

## **PARK AND TRAIL ASSISTANCE PROGRAM AGREEMENT**

THIS PARK AND TRAIL ASSISTANCE PROGRAM IMPLEMENTATION AGREEMENT (this "Agreement") is made by and between the CITY OF LAS VEGAS, NEVADA, a Nevada charter city ("City") and OUTSIDE LAS VEGAS FOUNDATION, a Nevada non-profit 501 (c) 3 corporation, doing business as Get Outdoors Nevada (the "Foundation"). The City and Foundation are sometimes collectively referred to herein as the "Parties."

This Agreement is effective on the date of approval by the City and Foundation, whichever date is later, as long as approval by one is within 30 calendar days of approval by the other (the "Effective Date").

### **RECITALS**

WHEREAS, the City has planned and implemented a network of parks, trails and open spaces within the corporate boundaries of the City; and

WHEREAS, the City seeks to support community-inspired efforts in City parks and trails; and

WHEREAS, the priorities of the City include, among other things, developing sustainable, livable neighborhoods, and citizen engagement; and

WHEREAS, the City encourages the use of trails, open spaces, parks and community gardens which promote healthier lifestyles of its residents, provide healing spaces, provide routes for alternative modes of transportation and strengthen a citizen's perception of a community in a neighborhood; and

WHEREAS, the City desires the development of a citizen driven park and trail assistance program concurrent with outreach to local residents, community organizations and businesses; and

WHEREAS, Foundation serves as a gateway connecting the community and visitors to Nevada's landscapes, urban trails and recreational spaces through the transformative value of programs in education, volunteerism, outreach and collaboration; and

WHEREAS, Foundation has implemented an engagement program to support City parks and trails; and

WHEREAS, the City desires to obligate Foundation to perform certain services as hereinafter set forth.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained in this Agreement, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties hereby agree as follows:

### **AGREEMENT**

1. **TERM.** The term of this Agreement ("Term") shall commence on July 1, 2022 (the "Effective Date"), and terminate on June 30, 2023 (the "Expiration Date"), unless sooner terminated by the City, as provided in Section 9 hereof. The City shall have the option to extend this Agreement for one (1) additional year (the "Option Term") provided that Foundation is not in default and has completed its obligations to the City's satisfaction. The City agrees to provide written notice to extend at least ninety (90) days prior to the Expiration Date. The City's City Manager is hereby authorized to exercise the City's option to extend this Agreement.

2. **SCOPE OF AGREEMENT.** The City hereby agrees to engage Foundation to implement a community engagement program to serve City parks throughout the corporate boundaries of the City.

Such services will be implemented during the Term, as set forth below. The Program objectives to be attained by Foundation during this period include:

- A. Oversight of the Volunteer in Parks (“VIP”) program in City neighborhood parks.
    - (1). Conduct a minimum of 2 volunteer events per each of the six (6) City Council Ward annually with an additional 6 events to be selected by the Department of Parks and Recreation, including playground community builds, tree plantings, and/ or special events each year.
    - (2). Select City parks in coordination with the City Council office and the Department of Parks and Recreation.
    - (3). Coordinate one (1) volunteer appreciation event for approximately one-hundred (100) volunteers prior to the end of each volunteer season in June.
  - B. Coordination of Healing Garden events.
    - (1). Organize two volunteer events to include garden maintenance and planting events in March (for spring) and in September (for fall) in preparation for the October 1 Remembrance.
  - C. Coordination of Native Habitat Gardens in City parks.
    - (2). Plan Native Habitat program dimensions, locations, and maintenance in coordination with the City’s urban forester.
    - (3). Construct one native habitat in a City park.
  - D. Coordinate youth programming activities for youth participating in City recreation programming.
    - (1). Plan youth program dimensions, locations, topics, and logistics with Parks and Recreation staff.
    - (2). Coordinate approximately twenty (20) hours of youth programming activities for youth participating in City of Las Vegas recreation programs.
  - E. Oversight of marketing and advertising for Foundation/City partnership.
    - (1). Develop a detailed work plan in coordination with the Department of Parks and Recreation that includes outreach and marketing components.
    - (2). Maintain a searchable database of all volunteers who attend that can be organized and searched by City Council Ward in a commonly used format (i.e. Microsoft Excel or similar).
    - (3). Recruit residents and businesses to become more involved in City parks.
3. SCHEDULE OF PERFORMANCE AND DELIVERABLES. Foundation agrees to perform tasks identified in Section 2 by no later than June 30, 2023. The City and Foundation agree that the schedule may be mutually amended by written amendment to be executed by the Executive Director of Foundation and the City Manager of the City. If the changes contemplated by an amendment shall exceed the monetary costs of \$25,000, or, if in the reasonable determination of the City Manager, the changes are deemed material, the City Manager may recommend that the amendment be approved by the City Council of the City.
4. MONTHLY REPORTS. The Foundation agrees to submit a monthly report to the City that shall be due on or by the close of the first full week of each month throughout the Term (each, a “Monthly Report”). Each Monthly Report shall include, among other things: (i) status updates on work performed

