

**AGREEMENT
BETWEEN
MILWAUKEE COUNTY PARKS
AND
THE PARK PEOPLE OF MILWAUKEE COUNTY, INC.**

This Agreement is made and entered into effective _____, by and between MILWAUKEE COUNTY PARKS (“County”) and THE PARK PEOPLE OF MILWAUKEE COUNTY, INC. (“The Park People”). Together these named entities constitute the Parties (“Parties”) to this Agreement.

WITNESSETH:

WHEREAS, Milwaukee County is a municipal body corporate in the State of Wisconsin, and it is Milwaukee County Parks’ mission to sustain the legacy of our world-class park system by managing and conserving natural, cultural, and recreational resources for the benefit of the community; and

WHEREAS, The Park People is a private non-profit corporation organized under Wisconsin Statutes Chapter 181 with a tax-exempt status under the Internal Revenue Code section 501(c)(3), whose mission is citizen stewardship of the Milwaukee County Park system. The Park People provide support to Milwaukee County parks by supporting Friends Groups, encouraging park improvement, and coordinating weed-out programs; and

WHEREAS, because of the close relationship of Friends groups with the County, Friends groups acquire a quasi-public status and are often perceived by the public as a functional part and representative of the County, which is why Chapter 13 of the Milwaukee County Code of General Ordinances requires that County departments have written agreements with friends groups that are approved by the County Executive and County Board; and

WHEREAS, the County and The Park People have had a mutually beneficial partnership for over forty years and The Park People has had a significant positive impact on Milwaukee County Parks and surrounding communities; and

WHEREAS, Milwaukee County and The Park People wish to assure the continued success and growth of the Milwaukee County Parks in the future;

WHEREAS, the Milwaukee County Board of Supervisors (the “County Board”), by virtue of adopting Resolution _____ on _____, has authorized the Executive Director of Milwaukee County Parks to enter into this Agreement with The Park People for and on behalf of Milwaukee County; and

NOW THEREFORE, the Parties do herewith, in consideration of mutual promises and other good and valuable consideration, agree as follows:

1. TERM:

(a) The initial term of this Agreement shall be for the calendar year in which it is signed. After the initial term, this Agreement remains in effect unless and until terminated upon six months written notice by either party to the other, or by mutual consent, or per Section 12 of this Agreement.

(b) This Agreement contains all the terms and conditions agreed upon by the parties hereto, and no other agreement, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the Parties hereto, or to vary any of the terms contained herein. All the provisions of this Agreement and any amendment thereto shall extend to and be binding upon and inure to the benefit of the Parties and the successors of the respective Parties. This Agreement, or any provision hereof or any right or obligation arising hereunder, is not assignable by either party in whole or in part, without the express written consent of the other party. Any amendment to this Agreement shall be in writing.

2. RIGHTS AND OBLIGATIONS OF EACH PARTY:

(a) Milwaukee County has the exclusive right and obligation to operate and maintain all aspects of Milwaukee County parks in accordance with the policies and directives established by the Parks Executive Director, the County Executive, and the Milwaukee County Board of Supervisors (the "County Board"). To discharge its duties in this regard, the County may receive from The Park People support upon which the Parties agree. The County and The Park People recognize that all Milwaukee County employees including the Parks Executive Director must comply with Milwaukee County's ordinances and policies.

(b) The Park People shall continue to function as a private, non-profit corporation organized under Wisconsin Statutes Chapter 181 with tax-exempt status under Internal Revenue Code section 501(c)(3), independent and separate from the County. The Park People shall to the best of its ability, provide support to the Parks upon which the parties agree. The Park People shall direct its efforts toward support of Milwaukee County parks consistent with its mission.

(c) The County shall permit The Park People to offer to its members certain benefits, which shall be reviewed and approved by the Parks Executive Director in writing as needed, but not more than annually.

(d) The Park People recognize that the County Board endorses a policy of open meetings, open records, affirmative action and a code of ethics, and The Park People agree that Milwaukee County employees must understand and comply with such policies in working with friends' groups.

(e) The Park People recognize that Milwaukee County employees may disclose to the County Executive and County Board information concerning proposed capital plans, operating support, promotional plans, programs, and activities of The Park People of Milwaukee County.

