

AGREEMENT

Between

CITY OF ORLANDO AND

SOUTHERN OFF ROAD BICYCLE ASSOCIATION, ORLANDO CHAPTER

This Agreement is made and entered into between the City of Orlando, (hereinafter referred to as "City"), a Florida municipal corporation, 400 S. Orange Avenue, Orlando, Florida 32801, and the Orlando chapter of the Southern Off Road Bicycle Association (hereinafter "SORBA"), a nonprofit corporation, whose principal address is 214 Fairway Pointe Circle, Orlando, FL 32828. This Agreement is effective on the date last signed by both parties.

1. PURPOSE AND INTRODUCTION.

- a. SORBA, which was incorporated in 2013, has provided volunteer labor and other resources for the creation, construction, and maintenance of mountain biking trails in Central Florida, including trails in the Little Big Econ State Forest, Soldier's Creek/Environmental Center, and Markham Woods. The services SORBA has traditionally provided to mountain bikers include assisting land managers in the construction and maintenance of mountain biking trails and facilities.
- b. SORBA is dedicated to representing the common interests of mountain bikers¹ in the community.
- c. The City is dedicated to providing recreational needs of the Orlando population and active recreation facilities at its parks, and enhancing the quality of public open space in a manner that is environmentally responsible, consistent with the Recreation and Open Space Element of the City's Comprehensive Plan.
- d. Coordinating efforts between SORBA and the City to maintain a mountain bike trail on a portion of Lake Druid Park will enhance and maintain the level of service for the mountain bike trail, serve the interests of the mountain biking and Orlando communities and the general public, has a public purpose, and is in the best interests of the public.

¹ The sport of mountain biking includes multiple discipline that are often referred to by other names, including "off-road cycling," "free-riding," "dirt-jumping," "cross country riding," and similar names. Throughout this Agreement, the phrase "mountain biking" will be used to emphasize that all forms of off-road cycling can be performed on the bike constructed in Area "C".

2. RESPONSIBILITIES AND RIGHTS OF THE CITY.

a. The City shall make a trail available at Lake Druid Park for mountain biking, subject to applicable laws, regulations, and other recreational management directions including any restrictions and limitations as deemed appropriate by the City Chief Administrative Officer or his designee. The location of the trail area shall be as shown on the conceptual plan attached as Exhibit A and made a part of this Agreement.

b. The City's Families, Parks and Recreation Department (FPR) Director or designee may seek advice from SORBA in the placement, construction, and maintenance of the mountain bike trail and any support facilities for the trail.

c. The City and its FPR Director or designee shall seek advice and any necessary permitting from the appropriate local and state agencies when making a final decision regarding the placement of the mountain bike trail or the re-routing of any portion of the trail.

d. The City shall ensure during the construction, use, and maintenance of the mountain bike trail that certain natural areas (e.g., wetlands, future storm water treatment areas, native plant and/or animal habitats) are protected and excluded from public use areas.

e. The City FPR Director or designee may seek advice from SORBA regarding standard safety procedures and standards of care and placement and content of signage and markings.

f. The City shall provide signage and markings regarding the mountain bike trail at appropriate sites at the Park.

g. The City shall retain final decision-making authority concerning the placement, construction, and maintenance of the mountain bike trail and any support facilities, signage and markings, safety procedures, standards of care, and emergency response procedures, taking into consideration required elements of the Park's plan, any grant requirements, uses by outside agencies, and design safety and project standards as set forth in any contracts with outside consultants of the City. Trail plans shall be approved in advance of construction by the FPR Director or designee. The City shall inspect and approve all phases of construction and maintenance.

