101 GREENWAYS

General Advice for the Development of a Hard-Surfaced Greenway Project

by the

Commissioner's Council on
Greenways and Trails Development Committee

Tennessee Department of Environment and Conservation

2014

Acknowledgements

GREENWAYS 101

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Introduction

If your community is interested in building an off-street, **hard surfaced** (asphalt or concrete paved), multi-use greenway trail, please read on for tips and advice on how to make your trail a reality! Once completed, it will quickly become a popular attraction in your community. The process may seem overwhelming but the project will be rewarding for the multiple community health, environmental, transportation, economic and recreation benefits the greenway will provide.

Any community considering the construction of a greenway is encouraged to explore **books** that are available (see Resources) that provide comprehensive guidance on every aspect, from start to finish, on the greenway trail development process.

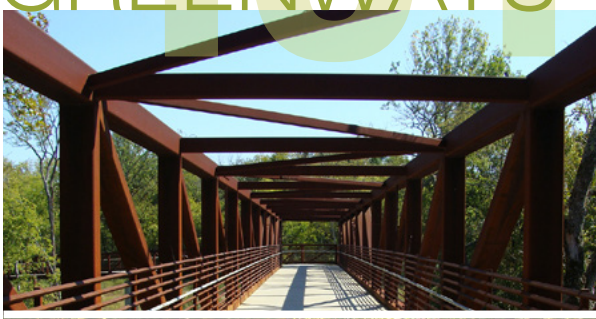
Visit one or two completed greenway projects in other communities, talk to representatives of the communities and to trail users and ask them what they like and what they would change. Seeing first hand a variety of greenways and amenities and discovering the experiences they provide will help you to visualize what may work best or be needed for your project.

If at all possible, **engage private design consultants** early in the process. There are many landscape architecture and engineering firms that are experienced in assisting communities in all aspects of trail development, not just preparation of design documents necessary for bidding construction. Experienced design consultants can expedite the whole process and make it easier to get a project completed. Consultants can also be hired to write grant applications for state and federal funds.

The purpose of this document is to provide general guidance in a **Frequently Asked Questions** (FAQs) format to Tennessee communities on the major steps and things you need to know to develop hard-surfaced greenway trails. For the purpose of the guide, greenway and trail mean the same.

If your community is interested in developing **unpaved** (natural surfaced) hiking trails, please refer to the publication, Pathways to Trail Building, at the Tennessee Department of Environment and Conservation's website, *http://tn.gov/environment/recreation/docs/pathways.pdf*. Additional information can be found in the Tennessee Trails and Tracks Resource Guide at *http://tn.gov/environment/recreation/docs/trails-tracks-resource-guide.pdf*.

101 GREENWAYS



This publication provides general information on how to develop a hard surfaced trail project in your community and it is intended for community supporters and advocates of these types of trails. Please contact your local officials and/or TDEC RES (http://www.tn.gov/environment/recreation/) for specific details about trail development opportunities in your community.

GREENWAYS 101

Q1 How long will it take to complete a greenway trail?

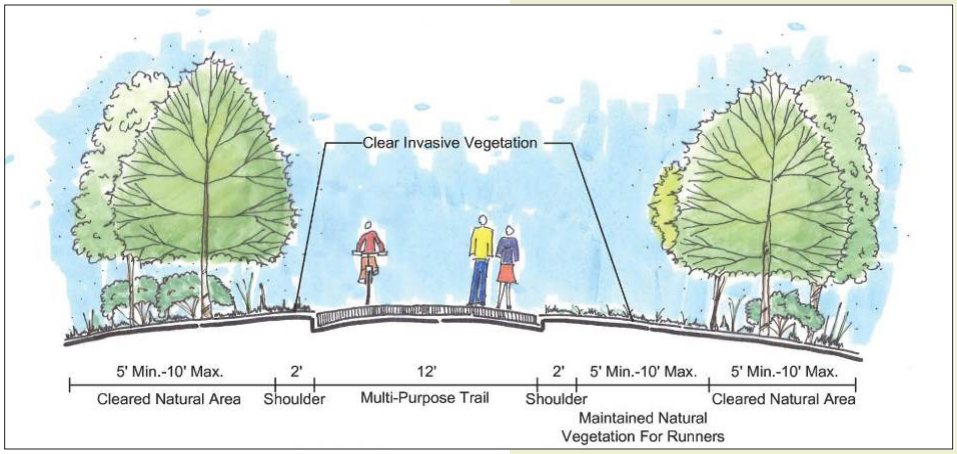
A1 From an idea to completion – average of 4 - 5 years

This depends on the length of the project, securing of funding, environmental review process, right-of-way acquisition and construction.

Q2 How much will it cost per mile of hard surfaced greenway?

A2 Between $500,000 and $1.0 million

Plan to budget $1.0 million per mile to cover the costs of a standard 12-foot wide hard surfaced path, trailhead signs, parking area, culverts, bridges and boardwalks (see itemized cost estimates of various features in Q 6).



Q3 How should a community get started?