on the community engagement and volunteer program; (ii) Donations received; (iii) volunteer events; (iv) maintenance activities at each event; (v) a safety assessment notating incidents of graffiti and other signs of a deteriorating community as a result of increased criminal activities.

All Monthly Reports shall be submitted to the attention of the Director of Parks, Recreation and Cultural Affairs, 451 East Bonanza Road, Las Vegas, NV, 89101.

5. COMPENSATION. In consideration of the services to be performed and the materials to be provided by the Foundation, the City agrees to compensate Foundation the total sum of SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00) for the Term. If the City exercises its option to extend this Agreement, an additional SEVENTY FIVE THOUSAND DOLLARS (\$75,000) will be paid the by the City to the Foundation. The compensation will be used by Foundation to manage the community engagement and volunteer program. The annual payment will be made from the City to the Foundation within sixty (60) days after the Effective Date and one (1) year thereafter if the City exercises its option to extend this Agreement. Should the Agreement be terminated prior to its natural expiration for any reason, any unspent funds shall be promptly returned by the Foundation to the City.

6. PRESENTATIONS TO CITY; PRESS RELEASES. The Foundation agrees to make presentations to the Las Vegas City Council, other City boards and/or commissions, and City staff members as reasonably requested by the City. Foundation agrees that it will not make issue or disburse any press release, news story, article, or other similar items regarding the Community Engagement and Volunteer Program to the public without the prior approval of the City, which shall not be unreasonably withheld, conditioned, or delayed. The Foundation agrees to cooperate with the City's Public Information Officers regarding the content of the press releases prior to issuance.

7. INDEMNITY. The Foundation agrees to indemnify, defend, and hold harmless the City, its elected officials, officers, employees, and agents against any damages, costs, expenses, fees (including attorney fees) incurred by the City in any claim, suit or proceeding instituted against the City as it relates to the Foundation's performance under this Agreement. The Foundation's obligation to indemnify shall be conditioned upon the prompt notice of an asserted claim for which indemnification may be sought and upon the City's right to intervene and participate, at its own expense, in defense of the claim.

8. INSURANCE. Foundation shall procure and maintain, at its own expense, during the Term, the following coverages:

A. Industrial/Worker's Compensation Insurance, where required by law and if Foundation has employees other than owners, protecting Foundation and the City from potential claims based upon job-related sickness, injury or accident, during the performance of this Agreement, and must submit proof of such insurance on a certificate of insurance issued by an insurer qualified to underwrite workers' compensation insurance in the State of Nevada, in accordance with NRS 616A-616D, inclusive.

B. Commercial General Liability Insurance (bodily injury, property damage) with respect to the Foundation's agents assigned to the activities performed under this Agreement in a policy limit of not less than \$1,000,000.00 per occurrence and \$2,000,000.00 in the aggregate, for bodily injury (including death), personal injury and property damages. Such coverage shall be on an "occurrence" basis and not on a "claims made" basis, and be provided on either a Commercial General Liability or a Broad Form Insurance General Liability insurance form.

