

MEMORANDUM OF AGREEMENT
BENNETT'S VILLAGE, the ARC of the Piedmont AND THE CITY OF
CHARLOTTESVILLE
November 26, 2019

BACKGROUND

On November 26, 2019, the Charlottesville City Council (hereinafter "City") passed a resolution establishing a partnership between the City and the Bennett's Village, (an unincorporated association), (hereinafter "BV") to design, develop and operate an All Abilities playground facility at Pen Park. The City and BV may be referred to collectively in this Agreement as the "Parties". Such a facility shall be designed to meet the recreational needs of individuals with and without disabilities across the age and ability spectrum.

Bennett's Village has an established Memorandum of Understanding with The Arc of the Piedmont (ARC), whereby the ARC will serve as a fiduciary partner with BV for the purpose of fundraising, compliance with tax law and distribution of donations, among other items of agreement.

PURPOSE

This memorandum shall assign and identify the various responsibilities in the relationship between the City and BV for the design, development and operation of an All Abilities playground and ancillary facilities at Pen Park. Such a facility will be free to all park guests and at no time would an admission fee be charged to attend the facility on either an ad hoc or programmatic basis.

GENERAL GUIDELINES

This MOA is intended to be reviewed and updated at routine intervals herein defined that guides the relationship between the City and BV in the long-term implementation and operation of this facility at Pen Park.

All facilities developed or funded by BV shall be donated to, and become the property of, the City upon completion of construction and being issued a certificate of occupancy.

RESPONSIBILITIES OF THE CITY:

The City shall be responsible for the following activities within the playground area;

- Approval of the initial and final footprint of all play and ancillary facilities within Pen Park associated with this project.
- Final approval of all designs, cost estimates (which shall include a construction contingency and construction administration estimate, respectively) and construction documents. Such designs and cost estimates shall be developed during the conceptual development and schematic design phases of the project.

- Administration and coordination of all construction and development activity;
- Coordination and approval of all components of the project that require potable water per approved plans, wastewater collection per approved plans and maintenance/support facilities and connections to other sections of the park;
- Providing a base level of playground inspections and maintenance consistent with ASTM and Certified Playground Safety Inspector guidelines and standards.
- If necessary, the City and BV will work together to develop appropriate wildlife conflict resolution strategies.
- The city will allow events at the playground to extend beyond the park operating hours for special events; subject to approval by the City Director of Parks and Recreation or their designee.
- The City Director of Parks and Recreation and/or the Parks and Recreation Manager of Adaptive Recreation or their designee(s) will serve as ex-officio member(s) of the BV Board of Directors throughout the design, development and construction phases of the project. Thereafter, City participation in the BV Board of Directors shall be revisited and adjusted at the mutual agreement of the Parties.
- Ensure that necessary infrastructure and support facilities are developed concurrent with, or prior to, the facility's development.
- Assumption of normal operating expenses such as utilities, custodial services, routine repairs and maintenance activities.

RESPONSIBILITIES OF BENNETT'S VILLAGE:

BV shall be responsible for the following activities:

- Securing of funding for the development of the playground facility and access to the facility within Pen Park.
- BV will conduct community engagement efforts to promote and stimulate interest and community awareness in the activities of the BV and the design and development of an All Abilities play facility at Pen Park.
- Design of the play facility area to include visitor and maintenance access, utility or ancillary structure siting as necessary;
- Preparation of all designs, cost estimates (which shall include a construction contingency and construction administration estimate, respectively) and construction documents. Such designs and cost estimates shall be developed during the conceptual development and schematic design phases of the project.
- Development of necessary construction documents;
- Arranging appropriate liability coverage and/or waivers for BV volunteers and/or staff who perform programmatic activity within the park. (Only if desired by BV and subject to review and approval by the City Attorney)
- BV, when appropriate or desired, will endeavor to establish advisory groups in areas of adaptive recreation where appropriate to assist the City regarding programming or operations of the facility.

- BV shall provide an annual report to the City within three months of the end of each fiscal year (July 1-June 30) to include major achievements and activities, a financial summary and report of operations and goals for the next year.

Regardless of the method of revenue generation conducted by Bennett's Village for the design and construction of the facility, all revenues generated by BV shall remain with BV until such time as they are required to bid the construction of a facility in Pen Park. Upon receipt of sufficient funds necessary to meet all defined project costs, BV shall make a donation to the city of all funds. The donation will then allow the City to bid and manage the construction of the project.

Beginning with Fiscal Year 2020 and until such time as the project is complete and open to the public, BV shall provide a record of audit by a qualified, independent auditor, to the Director of Parks and Recreation for funds received and expended for any fiscal year by October 1 of the following fiscal year. This document shall be a public record.

RESPONSIBILITIES OF THE ARC OF THE PIEDMONT:

The Arc of the Piedmont will be responsible only for the items outlined in the Memorandum of Understanding between Bennett's Village and The Arc of the Piedmont signed and dated August 2019.

ROUTINE REVIEW AND REFINEMENT

Review and amendment or modification of this agreement shall take place under one or more of the following circumstances:

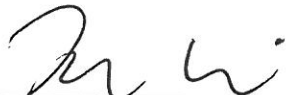
- At any time with the mutual agreement of both parties;
- At intervals of not less than two (2) years;

NON-BINDING FISCAL COMMITMENT

Both Parties acknowledge that this agreement is subject to the fundraising efforts for the proposed All Abilities playground. Both Parties acknowledge that this agreement does not bind, in any way, for either Party to contribute or appropriate any funds for the design or construction of the proposed All Abilities playground.

Agreed Upon and Accepted By:

Charlottesville Parks and Recreation Department

Signature: 

Date: 11-27-19

Title: City Manager

Bennett's Village

Signature:

Kara M. McClure

Date:

12/3/19

Title:

Co-founders

ARC of the Piedmont

Signature:

B. H.

Date:

12-3-19

Title:

Director of Development

ARC of the Piedmont Board/Liason

Signature:

John Santoli

Date:

12/3/17

Title:

Executive Director