(f) The Park People understand that the County Board requires Milwaukee County Departments and employees to follow the policy in Chapter 13 of the Milwaukee County Code of General Ordinances that provides guidelines for County partnerships with Friends groups.

(g) The County shall provide The Park People with a Milwaukee County Parks Friends Group Handbook and will provide consultation and assistance to The Park People as needed.

(h) Both Parties shall designate a coordinator or liaison to be a point of contact for the other Party in relation to this Agreement. The County designee shall have the authority to administer this Agreement on behalf of the County.

3. MANAGEMENT OF COUNTY AND THE PARK PEOPLE AFFAIRS:

(a) The County and The Park People agree that, as independent and separate entities, each shall maintain a staff, management, and fiscal structure independent of the other.

(b) Any person who manages County funds, County employees, or other County assets shall be a County employee. If The Park People wish to fund such a position, it will do so through the transfer of funds to the Milwaukee County Treasurer rather than direct payments to the employee.

(c) The Park People may employ and supervise persons who engage primarily in The Park People' activities or who offer program support or enhancement to the parks but shall not supervise county employees.

(d) Insofar as volunteer activities support the mission of the County and The Park People, The Park People may direct volunteer activities. Volunteer activities may include providing visitor information; providing tours and events; and other activities. The Park People shall notify the County of volunteer activities at least thirty (30) days in advance.

4. OPERATING PROCEDURES:

4.1 Solicitations and Donations:

(a) The Park People, including employees of the County volunteering with The Park People shall have the authority to solicit and receive donations, gifts, grants and other forms of revenue from any source during the term of this Agreement, provided all such revenue received is used by The Park People for the support of the parks, The Park People, and other purposes consistent with the bylaws of The Park People. All funds so solicited shall be accompanied in writing including the name of the donor(s), the date of the donation, and the donors intended purpose for the funds, including any restrictions on their disbursement.

(b) The Parks Executive Director and designees have authority to directly solicit funds they determine are appropriate to their programs and goals. Any such funds so solicited that are made payable to the County may not be accepted by The Park People.

(c) The Park People agree to provide written notification to the Parks Executive Director or his designee of any donation The Park People wish to make for the benefit of the parks, and, if applicable, whether the donor has included any restrictions on the donation. No donated funds may be expended prior to either (i) receipt of a written approval of the donation by the Parks Executive Director or designee; or (ii) receipt for

a request for payment from the donated funds from the Parks Executive Director or a designee, which shall constitute an approval pursuant to section (i).

(d) To accept The Park People monetary donations, the Parks Executive Director shall comply with all requirements applicable to such donations under the Milwaukee County Code of General Ordinances.

(e) The County and The Park People may engage in joint promotional efforts provided that the parties execute prior to the event a letter of intent specifying the rights and responsibilities of each party. The letter of intent shall specify financial benefits to and obligations of each party and shall be approved in writing by the Parks Executive Director.

(f) The Executive Director of The Park People and the Parks Executive Director shall jointly develop a Memorandum of Understanding for sponsorship gift opportunities for solicitation of specific donations; such as artwork, sculptures, memorials, books, trees, plants, benches, etc. to benefit the parks.

(g) Unless written documentation provided by the donor indicates otherwise, The Park People and County acknowledge that any monetary donations payable to the Parks Department are the property of Milwaukee County. If questions of donor intent arise, the County shall contact the donor for clarification of the donor's intent and shall provide The Park People with a written summary of the donor's intent.

4.2 Administration:

(a) The County may provide to The Park People office space as is reasonably necessary and mutually agreed upon for the on-site operation of The Park People. Such space will be subject to a separate lease agreement.

(b) No administration fees will be charged by The Park People for funds held in Park Project Accounts; however, any interest earned on these accounts shall accrue to the benefit of The Park People.

4.3 Friends Groups Fiscal Sponsorship:

The Park People may provide fiscal sponsorship for Friends groups that do not hold their own tax-exempt status and/or insurance.

4.4 Media and Parks Logo:

(a) All media contacts related to Milwaukee County Parks, which are not related to the administration of solely The Park People activities, shall be approved in writing by the Parks Executive Director or designee prior to release.

(b) All promotional materials, whether print or digital, which are prepared by The Park People that reference the parks shall include the Parks Logo. The County's failure to respond within ten (10) business days to a written or electronic request by The Park People for approval of materials shall constitute approval, if, in such written or electronic request, The Park People shall have notified County of the time constraint. The County may waive this requirement through an electronic or written notice to The Park People.

