

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (MOU), dated June 1, 2021 (Effective Date), is made between **National Recreation and Park Association**, a New York not-for-profit corporation and Section 501(c)(3) organization located at 22377 Belmont Ridge Road, Ashburn, Virginia, 20148 (NRPA) and City of Lynnwood, a provider of park, recreation, or community services in Lynnwood, Washington (Grantee).

1. Purpose

The purpose of this MOU is to confirm approval of the terms governing the acceptance and use of three hundred thousand dollars (\$300,000), (Grant Funds) made available to Grantee for the implementation of the project selected for grant funding (Project): Resilient Park Access Grant and Coaching.

Made possible through the support of the JPB Foundation (JPB), NRPA is managing the administration of the grant program (Program). Grants made through this Program are intended to support that advancement of community-driven, systems-level strategies for equitable park access that improves the environmental resilience and health of communities.

Having been selected as a recipient of Grant Funds through this Program, Grantee is required to accept the terms contained within this MOU in order to receive the Grant Funds as a grant recipient.

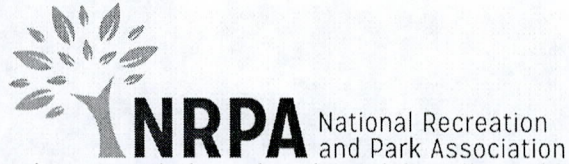
2. Project Funding

- A. Within thirty (30) days upon execution of this MOU and delivery to NRPA, NRPA will send Grantee a check for One hundred twenty-one thousand five hundred dollars (\$121,500).
- B. A second grant payment will be sent with the grantee's submission of the one-year report totaling Ninety-three thousand dollars (\$93,000).
- C. A final grant payment of the remaining grant funds will be sent to the grantee in June 2023, totaling Eighty-five thousand five hundred dollars (\$85,500).
- D. Grant Funds will be distributed by NRPA.
- E. No matching funds are required.

3. Grantee Requirements

Grantee will use the Grant Funds to:

- A. Support park improvement projects and/or planning projects that provide investment to low-income communities, communities of color, people with disabilities, high COVID-19 mortality rates or communities in a census tract with a CDC SVI score greater than or equal to 0.75. For projects that did not include an address for park improvements in the application in Attachment A, they must first be approved by NRPA.
- B. Participate in a mandatory project orientation call with NRPA in June 2021.
- C. Create an individual coaching plan with NRPA's Park Access team.
- D. Develop a specific SMART goal, an action plan and begin implementation of the project.
- E. Participate in regular, two-hour technical assistance and coaching virtual meetings, approximately every other month (combination of individual, small group, and large group).
- F. Complete Project as described in the grantees Resilient Park Access grant proposal incorporated herein as Attachment A by September 30, 2023.
- G. Attend no more than two in-person trainings in calendar years 2022 through 2023.



- H.* Conduct local community outreach through web, social media, and local press release to help promote the Project and community engagement in accordance with all press and promotional prior approvals. NRPA will provide a toolkit of sample content for this outreach.
- I.* Document and share with NRPA success stories, press releases, photos, videos, quotes, local media coverage and highlights throughout the project and grant period.
- J.* Submit a one-year interim report (template provided by NRPA) by June 15, 2022.
- K.* Submit a final report (template provided by NRPA) by September 29, 2023.
- L.* Participate in evaluation efforts that will include submitting planning documents, completing pre-and post-surveys, focus groups and interviews.

4. Promotion

NRPA and JPB may use the Grantee and/or park names, photos, and/or information in connection with the Project for promotional or other purposes associated with the Project, in any and all media, without limitation and without further payment, notification, or permission, except where prohibited by law. If the grantee's photo release form does not cover promotional and other uses, NRPA can provide one upon request.

Grantee shall provide NRPA an opportunity to review and approve any statement, message or use of NRPA logo or its partner logos related to this grant or Project in advance of its release to the public. Any promotion, public announcement, or promotion relating to the Grant shall be subject to the prior review of NRPA. These could include but are not limited to press releases, announcements, flyers, posters, and other publications by the Grantee.

