

**PARK PARTNERS COOPERATIVE AGREEMENT
BETWEEN
THE DISTRICT OF COLUMBIA
DEPARTMENT OF PARKS AND RECREATION
AND
THE FRIENDS OF GUY MASON RECREATION CENTER, INC.**

This Park Partners Cooperative Agreement (herein referred to as "the Agreement") is made and entered on this 5th day of December between the District of Columbia, a Municipal Corporation, acting by and through the District of Columbia Department of Parks and Recreation (herein referred to as "District" and the "DPR" respectively) and Friends of Guy Mason Recreation Center Inc., a 501(c)(3) not for profit corporation (herein referred to as "Park Partner"), a District of Columbia registered organization responsible for serving as a liaison between the community surrounding Guy Mason Recreation Center and DPR and preserving, beautifying and improving the park grounds and facilities at Guy Mason Recreation Center (hereinafter, "Park," "Guy Mason Recreation Center," and/or "Guy Mason Park").

Recitals

WHEREAS, pursuant to D.C. Official Code §10-304(a) and Title 19 Section 1105 of the District of Columbia Municipal Regulations ("DCMR"), §1105, DPR may form partnerships with neighborhood, community and civic groups to permit private persons and organizations to improve and beautify parks, playgrounds, and recreation centers under DPR's jurisdiction, to accomplish a stated goal or mission; and

WHEREAS, consistent with the aforementioned authority afforded DPR, DPR has instituted a program known as the "Friends of Program" for the improvement, beautification, advocacy, fundraising, and certain maintenance of DPR managed real property; and

WHEREAS, DPR desires to enter in Cooperative Agreements with individuals, corporations, associations, community and/or neighborhood civic groups or organizations whereby such entities and persons, as the case may be, agree to provide for or cause to be provided for the maintenance, renovation, and/or beautification of park sites and agree to cooperate with and assist DPR in the performance of the necessary administrative and regulatory functions essential to the implementation of the "Friends of Program"; and

WHEREAS, DPR is the District of Columbia agency charged with the management, maintenance and operation of the Guy Mason Recreation Center, a park and/or recreation facility within the control of the District of Columbia government; and

WHEREAS, the Friends of Guy Mason Recreation Center, Inc. desires to participate in the Park Partner Program, and perform certain maintenance, beautification, and/or coordination of improvements of DPR real property known as Guy Mason Park and/or Guy Mason Recreation Center, located at 3600 Calvert Street, NW, pursuant to responsibilities outlined and agreed upon in this Agreement; and

WHEREAS, Friends of Guy Mason Recreation Center Inc. is a District of Columbia not for profit corporation created to serve as a liaison between the community surrounding Guy Mason Recreation Center and DPR and preserve, beautify and improve the grounds and facilities at Guy Mason Recreation Center, and is in good standing and is authorized to execute and perform this Agreement; and

WHEREAS, it is understood and agreed between the parties to this Agreement that any and all construction, maintenance, and coordination of the improvements of the park site, including but not limited to landscaping and/or installation of equipment of any sort located on the said property site, must be prior approved by DPR in writing; and

WHEREAS, prior to the entry onto the park site for purposes of the Agreement, the Park Partner shall specifically obtain from DPR and/or the District any and all necessary approvals and permits onto said property, as may be required by DPR; and

WHEREAS, it is understood and agreed that DPR, insofar as it is legally permitted to do so, shall assist Park Partner in obtaining the required permits or licenses directly related to Park Partner's activities on said property; provided however the Park Partner shall bear any and all costs and expenses connected in any way with obtaining said permits and licenses; and

WHEREAS, the signatories of the Agreement accept the division of liability and duties enumerated herein.

NOW THEREFORE, the Parties hereto agree as follows:

I. Scope of Agreement

- a. General. This Agreement shall apply to maintenance of and improvements to the park site and Park Partner's activities located at the park site. The recitals above are incorporated herein and made a part of this Agreement.
- b. Park Improvement and Maintenance Plan. In accordance with 19 DCMR §1105.4, Park Partner shall submit to the Director of DPR, a plan for the maintenance, beautification, general improvements to the park site, and where applicable a Statement or Scope of Work (collectively, the Park Improvement and Maintenance Plan), which upon acceptance by DPR, will be considered an addendum to this Agreement and shall be appended to this Agreement.

