DOWNTOWN HARRISONBURG PARK
DONATION AGREEMENT

This Downtown Harrisonburg Park Donation Agreement ("**Agreement**") is entered into effective on the last date set forth below (the "**Effective Date**") by and between City of Harrisonburg, a Virginia municipality (the "**City**") and Downtown Harrisonburg Park Corporation, d/b/a Build Our Park, a Virginia nonstock corporation ("**Build Our Park**").

WHEREAS, the Harrisonburg City Council ("**City Council**") adopted a Donation Policy on July 26, 2022, which policy sets forth the terms and conditions upon which City Council will accept donations to support City programs and services, including the requirement that all donations of $10,000 or more be documented by a legal agreement; and

WHEREAS, Build Our Park, an IRC § 501(c)(3) nonstock corporation that was incorporated for the purpose of assuring the construction of a City park in the location and generally of the nature depicted in **Exhibit A (the "Park")** (which design was approved by vote of City Council on September 24, 2024), and which has begun raising funds from the general public to financially support this objective, wishes to enter into this Agreement, as required by the Donation Policy, in order to authorize Build Our Park to fund the construction of the Park without City financial support; and

WHEREAS, City Council and Build Our Park believe that the Park, as constructed and operated by City's Department of Parks and Recreation ("**Parks & Rec**"), would greatly enhance the quality of life within the City of Harrisonburg for its citizens and visitors and serve as an economic development engine for downtown Harrisonburg and City in general;

WHEREAS, City, having obtained the applicable approval of its City Council by a vote held on [November 26, 2024], wishes to enter into this Agreement with Build Our Park in order to accomplish its objective that the Park be constructed and placed into operation as a City park;

NOW THEREFORE, for goods and valuable consideration, the receipt and sufficiency of which is acknowledged by the parties hereto, the parties agree as follows:

1. **Construction of the Park.**

   (a) Role of Build Our Park.

   (i) *Plans for Park*: Build Our Park shall make best efforts to prepare and submit to the City Manager, within one hundred and eighty (180) days after the Effective Date, a detailed projected budget for all aspects of the Park's construction, including the preparation of conceptual and construction plans. The City Manager, making best efforts to do so within sixty (60) days, shall review the budget for completeness and reasonableness. The City Manager may utilize City staff and outside third parties in the review, at the City's expense. If the City Manager's review determines the submitted budget to be incomplete or fail to account for reasonably sufficient costs of construction of the Park, the projected budget will be revised as required by the City Manager to determine the projected costs of constructing the Park. The final budget approved by the City Manager shall be referred to as the "**Budget**" hereunder.

(ii) *Fundraising for Park*: Build Our Park shall continue raising funds for the construction of the Park. At such time that Build Our Park can provide conclusive proof to the City Manager that it has raised sufficient funds for the construction of the Park, based on the Budget, such funds (the "**Park Funds**") shall be paid to the City, solely to be used in the construction of the Park in accordance with this Agreement. City and Build Our Park will discuss in good faith the possibility of Build Our Park, after it has demonstrated to the City that its accounts contain sufficient Park Funds, transferring the funds to the City in tranches that correspond to identified phases of development and construction of the Park.

(b) Role of City. Upon payment by Build Our Park to the City of the funding as set forth above, City shall, within ninety (90) days, issue a Request for Proposal or Invitation to Bid, as appropriate, to secure final plans (including construction plans) for the Park ("**Final Plans**"). The Final Plans will be shared with Build Our Park for comment and Build our Park shall make best efforts to provide comments to the City Manager within thirty (30) days. City Manager shall make best efforts to give final approval of the Final Plans with sixty (60) days of receiving Build Our Park's comments. Within ninety (90) days of City Manager's approval of the Final Plans, City shall issue a Request for Proposal or Invitation to Bid, as appropriate, to secure a general contractor for the Park's construction. The City shall award the contract pursuant to its procurement policies promptly unless delayed pursuant to section 1(c) below. The City shall take all reasonable action to ensure the Park is constructed in accordance with the Final Plans and is completed within two (2) years of City's receipt of all Park Funds from Build Our Park. The Park's construction shall be contracted for and completed under the requirements of the Virginia Public Procurement Act and City procurement policies adopted pursuant thereto.

(c) Revenue-Neutral Construction. It is understood by the parties that the Park will be constructed solely utilizing the funds of Build Our Park, which shall be duly and lawfully raised from donors through Build Our Park's own efforts. The City is not obligated to provide funding for the construction of the Park. In the event the lowest bid received for the construction for the Park exceeds the Park Funds paid to the City by Build Our Park, Build Our Park will be responsible for securing the additional funding and the City may delay awarding a construction contract for the Park until the funding is received by the City. Any further funds raised by Build Our Park for the above-described purposes are the "**Additional Park Funds**" hereunder. It is further acknowledged by the parties that the City could choose to cooperate with Build Our Park, Harrisonburg Downtown Renaissance, or other entities or persons in applying for and securing Federal, state, or private grants directed at supporting the construction of the Park, in which event the parties will coordinate on assuring such funding, when received, is allocated to and utilized for Park construction and the intended Park-related purposes.