A3 Projects can come about in a wide variety of ways, but a simple and effective approach is to form a combined government and citizen committee of interested people, groups and stakeholders.

A committee can be formal or informal, but needs to involve interested citizens to work with local government officials (representatives from the local parks department, planning department, public works department, city or county manager and/or mayor's representative).

Stakeholders should include representatives from businesses, neighborhood groups, trail user groups, homeowner associations, and community leaders. Supportive influential stakeholders can help move the project forward. Also, identify any potential opposition (i.e., landowners who may have privacy concerns).

Mayoral support at the outset is essential, and the mayor (or city or county manager) needs to identify the lead local government agency that will administer the project as well as assign a staff person to facilitate the project and the committee. Find a credible and passionate spokesperson.

Q4

What are the general steps for building a greenway project?

A4

1. Identify a conceptual trail route

Use maps or aerial photos commonly available on the internet (i.e., Google Earth, MapQuest, Yahoo, Bing, etc.) if Geographic Information System (GIS) software is not readily available.

Mark maps "Preliminary Concept" since the proposed conceptual route has not yet received community and landowner input.

Consider potential connections to features such as schools, libraries, parks, and businesses. Also consider where bridges will be necessary and where trailheads should be located.

Consider developing a comprehensive greenway master plan. The local planning or parks department and consultants can be used to develop a city and/or county wide plan that will help establish greenway segment priorities, identify connections, and provide cost estimates for implementation.

2. Identify landowners and right-of-way needs

Identify the landowners whose property the trail may need to traverse and determine general boundaries of the right-of-way area needed for the trail.

Plan on an average trail corridor width of 25-75 feet minimum (the more the better for conservation and scenic purposes), and anticipate wider areas to get to the narrowest points of creeks, drainage areas and waterways for cost savings on bridge crossings. Determine the best location for the bridge(s) and then route the trail to that location.

Discreetly communicate with the individual landowners and any groups that will be affected by the project. Their early engagement is critically important. Having an influential community leader approach them in the beginning stages is a good strategy and will help build the support needed to accomplish the project.

3. Identify funding

Identify the funding sources, determine deadlines and submit grant applications when due (see Resources, Funding section).

Most greenways are built using local government General Obligation bond funds and may likely be combined with federal transportation grants through the Tennessee Department of Transportation (TDOT), state and federal recreation grants through the Tennessee Department of Environment and Conservation (TDEC), private donations and foundation and corporate grants.

4. Prepare a conceptual plan

A simple 2 to 4 page concept plan should outline the purpose and benefits of the proposed greenway project and should include a schematic illustration of the proposed conceptual route, cost projections, steps to accomplish the project, a funding plan and a list of the committee members.

The concept plan is useful to establish the vision, create excitement and inform community members and potential funders of the project. Consider developing a Power Point presentation and take it to groups to build support and enthusiasm. During your public outreach activities, encourage the public to provide their opinions and input on the project and ensure them that the project is not a done deal. Landowner and neighbor support is critical. Approaching the editor of the local newspaper early on for support is also useful in many communities.

5. Obtain landowner permission

Use of a donated conservation easement (sample provided in Attachment A) is a simple way to obtain right-of-way that provides liability protection for landowners under Tennessee's state laws.

If fee simple purchase of land is necessary, your local government will need to determine the funding source and follow the applicable land acquisition procedures. The process requires having a Fair Market Value land appraisal done by a state certified land appraiser and obtaining approvals from the planning department, park board, and city council or board of aldermen or county commission as applicable.

If you plan to use federal or state funds for the project, right-of-way procedures are specified and must be adhered to and well documented, whether easements are donated or right-of-way is purchased. The federal Uniform Relocation and Real Property Acquisition Act (Uniform Act) must be followed when using state or federal grant funding.

Landowner concerns that typically need to be addressed involve liability, privacy, security and maintenance. Have answers prepared for these concerns.

Liability: under Tennessee state law, landowners who grant trail conservation easements are afforded liability protection if the easement is in perpetuity and its provisions follow the language outlined in state law. (See Attachment A for a sample easement that tracks to state law used by Metro Nashville government. Refer to "Conservation Easement Act of 1981," T.C.A. 66-9-303 et. seq. for provisions of the state law.)

