



GOVERNMENT OF THE DISTRICT OF COLUMBIA
Dupont Circle Advisory Neighborhood Commission 2B

April 2, 2016

Robin Nixon
Chief of Partnerships, National Mall and Memorial Parks
National Park Service
900 Ohio Drive SW
Washington, DC 20024
robin_nixon@nps.gov

RE: Agreement with the National Park Service and the U.S. Park Police for Use of the Dupont Circle Resource Center

Dear Ms. Nixon:

At its regular meeting on March 9, 2016, the Dupont Circle Advisory Neighborhood Commission (“ANC 2B” or “Commission”) considered the above-referenced matter. With 6 of 9 Commissioners in attendance, a quorum at a duly-noticed public meeting, the Commission approved the following resolution by a vote of (6-0-0):

ANC 2B approves the proposed agreement (#G3401160001) with the National Park Service and the U.S. Park Police for ANC 2B’s use of the Dupont Circle Resource Center, and authorizes Chairperson Nicole Mann to sign the proposed agreement as ANC 2B’s authorized representative on the matter.

Commissioners Mike Feldstein (mike.feldstein@dupontcircleanc.net) and Nicole Mann (nicole.mann@dupontcircleanc.net) are the Commission’s representatives in this matter.

ON BEHALF OF THE COMMISSION.

Sincerely,

Nicole Mann
Chair

**General Agreement Between
The National Park Service, National Mall and Memorial Parks
and the U.S. Park Police and
Advisory Neighborhood Commission 2B, District of Columbia
for the Use of Reservation 59 (Dupont Circle Resource Center)**

The Parties

This Agreement is made and entered into between the United States of America, Department of Interior, National Park Service, National Mall and Memorial Parks and the United States Park Police (hereinafter referred to as "NPS") and the Dupont Circle Advisory Neighborhood Commission (hereinafter referred to as "ANC" or "ANC 2B").

Article I. Background and Objectives

WHEREAS, the NPS, represented by the Superintendent, National Mall and Memorial Parks, is responsible for the administration of U.S. Reservation 59, a triangular-shaped reservation bounded by P Street, N.W. on the south; 20th Street N.W., on the west; and Massachusetts Avenue N.W., on the north, for use and enjoyment of all people in the United States; and

WHEREAS prior to 1998, Reservation 59 consisted of an underutilized public lavatory, also known as the "Lodge," and associated grounds, hereinafter referred to as the "Park"; and

WHEREAS, given the limited availability of appropriated capital improvement funds, and the ability of the NPS, through the Secretary of the Interior, to accept donations for the purposes embraced by this Agreement, the NPS determined it would be in the public interest to renovate the Lodge and convert part of its use to a community resource center in accordance with plans approved by the NPS; and

WHEREAS, ANC 2B has provided, and will continue to provide, funds toward the renovation of the Lodge and Park facility, in coordination with other community organizations;

WHEREAS, the renovated Lodge and Park have provided Dupont Circle and the surrounding neighborhood with a "community resource center" (hereinafter referred to as the "Resource Center") for ANC 2B, the U.S. Park Police (hereinafter referred to as "USPP"), local law enforcement, and other related community-based activities; and

WHEREAS, the parties entered into an Agreement in November 1998 for use of Reservation 59, renewable every two years, with ANC 2B having primary responsibility for maintenance, upkeep, and coordination of the Resource Center among the users; and

WHEREAS, ANC 2B has coordinated a renewed repair and renovation of the Resource Center, in order to improve the long-term use of the space for community purposes; and

WHEREAS, the parties wish to enter into a renewed agreement, for a renewable term of 5 years, for the use of Reservation 59;

NOW, THEREFORE, pursuant to the authorities set out below, the parties in consideration of the mutual promises herein expressed, do hereby agree to the terms and conditions of this Agreement.