C. Commercial Automobile Liability Insurance of limits not less than \$1,000,000.00 combined single limit per occurrence for bodily injury and property damage to include, but not be limited to, coverage against all insurance claims for injuries to persons or damages to property which may arise from services rendered by Foundation and any auto used to the performance of services under this

Agreement. The policy must insure all vehicles owned by Foundation and include coverage for hired and non-owned vehicles.

The City, its elected officials, officers, employees, and agents shall be named as additional insureds and such notation shall appear on an endorsement to the certificate of insurance furnished by Foundation's insurance carrier. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer and licensed by the State of Nevada. The City requires insurance carriers to maintain a Best's Key rating of A VII, or higher. The adequacy of the insurance supplied by Foundation, including the rating and financial health of each insurance carrier providing coverage, is subject to the approval of the City.

If Foundation fails to carry the required insurance, the City may (i) order Foundation to stop further performance hereunder, declare Foundation in breach pursuant to Section 9, and terminate the Agreement if the breach is not remedied, or (ii) purchase replacement insurance and withhold the costs or premium payments made from the payments due to Foundation, or charge the replacement insurance costs back to Foundation.

9. **DEFAULT AND TERMINATION.** The City may by written notice of default to Foundation, terminate this Agreement in whole or in part if Foundation fails to:

A. Perform the services and/or submit the deliverable(s) within the time specified in the Agreement; and

B. Perform any of the provisions required of this Agreement.

Termination of this Agreement shall be effective upon Foundation's receipt of the written notice of Foundation's default. Upon termination of this Agreement, Foundation shall not be authorized to represent City and all rights provided to Foundation hereunder shall cease. Notwithstanding anything to the contrary herein contained, Producer shall have 30 days to cure said default.

10. **AUDIT OF RECORDS.**

A. The Foundation agrees to maintain the financial books and records (including supporting documentation) pertaining to this Agreement according to standard accounting principles and procedures. The books and records shall be maintained for a period of three years after completion of this Agreement, except that books and records which are the subject of an audit finding shall be retained for three years after such finding has been resolved. If Foundation goes out of business, Foundation shall forward the books and records to the City to be retained by the City for the period of time required herein.

B. The City, or its designated representative(s), shall have the right to inspect and audit (including the right to copy or transcribe) the books and records of Foundation pertaining to the performance of the Agreement during normal business hours. The City will provide prior written notice to Foundation of the audit and inspection. If the books and records are not located within Clark County, Foundation agrees to deliver them to the City, or to an address designated by the City within Clark County. In lieu of such delivery, Foundation may elect to reimburse the City for the costs of travel to inspect and audit the books and records at Foundation's office. If the books and records provided to the City are incomplete, Foundation agrees to remedy the deficiency after written notice thereof from the City and to reimburse the City for any additional costs associated therewith including, without limitation, having to revisit Foundation's office. Foundation's failure to remedy the deficiency shall constitute a material breach of this Agreement.

11. **INDEPENDENT CONTRACTOR.** In the performances of services under this Agreement, the Foundation and any other person employed by it shall be deemed to be an independent contractor and not

an agent or employee of the City. Foundation shall be liable for the actions of any person, organization or corporation with which it subcontracts to fulfill this Agreement. The City shall hold the Foundation as the sole responsible party for the performance of this Agreement. Foundation shall maintain complete control over its employees, volunteers and all of its subcontractors. Nothing contained in this Agreement or any subcontract awarded by Foundation shall create a partnership, joint venture or agency with the City. Neither party shall have the right to obligate or bind the other party in any manner to any third party.

12. ASSIGNMENT. Nothing in this Agreement precludes Foundation from assigning its rights under this Agreement provided, however, that Foundation may not assign its rights under this Agreement without first obtaining the written consent of the city, which consent may not be unreasonably withheld, conditioned or delayed.

13. WAIVER. Waiver of any terms of this Agreement shall not be valid unless it is in writing signed by each party. The failure of the City to enforce any of the provisions of this Agreement or to require performance of any of the provisions herein, shall not in any way be construed as a waiver of such provisions or to affect the validity of any part of this Agreement, or to affect the right of the City to thereafter enforce each and every provision of this Contract. Waiver of any breach of this Agreement shall not be held to be a waiver of any other or subsequent breach of this Agreement.

