

Great Outdoors Colorado Ring the Peak Planning Grant Application Sponsorship

Memorandum of Understanding

This MEMORANDUM OF UNDERSTANDING (“MOU”) is made this _____ day of _____ 2016 by and between the CITY OF COLORADO SPRINGS, a home rule city and Colorado municipal corporation (“City”), the Trails and Open Space Coalition (TOSC) and Friends of the Peak (FoTP), Colorado nonprofit corporations. City, TOSC and FoTP may be individually referred to as a Party or collectively as the Parties to this MOU.

A. RECITALS

1. The City is an eligible applicant for a Great Outdoors Colorado (GOCO) planning grant as defined by GOCO as an incorporated municipality or special district that receives Conservation Trust Funds from the Department of Local Affairs.
2. TOSC and FoTP, desire to submit a planning grant application to GOCO to engage in a planning process to complete the Ring the Peak project, but they are not eligible recipients for a planning grant.
3. The City agrees to provide sponsorship as an eligible applicant in support of the Ring the Peak Planning Grant application to GOCO; whereas the City will be the submitting entity through which TOSC and FoTP will receive the benefit of the grant.
4. TOSC and FoTP understand and acknowledge that they shall be bound to the obligations of the grant agreement and shall be responsible for performance of all obligations required for performance of the grant agreement of funds are awarded for this project.

NOW THEREFORE, in consideration of the mutual promises stated below and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

B. GENERAL PROVISIONS

5. **Party Responsibilities**
 - a. TOSC and FoTP will cooperate with the City and provide all documents necessary for the City to fulfill the conditions of the Great Outdoors Grant Agreement.
 - b. The City shall not assume any obligation to TOSC and FoTP to coordinate, hire, operate, or otherwise secure or designate resources as contemplated by the Grant Agreement.
 - c. TOSC and FoTP will coordinate the planning process, as contemplated by the application, and complete all grant management requirements including, but not limited to: developing a scope of work, hiring, and compensating all professional

services required for grant implementation; planning process logistics and outreach; communication and marketing; and grant tracking, invoicing and closeout documentation as required by GOCO.

- d. TOSC agrees to submit invoices to the City for reimbursement of Grant Agreement eligible expenses. The City agrees to review the invoices and to process payments made from GOCO to the City to reimburse TOSC for submitted invoices.
6. **Approval of City Council.** The Parties understand and agree that the terms, conditions and provisions of this MOU are subject to the approval of the City Council of the City of Colorado Springs, which approval shall be evidenced by a City Council Resolution and the signature of the Mayor on the Grant Agreement.
7. **Cooperative Efforts.** This MOU shall be liberally construed in order to promote harmonious relations between the Parties with regard to their responsibilities under this MOU. In the event of a dispute between the Parties regarding the interpretation of this MOU, or the rights or obligations of the Parties in any situation arising from the performance of the obligations or responsibilities under this MOU, the Parties shall meet and negotiate in good faith a resolution designed to promote the relationship between the Parties.
8. **Termination.** This MOU shall terminate simultaneously with the termination of all obligations under the Grant Agreement. Section 11 regarding indemnification shall survive the termination of the MOU.
9. **Law.** This MOU is subject to and shall be interpreted under the law of the State of Colorado, and the Charter, City Code, Ordinances, Rules and Regulations of the City of Colorado Springs, Colorado, a home rule city and Colorado municipal corporation. Court jurisdiction shall exclusively be in the El Paso County District Court for the Fourth Judicial District of Colorado. The Parties shall insure that they and their employees, agents, and officers are familiar with, and comply with, applicable federal, state, and local laws and regulations as now written or later amended.
10. **Appropriation of Funds.** This MOU shall not create an obligation for the City to appropriate or give priority to budgeting monies for expenditures.
11. **Indemnity.** During the term of this Agreement, TOSC and FoTP agree and covenant to be responsible for, and to protect, defend (not excluding the City's right to participate), save harmless and indemnify the City, its officers, officials, agents, and employees (which shall be referred to collectively as the "City" in this provision) for and against any and all liabilities, actions, losses, claims, demands, damages, injuries, death or expenses of whatsoever kind and nature, including without limitation reasonable attorneys' fees and costs, arising out of the Grant Agreement and/or the acts or omissions of each respective party or its members, managers, officers, directors, agents, employees, volunteers, servants, contractors, or subcontractors.

12. **Independent Contractor.** In their performance of their obligations under this Agreement, it is understood, acknowledged and agreed between the Parties that TOSC and FoTP are at all times acting and performing as an independent contractor. The City shall neither have nor exercise any control or direction over the manner and means by which the TOSC and FoTP perform their obligations under the MOU other than as stated within the MOU terms and the terms of the Grant Agreement. TOSC and FoTP understand and agree that neither organization nor their employees, agents, servants or other personnel are City employees. TOSC and FoTP shall be solely responsible for payment of salaries, wages, payroll taxes, unemployment benefits or any other form of compensation or benefit to TOSC and FoTP, and any of their employees, agents, servants, contractors or other personnel performing services or work under this MOU, whether it be of a direct or indirect nature. Further, it is expressly understood and agreed that for such purposes, neither TOSC and FoTP nor their employees, agents, servants or other personnel shall be entitled to any City payroll, insurance, unemployment, Workers' Compensation, retirement or any other benefits whatsoever.

13. **Amendment.** No amendment or modification of this MOU shall be valid unless expressed in writing and executed by the Parties hereto in the same manner as the execution of this MOU.

14. **Merger and Integration.** This MOU and any exhibits attached hereto contain the entire agreement of the Parties with respect to the subject matter of this MOU, and supersede all prior negotiations, agreements and understandings with respect thereto.

15. **Assignment.** This MOU may not be assigned without the written approval of the City.

16. **Notice.**

For TOSC: Director, Trails and Open Space Coalition
1040 S 8th St
Colorado Springs, CO 80905

For FoTP: President, Friends of the Peak
PO Box 2494
Colorado Springs, CO 80901

For the City: Director, Parks, Recreation and Cultural Services
1401 Recreation Way
Colorado Springs, CO 80905

All notices so given shall be considered effective when delivered by hand delivery or in writing, as stated above.

17. Third Party Beneficiary. It is specifically agreed between the Parties that this MOU is not intended by any of its terms, provisions, or conditions to create in the public or any individual member of the public a third party beneficiary relationship, or to authorize any person not a party to this MOU to maintain a suit for personal injuries or property damage pursuant to the terms, provisions, or conditions of this MOU.

IN WITNESS WHEREOF, the parties have executed this MOU this ____ day of _____, 2016.

For Trails and Open Space Coalition

For City

Karen Palus, Director
Parks, Recreation and Cultural Services

For Friends of the Peak
