

SUMMARY OF TERMS

Adopted by the Anderson Township Park District Board of Park Commissioners 6/27/2017

Adopted by the Anderson Foundation for Parks and Recreation Directors 8/29/2017

Memorandum of Understanding between the Anderson Township Park District and the Anderson Foundation for Parks and Recreation ("MOU")

Parties: Anderson Township Park District ("Park District")
Anderson Foundation for Parks and Recreation ("Foundation")

Purpose: To memorialize the relationship of the parties

Term: 5 years; may be renewed for additional 5-year periods

Foundation's Responsibilities:

- Foundation will secure, manage and invest privately raised funds, gifts and bequests in support of the Park District's programs, services, and facilities.

Park District's Responsibilities:

- Provide a staff liaison to the Foundation.
- Provide a staff member to record Foundation meetings.
- Provide graphic design assistance for marketing materials.
- Suggest potential donors.
- Allow use of the name and images of the Park District.

Other Terms:

- Termination: MOU may be terminated by either party with 90 days written notice.
- Governing Law and Venue: Ohio law governs agreement, and venue is in Anderson Township.
- Modification: MOU may only be modified by writing, executed by both parties.
- Independent Contractors: Parties are acting in individual capacity and are not agents of one another.

MEMORANDUM OF UNDERSTANDING
between the
ANDERSON TOWNSHIP PARK DISTRICT
and the
ANDERSON FOUNDATION FOR PARKS AND RECREATION

This Memorandum of Understanding ("MOU") is made by and between the Anderson Township Park District, a separate political subdivision of the State of Ohio ("Park District"), and the Anderson Foundation for Parks and Recreation, a not-for-profit Ohio nonstock corporation located in Anderson Township, Ohio ("Foundation").

WHEREAS, the Park District owns, operates and maintains real estate, buildings and other recreational facilities, and operates a wide variety of parks and recreation programs and services; and

WHEREAS, the Park District's mission is to provide Anderson Township residents with quality parks, facilities, and programs;

WHEREAS, the Foundation was formed in 1991, and has functioned for the purpose of supporting the goals of the Park District; and

WHEREAS, the primary purpose of the Foundation is to secure, manage and invest privately raised funds, gifts and bequests in support of the Park District's programs, services, and facilities; and

WHEREAS, the Foundation operates as a legal entity separate from the Park District, and is governed by an independently elected Board of Directors, none of whom are employees of the Park District; and

WHEREAS, the Foundation and the Park District wish to assure the continued success and prosperous growth of the Park District by memorializing the responsibilities and obligations of the Foundation and the Park District.

THEREFORE, in consideration of the mutual efforts to support the development of the Park District, the Park District and the Foundation agree as follows:

Section 1. Operating Procedures

- A. The Foundation shall communicate the following information to prospective donors:
 - 1. The Foundation is a separate, legal entity organized for the purpose of encouraging voluntary, private gifts, trusts, and bequests for the benefit of the Park District.
 - 2. Responsibility for governance of the Foundation, including investment of gifts and endowments, resides with the Foundation's Board of Directors.
 - 3. Charitable gifts from donors to the Foundation in support of any of the Park District's programs, services, or facilities should be made to the Foundation, and not to the Park District.
 - 4. Any gift made for a designated purpose will be dedicated in its entirety to that purpose unless (a) it is specifically understood by the donor when the gift was made, or subsequently agreed to by the donor in writing, that an administrative charge will be applied or that the gift can be used for another purpose if the original purpose has been satisfied or (b) the Park District objects to the designated purpose of the gift.

- B. The Foundation agrees that in accepting gifts of all kinds, the Foundation shall:
 - 1. Coordinate its funding goals, programs and campaigns with the Park District.
 - 2. Receive prior written approval from the Park District or its designee for any gift, grant, or contract that includes a financial or contractual obligation binding upon the Park District.
 - 3. Ensure that gifts designated for specific purposes are in compliance with the Park District's master plans, mission, and philosophy before accepting the gift.
 - 4. Advise donors that any restrictive terms and conditions the donor attaches to gifts for the Park District are subject to the Park District's approval.

- C. The Foundation shall be responsible for reporting to a donor regarding the use of the donor's funds.

- D. The Foundation shall manage and maintain its social media presence in a timely manner, ensuring current information is available to the public and regularly monitored for appropriateness.

