



## MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (MOU), entered into as of the date of the last signature affixed hereto (Effective Date), is made between National Recreation and Park Association, Incorporated, a New York not-for-profit corporation and Section 501(c)(3) organization located at 22377 Belmont Ridge Road, Ashburn, Virginia, 20148 ("NRPA" or "Grantor") and Indian River County – Parks, Recreation & Conservation, a provider of park, recreation, or community services located at 1590 9<sup>th</sup> Street, Vero Beach, FL 32962 ("Grantee").

### 1. Purpose

The purpose of this MOU is to confirm approval of the terms governing the Grantee's acceptance of inkind training from Positive Coaching Alliance ("Project").

Made possible, in part, through the support of the Susan Crown Exchange, NRPA is managing the administration of the grant program ("Program"). Grants made through this Program are intended to ensure park and recreation staff and volunteers working with young people have the skills, knowledge and confidence to support positive youth development.

Having been selected as a recipient of Grant Funds through this Program, Grantee is required to accept the terms contained within this MOU in order to receive the Grant Funds and participate in this Project.

### 2. Grantee Project Requirements

Grantee will implement the Project in alignment with the guidelines below:

- A. Based on the number proposed in the Grantee's original application, the Grantee will strive to train 70 staff, coaches and volunteers working with youth in partnership with Positive Coaching Alliance.
  - Grantee will receive VIRTUAL workshops from Positive Coaching Alliance.
    - Grantee will receive up to 1 workshop.
  - Grantee will receive 20 complimentary seats per workshop for PCA's online, self-paced modules.
  - NRPA will collaborate with the Grantee to encourage participation in training.
  - The Grantee will commit to providing regular updates on progress toward the target reach number.
- B. Grantee will partner with NRPA and Positive Coaching Alliance to coordinate training sessions.
  - Grantee and Positive Coaching Alliance will agree on the number of training sessions.
  - To secure the workshop date, the workshop(s) must be scheduled 14 days in advance.
    - A workshop-rescheduling fee of \$200 dollars per workshop may be incurred for workshops postponed or rescheduled after being scheduled when the notification to PCA of the postponement is less than 10 days from the scheduled date. Workshop(s) that are postponed on the day of the workshop may incur a fee of \$300 dollars per workshop.
  - Unused workshops and unused online seats expire at the end of the contract period.



- No video and/or audio recording of PCA workshops may be made, unless you have express written consent from PCA.
- C. Grantee will cooperate with NRPA's evaluation efforts to track the reach and impact of the grant.
  - These efforts may include but are not limited to supporting the collection of complete and accurate information from training participants, assisting with the organization/completion of interviews/focus groups, responding to surveys gauging training impact on participants, and submitting final reports.
- D. Grantee will complete training by December 31, 2024.

### **3. Promotion**

NRPA and the Susan Crown Exchange may use Grantee's name and/or park names, photos, and/or information in connection with the Project for promotional or other purposes associated with the Project, in any and all media, without limitation and without further payment, notification, or permission, except where prohibited by law. If the Grantee's photo release form does not cover promotional and other uses, NRPA can provide one upon request.

NRPA also grants Grantee a limited, non-exclusive, and royalty-free license to use NRPA's name, trademark, logos, and other identifying marks ("Licensed Marks") for promotional or other purposes associated with the Project, unless prohibited by law. NRPA shall have the right to review and approve the use of the Licensed Marks, as well as any and all related promotional and advertising material, in order to ensure that the use of the Licensed Marks meets NRPA's quality assurance standards.

NRPA will provide Grantee with a marketing toolkit with pre-approved messaging, press release template, and logos. Any statement, message, announcement or use of Susan Crown Exchange's logo related to this grant or Project used by the Grantee that is not included in the marketing toolkit must be provided to NRPA and approved by NRPA in advance of its release to the public.

All Parties shall retain all title, ownership, rights, and intellectual property rights in their own respective marks, logos, content, materials, tools and intellectual property. Under no circumstance will any Party to this MOU use another Party's Licensed Marks in a false, misleading, or disparaging manner. Upon completion of the Project, Parties shall, at their own expense, return all copies Licensed Marks to their respective owners beyond what is necessary for record-keeping purposes.

### **4. Limits of Liability**

To the fullest extent permitted by applicable law, Grantee hereby release the Susan Crown Exchange and NRPA, and each of their directors, officers, managers, members, employees, agents, attorneys, advisors, consultants, volunteers and other like parties (collectively the "Support Parties"), from any liability whatsoever relating to or arising out of the Project or the use of the Grant Funds. Grantee further waives any right to sue or bring any action of any kind against the Support Parties relating to or arising out of the Project or the use of the Grant Funds. This limitation of liability shall apply whether the Support Parties' liability arises due to breach of contract, breach of warranty, or as a result of tortious conduct, including, but not limited to, negligence (of any kind), strict liability, statutory liability, or any other causes of action.



