Agreement by and between
City of Brevard and Pisgah Area Southern Off-Road Bicycle Association

This agreement is entered into this day of July 1, 2024 by and between the City of Brevard (hereinafter called the "City") and the Southern Off Road Bicycle Association NC Chapter-Pisgah Area d/b/a Pisgah Area SORBA, a registered North Carolina non-profit corporation (hereinafter called PAS).

The City and PAS are committed to building a collaborative, mutually beneficial relationship. The City has a developed trail system, Bracken Preserve, linking the City to the Pisgah National Forest region. PAS is renowned for its expertise in trail construction, maintenance, and reconstruction, as well as its work to enhance and protect great mountain biking experiences within the Pisgah Forest for all users.

The City and PAS desire to define the working relationship between the two organizations, to strengthen and sustain that partnership, and combine joint efforts to maintain, enhance, and improve parks and public lands within the City of Brevard, with a specific focus on Bracken Preserve, and do hereby agree as follows:

Purpose of Agreement:

- Build sustainable procedures and resources for maintaining and enhancing the city-owned Bracken Preserve through trail maintenance, erosion control, and upkeep; the systematic removal of dead and dying trees identified by the City.
- The City and PAS will work in collaboration to maintain the existing multi-user trails located at Bracken Preserve.
- Create shared priorities for maintenance and improvement of City property;
- Support effective planning and use of community resources to advocate for conservation and public access to City parks;
- Maximize recruitment, involvement, and recognition of community volunteers for overall park improvements, which include trail maintenance, erosion control, and removal of dead or dying trees in community parks to enhance recreational opportunities.
- To support opportunities and events for the health and wellness of the Brevard community specifically around the sport of mountain biking

General Scope of Agreement:
The City and PAS will develop an annual work plan to address:

- An inventory of trail features in need of repair or maintenance
- Shared priorities in maintaining the multi-use trails and Bracken Preserve.
- Repairs to multi-use trails (i.e., tread work, rolling grade dips or drainage, corridor clearing)
- Cleanliness of the Park
- Clarify and implement appropriate risk management and safety procedures for volunteers on City property.
- Payment costs associated with the Park.
- Park uses by PAS.

Responsibilities:
The City agrees to:

- Provide donation of $10,000 in FY25 with consideration for addl. donations in future fiscal years.
- Grant access to pre-approved City parks for trail maintenance, removal of identified dead or dying or hazard trees, erosion control and occasional invasive species removal.
- Allocate staff support for identified and approved projects and efforts as requested.
- Clarify and implement appropriate risk management and safety procedures for volunteers on City property.
- Allow use of designated meeting space or classroom for PAS, which may include a shelter at a park or room in a recreation facility for approved PAS trainings or workshops.
- Allow PAS to utilize designated park areas, including trails and trees, for the purpose of educating and training staff and volunteers on chainsaw safety, trail maintenance techniques, and erosion control methods;
- Assign designated liaisons to ensure effective coordination with City departments;
- Inform PAS of any changes in the availability of staff and other resources;
- Provide technical assistance as needed for agreed-upon projects on City property, including, but not limited to guidance on appropriate locations within a park for work to be completed.
- Work collaboratively with PAS to 1) identify projects that will occur on City property, 2) develop an annual work plan based on the projects, 3) minimize unplanned projects as much as possible, 4) meet annually to evaluate the annual work plan and prepare for the next year.
- Work collaboratively with PAS to conduct community mountain biking programs within the park.
- Allow storage in a designated area as available at Bracken Preserve during the period in which the facility is authorized for use.
- Pay utility costs associated with the park.