14. SEVERABILITY. The invalidity, illegality, or unenforceability of any provision of this Agreement, or the occurrence of any event rendering any portion or provision of this Agreement void, shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void provision shall be deemed severed from this Agreement and the balance of this Agreement shall be construed and enforced as if this Agreement did not contain the particular portion or provision held to be void. The parties further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this clause shall not prevent this entire Contract from being void should a provision which is of the essence of this Agreement be determined void.

15. MODIFICATION/AMENDMENT. This Agreement shall not be modified or amended except by the express written agreement of the parties, signed by a duly authorized representative for each party. Any other attempt to modify or amend this Agreement shall be null and void, and may not be relied upon by either party.

16. ENTIRE CONTRACT, SECTION AND PARAGRAPH HEADINGS. This Agreement represents the entire and integrated agreement between the City and Foundation. It supersedes all prior and contemporaneous communications, representations, and agreements, whether oral or written, relating to the subject matter of this Agreement.

17. NOTICES. All notices required or permitted under this Agreement shall be given in writing and shall be validly given only if (a) received by the party to whom it was directed by hand delivery or personal service; or (b) deposited with the United States Post Office, registered or certified mail, postage prepaid, return receipt requested, and addressed to the party to be notified at the address for such party, (c) deposited with a nationally recognized courier service such as FedEx, keeping records of deliveries and attempted deliveries and addressed to the party to be notified at the address for such party; or (d) an electronic record sent to the email address of the recipient stated in this Section. Service by mail or courier shall be conclusively deemed made upon receipt or on the first business day delivery is attempted. Email notices shall be effective when the recipient acknowledges having received that email, with an automatic "read receipt" not constituting acknowledgment of an email for purposes of this Section. Either party hereto may change its address by giving 10 days advance notice to the other party as provided herein. Phone and fax numbers, if listed, are for information only.

If to the City: City of Las Vegas  
495 S. Main Street  
Las Vegas, Nevada 89101  
Attention: City Manager  
E-mail: jcervantes@lasvegasnevada.gov

With copy to: City Attorney  
City Hall, 6th Floor  
495 South Main Street  
Las Vegas, NV 89101  
Phone: (702) 229-6629  
Email: jridilla@lasvegasnevada.gov

If to Foundation: Outside Las Vegas Foundation  
d/b/a Get Outdoors Nevada  
21 N. Pecos Rd., Suite 106  
Las Vegas, Nevada 89101  
Attention: Executive Director  
Fax: (702) 263-8111  
Email: rbergren@getoutdoorsnevada.org

18. APPLICABLE LAW. This Agreement has been delivered and accepted in, and shall be a contract made under and shall be entered into and governed by the laws of the State of Nevada. Any action or proceeding against either party arising out of or relating to this Agreement shall be instituted only in federal or state court in Clark County, Nevada having jurisdiction, and each party waives any objection which it may now or hereafter have to the laying of venue of any such suit, action or proceeding, and each party hereby irrevocably submits to the jurisdiction of any such court in any suit, action, or proceeding.

19. COUNTERPARTS; ELECTRONIC DELIVERY. This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which shall together constitute one and the same instrument. It shall not be necessary for any counterpart to bear the signature of all Parties hereto. Executed copies hereof may be delivered by facsimile or e-mail, pursuant to NRS 719.240, and upon receipt will be deemed originals and binding upon the Parties hereto, regardless of whether originals are delivered thereafter.

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Signature Page

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date as defined herein.

**CITY OF LAS VEGAS**

By: \_\_\_\_\_

Carolyn G. Goodman, Mayor

Date of City Council Approval: \_\_\_\_\_

Attest:

By: \_\_\_\_\_

LuAnn D. Holmes, MMC  
City Clerk

Approved as to Form:

By: John S. Ridilla 9/6/22

John S. Ridilla                      Date  
Deputy City Attorney

**OUTSIDE LAS VEGAS FOUNDATION d/b/a  
GET OUTDOORS NEVADA**

By: Rachel Bergren

Printed Name: Rachel Bergren

Title: Executive Director

Date: 9/6/2022