5. Limits of Liability

To the fullest extent permitted by applicable law, Grantee hereby releases JPB and NRPA, and each of their directors, officers, managers, members, employees, agents, attorneys, advisors, consultants, volunteers and other like parties (collectively the Support Parties), from any liability whatsoever relating to or arising out of the Project or the use of the Grant Funds. Grantee further waives any right to sue or bring any action of any kind against the Support Parties relating to or arising out of the Project or the use of the Grant Funds. This limitation of liability shall apply whether the Support Parties' liability arises due to breach of contract, breach of warranty, or as a result of tortious conduct, including, but not limited to, negligence (of any kind), strict liability, statutory liability, or any other causes of action.

NRPA's liability, if any, arising out of or in any way related to the relationship and/or dealings between NRPA and Grantee, shall be limited to the payment amounts paid pursuant to this MOU. NRPA shall not be liable for any damages caused by or arising out of the acts or omissions of a third party.

6. Indemnification

To the fullest extent permitted by applicable law, Grantee shall indemnify, defend and hold harmless the Support Parties from any and all causes of action, suits, settlements, judgments, liens, indebtedness, damages, losses, costs, expenses, fees (including attorney's fees and costs), penalties, claims, claims for relief, liabilities and demands of every kind, nature, and character (collectively, "Claims") relating to or arising out of: (i) Grantee's involvement in the development, planning, demolition, construction, installation, implementation, maintenance, repair and/or management of the Project; (ii) any failure by Grantee to comply with any applicable laws, rules and/or regulations (including, without limitation, building, safety and fire codes, etc.); (iii) Grantee's negligence, misconduct, or malfeasance of grantees or their agents or representatives; or (iv) any breach by Grantee of any agreement involving the Project or the use of the Grant Funds. In no event shall the Support Parties be liable for any punitive, exemplary, special, incidental, indirect or consequential damages of any kind (including, but not limited to loss of profits, loss of reputation and/or loss of current or prospective business advantage, even where such losses are characterized as direct damages) arising out of or in any way related to the relationship and/or



NRPA National Recreation
and Park Association

dealings between the parties, regardless of whether the claim under which damages are sought is based upon contract, tort, negligence (of any kind), strict liability or otherwise, and regardless of whether the parties have been advised of the possibility of such damages at the time of contracting or otherwise.

7. Confidentiality

During the term of this MOU, the parties may learn certain confidential information of each other. For purposes of this MOU, confidential information means the confidential and proprietary information, not generally known by non-party personnel, used by the disclosing party and which is proprietary to the disclosing party, and includes, without limitation, the disclosing party's trade secret or proprietary personnel, financial, marketing and business information, including strategic, operations and other business plans or forecasts, and confidential information provided by the disclosing party regarding its employees, customers, vendors, sponsors and other contractors. The receiving party shall: (i) protect and safeguard the confidentiality of the disclosing party's confidential information with at least the same degree of care as the receiving party would protect its own confidential information, but in no event with less than a commercially reasonable degree of care; (ii) not use the disclosing party's confidential information, or permit it to be accessed or used, for any purpose other than to exercise its rights or perform its obligations under this MOU; and (iii) not disclose any such confidential information to any person, except to the receiving party's officers, employees, consultants, accountants, and legal advisors who are bound by written confidentiality obligations and have a need to know the confidential information to assist the receiving party, or act on its behalf, to exercise its rights or perform its obligations under this MOU. This agreement and any associated information are subject to the Washington Public Records Act, RCW (Revised Code of Washington) 42.56 et seq. Any information the Grantee determines is not exempt from public disclosure law, the Grantee will notify the parties of the request and allow the parties ten (10) days to take whatever action deemed necessary to protect any interests. If no action is taken within the said period, the Grantee will release the portions of information deemed subject to disclosure.

8. Term

This MOU shall be effective as of the Effective Date hereof and shall continue until September 30, 2023 (the "Term") in accordance with Section 11.