PAS agrees to:

- Work collaboratively with the City to 1) identify projects that will occur on the Bracken Preserve City property, 2) develop an annual work plan and calendar of events based on projects and events, 3) minimize unplanned projects as much as possible, 4) meet annually to evaluate projects and shared priorities and prepare for the next year, 5) make an annual report on the number of projects and events completed, volunteers involved and volunteer hours worked for projects on City property);
- Allocate resources and volunteer support for approved projects and efforts;

- Inform the City of any changes in project plans or timetables;
- Provide orientation and oversight for volunteers and to ensure their safety;
- Provide materials and equipment to complete the project;
- Require all volunteers to sign a release and waiver for work on City property.
- Recommend materials to be used for project improvements for City approval;
- In the event an unplanned project(s) should be considered, PAS will submit a project proposal application no less than fourteen (14) days for minor projects and 30 days prior to proposed projects that require City support and materials;
- Provide a schedule and calendar of events (programs, workdays, etc.) annually; changes to the calendar should be submitted no less than thirty (30) days prior to the event;
- Perform trail maintenance and erosion control on City-owned property that is pre-approved by the City;
- Take down dead, dying or hazard trees from City-owned property that have been specifically identified, marked, and approved for removal by the City Public Works Director or his/her designee;
- Utilize their own equipment for all projects, including the use of chainsaws and hand tools;
- Work collaboratively with the City to conduct community mountain biking programs within the park
- Promote and follow all appropriate Park rules and regulations within the parameters of official PAS activities.
- Become familiar with the findings of the following documents and comply with their recommendations/requirements

    - Bracken Mountain Master Plan (2006)
    - North Carolina Clean Water Management Trust Fund Conservation Easement: Bracken Mountain (2007)
    - “Forest Management Plan: Bracken Mountain Recreation Area” (2013)

Program-Specific Scope of Agreement: See Exhibit A

General Terms and Conditions of Agreement

Administration. The City will designate representatives to administer this agreement and address issues that arise in the implementation of the activities outlined in the agreement. The City shall be the interpreter of the requirements of this agreement and work in conjunction with PAS to resolve issues.

Independent Contractor. PAS members and volunteers will be informed by PAS that, as volunteers on City Property, they are providing their services without compensation and will not be considered an employee, agent, or representative of the City and are therefore not entitled to any benefits of any kind, including, but not limited to, unemployment, workers’ compensation or retirement benefits from the City.

Sponsorship Programs. PAS may create and manage sponsorship programs. The City shall pre-approve all sponsorship candidates, and any associated signage, its location and the lifespan/removal process for signage. Sponsorship agreements are solely between PAS and the Sponsor.

Grants and Donations. PAS may seek grants for the maintenance of trails without prior City approval. PAS will consult and gain approval from the City before applying for grants for the development of

new trails or significant enhancement of existing trails. PAS will consult with the City before applying for grants with a matching or in-kind requirement no matter the purpose.

PAS may solicit donations at PAS events and through current PAS channels, which may be used for specific trails as well as general use.

Reporting. PAS will provide information to be included in the City's annual volunteer report. The information will include total volunteer numbers and hours and any additional information or pictures that will help the City provide information on the positive impacts of this partnership agreement. PAS will provide the City with the total number of volunteer hours contributed via this agreement. PAS will encourage participation from youth aged 18-25 and other underserved populations and will assist the City in tracking participation levels of these populations.

Insurance: PAS agrees to keep and maintain for the duration of this Agreement at least a $1,000,000 commercial general liability insurance policy and shall provide the City a certificate of insurance listing the City as certificate holder and as an additional insured under said policy. In the event of bodily injury or property damage loss caused by PAS negligent acts or omissions in connection with PAS services performed under this Agreement, PAS's Liability insurance shall be primary with respect to any other insurance which may be available to the City, regardless of how the "Other Insurance" provisions may read. In the event of cancellation, substantial changes, or nonrenewal, PAS shall give the City at least thirty (30) days prior written notice. No work shall be performed until PAS has furnished to the City the above-referenced certificates of insurance and associated endorsements, in a form suitable to the City. PAS will provide an updated copy of the liability policy no later than the 5th of March each year of this agreement (PAS annually renews insurance on March 1st).