II. Term

This Agreement shall become effective as of the date of full execution and shall continue in force and effect for a period of three (3) years (the "Initial Term") from the date hereof, unless earlier terminated by DPR or the Park Partner as herein provided. Upon expiration of the initial term, the Agreement may be renewed for an additional three (3) years, or a lesser term (the "Renewal Term") by a written notice to DPR from the Park Partner of its desire to renew this Agreement under the same terms and conditions, unless otherwise agreed to in writing by all parties to this Agreement. The Park Partner's notice of its intent to renew the term of this Agreement shall be sent to and received by DPR thirty (30), but not more than one hundred eighty (180) days prior to the expiration of said initial term. Notice shall be provided in accordance to Section IV of this Agreement. The Renewal Term must be accepted and approved by DPR in writing in order to proceed.



III. Specific Responsibilities of the Parties

a. Park Partner

1) Securing Advisory Neighborhood Commission (ANC) Approval. Prior to either party executing this Agreement, Park Partner agrees to present this Agreement at a duly noticed and convened public meeting of ANC 3B, within whose Commission boundaries the Park is located, and to provide DPR with advance notice of the meeting. Park Partner will request ANC 3B to adopt a resolution stating (1) that the ANC supports Park Partner's efforts to enter into this Agreement, and (2) that the ANC has designated Park Partner as its official representative for this site. Park Partner will notify DPR of the ANC's action within 5 business days and provide DPR with a signed copy of the resolution. Park Partner also agrees to give timely notice to ANC 3C of its intention to enter into this Agreement and to convey to DPR any comments or recommendations of ANC 3C regarding this Agreement.

2) Public Participation. Park Partner agrees to provide appropriate opportunities for participation in the programs and support activities of Park Partner to all who request such participation. Park Partner agrees to provide the names and contact information for each of its Board members to DPR upon written request and to maintain this information in an in-house database.

3) Meetings. All meetings of Park Partner's Board of Directors will be scheduled reasonably in advance, publicly announced, and open to the public. Park Partner agrees to give reasonable advance notice to DPR of when and where each such meeting is scheduled.

4) Monthly Site Visits. Park Partner agrees to visit the Park no less than once per month and submit quarterly reports to DPR summarizing its activities using the quarterly reporting form provided via email by DPR at the end of each quarter

5) Donation Agreements. Park Partner agrees to complete and submit a donation inquiry form and donation agreement, on forms provided and/or approved by DPR, for all improvements within the park, or other donations, provided by the Park Partner.

6) Improvements and Approvals. Park Partner will submit all construction plans and designs for projects undertaken pursuant to this Agreement for DPR's prior approval. Park Partner understands and accepts that all changes and improvements to the Park pursuant to this Agreement shall become the property of the District of Columbia government.

7) Training. Park Partner agrees to make reasonable efforts to take advantage of workshops, training, resources and events hosted by DPR which are relevant to Park Partner's mission, provided that DPR provides Park Partner reasonable advance notice.

8) Standards. Park Partner agrees to abide by DPR's Landscaping Design Standards and any other DPR regulations, rules and policies relating to parks and the subject matter hereof, as well as subsequent changes and additions made to such standards, regulations, rules and policies.

9) Fundraising. Park Partner may conduct fundraising activities to provide, or cause to be provided, improvements and services for the Park, in accordance with the provisions of this Agreement and for ancillary purposes consistent with Park Partner's Articles of Incorporation and By-laws (included as Attachment A to this Agreement). Notwithstanding any provision to the contrary contained herein, Park Partner acknowledges and agrees that fundraising activities may not be conducted on location at Guy Mason Park or Guy Mason Recreation Center unless authorized by the Director..

10) Maintenance of Corporate Existence. In order to facilitate contributions to Park Partner, Park Partner agrees that it shall maintain its corporate existence under the laws of the District of Columbia as a not for profit corporation and shall maintain its tax-exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, for the duration of this Agreement. The Federal Employer Identification Number of Park Partner is 52-1719980.

11) Repository of Funds. Park Partner agrees to diligently engage in fundraising for the purpose of park improvements (where applicable) and to maintain all funds raised for Park Partner in dedicated bank accounts in Park Partner's name. Park Partner will make disbursements solely for improvements and services for the Park, in accordance with this Agreement, and Park Partner will provide bi-annual (or more frequently if requested) accounting to DPR of all funds collected by and for Park Partner for the Park. In the event of termination of this Agreement, any funds being held and raised by Park Partner shall continue to be used to support Guy Mason Recreation Center and its surrounding park grounds in conformance with Park Partner's By-Laws and pursuant to all applicable federal and local laws governing the use of such donations. DPR reserves all approval rights with respect to the use of any funds at its property. Further, upon termination of this Agreement, Park Partner shall notify the above referenced ANC of such termination.