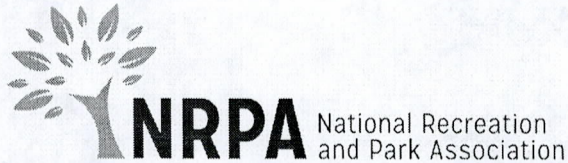
9. Use of Grant Funds

The Grantee shall use the full amount of the Grant Funds exclusively for the purposes set forth in Section 1. Unless otherwise agreed in writing by the Grantor, the Grantee shall return any portion of the Grant Funds and the income earned thereon that is not expended for such purposes in accordance with Section 11.

All unspent or uncommitted Grant Funds shall be invested in highly liquid investments (such as an interest-bearing bank account) with the primary objective being preserving the Grant Funds availability for the Project. Any interest or other income generated by the Grant Funds must be applied to the purposes described in the Grant Project.

The Grantee agrees not to use any portion of the grant or any income derived from the grant for the following:

- A. To carry on propaganda or otherwise attempt to influence legislation within the meaning of Section 4945(d)(1) of the Internal Revenue Code of 1986, as amended (the Code);
- B. To influence the outcome of any specific public election or to carry on, directly or indirectly, any voter registration drive within the meaning of Section 4945(d)(2) of the Code;
- C. To provide a grant to an individual for travel, study, or similar purpose within the meaning of Section 4945(g) of the Code, without prior written approval of Grantor.



- D. Payments of salaries, other compensation, or expense reimbursement to employees of the Grantee within the scope of their employment do not constitute “grants” for these purposes and are not subject to these restrictions;
- E. Except as expressly may be authorized in the approved Project, to provide a grant to any other organization without prior written approval of the Grantor; or
- F. To promote or engage in the following, but not limited to, acts that would create civil liability, criminal acts, criminal acts of violence, terrorism, hate crimes, the destruction of any state, or discrimination on the basis of race, national origin, religion, military and veteran status, disability, sex, age, or sexual orientation, or support of any entity that engages in these activities.
- G. To travel to NRPA’s Annual Conference or any other conference travel without written permission by NRPA.

10. Audit

Grantee is expected to keep and maintain detailed books and records relating to the Grant, and the Grant Funds (including, without limitation, all uses thereof and expenditures therefrom) (collectively, the “Records”) during the Term and for a period of seven (7) years thereafter (the “Audit Period”). NRPA and its assigns have the right to audit the Grantee’s financial records relating to this MOU upon not less than ten (10) business days’ advance written notice to Grantee by NRPA at any time during the Audit Period, at NRPA’s sole expense, during Grantee’s normal business hours. If as a result of an audit, NRPA determines that Grant Funds were not spent in accordance with the purposes of this Grant, the Grantee shall: (1) be required to return any Grant Funds not substantiated, and (2) reimburse NRPA for all costs and expenses incurred in connection with such audit. If NRPA determines that Grant Funds were used for fraudulent purposes, the Grantee shall be barred from participation in any further programs. Grantee shall further indemnify, defend, and hold the Support Parties harmless from any acts or omissions relating to its fraudulent use of the Grant Funds.

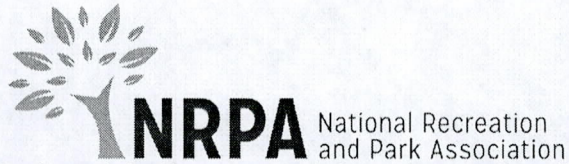
11. Termination and Repayment

Either party may terminate this MOU at any time for any reason upon providing the other party thirty (30) calendar days’ written notice. Further, either party may terminate this MOU at any time effective upon receipt of written notice by the other party of failure to perform. In the event that this MOU is terminated for any reason, Grantee shall promptly repay to NRPA any portion of the Grant Funds not already spent (subject to and in accordance with all of the terms and conditions hereof) as of the effective date of such termination.

Neither party shall be liable to the other by reason of termination of this MOU for compensation, reimbursement or damages for any loss of prospective profits on anticipated sales or for expenditures, investments, leases or other commitments relating to the business or goodwill of any of the parties, notwithstanding any law to the contrary. No termination of this MOU shall release the obligation to pay any sums due to the terminating party which accrued prior to such termination.