(c) The Park People may fund, develop, and maintain a website to promote the parks and The Park People, providing information about the parks and The Park People, promoting all programs and events at the parks and/or sponsored by The Park People, raising funds to support the parks, and soliciting The Park People members and volunteers. The website must include the Parks Logo in a prominent position and a hyperlink to: <http://county.milwaukee.gov/Parks>

5. RENOVATIONS OR IMPROVEMENTS:

(a) Prior Approval.

Renovations or improvements in the parks shall require prior written approval of the Parks Executive Director or Parks Executive Director's designee. Additionally, depending on the scope of the project, the following may be required:

- i. A Right of Entry permit from Parks Planning department. The Right of Entry permit requirements can be accessed by requesting them from ParksPlanning@milwaukeecountywi.gov.
- ii. Design and construction approvals from the Milwaukee County Division of Architectural and Engineering Services and Parks Planning Division
- iii. And/or a separate development agreement between The Park People and the County.

(b) Development Standards.

- i. All development and landscaping shall be completed in a first-class manner and consistent with the standards established for other work in Milwaukee County parks.
- ii. All construction shall be made in compliance with all statutes, laws, ordinances, rules, and regulations of any governmental authority having jurisdiction over the leased premises.
- iii. Regarding projects that require a separate development agreement, the County and The Park People agree to proceed as follows:
 1. Appropriations for each project shall be established by the County and reviewed annually during the County budget deliberations or more often if appropriate.
 2. The Park People and the County will agree to share costs only under procedures mutually agreed to in writing by The Park People and the County.
 3. For each such project, the separate agreement will describe the nature and the scope of the improvements, the sources and uses of funds, and procedures for transferring The Park People' share of project costs to the County, program management, project schedule, together with the responsibility and accountability for planning, fundraising, and construction.

6. RECORDS:

(a) Filing annually, pursuant to the Milwaukee County Code of Ordinances Chapter 13.06(d), with the office of the comptroller, with a copy to Milwaukee County Parks, for public record:

- i. If the organization's annual gross receipts exceed four thousand dollars (\$4,000.00), a copy of its state form 308 (charitable organization annual report)

submitted to the state department of regulation and licensing to comply with s. 440.41, Wis. Stats.

- ii. In addition, if the organization's annual gross receipts exceed twenty-five thousand dollars (\$25,000.00), a copy of its IRS form 990 (return of organization exempt from income tax).
 - iii. In addition, if the organization's annual gross receipts exceed fifty thousand dollars (\$50,000.00), a certified, independently audited, financial statement reporting an audit performed in accordance with generally accepted accounting principles.
- (b) The Park People shall submit to the Parks Executive Director, or the Parks Executive Director's designee, within two months of the close of the Friend's fiscal year, as defined by The Park People's bylaws (currently _____):
- i. its adopted budget for the coming year;
 - ii. a report detailing the amount of The Park People's pecuniary and support and the nature of its operations and volunteer support for the previous year;
 - iii. an estimate of the amount of The Park People's pecuniary support and the nature of its operations and volunteer support for the coming year;
 - iv. an accounting of all charitable donations over five thousand dollars received by The Park People in support of The Park People and in support of the Milwaukee County Parks;
 - v. as applicable, an updated copy of The Park People's bylaws, any amendments to its articles of incorporation and a list of its officers and directors.
- (c) The Park People and the County shall provide each other access to all construction and other documents or records related to the construction of renovation or improvement projects in which The Park People participate. These documents and records shall include an accounting of the amount of funds received and disbursed by The Park People and/or the County for a renovation or improvement project but shall not include any documents which would contain information regarding individual donors or other sources of such funds. It is the responsibility of The Park People to verify to the satisfaction of the County the validity of pledges made from anonymous donors, but not yet received, for any capital improvement projects in which The Park People participate.
- (d) The Park People and the County shall provide each other with access to all documents or records related to co-sponsored events or programs. These documents and records shall include an accounting for the expenses incurred and funds received disbursed by The Park People and/or the County for such co-sponsored event or program but shall not include any document which would contain information regarding individual donors or other sources of funds unless relevant to the scope of an audit.
- (e) The Park People may, if it chooses, disclose to the County information regarding specific donors who have given gifts designated to be used in a specific way or for a specific purpose in the Park. Such disclosures shall not obligate The Park People to disclose any other information regarding donors or donations made to The Park People.