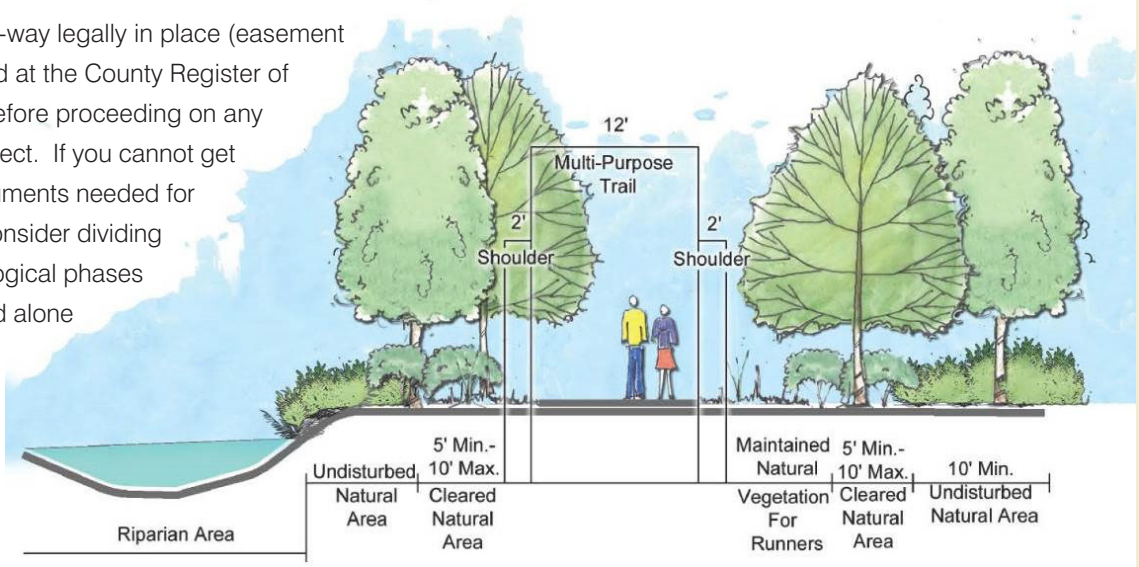
Privacy: Should a landowner want a privacy fence or landscape planting buffer, include these in your plans whenever requested and feasible.

Security: Resolve, before talking to the landowner, who and how often the trail will be monitored (through the local police and/or park department rangers, a volunteer trail watch program, etc.)

Maintenance: Resolve who will be responsible for maintaining the trail as well as how often it will be maintained (frequency of mowing the trail shoulders, leaf removal, trailhead refuse container clean up, etc.).

Have the right-of-way legally in place (easement or deed recorded at the County Register of Deeds office!) before proceeding on any construction project. If you cannot get all the legal documents needed for the entire trail, consider dividing the project into logical phases that can be stand alone sections.

Expect that you may need to obtain a wider temporary construction easement to construct the greenway trail if the area needed to allow construction to occur is greater than the area that the easement or fee simple right-of-way provides.



6. Hire a private consulting firm

A firm can prepare schematic designs, prepare right-of-way easement exhibits where applicable, conduct public input meetings, submit documents for regulatory permits, and prepare construction documents for bidding construction work.

All the items listed above assume you have funds in place for design. The design process is typically overseen by the local government through standard procurement procedures. If federal grants are used, follow the specific grant requirements for procurement!

Typically, the local government defines a scope of services, issues a Request For Proposal (RFP) through its purchasing/finance division, accepts letters of interest, reviews proposals, short lists firms, conducts interviews, selects firm, negotiates design fee (plan on 8 to 12% of the construction cost), signs the contract, and issues a Notice To Proceed. Follow all applicable local, state and federal regulatory standards and laws. There are many requirements if federal funds are involved (see Regulatory section).

Schematic designs are useful for aligning the trail route, locating trailheads and bridge crossings, dealing with slope issues, determining connections, incorporating unique design features, such as public art, adding unique characteristics, determining blueway (canoe and kayak) access points, and providing interpretive education opportunities or themes.

7. Upon right-of-way completion, funding and design, bid the project for construction

The local government should oversee the project and issue bids for construction.

Consultants often provide Construction Engineering Inspection (CEI) which can be a requirement when using federal funding sources. Project inspection ensures that the project is constructed in accordance with the plans and specifications (i.e., confirms the amount of construction materials used, ensures that concrete strength is adequate, etc.).

Consider using the local government public works department crew to surface the trail as a potential cost savings measure.

Maintain excellent records of the project transactions (paper trail). Document everything, especially the right-of-way purchases!

Q5 **How is a project funded?**

A5 Expect funding to take at least one to three years if not more to secure.

Funding usually is a combination of:

Private money through a fundraising campaign, foundation or corporate sponsor;

Local government General Obligation capital bonds (typically issued annually through the mayoral/council budgeting process); and

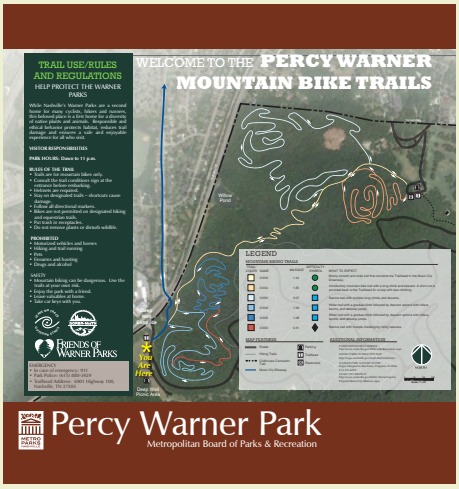
Grants—federal through TDOT, TDEC or the area MPO or RPO (Metropolitan Planning Organization or Rural Planning Organization as applicable), state and private. (Usually a minimum 20% match is required, which can be local government or private funds.)