NRPA's liability, if any, arising out of or in any way related to the relationship and/or dealings between NRPA and Grantee, shall be limited to the payment amounts paid pursuant to this MOU. NRPA shall not be liable for any damages caused by or arising out of the acts or omissions of a third party.

## **5. Indemnification**

To the fullest extent permitted by applicable law, Grantee shall indemnify, defend and hold harmless the Support Parties from any and all causes of action, suits, settlements, judgments, liens, indebtedness, damages, losses, costs, expenses, fees (including attorney's fees and costs), penalties, claims, claims for relief, liabilities and demands of every kind, nature, and character (collectively, "Claims") relating to or arising out of: (i) Grantees' involvement in the development, planning, demolition, construction, installation, implementation, maintenance, repair and/or management of the Project; (ii) any failure by Grantees to comply with any applicable laws, rules and/or regulations (including, without

limitation, building, safety and fire codes, etc.); (iii) Grantee's negligence, misconduct, or malfeasance of Grantee or

their agents or representatives; or (iv) any breach by Grantee of any agreement involving the Project or the use of the Grant Funds. In no event shall the Support Parties be liable for any punitive, exemplary, special, incidental, indirect or

consequential damages of any kind (including, but not limited to loss of profits, loss of reputation and/or loss of current or prospective business advantage, even where such losses are characterized as direct damages) arising out of or in any way related to the relationship and/or dealings between the parties, regardless of whether the claim under which damages are sought is based upon contract, tort, negligence (of any kind), strict liability or otherwise, and regardless of whether the parties have been advised of the possibility of such damages at the time of contracting or otherwise. In such cases where Subgrantee's obligation to indemnify may be limited due to the requirements of federal, state, or local laws, Subgrantee shall be responsible for the ordinary negligent acts and omissions of Subgrantee's agents and employees causing harm to persons not a Party to this MOU.

## **6. Confidentiality**

During the term of this MOU, the Parties may learn certain Confidential Information of each other. For purposes of this MOU, "Confidential Information" means the confidential and proprietary information, not generally known by non-party personnel, used by the disclosing party and which is proprietary to the disclosing party, and includes, without limitation, the disclosing party's trade secret or proprietary personnel, financial, marketing and business information, including strategic, operations and other business plans or forecasts, and Confidential Information provided by the disclosing party regarding its employees, customers, vendors, sponsors and other contractors. The receiving party shall: (i) protect and safeguard the confidentiality of the disclosing party's Confidential Information with at least the same degree of care as the receiving party would protect its own Confidential Information, but in no event with less than a commercially reasonable degree of care; (ii) not use the disclosing party's confidential information, or permit it to be accessed or used, for any purpose other than to exercise its rights or perform its obligations under this MOU; and (iii) not disclose any such Confidential Information to any person, except to the receiving party's officers, employees, consultants, accountants, and legal advisors who are bound by written confidentiality obligations and have a need to know the Confidential



Information to assist the receiving party, or act on its behalf, to exercise its rights or perform its obligations under this MOU.

## **7. Term**

This MOU shall be effective as of the Effective Date hereof and shall continue until December 31, 2024 (the "Term") in accordance with Section 11.

## **8. Audit**

Grantee is expected to keep and maintain detailed books and records relating to the Grant, and the Grant Funds (including, without limitation, all uses thereof and expenditures therefrom) (collectively, the "Records") during the Term and for a period of seven (7) years thereafter (the "Audit Period"). NRPA and its assigns have the right to audit the Grantees' financial records relating to this MOU upon not less than ten (10) business days' advance written notice to Grantees by NRPA at any time during the Audit Period, at NRPA's sole expense, during Grantee's normal business hours. If as a result of an audit, NRPA determines that Grant Funds were not spent in accordance with the purposes of this Grant, the Grantees shall: (1) be required to return any Grant Funds not substantiated, and (2) reimburse NRPA for all costs and expenses incurred in connection with such audit. If NRPA determines that Grant Funds were used for fraudulent purposes, the Grantees shall be barred from participation in any further programs. Grantees shall further indemnify, defend, and hold the Support Parties harmless from any acts or omissions relating to its fraudulent use of the Grant Funds.

## **9. Termination and Repayment**

Any Party may terminate this MOU at any time for any reason upon providing the other party thirty (30) calendar days' written notice. Further, either party may terminate this MOU at any time effective upon receipt of written notice by the other party of failure to perform.

None of the Parties shall be liable to the other by reason of termination of this MOU for compensation, reimbursement or damages for any loss of prospective profits on anticipated sales or for expenditures, investments, leases or other commitments relating to the business or goodwill of any of the parties, notwithstanding any law to the contrary. No termination of this MOU shall release the obligation to pay any sums due to the terminating party which accrued prior to such termination.