h. Volunteer services and forms. The City shall provide SORBA with Volunteer Service Agreement Forms for use by SORBA volunteers. All volunteer trail workers must fill out the Volunteer Service Agreement before performing trail work. Volunteers under the age of 16 must be accompanied by a parent, legal guardian or responsible adult, and a parent or legal guardian of a volunteer under the age of 18 must sign the Volunteer Agreement on behalf of the minor volunteer. All Volunteer Service Agreements filled out and signed by volunteers shall be provided to the City and kept on file with City. The City may, at any time, deny a volunteer the right to perform work on the trail and may require termination of volunteer's services by notifying SORBA of the same.

i. Protection for volunteer trail workers. Upon filling out the Volunteer Service Form, a SORBA volunteer shall be entitled to coverage under workers' compensation pursuant to §440.02(d)6, Fla. Stat. and shall be entitled to liability protection under the provisions of §768.1355, Fla. Stat., as that statute may be amended from time to time. However, such protections are applicable only when a volunteer is acting in good faith within the scope of his or her official duties performed under this Agreement and the Volunteer Service Agreement. No protection is afforded to any volunteer while he or she is using the trail for mountain biking. The parties recognize that the City enjoys sovereign immunity under §316.0085,

Florida Statutes for injuries sustained by participants and spectators on the mountain bike trail and that the City is therefore immune from any lawsuits by third parties for the acts of volunteers.

j. The FPR Director or designee shall have the authority to close all or any portions of the mountain bike trail at any time in his or her discretion. The City shall set the park hours by City Code.

2. RESPONSIBILITIES AND RIGHTS OF SORBA.

a. SORBA shall provide technical advice and assistance to the City regarding maintenance, safety procedures, standards of care, signage and markings, and other matters related to the mountain bike trail. Such advice and assistance shall be consistent with current International Mountain Biking Association standards and best practices.

b. SORBA shall maintain the mountain bike trail at the Park and may use available support facilities to enhance the cycling trail experience. A SORBA crew leader shall be present at all times during maintenance. The FPR Director or designee shall inspect and approve all phases of maintenance.

c. SORBA shall supply, at its sole expense, all equipment, tools, materials, and/or supplies required to provide work hereunder, unless otherwise specified in this Agreement or agreed to in writing. SORBA may maintain an existing storage shed at the Park to store equipment and tools. The size and location of the shed shall be subject to approval by the City.

d. Maintenance of trails: The parties specifically acknowledge the network of trails to be maintained are for mountain biking and, by design, are specifically intended to incorporate natural features of the land—such as rocks, roots, and other obstacles—that give rise to technical riding. The trails may also incorporate slight alterations to natural features to improve riding conditions, such as through the build-up of dirt for berms in turns, ramps over natural obstacles such as rocks or fallen trees, or similar alterations, as approved in writing in advance by the City.

e. Artificial drops, jumps and other features: In regard to any purely manmade features, such as constructed drops, jumps, “skinnies,” and other similar features (as opposed to the purely natural terrain and slight alterations referred to in sub-paragraph d. above), SORBA shall keep a maintenance log to the City after each inspection. Manmade features shall be inspected for safety on a monthly basis or more frequently if deemed necessary by SORBA or the City. Features not meeting safety standards shall be temporarily closed until any deficiencies can be corrected.

f. Markings of trails: In order to inform users of the difficulty of the different mountain biking trails at the Park, SORBA will provide advice and counsel to the City concerning how each trail should be marked. Trails shall be marked by color and according to the general level of difficulty of the trail. For example, yellow trails may be the least difficult trails, blue trails may be the more difficult or “advanced” trails, and red trails may be the most difficult or “expert” trails. The City shall retain final decision making authority concerning the color designation and the level of difficulty for any particular portion of the trail. Trail designations may change from time to time depending upon natural changes in the landscape due to use, erosion, growth of trees and foliage, and/or falling debris such as branches or trees.