Q6 **What do typical greenway features cost?**

A6 These features typically cost in 2014:

1. Trail, per linear foot, 12 foot wide asphalt . . . . . $80 to $120
2. Trail, per linear foot, 12 foot wide concrete . . . . . $80 to $120
3. Boardwalk, per linear foot,12 foot wide . . . . . $55 to $800
4. Prefabricated bridge per linear foot . . . . . $1,000 to $1,500
5. Concrete bridge abutments, need two . . . . . $15,000 to $30,000 ea.
6. Parking lots (average size, 12 cars) . . . . . $30,000 to $50,000
7. Primary trailhead signs, structure and graphics . . . . . $6,000 to $15,000
8. Secondary signs (secondary trailhead) . . . . . $1,800 to $4,000
9. Interpretive signs, free standing each . . . . . $2,500 to $3,500
10. Benches, metal. . . . . $1,200 to $1,800
11. Bollard, each . . . . . $500 to $1,200
12. Trash receptacles, metal . . . . . $800 to $1,500
13. Restroom facility average, including utility work . . . . . $200,000 to $300,000
14. Lighting, per fixture. $3,000

Photos of greenway projects across Tennessee:



Q7 **What regulatory requirements apply?**

A7 In addition to standard building, storm water and grading permits from the local codes and other departments, all greenway projects that receive federal funding must adhere to the National Environmental Policy Act (NEPA) process.

If federal funds are to be used, Environmental Review and Clearance have to be obtained before a project can proceed to final design. The funding agency will indicate the review process to be used, and from which state or federal agencies the Environmental Clearance must be obtained. This process involves providing details about the project, a preliminary determination of the project impacts, then the type of environmental review that would be required for the project. There are three levels of review:

A **Categorical Exclusion (CE)** - a class of action that does not have a significant environmental effect. Normally, greenways are processed as CEs.

An **Environmental Assessment (EA)** - a class of action in which the significance of the environmental impact is not clearly established. The studies undertaken during preparation of an EA helps to determine the significance of the impacts the project may have on the environment. An EA is not normally required for a greenway.

An **Environmental Impact Statement (EIS)** – a class of action that significantly affects the environment and generally is not needed for greenway trails.

If federal funds are used, some of the areas that are reviewed during the NEPA process include:

Section 4(f) of the DOT Act (parks, recreation areas, wildlife and waterfowl refuges, historic sites) when change in use of 4(f) protected lands

Section 106 of the National Historic Preservation Act

Wetlands—due inquiry of U.S. Army, Corps of Engineers that no dredged and/or fill material will impact navigable waters or wetlands

Floodplain—FEMA flood study requirements for getting a no-rise

Water Quality Certification—TDEC ARAP, Federal U.S. Army Corps 404, TDEC 401 Certification and TDEC NPDES (including SWPPP)

Threatened and Endangered Species—due inquiry to US Fish and Wildlife

Wild and Scenic Rivers

Prime and Unique Farmland

Clean Air and Noise Levels

Residential or Business Displacement

Hazardous Materials Phase I Study

Local Storm Water--flood impact—Flood study/HEC-RAS to get a no-rise; erosion control approval for grading permit; variance to buffer regulations

Coast Guard Permit (for bridges over major waters)

U. S. Army, Corps of Engineers Consent to Easement (for flowage easement intrusions)

Tribal contacts/comments for potential Native American sites

Title VI Compliance/ Environmental Justice

Funding Resources

Public Funding Sources

Check TDOT, your MPO or RPO and the TDEC websites for up to date information.

Opportunities to apply for **state and federal transportation grants** include:

TDOT: Transportation Alternatives Program
Eligible Projects: Bicycle and Pedestrian Infrastructure and some education
Statewide call for projects
Funding available: Approximately $7.5 million
Funding Match: 20% hard cash
Applications and additional information: http://www.tdot.state.tn.us/local/grants.htm
Application Deadline: check with your MPO or TDOT Local Programs Development Office for next round.

TDOT: Safe Routes to Schools Program
Eligible Projects: Bicycle and Pedestrian Infrastructure and education within 2 mile radius of elementary or middle school
Statewide call for projects
Funding Available: Approximately $2 million
Funding Match: 0% (funding is at 100%; no match is permitted)
Mandatory Training: applicants are required to attend a workshop. See http://www.tdot.state.tn.us/bikeped/saferoutes.htm for information.
Application and guidelines: see link provided above for more information.

