

CONTRACT

THIS CONTRACT (“Contract”) made as of July 1, 2020 (the “Effective Date”), by and between The Maryland-National Capital Park and Planning Commission, 6611 Kenilworth Avenue, Riverdale, Maryland 20737, a public body corporate and agency of the State of Maryland hereinafter called the “Commission”, and **City of Hyattsville (“Contractor”), a self-governing incorporated City at 4310 Gallatin Street, Hyattsville, Maryland, 20783.**

RECITALS

WHEREAS, pursuant to the Maryland Annotated Code, Land Use Article, the Commission has authority to initiate, conduct, direct or cause to be conducted or directed under its supervision a comprehensive program of recreation which may include physical, social, mental and creative opportunities for leisure-time participation as deemed advisable.

WHEREAS, Contractor’s mission is to **provide leadership and effective services that enhance our City quality. The Contractor is organized as a self-governing city incorporated by Chapter 424 Acts of 1886 in Prince George’s County, Maryland.**

WHEREAS, by action undertaken pursuant to Maryland Annotated Code, Land Use Article, the governing body of Prince George’s County, Maryland, has appropriated for Contractor certain funds totaling **\$19,000** in Council Resolution **CB-23-2020**.

WHEREAS, the Commission and the Contractor desire to cooperate with each other to provide **recreational programs for residents of Hyattsville and the surrounding communities. Programs will include special events, senior programs, and pre-school programs.**

NOW, THEREFORE, in consideration of the mutual promises and agreements contained herein, and for other good and valuable consideration, the parties do covenant and agree as follows:

1. Scope of Work and Term. Contractor shall furnish all labor, materials and incidental supplies necessary or appropriate to perform the Scope of Services set forth in Exhibit A attached hereto and incorporated herein. The term of this Contract (the “Term”) shall be July 1, 2020 through June 30, 2021, and Contractor shall substantially complete the Work no later than the last day of such Term. Any terms or conditions that are required to be completed after the expiration of this Contract shall survive the expiration of this Contract.

2. Compensation. The Commission shall pay Contractor in consideration for performing the Scope of Services a sum not to exceed **\$19,000** (the “Program Fee”). The Program Fee shall be paid to Contractor after the completion of Scope of Services rendered and the submission of proper invoice(s) to the Commission. The Contractor shall prepare the invoices to the reasonable satisfaction of the Commission’s Secretary-Treasurer and shall not submit invoices more frequently than once a month. Said invoice shall include supporting documentation or financial reports for expenses and a narrative report adequately describing the Scope of Services provided and shall contain a separate line item for each of the tasks outlined in

Exhibit A. Supporting documentation shall also include Contractor’s publication(s) demonstrating the required acknowledgement of the Commission as a contributor and Commission logo, as further described in paragraph 3.5 below. The Contractor shall not be entitled to any remaining portion of the Program Fee for any expenses that are incurred after **June 30, 2021**. All invoices should be submitted to the Commission’s coordinator for this Contract: **(Hernan Padilla, Acting Division Chief, M-NCPPC, 1500 Merrimac Drive, Hyattsville, Maryland 20783 (301) 408-4327** (“Commission Coordinator”).

3. Financial Reporting and Other Requirements.

3.1 Contractor designates **Cheri Everhart, Manager of Recreation, Programs & Events** to serve as the liaison to the Commission’s Coordinator.

3.2 Contractor shall submit a current list of its Board of Directors and a copy of its current bylaws to the Commission (if applicable).

3.3 Contractor shall provide the Commission with a final program and financial report for the Term by **August 1, 2021**.

3.4 On or before **November 1, 2021**, Contractor shall provide the Commission with an audit, review or compilation, as applicable, as required by the following chart:

If Contractor’s total annual support and revenue is:	Then Contractor shall provide to Commission:
>\$750,000	Audit by independent Certified Public Accountant (“CPA”)
\$100,000 - \$750,000	Review by independent CPA
<\$100,000	Compilation by CPA; if not using a CPA, the compilation must be prepared by an independent qualified accountant.