The color designation of a trail is intended to be a general designation only. Some portions of a trail may contain some more difficult or less difficult terrain that is suggested by its general color marking. The color

designations are for the purpose of providing general guidance to users of the trails. The City, SORBA, SORBA officers and directors, and SORBA volunteers will construct and maintain the trails with the understanding that all trail users are deemed to recognize and appreciate the inherent risks associated with mountain biking and that it is the duty of every rider to act responsibly, ride within their abilities, and ensure their own safety, as anticipated by Section 316.0085, Florida Statutes.

g. Re-routing of trails: New trails, or trails re-routed more than 20 feet from the planned trails, may be built or flagged by SORBA provided they are approved by City FPR Director or designee prior to construction. However, SORBA may re-route trails within 20 feet of the planned trails when it is reasonably necessary to do so, and shall notify the City of the re-routed trail.

h. Prior approval required for constructing manmade structures: Manmade trail structures or trailhead amenities may be built by SORBA, but must be approved in writing by the City FPR Director or designee prior to construction. Prior to approval of a proposed manmade structure, SORBA shall submit a written proposal to City FPR Director for consideration, including a diagram of the proposed structure, a map of location, and a list of the building materials to be used. The parties agree that any improvements must be consistent with the master plan for the Park and all normal permitting process must be followed.

i. Volunteers.

(1) The safety of volunteers shall be of primary importance at all times during construction and maintenance. All volunteers shall wear appropriate safety equipment while performing volunteer trail work. SORBA must make a first aid kit readily available on all construction and maintenance days. SORBA, its volunteers, and its member, shall abide by all safety procedures, standards of care, and signage and markings which the City adopts relative to the mountain bike trail.

(2) Volunteers under the age of 16 must be accompanied by a parent or legal guardian, and a parent or legal guardian of a volunteer under the age of 18 must sign the Volunteer Agreement on behalf of the minor volunteer. All Volunteer Service Agreements filled out and signed by volunteers shall be kept on file by the City and will remain in full force and effect unless revoked in writing with notice to the City. SORBA shall make a good faith effort to timely notify the City and revoke any Volunteer Service Agreements for volunteers who are no longer performing work on the trail. SORBA will designate a volunteer coordinator to be sure that the Volunteer Service Agreements are filled out and delivered to the City and are timely revoked. SORBA's primary contact is J.C. Mazza, drumjucz@yahoo.com; phone 321-331-3349; secondary contact is Mark Leon, markleon@hotmail.com; phone 831-240-7379.

(3) All volunteers using a chain saw while performing trail work must have successfully completed chain saw training and shall provide proof of such training to the City as attachments to Volunteer Service Agreement forms. Anyone without such training is prohibited from using a chainsaw on City property.

(4) Using equipment in an unsafe manner, performing work in a careless and unsafe manner, and engaging in any disorderly conduct or criminal conduct while SORBA volunteers are conducting volunteer activities on City property is prohibited. The use of alcoholic beverages or illegal controlled substances by volunteers while conducting volunteer activities on City property is strictly prohibited. No volunteer shall use matches or any other material which can ignite a fire.

(5) Since City staff will not necessarily be present during work days, SORBA crew leaders shall be responsible for supervising the SORBA volunteers while working on the trail. SORBA crew leaders, officers, and directors shall terminate any volunteers who violate terms of this Agreement.

j. Use of motorized vehicles. Motorized vehicles along the trail shall be prohibited. However, SORBA and its volunteers may use such vehicles and other motorized equipment on the trail only to the extent reasonably necessary to transport equipment when performing trail construction and maintenance within the scope of this Agreement.

k. Promotion of trail etiquette. SORBA shall promote proper trail etiquette and instruction to its members and other trail users to encourage safe and responsible trail usage and to prevent user conflict. SORBA shall promote good sportsmanship to all member participants.

l. Non-profit status. SORBA must continue to operate as a non-profit corporation under the laws of the State of Florida. A Certificate of Incorporation and copy of the SORBA's Bylaws must be supplied to the City within ten (10) days upon the City's request for same. In the event the SORBA loses its status as a non-profit corporation or becomes an inactive corporation, this Agreement shall be terminated immediately. Further, this Agreement may not be assigned or transferred in any manner by the SORBA. This Agreement shall terminate immediately if the SORBA assigns or transfers its rights under this Agreement.

m. Compliance with laws. SORBA shall comply with all local, state, and federal laws and regulations that are applicable to its performance under this Agreement. SORBA acknowledges and agrees that it will take any and all reasonable and prudent steps necessary to be informed and advised of all applicable local, state, and federal laws and regulations affecting this Agreement.