TDOT: Multimodal Access Fund
Eligible Projects: Bicycle and Pedestrian Infrastructure
Statewide call for projects
Funding Available: $10 million per year, for FY 2014-2016
Funding Match: 5% (hard match)
Applications: http://www.tdot.state.tn.us/publictrans/fund.htm
Application Deadline: TBD

MPO: Transportation Alternatives Program and Active Transportation Program
Eligible Projects: Bicycle and Pedestrian Infrastructure and Education
MPO members may apply. Grants may be sub-allocated to non-profits through a competitive process.
Funding Available: Approximately $12.1 million
Funding Match: 20% (hard cash)
Applications: Under development by the MPO
Application Deadline: TBD

Opportunities for **state and federal park and recreation grants** include:

Tennessee Department of Environment and Conservation, Recreation Educational Services Division:
Local Parks and Recreation Fund (LPRF)
Eligible Projects: Indoor/Outdoor Park and Recreation facilities and Greenways and Trails
City and County governments
Biannual cycle generally in even numbered years
State funding as approved by the Governor, past years have been $3.5 million
Funding Match: 50% grant to 50% cash or in-kind match, cash/general fund best source)
Application are posted at the beginning of each cycle
Application Deadline: TBD. Refer to http://tn.gov/environment/recreation/recreation_grants.shtml

Recreational Trails Program (RTP)
Eligible Projects: Trail construction (hard and natural surfaced), trail head and trail side facilities
Local, State and Federal agencies and Non Profit Organizations with written agreement for trail management
Annual cycle, dependent of federal funding
Funding Match: 80% grant to 20% match (cash or in-kind match)
Applications are posted at the beginning of each cycle
Application Deadline: TBD. Refer to http://tn.gov/environment/recreation/recreation_grants.shtml

To explore **Private Funding** for community trails, check first for local private foundations that may be connected to a local hospital, company or business, utility company or even individuals who are community minded. A few sources of funding are shown below.

Funding a Community Trail Project:

Foundation Finder – http://foundationcenter.org/findfunders/

Local Electrical Utility District Foundation – http://aceee.org/about/funding

National Trails Training Partnership – http://www.americantrails.org/resources/funding/index.html

International Mountain Biking Association – http://www.imba.com/resources/grants/index.html

Tennessee Department of Economic & Community Development (Community Development Block Grant Program & Appalachian Regional Commission Program grants) – http://www.state.tn.us/ecd/CD_grants_loans_communities.html

Tennessee Wildlife Resources Agency (Wetland Acquisition Fund, Stream Access Program) – http://www.tn.gov/twra/nongame.html

Tennessee Urban Forestry Council (Urban Forestry Grants) – http://www.tn.gov/agriculture/forestry/urbanforests.shtml

Tennessee Wars Commission (battlefield preservation) – http://www.tn.gov/environment/history/history_wars-commission.shtml

Blue Cross-Blue Shield of Tennessee – Community Trust – http://www.bcbst.com/about/community/Community_Trust/

Definitions

Blueway – a river or stream designated by the local government agency as a blueway corridor which typically has sites located every 5-6 miles to allow public access to the water resource for canoeing and kayaking or other recreation activity.

Conceptual Plan – a written document that describes the trail project and generally includes maps or aerial photographs showing a proposed route for the trail.

Conservation Easement – a legal document which provides right-of-way for trail development, maintenance and public access from a landowner to a local government through sale or donation and protects the conservation values of the natural features of the area encumbered by the easement from development.

Construction Easement – a document which allows temporary use of an area for the purpose of constructing the trail (typically used when the area needed for construction is greater than the area permanently encumbered for the trail right-of-way).

Fee Simple Acquisition – a land transaction where all rights to the property are sold, usually at the Fair Market Value as determined by a land appraisal, generally to a government agency or non-profit organization.

Floodplain – The area of land along a waterway that becomes covered by water during a flood event where water *pools* and stands (has very little flow and its levels may move up or down with minimal disturbance).

Floodway – The area of land along a waterway where the water *flows* during heavy rain periods or a flood event and can wash away unsecured structures such as sheds and other physical improvements.

Greenway Corridor – a linear area along a stream, river, ridgeline, utility right-of-way or railroad.

MPO – Metropolitan Planning Organization – the designated local decision making body that is responsible for carrying out the metropolitan transportation planning process. Required in urbanized areas with a population greater than 50,000.

NEPA – The federal National Environmental Policy Act, which established a national environmental policy that requires Federal agencies to consider the potential environmental consequences of their proposals, document the analysis, and make this information available to the public for comment.

RES – Recreation Educational Services Division

Right-of-way – the area in which the trail will be located and generally includes additional land adjacent to the actual trail width.

Riparian Zone – the area adjacent to the river or stream that includes the riverbank and tree line and can be a buffer area for stormwater filtration before the water enters the stream.

RPO – Rural Planning Organization for non metropolitan areas of the state.

TDEC – Tennessee Department of Environment and Conservation

TDOT – Tennessee Department of Transportation

Trailhead – a starting, end or access point for a section of trail which generally has a parking area, trail related information, user rules, a map of the trail and may also include benches and trash receptacles.