7. INTERNAL CONTROLS

Internal controls are systems of policies and procedures that protect the assets of an organization, create reliable financial reporting, promote compliance with laws and regulations and achieve effective and efficient operations. They relate to accounting, to

reporting, and to the organization's communication processes. The Friends will ensure that at a minimum its internal controls will include written procedures for:

- Handling funds received and expended by the organization,
- Preparing appropriate and timely financial reporting,
- Conducting the annual audit of the organization's financial statements, if required by Section 6 of this Agreement,
- Evaluating staff and programs,
- Maintaining inventory records of real and personal property, and
- Implementing personnel and conflicts of interest policies.

A copy of The Park People policies and procedures for internal controls will be submitted to the Parks Executive Director, or the Parks Executive Director's designee. The Park People will update the Parks Executive Director, or the Parks Executive Director's designee, whenever changes are made to the policies and procedures.

8. COUNTY RIGHTS OF ACCESS AND AUDIT:

The Contractor, Lessee, or other party to the contract, its officers, directors, agents, partners and employees shall allow the County Audit Services Division and department contract administrators (collectively referred to as Designated Personnel) and any other party the Designated Personnel may name, with or without notice, to audit, examine and make copies of any and all records of the Contractor, Lessee, or other party to the contract, related to the terms and performance of the Contract for a period of up to three years following the date of last payment, the end date of this contract, or activity under this contract, whichever is later. Any subcontractors or other parties performing work on this Contract will be bound by the same terms and responsibilities as the Contractor. All subcontracts or other agreements for work performed on this Contract will include written notice that the subcontractors or other parties understand and will comply with the terms and responsibilities. The Contractor, Lessee, or other party to the contract, and any subcontractors understand and will abide by the requirements of Chapter 34 of the Milwaukee County Code of General Ordinances. Any and all County contracts and solicitations for contracts shall include a statement that the Contractor, lessee, or other party to the contract, and any subcontractors understand and will abide by the requirements of Chapter 34 of the Milwaukee County Code of General Ordinances.

9. INDEPENDENT CONTRACTORS:

In the performance of this Agreement both the County and The Park People will be acting in an individual capacity and not as agents, employees, partners, joint ventures or associates of one another. The agents or employees of the one shall not be construed to be the agents or employees of the other. Milwaukee County employees shall remain employees of Milwaukee County notwithstanding the fact that they may assist The Park People.

10. CONFLICT OF INTEREST:

(a) The County and The Park People recognize that the opportunity for a conflict of interest may arise where an employee of one party is related to an employee of the other.

(b) The Park People may encourage Milwaukee County employees to become members, but Milwaukee County employees shall not serve as officers or members of the Board of Directors.

(c) The Park People, their agents and employees shall comply with all applicable Federal, State, and Milwaukee County laws and regulations governing conflicts of interest.

10. INDEMNIFICATION:

The parties to this Agreement agree to indemnify, defend and hold harmless the other party and their elected officials, officers, employees and agents, against any and all liability, losses, charges, fines, costs or expenses including attorney's fees to the extent such damages including suits at law or in equity are caused by or resulting from any wrongful, intentional, or negligent acts or omissions of the indemnifying party or any of the officers, employees, agents or representatives of the indemnifying party which may result in any person, persons, or organization suffering bodily injury, personal injury, death or property loss or damage, employment practices, civil rights or environmental liability and impairments arising out of this Agreement. Milwaukee County's liability shall be limited by Wisconsin State statute sections 345.03(3) for automobile and 893.80(3) for general liability.

11. INSURANCE:

Every contractor and all parties furnishing services or product to **County** or any of its subsidiary companies must provide County with evidence of the following minimum insurance requirements. In no way do these minimum requirements limit the liability assumed elsewhere in the contract. All parties shall, at their sole expense, maintain the following insurance:

- (1) Commercial General Liability Insurance including contractual coverage:
The limits of this insurance for bodily injury and property damage
Combined shall be at least:

Each Occurrence Limit	\$1,000,000
General Aggregate Limit	\$2,000,000
Products-Completed Operations Limit	\$2,000,000
Personal and Advertising injury Limit	\$1,000,000

- (2) Business Automobile Liability Insurance:
Should the performance of this Agreement involve the use of automobiles, Contractor shall provide comprehensive automobile insurance covering the ownership, operation and maintenance of all owned, non-owned and hired motor vehicles. Contractor shall maintain limits of at least \$1,000,000 per accident for bodily injury and property damage combined.