3.5 Contractor shall recognize and acknowledge the Commission as a contributor in all publications that reference Contractor’s programs or whenever acknowledgements are given. This acknowledgement should include the following language: “Made possible in part through funding provided by the Maryland-National Capital Park and Planning Commission, Department of Parks and Recreation, Prince George’s County.” In addition, this language is to be accompanied by a logo provided by the Commission’s Contract Coordinator.

3.6 Contractor shall use funds as outlined in Exhibit A. Should any changes to the estimated costs of the proposed schedule of activities exceed more than 10%, Contractor shall make a written request to the Commission for permission to re-direct use of funds. Funds shall not be used for expenses related to fundraising.

3.7 Intentionally omitted

3.8 Intentionally omitted

3.9 The Contractor acknowledges and agrees that it shall retain its business records for at least three (3) years and that the Commission shall have the right to examine the Contractor's records. Upon request, the Commission's auditor may examine the Contractor's records for verification of any expenses or costs incurred by the Contractor to determine whether the Contractor is in compliance with the terms contained herein.

3.10 The Commission may withhold reimbursement for services that are publicized without the required acknowledgement. Failure to abide by any of the requirements contained in this Paragraph 3 shall be deemed a material breach of this Contract, subject this Contract to immediate termination by the Commission, and may make Contractor ineligible for future contracts with the Commission.

4. Compliance With Laws, Rules and Regulations; No Discrimination.

4.1 Contractor shall be bound by and comply with (at its sole cost and expense) all federal, state and local laws, ordinances and regulations (hereinafter collectively referred to as "Laws") applicable to the obligations provided under this Contract. Without limiting the generality of the foregoing, Contractor expressly covenants that it shall comply with all applicable Laws pertaining to wages, workers' compensation, equal employment opportunity, and shall not discriminate against any employee or applicant for employment because of age, sex, race, creed, color, national origin, or disability within the meaning of such Laws.

4.1.2 Also without limiting the generality of the foregoing, Contractor expressly covenants that any of its personnel provided to perform the services herein who will be in direct contact with children ages seventeen (17) and under and/or with vulnerable adults shall apply for a national and State criminal history records check according to the requirements provided under Title 5 of the Family Article of the Annotated Code of Maryland, at Subtitle 5, Part V. Any such personnel provided by Contractor shall complete and submit the application required for this purpose no later than thirty (30) days from the signing of this Contract or, for newly hired personnel, at the time personnel is hired. Further, the Contractor shall return the affidavit to the Commission, attached hereto and incorporated herein as Exhibit C, listing the names of all personnel who have applied for a criminal history records check, the dates of the applications, a warrant and representation that it shall take any appropriate action regarding the information received as a result of the criminal history record checks, and that the reports are subject to inspection by the Commission. The date of application of the criminal history records check must be within the last two (2) years unless Contractor uses Criminal Justice Information Services (CJIS) for background checks. No payments shall be released to the Contractor until the Commission is in receipt of the affidavit and failure to submit the affidavit shall be considered a material breach of this Contract.

4.2. Contractor shall be bound by and comply with the Commission's Policy Guidelines for Project Charges which are attached hereto as Exhibit D.

5. Termination. This Contract may be terminated by the Commission upon thirty (30) days written notice. In the event of such termination, Contractor shall receive compensation for valid services rendered prior to such termination. Notwithstanding any provision in this Contract, the Commission may immediately terminate this Contract for cause for the following reasons: any non-performance; incomplete service; fraud; any fraudulent representation in any invoice or verification required to obtain payment under this Contract; any derogatory information obtained in connection with the criminal history records checks; or services performed in conflict with the terms and conditions of this Contract. The occurrence of any of these conditions shall constitute a material breach of this Contract and the Commission may terminate this Contract with written notice to Contractor effective immediately.