## **12. Compliance with Laws.**

Grantee will comply in full with all applicable federal, state, and local laws and regulations and rules of governmental agencies and bodies relating to Grantee's acceptance and use of the Grant Funds, including those that govern gifts, donations, contributions, expenditures, and anything else of value that benefit, directly or indirectly, public officials. Grantee agrees to notify Grantor immediately: (a) of any conduct on Grantee's part that may be in violation of any applicable federal, state and local laws and (b) if Grantee receives notice of, or otherwise becomes aware of, any actual or threatened investigation, action, litigation, or disciplinary or other proceeding of which Grantee is or may be a subject in connection with the Grant Funds and to the extent permitted by applicable law, shall provide Grantor with all written notices and communications received by Grantee relating to or any such investigation, action, litigation, or disciplinary proceeding.



### **13. Governing Law, Jurisdiction, Venue and Dispute Resolution**

This MOU and the performance thereof shall be governed, interpreted, construed and regulated by the law of the Commonwealth of Virginia, without reference to or application of principles concerning conflicts of laws of any jurisdiction. Notwithstanding the foregoing, this governing law and venue provision shall not apply to a Grantee that is a state or public institution and afforded sovereign immunity under applicable state law. Before commencing any litigation arising out of or relating to the relationship of the parties, this MOU, or the breach hereof, the parties agree to negotiate in good faith to resolve such dispute within fifteen (15) business days of notice by the other party of such dispute. Should the parties fail to mutually resolve their dispute and commence litigation, the parties hereby irrevocably consent to venue before the federal and state courts situated in the Commonwealth of Virginia and each party hereby irrevocably submits to the jurisdiction of such courts. The prevailing party in any action or litigation, including appeals, arising out of or related to this MOU shall be awarded its reasonable attorney's fees and costs. The Parties agree that NRPA would not have an adequate remedy at law and would be irreparably injured if Grantee breaches its covenants hereunder and NRPA shall be entitled to injunctive relief as a remedy for any breach or threatened breach hereof without showing or proving any actual damages.

### **14. No Agency; Relationship of the Parties**

Each party and their respective officers, employees, agents, contractors and/or consultants are independent contractors and are not, nor shall they hold themselves out to as or claim to be, employees or agents of the other party or any department, agency or unit thereof; accordingly, neither party shall have any authority to enter into any agreement on behalf of the other party or otherwise cause the other party to incur any obligations whatsoever other than as set forth herein.

### **15. Notices**

All notices, requests, demands and other communications required or permitted under this MOU must be in writing and will be deemed to have been duly given, made and received only (a) when personally delivered, or (b) on the date specified for delivery when deposited with an overnight courier service such as Federal Express for delivery to the intended addressee, or (c) when sent via facsimile, only so long as followed by a hard copy sent in a manner set forth in (a) or (b) above, or (d) when delivered via email, only so long as followed by a hard copy sent in a manner set forth in (a) or (b) above, each of the foregoing addressed as set forth below:

If to Grantee, to:

Indian River County – Parks, Recreation & Conservation  
1590 9<sup>th</sup> Street, Vero Beach, FL 32962  
Attn: Gustavo Vergara  
Email: [gvergara@indianriver.gov](mailto:gvergara@indianriver.gov)

If to NRPA, to:

National Recreation and Park Association  
22377 Belmont Ridge Road  
Ashburn, VA 20148  
Attn: Teresa Morrissey  
Email: [tmorrissey@nrpa.org](mailto:tmorrissey@nrpa.org)



**16. Entire Agreement.**

This MOU supersedes any and all agreements, either oral or written, between the parties hereto with respect to the subject matter covered herein and contains all of the covenants and agreements between the parties with respect to the Grant purpose and Project in any manner whatsoever. Each party to this MOU acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which is not embodied herein, and that no other agreement, statement, or promise not contained in this MOU shall be valid or binding. Any modification of this MOU will be effective only if it is in writing signed by the parties hereto. Any changes, additions or deletions to this MOU, including the Project, must be approved in writing by all the parties. This MOU and all amendments may be signed in counterparts, each of which will constitute one and the same document. Any signature delivered via facsimile or other electronic means shall be deemed an original signature to this MOU. The section headings contained in this MOU are for reference purposes only and shall not affect in any way the meaning or interpretation of this MOU.

**17. Severability.**

If any term, covenant, or condition of this MOU or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this MOU, or the application of such term, covenant, or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each and every remaining term, covenant, or condition of this MOU shall be valid and enforced to the fullest extent permitted by law.



*These parties have caused this MOU to be signed by their duly authorized representatives as of the last date set forth below.*

**National Recreation and Park Association**

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Indian River County – Parks, Recreation & Conservation**

By: \_\_\_\_\_  
Susan Adams, Chairman

Date: \_\_\_\_\_

Approved by BOCC: August 20, 2024

**Positive Coaching Alliance**

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
Ryan L. Butler,  
Clerk of Court and Comptroller

Approved as to form and legal  
sufficiency:

\_\_\_\_\_  
William K. DeBaal, County Attorney