Article II. Authority

- A. Authority for the NPS to enter into this Agreement is contained in 41 Stat. 917 (16 U.S.C. § 6), which authorizes the NPS through the Secretary of Interior to accept donations for the purposes embraced by this Agreement, and in 39 Stat. 535 (16 U.S.C. §§ 1 *et seq.*), which provides for NPS administration of areas in the National Capital Region, including Reservation 59.
- B. ANC 2B is the publicly-elected neighborhood commission representing the Dupont Circle community, including the area of Reservation 59, as authorized in the District of Columbia Self-Government and Governmental Reorganization Act of 1973, 87 Stat. 824, Section 738, as amended.
- C. The USPP, through 16 U.S.C. § 1(a)6, is responsible for maintaining law and order and protecting persons and property within areas of the National Park System. This includes Reservation 59, which is part of the NPS system. This agreement furthers the ability of the USPP to effectively carry out its law enforcement duties in the Dupont Circle area.

Article III. Statements of Responsibility Regarding the Use and Maintenance of Reservation 59

With regard to use, operations, and maintenance of the Resource Center and surrounding Park:

- The primary focus of the Resource Center is for community use and public safety.
- ANC 2B will locate and maintain its office in the Resource Center.
- ANC 2B may allow other community users to make use of the Resource Center for meetings, mail delivery, or other uses, subject to the terms of this Agreement;
- The USPP may use the Resource Center as a satellite station.
- The Resource Center shall be outfitted with appropriate furnishings and equipment to allow the intended public safety and community needs to be met.

A. The National Park Service (NPS) will:

- Provide electrical and water service to the Resource Center.
- Provide the following, in coordination with ANC 2B¹:
 - Maintenance of the mechanical, electrical, and plumbing systems, both interior and exterior.
 - Maintenance and repair/replacement of trash receptacles and other furnishings for the Park as appropriate.
 - Regularly-scheduled trash removal and recycling from existing receptacles located on the grounds of Reservation 59 and inside the Resource Center;
 - Maintenance of the exterior of the Resource Center;
 - Landscaping and grounds maintenance year-round within the Park, including the planting of trees, ground cover, and annual and perennial flowers. This includes regular services such as ice removal and snow shoveling, mowing, sidewalk edging, pruning, fertilizing, spot seeding, and watering as necessary.

B. The Dupont Circle Advisory Neighborhood Commission (ANC 2B):

ANC 2B is the elected body representing the Dupont Circle neighborhood. ANC 2B works with community members, District agencies, neighborhood-serving non-profit organizations, and other stakeholders to improve the quality of life in the Dupont Circle neighborhood and the District of Columbia as a whole. ANC 2B will coordinate use of the Resource Center for the benefit of the surrounding community.

ANC 2B will:

- Locate its office and assign staff to the Resource Center.
- Maintain the interior space of the Resource Center, including regular cleaning and related housekeeping functions.
- Provide for installation, maintenance, and any periodic fees for telephone and/or internet utilities for the Resource Center.
- Provide for the installation, maintenance, and any periodic fees for a security system for the Resource Center.

¹ ANC 2B may, upon written approval of the NPS, assume any or all of the NPS functions or responsibilities provided in the ensuing list.

- Maintain property insurance for the Resource Center.
- Coordinate use and upkeep of the Resource Center facility and Park among the users.
- Communicate with the NPS on a regular basis with regard to operation, use, and maintenance of the Resource Center and Park.
- Submit, following the close of each fiscal year, an annual report to the Superintendent on the operation and use of the Resource Center, with recommendations for improving operation in the future.
- Make reasonable efforts to ensure that all users of the Resource Center are aware of and agree to comply with the terms of the Agreement.
- Submit all third party agreements of a material nature affecting the Resource Center to the Superintendent for review and approval prior to execution.
- Serve as signatory and primary contact for any agreements related to renovation or repair of the Resource Center, subject to approval by the NPS and in accordance with any applicable permit requirements.
- Not permit commercial activities to take place on site.
- Follow existing procedures for obtaining permits from the NPS for special events on park lands when the event will take place outside of the Resource Center or its enclosed gated garden.

C. The United States Park Police (USPP):

The USPP has primary jurisdiction in the adjoining Dupont Circle, Reservation 60, and provides frequent checks of the park twenty-four hours per day. Patrols are made by cruiser, scooter, bicycle, horse-mounted, or foot officers. Occasionally, plainclothes officers conduct undercover operations within the Dupont Circle park and surrounding community. When manpower permits, bicycle or scooter officers are assigned to Dupont Circle for an entire shift. These officers may utilize the Resource Center for administrative functions at various times daily.