Additional Reading

GREENWAYS 101

Greenways For America, by Charles E. Little

Greenways: A Guide for Planning, Design and Development, by Charles A. Flink, Robert Stearns and Loring LaB Schwarz

Trails for the 21st Century: Planning, Design and Management Manual for Multi-Use Trails, by Charles A. Flink and Karen-Lee Ryan

2008 Tennessee Greenways and Trails Plan:
http://www.tn.gov/environment/recreation/docs/gt_plan2008.pdf

Tennessee 2020 State Recreation Plan:
http://www.tn.gov/environment/recreation/recreation_tennessee-2020-plan.shtml

Pathways to Trail Building:
http://www.tn.gov/environment/recreation/docs/pathways.pdf

Trails/Tracks Resource Guide:
http://www.tn.gov/environment/recreation/docs/trails-tracks-resource-guide.pdf

Tennessee Greenways and Trails Program:
http://www.tn.gov/environment/recreation/recreation_greenways-trails.shtml

For more information about Greenways and Trails, contact Bob Richards at 615-532-0753 or Robert.richards@tn.gov.

ATTACHMENT A

SAMPLE GREENWAY CONSERVATION EASEMENT

AGREEMENT FOR GRANT OF EASEMENT

for

CONSERVATION GREENWAY

THIS AGREEMENT, made and entered into this the _____ day of _____, 2013, by and between **The Metropolitan Government of Nashville and Davidson County**, acting by and through its Board of Parks and Recreation (herein referred to as "Metro"), and _____, property owner (herein referred to as Grantor).

WHEREAS, Metro recognizes the increasing benefit of protecting open spaces within the Metropolitan Government area; and

WHEREAS, greenways provide the general public with recreational opportunities in natural areas, preserve, and protect native plant and animal species and their habitat, and provide low-impact transportation routes for pedestrian and bicycle traffic; and

WHEREAS, Metro, by Ordinance No. 091-13, created a Greenways Commission to assist Metro in the development of a system of open space greenways; and

WHEREAS, Grantor is the sole owner in fee simple of certain real property in Davidson County, Tennessee, more particularly described in Exhibit A and Exhibit B attached hereto and incorporated by this reference (herein referred to as "the Property"); and

WHEREAS, the Property possesses natural, open space, and recreational values (collectively, "conservation values") of great importance to Grantor and the people of Nashville and Davidson County; and

WHEREAS, Grantor intends that the conservation values of the Property be preserved and made more accessible for public enjoyment by the anticipated incorporation and maintenance of the property as part of the Metro greenways system; and

WHEREAS, Grantor further intends, as owner of the Property, to convey to Metro the right to preserve and protect the conservation values of the Property in perpetuity; and

WHEREAS, Metro has the authority to accept this grant pursuant to Tennessee Code Annotated, Section 66-9-305(d), and Section 11.1002 of the Metropolitan Charter; and

WHEREAS, Metro agrees by accepting this grant to honor the intentions of Grantor stated herein, and to preserve and protect, in perpetuity, the conservation values of the Property for the benefit of the people of Tennessee and the public-at-large.

NOW, THEREFORE, in consideration of the above and the mutual covenants, terms, conditions, and restrictions contained herein, Grantor hereby voluntarily grants and conveys to Metro, its successors and assigns, an easement in perpetuity over the Property of the Grantor (herein referred to as "the Easement") to be located as more particularly shown on Exhibit A and Exhibit B attached hereto and incorporated by this reference.

1. Purpose. It is the purpose of this grant to allow Metro to utilize the Easement area for one or more of the following: a pathway for pedestrian or bicycle travel, nature trail, and/or natural area. Metro, at its discretion, shall design, construct, and maintain any pathway or physical structure in a manner that best preserves the open and natural condition of the Property. It is the intention of the parties hereby expressed that the granting of the Easement will not significantly interfere with the conservation values of the Property. Grantor intends that the Easement will confine the use of the Property to such activities as are consistent with the purpose of the Easement.

2. Rights of Metro. To accomplish the purpose of the Easement, the following rights are conveyed to Metro by this grant:

a. To preserve and protect the conservation values of the Property; and

b. To construct and maintain a pathway to be located on the Easement, including, at the discretion of Metro, necessary trailheads, signage, benches, and other improvements consistent with the recreational and educational uses of the pathway and other conservation values; and

c. To prevent any activity on or use of the Property that is inconsistent with the purpose of the Easement and to require the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use.

3. Metro Covenants. Metro, by accepting this grant, covenants and agrees, on behalf of itself, its successors and assigns, that the following shall constitute real covenants that shall attach to and run with the easement hereby granted and shall be binding upon anyone who may hereafter come into ownership of such Easement, whether by purchase, devise, descent, or succession, or to be authorized to use said Easement area:

a. It will make the Easement area available for use by all members of the general public without distinction or illegal discrimination on the grounds of race, color, national origin, handicap, or age.

b. It will adopt rules and regulations governing the use of the Easement area so as not to permit or suffer any use of the Easement by Grantor or others in violation of such rules and regulations. At a minimum, the rules and regulations will provide as follows:

i. That the hours of public access of the Easement shall be from sunrise to sunset.

ii. That all persons utilizing the Easement area must remain on the pathway.

iii. That all pets of persons utilizing the pathway must be on a leash at all times.

iv. That the following activities shall be strictly prohibited:

c) consumption or possession of alcoholic beverages;

d) horseback riding;

e) unauthorized motor vehicles;

f) collecting or distributing plants, animals or other natural features;

g) littering or dumping;

h) possession of firearms, weapons or projected objects;

i) playing of radios, musical instruments or other devices in a manner that might disturb others;

j) vending or other concessions with out proper permits;

k) advertising or posting of bills;

l) trespassing on adjacent property of Grantor.