(d) Naming Rights. City acknowledges that it may be advantageous for Build Our Park's Park construction fundraising efforts, and thus advantageous for the City's interest in

constructing the Park, that naming rights associated with particular features or amenities within the Park be extended in return for substantial contributions. In this event, City and Build Our Park shall reasonably coordinate on whether a particular naming right can be extended provided, however, that any naming right granted must comply with the City's then existing naming policy.

(e) Time Limitations. This Agreement may be terminated by the City if Build Our Park fails to raise funds sufficient for the construction of the Park and transfer such funds to the City within three (3) years of the Effective Date. Further, this Agreement may be terminated by Build Our Park if (i) the City fails to issue the RFPs or ITBs described in Section (b) above and begin construction of the Park within nine (9) months of the transfer to the City of funds sufficient for the Park's construction, provided that, in the event that additional funds are deemed necessary to construct the Park under Section 1(c) above, this period will be tolled until City's receipt of Additional Park Funds. Upon such termination by Build Our Park the City shall refund to Build our Park all funds paid to the City under this Agreement.

2. Operation of the Park.

(a) Operation; Build Our Park Role. Upon completion of the Park, the City, through Parks & Rec, shall operate the Park as a community Park facility in accordance with its duly adopted procedures. Upon completion of the Park and for a period of ten (10) years thereafter, Build Our Park has a right, for so long as the Park remains a City park, and subject of City Council approval of the individual and his or her successors, to have a non-voting seat on the Harrisonburg Parks and Recreation Committee.

(b) Disqualifying Events. Build Our Park shall lose the right of appointment of a designated representative on the Parks and Recreation Committee hereunder if it (i) ceases to be designated as a charitable organization under IRS § 501(c)(3) or (ii) is dissolved pursuant to its Articles of Incorporation.

3. General Provisions.

(a) Effectiveness. This Agreement is effective when executed by (i) the City Manager of City and (ii) the President of Build Our Park or another authorized person.

(b) Governing Law. This Agreement shall be governed by the laws of the Commonwealth of Virginia.

(c) Counterparts. This Agreement may be executed in counterparts.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date last set forth below.

Downtown Harrisonburg Park Corporation,
d/b/a Build Our Park, a Virginia nonstock corporation

Eddie Brumbaugh (SEAL)
BY:
ITS: Eddie Brumbaugh

City of Harrisonburg,
a Virginia municipality

(SEAL)
Alexander Banks VI, City Manager

EXHIBIT A

Park Location and Design

ADDENDUM No. 1 to

DOWNTOWN HARRISONBURG PARK DONATION AGREEMENT

This Addendum No.1 to Downtown Harrisonburg Park Donation Agreement (the "Addendum"), is entered into as of March 24th, 2026 by and between the City of Harrisonburg, a Virginia municipality (the "City") and Downtown Harrisonburg Park Corporation, d/b/a Build Our Park, a Virginia nonstock corporation ("Build Our Park"). All terms in this Addendum shall have the same meaning as set forth in the Agreement unless noted otherwise.

RECITALS

1. The City and Build Our Park entered into that Downtown Harrisonburg Park Donation Agreement (the "Agreement") on December 10th, 2024 in order to set forth the rights and obligations of the Parties regarding the funding for, and construction of, the Park (as defined in the Agreement).
2. The Parties have fully performed the obligations set forth in Section 1(a)(i) of the Agreement regarding the preparation and approval of the Park's Budget.
3. Build Our Park believes that the Park may be designed, funded, and developed in a more efficient and economical manner through the Public-Private Education Facilities and Infrastructure Act (the "PPEA") than through the Agreement.
4. The City is willing to accept and review a proposal made by Build Our Park and/or a third party contractor for the development of the Park in accordance with the PPEA and the City's guidelines adopted thereunder (the "Guidelines").

ADDENDUM

In consideration of the Agreement and Build Our Park's efforts thereunder, the Parties agree as follow:

1. Build Our Park and/or a third party contractor may submit a proposal (a "Proposal") for the development of the Park which meets the requirements of the PPEA and the Guidelines.
2. The City will accept and review the Proposal in accordance with the PPEA and the Guidelines. Approval of the Proposal and authorization to enter into a comprehensive agreement under the PPEA will be in the sole discretion of the Harrisonburg City Council.
3. If the Proposal is approved by the Harrisonburg City Council and a comprehensive agreement is entered into by the Parties, such comprehensive agreement shall replace the Agreement and this Addendum, which shall be deemed terminated.
4. If the submitted proposal is not approved by the Harrisonburg City Council and a comprehensive agreement is not entered into by the Parties, or if Build Our Park and/or a third party contractor does not submit a proposal under the PPEA for the development of the Park, then the Agreement shall remain in full force and effect.

5. This Addendum is effective when executed by the City Manager of the City and the President of Build Our Park or other duly authorized person and may be executed in counterparts.

Downtown Harrisonburg Park Corporation,
d/b/a Build Our park, a Virginia nonstock corporation

By: Edlin C. Brubaugh

Its: President

City of Harrisonburg,
a Virginia municipality

Alexander Banks, VI, City Manager