Release and Hold Harmless: PAS, its board, and its volunteers agree to indemnify, release, defend, discharge, and hold harmless the City, its officers, employees, partners, and agents from any and all liability for personal injury and property damage arising out of or resulting from the acts or omissions of PAS, its volunteers or the actions of others, or from dangerous or defective property or equipment, known or unknown, now existing or which may arise in the future, on account of or in any way related to or arising out of participation in this volunteer service.

Nothing herein shall be construed as a waiver on the part of the City to any defense of any claim, including, but not limited to the defense of governmental immunity.

Waiver: PAS agrees to inform their volunteers that they are solely responsible for their health and safety, and made aware of the risks and dangers inherent in participating in this volunteer service. All volunteers shall sign the attached City of Asheville Volunteer Waiver and Release (Exhibit "B") to cover their participation.

Prior Approval: Volunteer activities organized by PAS will fall within those defined in the scope of this agreement. Volunteer activities that are either not specifically included in the agreement or fall into a medium or high level of risk will be entered into only after consultation with the designated City liaison and activities are approved.

Term: This agreement is in effect on the day and year it is authorized by the City and PAS and shall continue for one (1) year from the date of signing. The agreement shall automatically renew for up to five (5) additional one-year terms unless amended by the parties.

Term/Termination: This agreement may be terminated by either party for cause and/or violation of the Agreement upon thirty (30) days' notice in writing. If the agreement is terminated by PAS, permission to carry out projects and work on city-owned property will be suspended temporarily until a new agreement can be authorized.

Permits. PAS shall be responsible for obtaining and paying for all necessary permits (except that the City will secure tree removal permits) and ensuring compliance with all applicable Federal, State, and local government regulations.

Storage of Prohibited Items: PAS agrees that only items listed in **Exhibit "A. Permitted Use."** shall be stored and that no flammable liquids, hazardous materials, food, foodstuffs, or pesticides shall be stored on City property at any time. Any storage that is occupied during the agreement must be removed at the end of the agreement. Storage must be organized in a neat manner to not conflict with fire code, which includes keeping items clear from any electric panel or wiring; the City of Brevard has the right to remove any equipment or supplies being stored that are not in compliance.

Amendments: This agreement with the attached Exhibits "A" and "B" constitutes the entire agreement between the City and PAS. This agreement may be amended, supplemented, modified, or assigned only by duly executed written instruments as an amendment to this agreement.

Vehicular Access: No motorized vehicles are permitted on City property beyond designated vehicle-permitted areas without written authorization from the City. No vehicular standing or parking, except in designated areas, is permitted.

Damages: All damages to the site incidental to the performance of this Agreement shall be repaired or replaced by PAS. The City shall not be responsible for any damage, theft, and/or vandalism of materials provided by PAS.

Non-Discrimination: In accordance with State and Federal laws, the Parties shall not discriminate against any person on the basis of race, natural hair or hairstyles, ethnicity, creed, color, sex, sexual orientation, gender identity or expression, national origin or ancestry, marital or familial status, pregnancy, veteran status, religious belief or non-belief, age, or disability in its program activities related to this Agreement.

Compliance with Laws: PAS shall comply with all state, federal, or local laws, ordinances, codes, rules, or regulations governing the performance of this Agreement. PAS shall provide a Drug-Free Workplace during the performance of this agreement. This agreement is entered into in North Carolina and shall be construed under the statute and laws of the State of North Carolina.

Assignability: This agreement is not assignable or transferable by either party.

E-Verify Employer Compliance: Employers and their subcontractors as defined in Article 2 of Chapter 64 of the NC General Statutes, must comply with E-Verify requirements to contract with governmental units. E-Verify is a Federal program operated by the United States Department of Homeland Security and other federal agencies or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law. E-verify can be accessed via this link: https://www.e-verify.gov/

Iran Divestment and Israel Boycott: City of Brevard staff are responsible for verifying that PAS is not listed on the Iran Divestment List or the Companies Boycotting Israel Final Divestment list published by

the NC State Treasurer pursuant to N.C.G.S. 147-86.60 and 147-86.82. The City shall not enter into an agreement with any company or their affiliates listed on these divestment lists.