4. Other Prohibited Uses. Any activity on or use of the Property inconsistent with the purpose of the Easement is prohibited. The aforementioned express prohibitions shall not limit the generality of this paragraph.

5. Reserved Rights. Grantor reserves to itself, and to its personal representatives, heirs, successors, and assigns, all rights accruing from their ownership of the Property, including the right to engage in or permit or invite others to engage in all uses of the Property that are not expressly prohibited herein and are not inconsistent with the purpose of the Easement. Further, Grantor reserves the right to maintain the subject property consistent with the purposes herein set forth and will maintain it in accordance with all local laws until improvements are made by Metro.

6. Metro's Remedies. If Metro determines that Grantor is in violation of the terms of this Agreement or that a violation is threatened, Metro shall give written notice to Grantor of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent with the purpose of the Easement, to restore the portion of the Property so injured. If Grantor fails to cure the violation within thirty (30) days after receipt of notice thereof from Metro or, under circumstances where the violation cannot reasonably be cured within a thirty (30) day period, fails to continue diligently to cure such violation until finally cured, Metro may bring an action in a court of competent jurisdiction to enforce the terms of this Agreement to enjoin the violation by temporary or permanent injunction, and to recover any damages to which it may be entitled for violation of the terms of this Agreement or for injury to any conservation values protected by the Easement, including damages for the loss of scenic, aesthetic, or environmental values, and to require the restoration of the Property to the condition that existed prior to any such injury. If Metro, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the conservation values of the Property, Metro may pursue its remedies under this paragraph without prior notice to Grantor or without waiting for the expiration of the period provided for cure. Metro's rights under this paragraph apply equally in the event of either actual or threatened violations of the terms

of this Agreement. Metro's remedies described in this paragraph shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

7. Metro's Discretion. Enforcement of the terms of this Agreement shall be at the discretion of Metro, and any forbearance by Metro to exercise its rights under this Agreement in the event of any breach of any terms of this Agreement by Grantor shall not be deemed or construed to be a waiver by Metro of such term, or of any subsequent breach of the same, or any other term of this Agreement, or of any of Metro's rights under this Agreement. No delay or omission by Metro in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.

8. Waiver of Certain Defenses. Grantor hereby waives any defense of laches, estoppel, or prescription.

9. Acts Beyond Grantor's Control. Nothing contained in this Agreement shall be construed to entitle Metro to bring any action against Grantor for any injury to or change in the Property resulting from causes beyond Grantor's control, including, without limitation, fire, flood, storm, and earth movement, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes.

10. Amendment. If circumstances arise under which an amendment to or modification of this Agreement is appropriate, the Grantor, or the then current owner of the Property, and Metro are free to jointly amend this Agreement without prior notice to any other party; provided that any amendment shall be in writing; shall be consistent with the purpose of the Easement; shall not affect its perpetual duration; and shall have the unanimous consent of the Metro Greenways Commission.

11. Extinguishment. If circumstances arise in the future that render the purpose of the Easement impossible to accomplish, the Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction.

12. Assignment. The Easement is transferable, but Metro may assign its rights and obligations under this Agreement only to an organization that is a qualified organization at the time of transfer under Section 170(h) of the Internal Revenue Code of 1954, as amended, and the applicable regulations promulgated thereunder and authorized to acquire and hold conservation easements. As a condition of such transfer, Metro shall require that the conservation purposes which this grant is intended to advance continue to be carried out.

13. Subsequent Transfers. Grantor agrees to incorporate the terms of this Agreement in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Property, including, without limitation, a leasehold interest. Grantor further agrees to give written notice to Metro of the transfer of any interest at least thirty (30) days prior to the date of such transfer. The failure of Grantor to perform any act required by this paragraph shall not impair the validity of the Easement or limit its enforceability in any way.

14. General Provisions.

a. Controlling Law. The interpretation and performance of this Agreement shall be governed by the laws of the State of Tennessee.

b. Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Agreement shall be liberally construed in favor of the grant to effect the purpose of the Easement and the policy and purpose of Tenn. Code Ann. §§ 66-9-301 to 309. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of the Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

c. Severability. If any provision of this Agreement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, shall not be affected thereby.

d. Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Easement, all of which are merged herein. No alteration or variation of this instrument shall be valid or binding unless contained in an amendment that complies with paragraph ten (10).

e. Successors. The covenants, terms, conditions, and restrictions of this Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns, and shall continue as a servitude running in perpetuity with the Property.

TO HAVE AND TO HOLD said Easement unto Metro, its successors, and assigns, forever.

IN WITNESS WHEREOF, we have caused this instrument to be executed as of this _____ day of _____, 2013.