12) Community Outreach and Communication. Park Partner will make reasonable efforts to assist DPR in posting and distributing announcements and events through any website; press advisories; list serves; or electronic newsletter maintained by Park Partner. Park Partner shall coordinate all publicity, flyers, advertising, website content, and any other marketing information pertaining to the Park or Recreation Site with DPR's Office of Communications. DPR reserves the right to review and approve all such communications prior to their use.

13) Financial Responsibility. The Park Partner and its officers, members, agents, employees, contractors and volunteers shall be authorized by the District to perform only those maintenance or coordination of improvement activities as specified in this Agreement. At all times Park Partner shall retain full financial responsibility for monies owed under all contracts entered into by the Park Partner. Should any person perform improvements and/or maintenance activities on behalf of the Park Partner which are not prior approved by DPR in keeping with the terms of this Agreement, DPR reserves the right to require the removal of any such improvements and or ceasing of such activities, and in such event DPR reserves all available remedies at law.

14) Notice and/or Communication. Unless otherwise specified, any notice or communication between Park Partner and DPR shall be provided as dictated in Section IV.

b. Department of Parks and Recreation

1) Access. DPR agrees to make the Park available to the Park Partner in order to advance the goals articulated in this Agreement and the Park Improvement and Maintenance Plan(s). Notwithstanding the foregoing, prior to entry onto the Park for purposes of constructing any physical improvement to the Park site or moving earth, or as otherwise required by the District Department of General Services. DPR reserves the right to require Park Partner to execute a Right of Entry, in form and substance reasonably required by DGS.

2) Land Jurisdiction. The park will remain at all times under the jurisdiction of DPR and under the permanent control and ownership of the District of Columbia. This Agreement shall in no way be construed to intend to confer or transfer ownership rights of the District of Columbia to Park Partner. All improvements made in the Park shall become the property of the District of Columbia immediately following installation. In the case of improvements requiring on-site inspection by DPR, ownership of such improvements, and consequent liability will convey once the site is determined by the District to meet relevant inspection criteria.

3) Site Inspection. The District and DPR shall not relinquish their preexisting right to conduct an onsite inspection at any time during the course of the progress of any Park Improvement and Maintenance Plan carried out by Park Partner pursuant to this Agreement and its related Park Improvement and Maintenance Plan(s). Inspection shall be made by DPR no later than ten (10) business days following notification by Park Partner of the completion of the improvement(s). Thereafter, the Park Partner shall forward copies of all relevant warranties and guarantees to DPR. The District of Columbia reserves the right to remove immediately any dangerous condition resulting from maintenance, improvement and/or beautification project performed by the Park Partner. However, DPR agrees that improvements donated by the Park Partners are intended

for use in the park at Guy Mason Recreation Center. Accordingly, DPR agrees not to remove any items from the park/site donated by the Park Partner which do not present a dangerous condition without first providing a 30 day notice to the Park Partner and discussing with the Park Partner the further use of such items. The Park Partner shall provide to DPR the original warranties or guarantees for any items/equipment installed in the park.

4) Design Approvals. DPR's Office of Planning and Capital Projects must approve all proposed improvements before work commences. DPR shall coordinate the necessary approval of governmental agencies such as the Departments of Consumer and Regulatory Affairs, Transportation, and Environment and, as applicable, the National Capital Planning Commission, etc. Prior to commencing work on any improvement, the Park Partner shall specifically obtain, with the assistance from DPR as set forth herein, from the District, all required approvals and permits.

5) Acceptance of Project. Pursuant to Section 1105.6 of Title 19 of the District of Columbia Municipal Regulations, improvements made to the Park pursuant to this Agreement shall become the property of the District of Columbia government. DPR intends to take full legal responsibility for such improvements upon completion of the improvements set forth in the Park Improvement and Maintenance Plan(s). If required, Park Partner and DPR shall file the appropriate District government donation documents with respect to such improvements.

6) Approvals and Review. Consistent with the spirit of cooperation embodied in this Agreement, DPR agrees to use best efforts to review and approve all materials forwarded by the Park Partner in a timely manner and to provide assurance, where requested by the Park Partner, to ensure that the work-site meets District standards for safety. Further, DPR agrees to inspect completed projects in a timely manner. Park Partner agrees to provide DPR at least 30 days notice prior to the commencement of any major renovations which will require the closing of the park or areas of the park (e.g., replacement of playground equipment, resurfacing of tennis courts), so that the community may be adequately notified. Any Park closing shall be made with the assistance of and under the supervision of DPR employees, it being agreed that Park Partner shall have no authority to unilaterally close or block off any portion of the Park without DPR prior written approval.

7) Maintenance. The intent of this Agreement is to augment, not replace, DPR's current rights and responsibilities with respect to the Park. Notwithstanding any provision to the contrary contained in this Agreement, neither the District nor DPR relinquishes these rights, duties, responsibilities and obligations by entering into this Agreement.