6. Indemnification and Hold Harmless. Subject to and without waiving common law and other governmental immunities and the provisions §5-301 et seq., Local Government Tort Claims Act, Courts and Judicial Proceedings Article, Annotated Code of Maryland, Contractor shall defend, indemnify and hold harmless the Commission, its commissioners, officers, directors, agents, servants and employees, and their respective heirs, personal and legal representatives, guardians, successors and assigns, from and against any and all claims, threats, liabilities, taxes, interest, fines, penalties, suits, actions, proceedings, demands, damages, losses, costs and expenses (including attorneys' and experts' fees and court costs) of every kind and nature arising out of, resulting from, or in connection with:

6.1. Contractor's activities pursuant to this Contract, including, without limitation, any act or omission by Contractor's employees, agents, guests and invitees;

6.2. Any misrepresentation or breach by the Contractor of any representation or warranty contained in this Contract;

6.3. Any non-performance, failure to comply or breach by Contractor of any covenant, promise or agreement of Contractor contained in this Contract, except as to any such non-performance, failure or breach approved in advance by the Commission or caused by the Commission's contributory negligence; or,

6.4. Any debts, obligations, duties and/or liabilities of Contractor not expressly assumed by the Commission pursuant to the provisions contained in this Contract.

7. Miscellaneous Provisions.

7.1. Notices. Except as otherwise herein expressed as to the submission of invoices and required reports, any notice, request, demand, and consent or other communications required or may be given under this Contract shall be given in the following manner:

7.1.1. If to the Commission, by First Class US mail with postage prepaid to:
Hernan Padilla, Acting Division Chief
Northern Area Operations
1500 Merrimac Drive
Hyattsville, MD 20783

with copy to:

Executive Director
The Maryland-National Capital Park and Planning Commission
6611 Kenilworth Avenue, Suite 402
Riverdale, MD 20737

General Counsel
The Maryland-National Capital Park and Planning Commission
6611 Kenilworth Avenue, Suite 200
Riverdale, MD 20737

- 7.1.2 If to Contractor, by First Class US mail with postage prepaid to:
Cheri Everhart, Manager of Recreation, Programs, & Events
City of Hyattsville
4310 Gallatin Street
Hyattsville, MD 20781

7.2. Severability; Incorporated Terms; and Order of Precedence. Any provision of this Contract that is held by a court or tribunal of competent jurisdiction to be prohibited or unenforceable shall be ineffective to the extent of such prohibition or unenforceability, without invalidating or rendering unenforceable the remaining provisions of this Contract. In the event of any conflict between the terms and conditions expressed in this Contract and those expressed in any Exhibit annexed hereto, the terms and conditions expressed herein shall be deemed to control.

7.3. Integration; Amendment; Waiver; Assignment. This instrument contains the entire and integrated Contract made by and between the parties hereto and pertaining to the subject matter hereof. The terms and conditions expressed herein shall supersede all prior negotiations, representations or agreements, either written or oral. No provision of this Contract may be amended, waived, or otherwise modified without the prior written consent of all of the parties hereto. No action taken pursuant to this Contract, including any investigation by or on behalf of any party, shall be deemed to constitute a waiver by the party taking such action of compliance with any representation, warranty, covenant or agreement herein contained. The waiver by any party hereto of a breach of any provision or condition contained in this Contract shall not operate or be construed as a waiver of any subsequent breach or of any other conditions hereof.

7.4. Section Headings. The section and other headings contained in this Contract are for reference purposes only and shall not affect the meaning or interpretation of this Contract.

7.5. Counterparts. This Contract may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to be one and the same instrument.

7.6. Applicable Law; Jurisdiction and Venue; Service of Process. This Contract was made in the State of Maryland, and shall be governed by, construed, interpreted and enforced in

accordance with the laws of the State of Maryland. All suits, proceedings and other actions relating to, arising out of or in connection with this Contract shall be submitted to the *in personam* jurisdiction of the courts of the State of Maryland and venue for all such suits, proceedings and other actions shall be in Prince George's County, Maryland. The parties hereby waive any claim against or objection to *in personam* jurisdiction and venue in the courts of Prince George's County, Maryland.

7.7. Use of Genders. Whenever used in this Contract, the singular shall include the plural and vice versa, and the use of any gender shall include all genders and the neuter.