Severability: Should any provision or provisions contained in this agreement be declared by a court of competent jurisdiction to be void, unenforceable, or illegal, such provision or provisions shall be severable, and the remaining provisions hereof shall remain in full force and effect

Notification: If either party in this agreement needs or desires to provide any notice to the other, they shall provide the notice in writing to the contact listed here:

City contact:

PAS contact: Natalie Narburgh / Stacey Wierdrich
Pisgah Area SORBA *Executive Director / Interim Director*
513-470-1898 natalie@pisgahareasorba.org

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement as of the day and year above written.

CITY OF BREVARD	Pisgah Area Southern Off-Road Bicycle Association
_____	_____
Print Name	Print Name
_____	_____
Signature	Signature
	Executive Director, Pisgah Area SORBA _
Title	Title
_____	_____
Date	Date

Exhibit A: PERMITTED USE

- PAS may have access to designated City-owned property to perform trail maintenance, erosion control, remove dead, dying & hazard trees as identified and approved by the Public Works Director or his/her designee once proper notification and permits have been acquired

- Perform Trail maintenance- Trail work will include basic tread maintenance such as removing slough and berm, re-establishing out slope for improved drainage, reshaping, resetting, or cleaning drainage and rolling grade dips. Tread work in wet areas may include refilling and reshaping turnpikes and repairing or replacing rotted or damaged puncheon.

- Special trail work projects identified by PAS should be brought to the attention of the designated City Public Works Director or his/her designee and will be approved on a case-by-case basis. (I. E Boardwalk and bridge repair)

- Corridor clearing will include pruning or removing small trees and brush within the designated trail corridor (check with the City Public Works Director or his/her designee to determine appropriate dimensions, as they change with trail designation).

- PAS will assist the City in identifying, preventing, and closing non-system trails. Any non-system trails identified by PAS will be reported to the City Public Works Director or his/her designee. Prevention activities will be limited to assisting with public education, and closure activities will take place on a case-by-case basis in coordination with the City Public Works Director or his/her designee.

- There will be no work performed outside of the designated trail corridor without written permission from the City of Brevard Public Works Director or his/her designee. This includes but is not limited to rerouting of existing trails, realignment of existing trails, and moving trails onto user-created trails instead of designated trails. There will be no maintenance on non-system trails or decommissioned roads without prior approval from the City.

- All projects will be pre-planned and approved by City Public Works Director or his/her designee
    - 0 PAS will complete and submit volunteer waivers for all volunteers to the designated City staff with Brevard Public Works Department.
    - Projects should be added or adjusted in writing to the City Public Works Director or his/her designee assigned to work with PAS with at least thirty (30) days notice whenever possible.
        - proposals will be accepted in written form only
        - project proposals must include the date, time, and specific needs for the trainings/workshops
        - The city will secure permits needed for tree removal at no cost to PAS
    - The City understands that at times, PAS trail crews may be available to perform trail maintenance, erosion control, and remove dead, hazardous, and dying trees as identified by the City Public Works Director or his/her designee with shorter notice due to changes in non-city-related project timelines. To allow for greater potential project opportunities, the following exceptions to notice may be considered.

- Project proposals and workshops for trail, erosion control, and tread work and workshops at City-owned parks may be requested with at least three (3) days notice prior to a training/workshop at a park or other City-owned property. A notice of at least fourteen (14) days is preferred whenever possible.
- Chainsaw trainings that involve tree work only requiring bucking and limbing down trees or cutting corridor (non-felling) from City-owned property could be done with three (3) days' notice. A notice of at least fourteen (14) days is preferred whenever possible.
    - The use of chainsaws is only approved by individuals who have successfully completed at least one chainsaw safety class.
- Chainsaw trainings that involve the takedown of dead, dying, or hazard trees from City-owned property that has been specifically identified and marked by the City Public Works Director or his/her designee will require at least fourteen (14) days' notice. A notice of at least thirty (30) days is preferred whenever possible.
    - Training must be led by a properly authorized chainsaw safety instructor.
- Tree debris will be cut up and left in areas that are off-trail to decompose naturally.
- Piles of tree and brush debris will be created in areas where such debris needs to be removed.
- The City will secure resources to remove debris and brush on site with at least 30 days' notice; piles of brush and debris must have an approved plan for removal before they are created.