8) Recognition of Park Partner. DPR agrees to publicly recognize Park Partner as the official "Friends of" group for the Park.

IV. Communication

The parties agree to maintain open lines of communication at all times during the operation of this Agreement. Except where otherwise provided in this Agreement, all notices requires in this Agreement, including any change in the person designated to receive notices shall be sent by mail, messenger or facsimile to the person designated herein in writing by each party to receive such notice at the address listed below:

For the Department of Parks and Recreation

Office of Partnerships and Development
Attn: Katie Rehwaldt
1250 U Street, NW
Washington, DC 20009
Phone: 202-257-0173 or 202-673-9270
kathleen.rehwaldt@dc.gov or dprpartnerships@dc.gov

For Park Partner:

Dan Melman, President
Friends of Guy Mason Recreation Center, Inc.
c/o 2711 36th Street, NW
Washington, D.C. 20007
Phone: (202) 841-8353
Email: melmanrogers@gmail.com

V. Waiver, Indemnity and Insurance

- a. Neither party shall make any claim whatsoever against the other party's directors, officers, trustees, employees, members or agents for, or on account of, anything done or omitted in connection with this Agreement.
- b. The Friends of Guy Mason Recreation Center, Inc. hereby waives, releases and forever discharges the District of Columbia, its agency, its directors, or employees, agents and any other person or entity connected with the District of Columbia, and agrees to indemnify and hold harmless same from any and all liability, claims, damages and demands of whatever kind or nature arising out of, in connection with or related in any way to work performed by or at the direction of members of the Friends of Guy Mason Recreation Center, Inc. or Friends of Guy Mason Recreation Center, Inc. volunteers; provided, however, that this indemnification shall not extend to events caused by the negligence or willful misconduct of DPR or its employees. The provisions of this Section V of the Agreement shall survive the termination and/or expiration of this Agreement.
- c. The District of Columbia, a self-insured municipal corporation, and its agencies shall be held harmless for any financial damages or losses resulting from contractual obligations, actions or omissions of the Park Partner and the Park Partner's officers, directors, members, agents, employees, contractors and/or

volunteers in the performance of activities pursuant to this Agreement. Park Partner agrees that all its contracts with independent contractors for the improvements listed in Exhibits B (Park Improvement and Maintenance Plan) shall contain the following provisions:

- i. The District and DPR shall be listed as additional insureds by the contractor's insurance company; Park Partner agrees to provide DPR's General Counsel the certificate of insurance demonstrating this co-insurance and indemnification at least five (5) days prior to the work;
- ii. No work shall commence by the contractor without DPR's prior approval of the contract covering the work (including, without limitation, the vendor and scope and schedule of work) and prior approval of the said insurance coverage.

VI. Right to Terminate

- a. DPR and Park Partner each shall have the right to terminate this Agreement on the basis of material breach of this Agreement by the other party that is not cured within 60 days from the date of notice of the breach is received by the breaching party. The terminating party shall give the other party written notice of any such termination of the Agreement and the effective date thereof, which shall not be less than 30 days from the date of expiration of the applicable cure period.
- b. Park Partner may terminate this Agreement per notice to DPR if Park Partner elects to dissolve its corporate existence.
- c. DPR and the District of Columbia reserve all rights to terminate this Agreement as may be allowed by law, including, without limitation, the provisions of 19 DCMR section 1105.8, as may be amended from time to time
- d. DPR or Park Partner may also terminate this Agreement on the following grounds:
 - i. Lack of local funding;
 - ii. Lack of Congressionally-approved budget;
 - iii. Changes in applicable law;
 - iv. Changes in District of federal policy affecting these services;
 - v. Changes in the structure or nature of this program; or
 - vi. Elimination of programs or services.
- e. All Park Improvement and Maintenance Plans shall also be automatically terminated as of the effective date of termination of this Agreement.
- f. If this Agreement is so cancelled or terminated for any reason, there shall be no further obligations of either party except as expressly stated elsewhere in this Agreement. Park Partner and Park Partner's officers, agents, employees, contractors or volunteers shall not perform additional activities within the park site after such termination or cancellation.

VII. Modification

No waiver or modification of any provision of this Agreement will be effective unless it is in writing and signed by duly authorized representatives of DPR and Park Partner.

VIII. Assignment

This Agreement shall not be assigned to any other party unless expressly authorized by DPR.