The USPP will:

- Not permit commercial activities to take place on site.
- Follow existing procedures for obtaining permits from the NPS for special events on park lands when the event will take place outside of the Resource Center or its enclosed gate garden.

- Submit any third-party agreements of a material nature affecting the Resource Center to the Superintendent for review and approval prior to execution, and provide notice of any such proposed agreement to ANC 2B.
- Make reasonable efforts to ensure that all users of the Resource Center are aware of and agree to comply with the terms of the Agreement.
- Keep clean and tidy the areas used by USPP in the Resource Center.

Article V. Key Official Contact Information

National Park Service:

For official correspondence:

Robin Nixon
Chief of Partnerships
National Mall and Memorial Parks
900 Ohio Drive, SW
Washington, DC 20024
(202) 245-4710
Robin_nixon@nps.gov

For operational/maintenance issues:

Scott Simmons
Branch Chief, Facilities Maintenance
National Mall and Memorial Parks
900 Ohio Drive, SW
Washington, D.C. 20024
(202) 360-0905
Scott_simmons@nps.gov

Advisory Neighborhood Commission 2B:

Noah Smith
Chairperson
Advisory Neighborhood Commission 2B
9 Dupont Circle NW
Washington, D.C. 20036
noah.smith@dupontcircleanc.net

ANC 2B Staff
Advisory Neighborhood Commission 2B
9 Dupont Circle NW
Washington, D.C. 20036
email@dupontcircleanc.net

United States Park Police

For both official correspondence & operational issues:

Captain Michael Wilson
U. S. Park Police, Central District
202-438-0413
1100 Ohio Drive, SW
Washington, DC 20242
(202) 619-7350
Richard_pope@nps.gov

In an emergency affecting life and/or involving property damage, parties should contact the United States Park Police Communications Office on (202) 610-7500 and the Superintendent on (202) 245-4670 or 4661.

Article VI. Liability

Liability insurance will be required for any work or activity performed or undertaken on site by parties other than the federal or local governmental parties represented in this agreement. All contractors working on site will be required to obtain a NPS construction permit, the receipt of which requires that the contractor procure public and employee liability insurance from a responsible company with a minimum limitations required by the permit. Any such insurance policy shall name the United States as an additional insured; shall specify that the insured shall have no right of subrogation against the United States for payments of any premiums or deductibles due thereunder, and shall specify that the insurance shall be assumed by, be for the account of, and be at the insured's sole risk.

Article VII. Term of Agreement

Unless terminated earlier by agreement of the parties in writing, this Agreement will expire five (5) years from date of execution and is automatically renewable in 5-year increments for an indefinite period of time, unless terminated earlier by any party. This Agreement will not be revised or amended in any manner whatsoever unless the revision or amendment is in writing, and is mutually agreed to by all parties. No transfer or assignment of this Agreement, or of any part thereof or interest therein, directly or indirectly, will be made unless such transfer or assignment is first approved in writing by all parties.

Article VIII. Termination

Any party may terminate this Agreement by providing ninety (90) days written notice to the other parties. If any party fails to observe any of the terms and conditions of this Agreement, the other parties may terminate this Agreement for default without any legal process whatsoever by giving sixty (60) days written notice of termination, effective at the end of the sixty (60) day period.

Article IX. Miscellaneous

- A. Non-Discrimination. All activities pursuant to or in association with this Agreement shall be conducted without discrimination on grounds of race, color, sexual orientation, national origin, disabilities, religion, age, or sex, as well as in compliance with the requirements of any applicable federal laws, regulations, or policies prohibiting such discrimination.
- B. NPS Appropriations. Pursuant to 31 U.S.C. § 1341, nothing contained in this Agreement shall be construed to obligate NPS, the Department, or the United States of America to any current or future expenditure of funds in advance of the availability of appropriations from Congress and their administrative allocation for the purposes of this Agreement, nor does this Agreement

obligate NPS, the Department, or the United States of America to spend funds on any particular project or purpose, even if funds are available.

