only by a written instrument signed by each of the parties hereto.

15. This Agreement shall become effective upon execution by County, City, and DCDD. The parties may execute the Agreement in one or more counterparts, the combination of which shall be considered one original document.

16. Notices: All notices and other communications hereunder shall be in writing and shall be deemed to be duly given if (a) delivered in person or by commercial delivery service, or (b) if mailed by certified mail, with postage prepaid and return receipt requested, to the party at its address as set forth below, or to such other person and/or address as the party may provide by written notice in the future:

To DCDD:
Herb Iffrig, Trustee
Dardenne Creek Drainage District #3
505 Iffrig Road
St. Peters, Missouri 63376

To County:
County Executive
St. Charles County
100 North Third Street
St. Charles, Missouri 63301

To City:
City Administrator
City of St. Peters
One St. Peters Centre Blvd.
St. Peters, Missouri 63376
IN WITNESS WHEREOF, each of the undersigned has executed this Agreement after duly obtaining authorization to enter into same from the governing body thereof in accordance with applicable law.

DARDENNE CREEK DRAINAGE DISTRICT #3

By: __________________________________________
   Mark Chipley, President

ST. CHARLES COUNTY, MISSOURI

By: __________________________________________
   County Executive

ATTEST:

By: __________________________________________
   County Registrar

By: __________________________________________
   Frank Schlenke, Secretary

By: __________________________________________
   Herb Iffrig, Treasurer

CITY OF ST. PETERS, MISSOURI

By: __________________________________________
   Len Pagano, Mayor

ATTEST:

By: __________________________________________
   City Clerk

CERTIFICATE OF FINANCE DIRECTOR

I certify pursuant to § 50.660 RSMo., as amended, that there is a balance otherwise unencumbered to the credit of the appropriation to which this contract is chargeable, and a cash balance otherwise unencumbered in the treasury to the credit of the fund from which payment is to be made, each sufficient to meet this obligation.

_____________________________________
Bob Schnur, Finance Director