



Date of Council Meeting: March 25, 2014

**TOWN OF LEESBURG
TOWN COUNCIL MEETING**

Subject: Authorizing the Town Manager to execute a License Agreement between the Town of Leesburg and the Northern Virginia Regional Park Authority for a storm drainage outfall on the Balls Bluff Battlefield Regional Park.

Staff Contact: Anne D. Geiger, PE, Project Manager, Capital Projects
Barbara Notar, Deputy Town Attorney

Recommendation: To authorize the Town Manager to execute a License Agreement between the Town of Leesburg (Town) and the Northern Virginia Regional Park Authority (NVRPA) for storm drainage outfall to be constructed, installed, operated, and maintained by the Town on the Balls Bluff Battlefield Regional Park.

Issue: Should the Town Council authorize the Town Manager to execute a License Agreement between the Town and NVRPA for the construction of a storm drainage outfall on the Balls Bluff Battlefield Regional Park property that will service the Town's Potomac Crossing Park site?

Fiscal Impact: There are no direct costs to the Town for this agreement with NVRPA.

Background: The developer of the Potomac Crossing neighborhood proffered to build a community park as part of the development. The developer did not build the park, and after receiving a financial settlement from the developer for the formerly proffered park, the Potomac Crossing Park project was added to the Town's Fiscal Year 2014 Capital Improvement Program utilizing those funds.

Amenities of the park include an entrance road, parking lot, playground, open play area, and picnic facilities. Construction of the park is anticipated to begin in June 2014 and be completed in October 2014.

Attachment: Proposed License Agreement between Town and NVRPA

LICENSE AGREEMENT

PART A

THIS LICENSE AGREEMENT, made this ____ day of _____, 2014, by and between the NORTHERN VIRGINIA REGIONAL PARK AUTHORITY, a body corporate and politic (the "AUTHORITY"), and the TOWN OF LEESBURG (the "LICENSEE").

WHEREAS, the AUTHORITY owns certain Property, known as Ball's Bluff Regional Park in Leesburg, Virginia, Loudoun County Parcel Identification Number 146-37-0188-002, on which the AUTHORITY operates and maintains a Park, including trails and related facilities, for the public's use and enjoyment; and

WHEREAS, LICENSEE desires to construct and maintain certain facilities and improvements on a portion of the AUTHORITY's Property ("Licensed Premises"); and

WHEREAS, LICENSEE acknowledges that the paramount use of the Property is for the public's use and enjoyment and that the construction and operation of LICENSEE's facilities and improvements on the Licensed Premises shall not adversely affect the Property's paramount use for park purposes; and

WHEREAS, the AUTHORITY is willing to license LICENSEE to use the Licensed Premises on the terms and conditions set forth herein.

NOW, THEREFORE, the AUTHORITY and LICENSEE, in consideration of payment hereinafter stipulated and the mutual covenants hereinafter contained, hereby agree as follows:

1. License Grant

a. AUTHORITY hereby grants a nonexclusive license to LICENSEE, for the term and upon the conditions, covenants, and agreements hereinafter set forth, to use the Licensed Premises for the purposes of installing storm water step pools as shown on plans titled, "Potomac Crossing Park TLCI-2014-0002" (hereby incorporated as Exhibit A).

b. It is a specific prerequisite to LICENSEE's use of the Licensed Premises pursuant to this License that the continuity of Park Trails shall be, at all times, maintained in a safe and reasonable manner satisfactory to the AUTHORITY.

c. The rights or privileges herein granted to LICENSEE shall be subject to the rights or interests held by others in and to the Property as of the date of this Agreement. The AUTHORITY makes no representations or warranties, express or implied, concerning the extent of such outstanding rights held by others and shall have no respon-

PRESENTED March 25, 2014

RESOLUTION NO. 2014-

ADOPTED _____

A RESOLUTION: AUTHORIZING THE TOWN MANAGER TO EXECUTE A LICENSE AGREEMENT BETWEEN THE TOWN OF LEESBURG AND THE NORTHERN VIRGINIA REGIONAL PARK AUTHORITY FOR A STORM DRAINAGE OUTFALL ON THE BALLS BLUFF BATTLEFIELD REGIONAL PARK.

WHEREAS, the Potomac Crossing Park was added by Town Council to the Fiscal Year 2014 Capital Improvement Program; and

WHEREAS, the design by the Town of Leesburg has been prepared and a portion of a storm drainage outfall will extend onto the Balls Bluff Battlefield Regional Park owned by the Northern Virginia Regional Park Authority (NVRPA); and

WHEREAS, a License Agreement is necessary to allow construction and maintenance of the storm drainage outfall; and

WHEREAS, the Town Attorney has negotiated a License Agreement with NVRPA to allow the Town of Leesburg to install this outfall; and

WHEREAS, the term of the License Agreement will run for forty (40) years with renewable ten (10) year terms not to exceed a total of ninety (90) years; and

WHEREAS, the NVRPA Board of Directors has approved the License Agreement and has waived all fees; and

WHEREAS, the terms contained in the License Agreement are reasonable and equitable and will benefit the Town and the citizens of Leesburg.

THEREFORE, RESOLVED by the Council of the Town of Leesburg in Virginia that the Town Manager is authorized to execute the License Agreement with the Northern Virginia Regional Park Authority dated March 2014.

A RESOLUTION: AUTHORIZING THE TOWN MANAGER TO EXECUTE A LICENSE AGREEMENT BETWEEN THE TOWN OF LEESBURG AND THE NORTHERN VIRGINIA REGIONAL PARK AUTHORITY FOR A STORM DRAINAGE OUTFALL ON THE BALLS BLUFF BATTLEFIELD REGIONAL PARK.

PASSED this ____ day of March 2014.

Kristen C. Umstattd, Mayor
Town of Leesburg

ATTEST:

Clerk of Council