- E. The Foundation will provide at least annually the Foundation's plans for fundraising campaigns, events, and special projects, with consideration for the Park District's budgeting, marketing, and facility scheduling processes and timelines.
- F. In return for the Foundation's contributions to and support of the Park District and its programs, the Park District shall assist the Foundation in the following manner:
 - 1. There shall be two ex officio, non-voting members of the Foundation Board who are Park Commissioners of the Anderson Township Park District, appointed by the Board of Park Commissioners of the Park District. Such ex officio members shall be entitled to attend and speak at all meetings of the Foundation Board, but shall have no vote on any matter.
 - 2. At the discretion of the Executive Director of the Park District, and consistent with applicable federal, state, and local law, and Park District policies and administrative directives, the Park District shall provide the Foundation with assistance as follows:
 - a. Park District shall provide a staff liaison to the Foundation;
 - b. Park District may provide a staff member to record Foundation meeting minutes; and
 - c. Park District may provide graphic design assistance for specific marketing materials, including Foundation stationery, flyers and sponsorship packets for Greater Anderson Days, and marketing materials for the Jim Grabowski Memorial Fund for Fun.
 - 3. Assist the Foundation by suggesting potential donors to the Foundation.
 - 4. Allow the Foundation to use the name and images of the Park District.

Section 2. Record Keeping

- A. The Park District and the Foundation acknowledge and agree that all Foundation correspondence, financial records, and all Foundation documents are the property of the Foundation and shall be kept separate and apart from all Park District records.
- B. The Foundation shall maintain publicly available, updated copies of all of its enabling documents, including its articles of incorporation, bylaws and any amendments thereto. The Foundation shall provide the Park District with a copy of its IRS Form 990 (Return of Organization Exempt from Income Tax) without accompanying documentation providing information concerning any specific Foundation donor.

- c. The Foundation shall prepare and reconcile on a monthly basis a Treasurer's Report. In addition, the Foundation shall provide annually to the Park District a financial report prepared in accordance with statements of financial accounting standards for not-for-profit organizations. The financial report shall be provided to the Park District on or before June 30 of each year during this MOU, but shall not include any information regarding individual Foundation donors.

Section 3. Independent Contractors

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

Neither the Park District nor its agents, volunteers, servants, employees or officials shall be responsible or liable for any claim or suit arising from contracts, agreements, understandings or arrangements made by the Foundation with any person or entity covering services or goods procured by the Foundation, or for the negligent or willful acts of the Foundation or those for whom the Foundation acts.

Section 4. Term

Subject to termination as provided in Section 7, the initial term of this MOU will be for five (5) years, effective July 1, 2017 through June 30, 2022. This MOU may be renewed for additional five-year terms with the written consent of both parties.

Section 5. Dispute Resolution

The parties agree that if there is a dispute as to any provision of this MOU or if either party materially breaches or fails to perform its obligations under this MOU, the other party may give notice in writing of the dispute or material breach. The parties agree to meet to resolve the dispute or material breach within thirty (30) days of receipt of the notice. If the parties fail to resolve the dispute within sixty (60) days of such notice or such longer period, if agreed to in writing by the parties, the parties agree to bring in a mediator to resolve the dispute.

Section 6. Notice

Any notice or notices required or permitted to be given pursuant to this MOU shall be given by certified mail, postage prepaid, return receipt required, as follows:

To the Park District: Anderson Township Park District, Executive Director
8249 Clough Pike
Cincinnati, OH 45244

To the Foundation: Anderson Foundation for Parks and Recreation, President
8249 Clough Pike
Cincinnati, OH 45244

Section 7. Termination

This MOU may be terminated by either party by delivering written notice of termination to the non-terminating party at least ninety (90) days prior to the effective date of any termination.

Section 8. Governing Law and Venue

This MOU shall be deemed to be an Ohio contract and shall be governed as to all matters whether of validity, interpretations, obligations, performance or otherwise exclusively by the law of the State of Ohio, and all questions arising with respect thereto shall be determined in accordance with such laws. Regardless of where actually delivered and accepted, this MOU shall be deemed to have been delivered and accepted by the parties in the State of Ohio. The Foundation shall comply with all federal, state and local statutes, ordinances, and regulations now in effect or thereafter adopted, in the performance of its obligations set forth herein. Any and all suits for any claims or for any and every breach of dispute arising out of this MOU shall be maintained in the appropriate court of competent jurisdiction in Hamilton County.

Section 9. Severability

Any provision of this MOU which is prohibited or unenforceable shall be ineffective only to the extent of such prohibition or unenforceability without invalidating the remaining provisions thereof.

Section 10. Entire Agreement

The parties agree that this writing constitutes the entire agreement of the parties and that there may be no modification to this MOU, except in writing, executed by the authorized representatives of the Park District and the Foundation.

As evidenced by their agreement to the terms and conditions set forth herein, the parties affix their authorized signatures hereto:

ANDERSON TOWNSHIP PARK DISTRICT

By: _____

Name: Ken Kushner

Title: Executive Director

ANDERSON FOUNDATION FOR PARKS AND RECREATION

By: _____

Name: Dale Bartholomew

Title: President