- PAS may use equipment needed to perform trail maintenance, tree removal, erosion control, and invasive plant species removal, including but not limited to picks, axes, chainsaws, and other equipment providing that certified instructors, trainers, and certification holders are actively engaged and supervising all projects or trainings on City-owned property.
    0 Volunteers utilizing equipment must hold the appropriate certifications and must actively participate in all projects
        - PAS will submit certifications for members and volunteers and supply the City documentation of appropriate trainings and workshops held regarding the use of equipment and appropriate techniques taught
        - The designated volunteer(s) with current certification must attend and supervise each work day or activity

- Any privately owned equipment, used in the accomplishment of the tasks under the agreement will be considered donated to the City for the duration of the time it is used under the agreement. It is the responsibility of PAS to ensure equipment is in proper working order and maintained to the manufacturer's recommendations. The City does not assume any liability or responsibility for privately owned equipment. PAS and the City recognize the equipment listed below may be used by volunteers serving under this agreement
    0 Hand Tools (including but not limited to Pulaskis, McLeods, hoes, shoves/spades, rakes, loppers, pruners, machetes and other bladed tools, picks, pick mattocks, axes, slate bard, tampers, hammers, and saws)
    - Power Tools (including but not limited to powered trimmers/pole saws, leaf blowers, drills, hand saws)
    - Powered Transport (included but not limited to assisted wheelbarrows, dumpers)
    - Trail Machines (i.e. Dingo) must be approved by the City prior to use

    - Non-routine powered heavy equipment, including but not limited to mini excavators, trenchers, mowers, plows, ski loaders, front-end loaders, backhoes, and compaction rollers require separate written permission from the City and may require additional scrutiny for safety.

- Appropriate personal protective equipment will be used while performing trail work. PAS crew leaders should follow all PAS policies for appropriate safety sessions before work begins.

- PAS, in cooperation with the City, should establish appropriate group sizes. Unless otherwise agreed to, an appropriate group size is defined as no more than 12 persons per Crew Leader.

- Recruit, Train, and Manage Volunteers- PAS will seek to create a positive, fun, and compelling image of the PAS volunteer program throughout the community. Whenever possible PAS will encourage involvement from the community members in the management of their public lands, either through this agreement or through other volunteer efforts. PAS will establish procedures to train and manage volunteers engaging via this agreement such that they can serve, safely, be productive and have a great experience.

- PAS will organize and conduct at least two (2) public workdays per year. The events shall be open for participation by the general public, with participation opportunities for people of various skill levels and abilities.

Tools / Material Storage (i.e., PAS tool trailer):
The City agrees to:

- *Allow short term storage / parking of PAS tool trailer(s) and / or materials within the standard parking region of Bracken Preserve as well as on trail side (materials).*

PAS agrees to:

- *Use authorized / designated storage area(s) only. No equipment or supplies will be stored outside of the designated areas. No equipment or supplies may be stored in restrooms, mechanical rooms, or unauthorized areas in the park. The storage area must be kept neat and clean at all times.*
- *Limit storage to equipment and supplies needed to maintain the multi-use trails. No food or beverages may be stored. No fuel, hazardous materials or machines that may contain flammable or hazardous materials may be stored. No merchandise or items intended for resale may be stored.*

Exhibit B VOLUNTEER WAIVER AND RELEASE

City of Brevard standard form.

Exhibit C SPECIFICATIONS FOR SPONSORSHIP SIGNAGE

To be defined