7.8. Authorization and Validity of Agreements. The signatories hereto, each and respectively, warrant that he or she has the full right, power and authority to execute, acknowledge, seal and deliver this Contract and to perform the transactions contemplated by this Contract. This Contract has been duly executed, acknowledged, sealed and delivered by the parties as their legal, valid and binding obligations, enforceable against the parties, respectively, in accordance with its terms.

7.9. No Partnership or Joint Venture. Nothing herein contained is intended or shall be construed in any way to create or establish the relationship of partners or a joint venture for any purpose whatsoever.

7.10 Electronic Signatures. The parties acknowledge and agree that this Contract may be executed by electronic signature, which shall be considered as an original signature for all purposes and shall have the same force and effect as an original signature. Without limitation, "electronic signature" shall include faxed versions of an original signature or electronically scanned and transmitted versions (e.g., via pdf) of an original signature.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Contract under seal, with the intention of making it a sealed instrument, on the date first above written.

WITNESSED BY:

CITY OF HYATTSVILLE

Name:

By: _____
Name: _____
Title: _____

ATTEST:

**THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION**

Joseph C. Zimmerman
Secretary Treasurer

By: _____
Asuntha Chiang-Smith
Executive Director

APPROVED AS TO LEGAL SUFFICIENCY

M-NCPPC LEGAL DEPARTMENT

Exhibit A
Scope of Services
By and Between the Maryland-National Capital Park and Planning Commission and
CITY OF HYATTSVILLE

Control No. **410008**

DATE: **July 1, 2020 to June 2021**

The scope of work (the “work”) requires the City of Hyattsville, Maryland (“Contractor”) to provide recreational programs for residents of Hyattsville and the surrounding communities. Programs will include specials events, senior programs, and pre-school programs. Programs will be sponsored by the City of Hyattsville and will be open to residents of Prince George’s County. Events will be held at various sites throughout the City of Hyattsville, including Magruder Park and City Municipal Building. Staff and contractors will be hired and supervised by the Hyattsville Department of Community Services.

Programs and Costs:

Senior Program:

The senior program consists of three special events (a holiday event in December, a Valentine’s Day event in February and a spring event in May for Older Americans Month). The City conducts an Ageless Grace Senior Exercise class on Wednesday and Friday mornings. The class meets approximately 72 times each year, excluding holiday weeks and occasional breaks between sessions. The City provides weekly art instruction to senior residents in fall and spring using an outside contractor.

Parents and Child Creative Minds Program:

The program meets two mornings per week during the school year. Parents or caregivers and their pre-school children play and learn together in child-led creative projects, story time, movement and free play. The program costs \$50 per child per 10 – 12-week session. Developmentally appropriate entertainment is brought into the program periodically.

Special Events:

The City produces events throughout the year, which are held at various sites throughout the City. Our largest event is the four-day Anniversary Carnival, which also includes our annual Anniversary Parade and a fireworks display on Saturday evening. Other events include a Summer Concert Series, which takes place five times from May through September; a Halloween-themed event for elementary school children, a late winter parent & child dance party; an outdoor movie series; and other activities throughout the year. Entertainment is contracted for each of these events.

Total Costs:

Description	Estimated Cost
Supplies & Materials	\$2,600.00
Contracted Services	\$16,400.00
TOTAL	\$19,000.00

Exhibit B

Certificate of good standing issued by the Maryland Department of Assessments and Taxation

N/A

**Exhibit C
[Affidavit]**

**By and Between The Maryland-National Capital Park and Planning Commission and
CITY OF HYATTSVILLE**

AFFIDAVIT

I, _____, under the penalties of perjury do solemnly swear:

1. I am the _____ of City of Hyattsville.
2. As the _____, I have personal knowledge of the facts contained herein and I am authorized to submit this affidavit on behalf of City of Hyattsville.
3. The following personnel will be providing services under the Contract with The Maryland-National Capital Park and Planning Commission (“Commission”), and said personnel, in compliance with Title 5 of the Family Article of the Annotated Code of Maryland, at Subtitle 5, Part V, have applied for a federal and state criminal history records check on the dates shown below:

Name of Personnel	Date of Application	Application Number
Cheryl Everhart	3/6/2007	NA
Victoria Moss	2/1/2015	041M000050M
Beryl Johnson	6/23/2015	04D000001B
A Saarah Abdul-Rauf	10/5/2015	04WF00003P
Sean Porter	11/26/2018	186724004736
Veronica Rivera-Negron	11/19/2018	186724004725
John Johnson	11/25/2019	196724006835

4. On behalf of City of Hyattsville I warrant and represent that any new personnel hired during the term of the Contract with the Commission shall immediately file for a federal and state records check.
5. On behalf of City of Hyattsville I warrant and represent that any appropriate action shall be taken regarding the information received as a result of the criminal history record checks and the reports shall be subject to inspection by the Commission upon request.
6. On behalf of City of Hyattsville I warrant and represent that the date of application of the criminal history records check is within the last two (2) years unless City of Hyattsville uses Criminal Justice Information Services (CJIS) for background checks.

I do solemnly swear and affirm under the penalties of perjury that the information contained herein is true to the best of my knowledge, information and belief.

Printed Name: _____

Date

Exhibit D

POLICY GUIDELINES FOR PROJECT CHARGES

Mission of the Prince George's County Department of Parks and Recreation

All project charges and program support placed in our adopted operating budget by the Prince George's County Council shall fully meet the Department of Parks and Recreation, Prince George's County mission and core services in accordance with Maryland Annotated Code, Land Use Article. In order to receive the project charge payments, entities must enter into a contract with the Commission clearly defining the scope of the services to be provided and the reimbursement process. The services must also meet the core mission of the Commission as authorized in the Maryland Annotated Code, Land Use Article. Such determinations shall be made by the Department of Parks and Recreation, Legal, and Finance. This determination shall be made prior to a contract being transmitted to the County, municipality or organization. The Department's mission and core services are as follows:

In partnership with County citizens, provide comprehensive park and recreation programs, facilities, and services which respond to changing needs within our communities. Strive to preserve, enhance, and protect open spaces to enrich the quality of life for the present and future generations in a safe and secure environment.

Develop and maintain a comprehensive park system by maintaining all parks, roads, grounds and structures, and protect patron and property safety.

Provide recreation programs and services by providing sports, leagues, clinics, tournaments, camps, recreation and interpretative classes, and leisure/recreation experiences.

Preserve the environment and open space, and conserve natural resources.

Reimbursable Expenses

- The Prince George's County Department of Parks and Recreation shall only reimburse the County, municipalities, and organizations for expenses that are directly related to the mission and core services of the Department that are being provided by the County, municipality or organization.
- The Commission's Secretary-Treasurer shall make the final determinations as to which expenses are allowable and which are not.
- These determinations along with the complete budget and scope of services (statement of work) for the project charges and program support shall be identified in the contract between the Commission and the County, municipality or organization.
- The general types of expenses that are allowed include:
 - Direct staff costs to operate and manage the program or provide the services
 - Supplies and materials directly associated with the program or services
 - Contracted services that are directly related to operating and managing the programs or providing the services
- No overhead or pro-rated type administrative costs will be allowed.
- Payment requests must be accompanied by an invoice for actual costs incurred along with supporting documents and/or financial reports with sufficient detail to enable the Commission to

verify that the costs were incurred for the programs identified and that the Commission property taxes used as the funding source are being spent on allowable purposes.

- Advance payments are not allowable.
- For non-County government entities, if the costs are for capital improvements or for operating costs in advance of a capital improvement, a use agreement must be executed to enable the Commission to receive fair value for the funding provided.
- For salary/compensation expenses, the County, municipality or organization shall provide a payroll register or a suitable mechanism to verify payroll expenses. For supplies and materials, other services and charges including contracted services, and any capital purchases, the County, municipality or organization shall provide receipts with original signatures verifying that the goods or services were received.
- Contract should describe what documentation will be required.
- All work or services must be fully complete or provided by the end of the fiscal year (June 30) in which the funding was approved by the County Council

Vendor Requirements

- Statement of Work per the above sections
- By-Laws (for Non-Profits)
- Affidavit
- Certificate of Good Standing from State of Maryland (for Non-Profits)
- Articles of Incorporation