IX. Applicable Laws

DPR and Park Partner shall comply with all applicable laws, regulations and rules whether now in force or hereafter enacted or promulgated. Nothing in this Agreement shall be construed as in any way impairing the general powers of DPR and/or the District of Columbia for supervision, regulation, and control of its property under such applicable laws, regulations and rules.

X. Miscellaneous

- a. DPR and Park Partner, and Park Partner's officers, members, agents, employees, contractors, or volunteers shall comply with all District laws and regulations in the performance of all activities pursuant to this Agreement.
- b. The Park Partner and all persons under its control shall conduct themselves in such a manner as not to damage DPR's property or other adjunct property, nor to injure any person thereon.
- c. Failure of either party to enforce any provision of this Agreement shall not be deemed to be a waiver of such provisions unless otherwise specified in writing by the party making the waiver.
- d. This Agreement, including all exhibits attached hereto, represents the entire Agreement between the parties and supersedes all prior agreements and understandings. This Agreement and any Park Improvement and Maintenance Plans may be executed in counterparts, each copy of which shall constitute an original document and all of which taken together shall constitute one single agreement between the parties.
- e. In the event that any provision of this Agreement conflicts with the law under which this Agreement is to be construed or if any such provision is held invalid by a competent authority, such provision shall be deemed to be restated to reflect as nearly as possible the original intentions of the parties in accordance with applicable law. The remainder of this Agreement shall remain in full force and effect.
- f. Except where expressly provided as being in the discretion of a party, where approval, acceptance, consent or similar action by either party is required under this Agreement, such action shall not be unreasonably delayed or withheld.
- g. A delay or omission by either party to exercise any right or power under this Agreement shall not be construed to be a waiver thereof. A waiver by either of the parties of any of the covenants to be performed by the other or any breach

thereof shall not be construed to be a waiver of any succeeding breach thereof or any other covenant herein contained.

- h. Any provision of this Agreement expressly identified as surviving termination or expiration of this Agreement, as well as any provision of this Agreement that contemplates performance or observance subsequent to termination or expiration of this Agreement shall continue in full force and effect.
- i. This Agreement is entered into solely between, and may be enforced only by, Park Partner and DPR, and this Agreement shall not be deemed to create any rights in third parties, including suppliers and customers of a party, or to create any obligations of a party to any such third parties.

XI. Anti-Deficiency

The Parties acknowledge and agree that the District and DPR's obligations to fulfill financial obligations of any kind pursuant to any and all provisions of this Agreement, or any subsequent agreement entered into by the parties pursuant to this Agreement, are and shall remain subject to the provisions of (i) the federal Anti-Deficiency Act, 31 U.S.C. §§1341, 1342, 1349, 1351, (ii) the District of Columbia Anti-Deficiency Act, D.C. Official Code §§ 47-355.01-355.08 (2001), (iii) D.C. Official Code § 47-105 (2001), and (iv) D.C. Official Code § 1-204.46 (2006 Supp.), as the foregoing statutes may be amended from time to time, regardless of whether a particular obligation has been expressly so conditioned.

IN WITNESS THEREOF, THIS Agreement is dated and effected as of the date affixed with the signature of the Director of Parks and Recreation.

FOR THE D.C. DEPARTMENT OF PARKS AND RECREATION

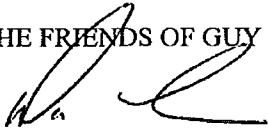


Dr. Sharia Shanklin
Interim Director

1-8-14

Date

FOR THE FRIENDS OF GUY MASON RECREATION CENTER, INC.



Dan Melman
President

12/5/13

Date



Attachment A

Friends of Guy Mason Recreation Center, Inc. Articles of Incorporation and Bylaws

A handwritten mark, possibly a signature or initials, consisting of a large, stylized letter 'D' or similar shape.

Park Improvement and Maintenance Plan. As part of the Park Improvement and Maintenance Plan, Park Partner will do the following:

- a) **Landscaping.** Park Partner may, from time to time, propose to undertake additional areas of landscape development. Any such additions and improvements will be subject to review and approval by DPR prior to work commencing.
- b) **Fragrance Garden.** Park Partner will continue to provide maintenance to the existing Fragrance Garden, including but not limited to spring weeding and mulching and fall clean-up.
- c) **Playground.** Park Partner will coordinate the functioning and physical condition of the playground at the Guy Mason Recreation Center and may, from time to time, support further additions and improvements. Any such additions and improvements will be subject to review and approval by DPR prior to work commencing.
- d) **Tree Maintenance.** Park Partner will work to maintain the health of the major trees located on the grounds of Guy Mason Recreation Center. Park Partner will also plant new trees, pursuant to advice from Park Partner landscaping consultant and upon approval from DPR (and the District Department of Transportation).