- (3) Workers' Compensation Insurance:
Such insurance shall provide coverage in amounts not less than the statutory requirements in the state where the work is performed, even if such coverages are elective in that state.

- (4) Employers Liability Insurance:
Such insurance shall provide limits of not less than \$500,000 policy limit.

Additional Insurance Requirements:

- (5) Contractor shall require the same minimum insurance requirements, as listed above, of all its contractors, and subcontractors, and these contractors, and subcontractors shall also comply with the additional requirements listed below.
- (6) The insurance specified in (1), (2), and (5) above shall: (a) name County, including its directors, officers, employees and agents as additional insureds by endorsement to the policies, and, (b) provide that such insurance is primary coverage with respect to all insureds and additional insureds.
- (7) The above insurance coverages may be obtained through any combination of primary and excess or umbrella liability insurance. County may require higher limits or other types of insurance coverage(s) as necessary and appropriate under the applicable purchase order. Except where prohibited by law, all insurance policies shall contain provisions that the insurance companies waive the rights of recovery or subrogation, by endorsement to the insurance policies, against County, its subsidiaries, its agents, servants, invitees, employees, co-lessees, co-venturers, affiliated companies, contractors, subcontractors, and their insurers.
- (8) Contractor shall provide certificates evidencing the coverages, limits and provisions specified above on or before the execution of the Agreement and thereafter upon the renewal of any of the policies. Contractor shall require all insurers to provide County with a thirty (30) day advanced written notice of any cancellation, nonrenewal or material change in any of the policies maintained in accordance with this Agreement. Coverage must be placed with carriers with an A. M. Best rating of A- or better.

12. TERMINATION:

Either Party may terminate the contract if the other breaches or fails to perform any of its obligations under the Contract and the breach or failure continues for a period of thirty (30) days after the Party has notified the other of such breach or failure in writing; provided that this time period shall be extended as reasonable if the County or The Park People cannot reasonably cure its breach or failure to perform within the thirty (30) day period. Notwithstanding any contrary language contained in this Paragraph, The Park People is not entitled to any notice or cure period before an incurable breach of, or failure to perform under this Contract.

13. INTERPRETATION:

The laws of the State of Wisconsin shall govern the validity, performance and enforcement of this Agreement. If any provision of this Agreement is found to be invalid or unenforceable, the remaining provisions of this Agreement shall not be affected, thereby, and shall remain in full force and effect as though the invalid or unenforceable provisions were not contained herein; provided that, if said invalid or unenforceable provisions go to the heart of this Agreement, then the Agreement is terminated. The Park People acknowledges that it has read this Agreement and that it has had the opportunity to confer with counsel in negotiating this Agreement; accordingly, this Agreement shall be construed neither for nor against the

County or The Park People but shall be given a fair and reasonable interpretation in accordance with the meaning of its terms.

14. PARTNERSHIP:

Nothing contained in this Agreement shall constitute or be construed to create a partnership or joint venture between the County or its successors or assigns and The Park People or its successors or assigns. This Agreement does not create the relationship of principal and agent or of partnership, of joint venture, or of any association between the County and The Park People.

15. NOTICE:

All notices with respect to this Agreement shall be in writing. Except as otherwise expressly provided in this Agreement, a notice shall be deemed duly given and received upon delivery, if delivered by hand, or three days after posting via US Mail, to the party addressed as follows:

To The Park People:
The Park People of Milwaukee County
President
1845 North Farwell Avenue
Milwaukee, WI 53202-1715

To County:
Milwaukee County Parks
Parks Executive Director
9480 Watertown Plank Road
Wauwatosa, WI 53226

Either party may designate a new address for purposes of this Agreement by written notice to the other party.

16. ESTABLISHMENT OF FISCAL PLAN:

Each year by April 1 the County and The Park People shall meet and mutually develop a fiscal plan for the support and operation of the parks for the coming year. Such plan will include funding requests for anticipated capital projects.

SIGNATURE PAGE FOLLOWS

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