GRANTOR:

_____

ACCEPTED:

THE METROPOLITAN GOVERNMENT OF
NASHVILLE AND DAVIDSON COUNTY

_____
DIRECTOR, PARKS AND RECREATION

STATE OF _____

COUNTY OF _____

On this the _____ day of _____, 201__, before me personally appeared _____, known to me (or satisfactorily proven) to be the person whose name is

subscribed to the within instrument and acknowledged that he/she executed the same for the purposes therein contained.

In witness whereof, I hereunto set my hand and official seal.

_____
NOTARY PUBLIC

My Commission Expires:_____

STATE OF TENNESSEE

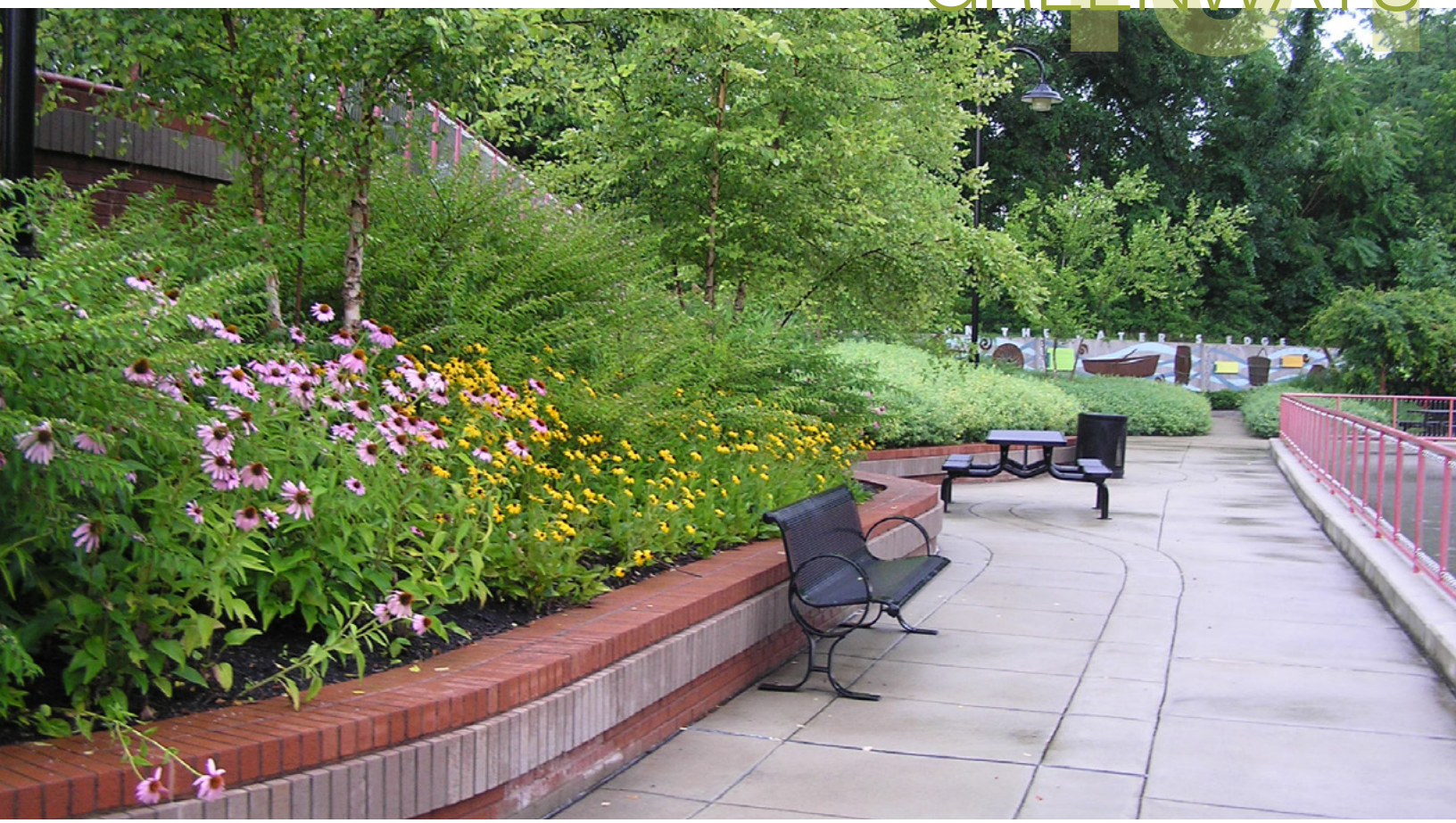
COUNTY OF DAVIDSON

On this the _____ day of _____, 201__, before me personally appeared _____, who acknowledged himself to be the Director of the Metropolitan Government Department of Parks and Recreation, and that he, as such Director, being authorized so to do, executed the foregoing instrument for the purposes therein contained.

In witness whereof, I hereunto set my hand and official seal.

_____
NOTARY PUBLIC

My Commission Expires:_____

Notes

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