- C. Compliance with Applicable Laws. This Agreement and performance hereunder is subject to all applicable laws, regulations, and government policies, whether now in force or hereafter enacted or promulgated. Nothing in this Agreement shall be construed as (i) in any way impairing the authority of the NPS to supervise, regulate, and administer its property under applicable laws, regulations, and management plans or policies as they may be modified from time-to-time or (ii) inconsistent with or contrary to the purpose or intent of any Act of Congress.
- D. Disclaimers of Government Endorsement. ANC 2B shall not publicize or circulate any materials (including advertisements, solicitations, brochures, press releases, speeches, pictures, movies, articles, manuscripts, or other publications) suggesting, expressly or implicitly, that the United States of America, the Department, NPS, or any government employee endorses any business, brands, goods or services.
- E. Merger. This Agreement (and any attachments or amendments hereto) contains all the terms and conditions agreed to by the parties, and supersedes any prior agreements between the parties, with respect to the subject matter hereof.
- F. Modifications. This Agreement may be extended, renewed, supplemented or amended only as agreed to in writing by the NPS and ANC 2B.
- G. Waiver. No waiver of any provisions of this Agreement shall be effective unless made in writing and signed by the waiving party. No waiver of any provision of this Agreement shall constitute a waiver of any prior, concurrent, or subsequent breach of the same or any other provisions hereof.
- H. Assignment; Binding Effect. Neither party may assign any of its rights or obligations under this Agreement without the prior written consent of the other party. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. The parties waive the defense of lack of consideration.
- I. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original (including copies sent to a party by facsimile transmission) as against the party signing such counterpart, but which together shall constitute one and the same instrument.
- J. Member of Congress. Pursuant to 41 U.S.C. § 22, no Member of Congress shall be admitted to any share or part of any contract or agreement made,


entered into, or adopted by or on behalf of the United States of America, or to any benefit to arise thereupon.

- K. No Agency. ANC 2B is not an agent or representative of the United States of America, the Department, or NPS, nor will ANC 2B represent itself as such to third parties. NPS employees are not agents of ANC 2B and will not represent themselves as such to third parties. Nothing in this Agreement shall at any time be construed so as to create the relationship of employer and employee, principal and agent, or joint venture as between ANC 2B and NPS.
- L. Non-Exclusive Agreement. This Agreement in no way restricts either NPS or ANC 2B from entering into similar agreements, or participating in similar activities or arrangements, with other public or private agencies, organizations, or individuals.
- M. No Third-Party Beneficiaries. Unless expressly stated herein, nothing in this Agreement is intended to grant any legally enforceable rights or provide any benefits to any third party.
- N. Survival. The terms of this Agreement that by their nature are reasonably intended by the parties to survive termination.
- O. Partial Invalidity. If any provision of this Agreement or the application thereof to any party or circumstance shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement or the application of such provision to the parties or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby and each provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.
- P. Interpretation. The headings of the Articles in this Agreement are inserted only as a matter of convenience and shall in no way be construed to define or limit the scope or intent, or affect the meaning or interpretation, of this Agreement. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation." Additionally, the phrase "for the benefit of NPS" means donations of money (including interest and earnings thereon) and / or in-kind donations that were solicited for the express purpose or implied purpose of using them, whether in whole or in part, to support NPS, or NPS's projects, programs or resources. This Agreement shall not be construed in favor of or against either party by reason of the extent to which such party or its professional advisors participated in the preparation of this Agreement or based on a party's undertaking of any obligation under this Agreement.

- Q. Further Assurances. If reasonably requested by one party, the other party shall execute and deliver such other documents and take such other action as may be necessary to effect the terms of this Agreement.
- R. Disputes and Venue. The parties agree that in the event of a dispute between them, NPS and ANC 2B shall promptly use their best efforts to resolve the dispute in an informal fashion through communication and consultation, or other forms of non-binding alternative dispute resolution that are mutually acceptable to the parties. The parties agree that the venue to commence litigation of any disputes stemming from this Agreement shall be a Federal court with appropriate jurisdiction.

Article X. Authorizing Signatures:

IN WITNESS THEREOF, the authorized representatives of the parties below have executed this Agreement this 11th day of December, 2015.



Superintendent, National Mall and Memorial Parks

1-11-2016

Date



Chairperson, Advisory Neighborhood Commission 2B

3/9/16

Date

Capt. Michael Wilson

Captain, Central District, United States Park Police (or designee)

12-8-15

Date