12. Force Majeure

Notwithstanding anything to the contrary contained herein, neither Party shall be liable for any delays or failures in performance of this MOU resulting from acts beyond its reasonable control, including, but not limited to hostilities, civil commotion, terrorist attacks, or riots; labor dispute, strike or lockout; public health emergency, epidemic, pandemic, or coronavirus; accident, fire, flood, earthquake, hurricane, typhoon, tornado, windstorm, or explosion; lack of or failure of transportation facilities; lack of or failure of power or water facilities; regulation, ordinance, or requirement by any government or governmental agency having or claiming to have jurisdiction over the subject matter of this MOU or over the parties; government shutdown; any act of God or of Government; or any cause, existing or future, making a Party’s obligations commercially impracticable, illegal, or impossible to



perform under this MOU as the Parties originally contracted. In such case, the affected Party may terminate this MOU, without liability, upon written notification.

13. Governing Law, Jurisdiction, Venue and Dispute Resolution

This MOU and the performance thereof shall be governed, interpreted, construed and regulated by the law of the Commonwealth of Virginia, without reference to or application of principles concerning conflicts of laws of any jurisdiction. Before commencing any litigation arising out of or relating to the relationship of the parties, this MOU, or the breach hereof, the parties agree to negotiate in good faith to resolve such dispute within fifteen (15) business days of notice by the other party of such dispute. Should the parties fail to mutually resolve their dispute and commence litigation, the parties hereby irrevocably consent to venue before the federal and state courts situated in the Commonwealth of Virginia and each party hereby irrevocably submits to the jurisdiction of such courts. The prevailing party in any action or litigation, including appeals, arising out of or related to this MOU shall be awarded its reasonable attorney's fees and costs. Grantee agrees that NRPA would not have an adequate remedy at law and would be irreparably injured if Grantee breaches its covenants hereunder and NRPA shall be entitled to injunctive relief as a remedy for any breach or threatened breach hereof without showing or proving any actual damages.

13. No Agency

Each party and its officers, employees, agents, contractors and/or consultants are independent contractors and are not, nor shall they hold themselves out to as or claim to be, employees or agents of the other party or any department, agency or unit thereof; accordingly, neither party shall have any authority to enter into any agreement on behalf of the other party or otherwise cause the other party to incur any obligations whatsoever other than as set forth herein.

14. Notices

All notices, requests, demands and other communications required or permitted under this MOU must be in writing and will be deemed to have been duly given, made and received only (a) when personally delivered, or (b) on the date specified for delivery when deposited with an overnight courier service such as Federal Express for delivery to the intended addressee, or (c) when sent via facsimile, only so long as followed by a hard copy sent in a manner set forth in (a) or (b) above, or (d) when delivered via email, only so long as followed by a hard copy sent in a manner set forth in (a) or (b) above, each of the foregoing addressed as set forth below:

If to Grantee, to:

City of Lynnwood

19100 44th Ave W

Lynnwood, WA 98036

Attn: Sarah Olson, Deputy PRCA Director

Email: solson@lynnwoodwa.gov

If to NRPA, to:

National Recreation and Park Association

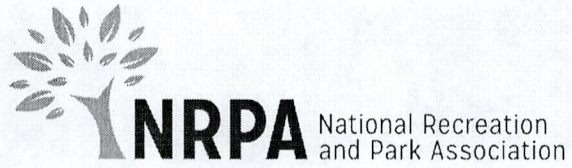
22377 Belmont Ridge Road

Ashburn, VA 20148

Attn: Rachel Banner; Director of Park Access

Email: rbanner@nrpa.org

These parties have caused this MOU to be signed by their duly authorized representatives as of the last date set forth below.



National Recreation and Park Association

By: _____

Printed Name: _____

Title: _____

Date: _____

City of Lynnwood

By: NSmith

Printed Name: Nicola Smith

Title: Mayor

Date: June 22, 2021