4. MUTUAL AGREEMENTS AND UNDERSTANDINGS.

a. Communications. J.C. Mazza or, in J.C. Mazza's absence, Mark Leon, shall be the official spokesperson for communication purposes between the City and SORBA. SORBA may change its spokesperson(s) by its President providing written notification to the City FPR Director. When written notification is required, such notification shall be by hand delivery or regular mail. Notice shall have been properly sent when personally delivered or three (3) working days after being sent by regular mail, and shall be sent to:

If to City:

Families, Parks & Recreation Director
City of Orlando
595 Primrose Drive
Orlando, FL 32803
Phone: 407-246-4319

If to SROBA:

Mark Leon
214 Fairway Pointe Circle
Orlando, FL 32828
813-240-7379

b. Re-evaluation and status conferences; modification. At least every two years, or more frequently as needed, the City and SORBA shall meet to review the terms of this Agreement. If either party gives the other written notice to set a meeting under this sub-paragraph, the other party shall fully cooperate, and a meeting shall be set as soon as practicable; but in no event shall the meeting occur more than sixty (60) days after written notice has been given unless both parties otherwise agree. If both parties agree to proposed changes or amendments to this Agreement, such modifications shall only be effective in writing and signed by both parties. The Families, Parks and Recreation Director is authorized to extend this

agreement on substantially the same terms and conditions and to review and approve any suggested physical improvements or modifications to the Park through the City's processes.

c. Non-appropriation. Nothing in this Agreement shall obligate the City to SORBA to expend appropriations or to enter into any other contracts or obligations. The City shall not be liable to SORBA for any expenses paid or incurred by SORBA, unless otherwise agreed in writing.

d. No third-party beneficiaries. This Agreement is not a third-party beneficiary Agreement and shall not in any respect whatsoever create any rights on behalf of any party not expressly a party to this Agreement.

e. Non-exclusivity. This Agreement in no way restricts the City from participating in similar activities or arrangements with other public or private agencies, organizations, or individuals or entering into similar Agreements with such other entities or individuals. This Agreement in no way creates any possessory ownership or leasehold interest by SORBA in the Park or improvements made in the construction and maintenance of the mountain of the mountain bike trail thereon.

f. Public records. SORBA understands that any documents in its possession which are not in the possession of the City, and which are associated with this Agreement, are subject to the Public Records Act, Chapter 119, Florida Statutes. If the City receives a request for public records which are in the sole possession of SORBA, SORBA shall produce the public record to the City within 24 hours after the City's request. Failure to comply with this sub-paragraph and the Public Records Law may result in termination of this Agreement.

g. Termination. This Agreement may be terminated by either party with sixty (60) days' written notice to the other party.

h. Severability. If any provision of this Agreement is held to be invalid, void, or unenforceable, the remaining provisions shall nevertheless remain in full force and effect, unless the absence of the invalid, void or unenforceable provision or provisions causes this Agreement to fail in its essential purposes.

i. Consideration and mutual covenants. By signing this Agreement, each party acknowledges the mutual promises set forth in this Agreement constitute good, valuable, and sufficient consideration, and each party agrees to be bound by its terms.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on their behalf.

Mayor Pro Tem
City of Orlando
Attest:

Date

Mark Leon, President,
SORBA Orlando Chapter

Date

City Clerk
City of Orlando, Florida

Date

APPROVED for form & legality For the use and reliance of the
City of Orlando, Florida only.

Chef Assistant City Attorney
Orlando, FL

Date