

INTRODUCED: January 9, 2023

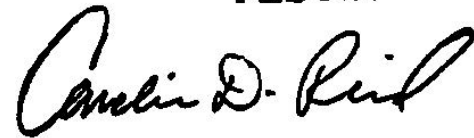
AN ORDINANCE No. 2023-013

To authorize the Chief Administrative Officer, for and on behalf of the City of Richmond, to execute a Fiscal Agency Agreement between NextUp RVA and City of Richmond, for the purpose of accepting funds from NextUp RVA as reimbursement for funds expended by the City for “CarMax Basketball Youth Development and Summer Camp” activities.

Patrons – Mayor Stoney, Ms. Newbille and Ms. Robertson

Approved as to form and legality
by the City Attorney

**A TRUE COPY:
TESTE:**



City Clerk

PUBLIC HEARING: JAN 23 2023 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That the Chief Administrative Officer, for and on behalf of the City of Richmond, be and is hereby authorized to execute a Fiscal Agency Agreement between NextUp RVA and City of Richmond, for the purpose of accepting funds from NextUp RVA as reimbursement for funds expended by the City for “CarMax Basketball Youth Development and Summer Camp” activities. The Fiscal Agency Agreement between NextUp RVA, Inc. and City of Richmond shall be approved as to form by the City Attorney and shall be substantially in the form of the document attached to this ordinance.

§ 2. This ordinance shall be in force and effect upon adoption.

AYES: 9 NOES: 0 ABSTAIN: _____

ADOPTED: JAN 23 2023 REJECTED: _____ STRICKEN: _____



CITY OF RICHMOND

INTRACITY CORRESPONDENCE

RECEIVED
By City Attorney's Office at 2:14 pm, Jan 05, 2023

RECEIVED
By CAO Office at 9:19 am, Dec 14, 2022
2023-009

O&R REQUEST

DATE: December 8, 2022

EDITION 1

TO: The Honorable Members of City Council

THROUGH: The Honorable Levar M. Stoney, Mayor

THROUGH: Lincoln Saunders, Chief Administrative Officer

THROUGH: Sabrina Joy-Hogg, DCAO – Finance and Administration

THROUGH: Sheila White, Director of Finance

THROUGH: Jason May, Director of Budget and Strategic Planning

THROUGH: Reginald E. Gordon, Deputy Chief Administrative Officer-HS

FROM: Christopher E. Frelke, Director of Parks, Recreation and Community Facilities

RE: Fiscal Agency Agreement and acceptance of funds from NextUp RVA, for CarMax Basketball Youth Development and Summer Camp activities.

ORD. OR RES. No. _____

PURPOSE: To authorize the Chief Administrative Officer to enter into a Fiscal Agency Agreement allowing NextUp RVA Inc. to act as the fiscal agent on behalf of the City, and to authorize the acceptance of funds from NextUp RVA Inc. to the City in the amount of \$29,205.00 for reimbursement of funds expended by the City for CarMax Basketball Youth Development and Summer Camp activities.

REASON: For 16 years The CarMax Foundation has provided funds for a Basketball Youth Development and Summer Camp program in partnership with Parks, Recreation, and Community Facilities. CarMax Foundation does not make grants to local governments, so the City must use a non-profit partner as a fiscal agent to facilitate payments to vendors and to the City. The Fiscal Agency Agreement between NextUp RVA, Inc. and the City of Richmond authorizes NextUp RVA, Inc. to reimburse the City for past invoices totaling \$29,205.00 related to the City's expenditure of funds for CarMax Basketball Youth Development and Summer Camp activities. The Fiscal Agency Agreement also authorizes NextUp RVA, Inc. to use the CarMax grant funds to pay any vendor providing services for CarMax Basketball Youth Development and Summer Camp activities.

RECOMMENDATION: The City Administration recommends adoption of this ordinance.

BACKGROUND: The CarMax Foundation has provided grant funding for the CarMax Basketball Youth Development and Summer Camp for the past 16 years. Over the years, the CarMax Youth Summer Basketball League, has thrived and has offered Richmond city youth a safe haven from their communities. The goals of the program are to assist Richmond city youth in their problem-solving skills and to help them to become more self-confident. In addition, the program offers mentoring opportunities to CarMax employees allowing youth participants the opportunity to engage with volunteers who serve as positive role models. Furthermore, the program helps Richmond city youth develop a team mentality, good sportsmanship, and skills development. The program affords an opportunity for youth participants to develop relationships with future coaches and likewise for area coaches to interact with and observe the City's future talent pool.

Enrichmond Foundation had previously served as the fiscal agent facilitating payments from The CarMax Foundation, and they had been approved by The CarMax Foundation to accept and facilitate a 2022 grant in the amount of up to \$89,040.00 for the CarMax Basketball Youth Development and Summer Camp to benefit Richmond city youth. When it was learned that Enrichmond Foundation was dissolving The CarMax Foundation agreed to transfer grant funds for the Basketball Youth Development and Summer Camp to NextUp RVA, Inc. instead, who has agreed to act as the fiscal agent on behalf of the City. During this unanticipated process the Department of Parks, Recreation and Community Facilities had to expend departmental funds to fund CarMax Basketball Youth Development and Summer Camp activities while these alternative arrangements were made.

FISCAL IMPACT / COST: Funds will be a reimbursement to Parks, Recreation and Community Facilities budget.

FISCAL IMPLICATIONS: None

BUDGET AMENDMENT NECESSARY: None

REVENUE TO CITY: None

DESIRED EFFECTIVE DATE: Upon adoption

REQUESTED INTRODUCTION DATE: January 9, 2023

CITY COUNCIL PUBLIC HEARING DATE: January 23, 2023

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: Education and Human Services Standing Committee

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: None

AFFECTED AGENCIES: Parks, Recreation and Community Facilities, Budget, and Finance Departments

RELATIONSHIP TO EXISTING ORD. OR RES.: None

REQUIRED CHANGES TO WORK PROGRAM(S): None

ATTACHMENTS: Fiscal Agency Agreement between NextUp RVA, Inc. and City of Richmond

STAFF: Christopher Frelke – Director of Parks, Recreation & Community Facilities 646-1128
Ray Chavis – Parks, Recreation & Community Facilities 646-1084

**FISCAL AGENCY AGREEMENT
BETWEEN NEXTUP RVA, INC.
and
CITY OF RICHMOND**

This Fiscal Agency Agreement ("Agreement") is made and entered into this ____ day of _____, 2022 by and between NextUp RVA, Inc., a Virginia nonstock corporation (the "Fiscal Agent"), and the City of Richmond, a municipal corporation of the Commonwealth of Virginia (the "City"), acting for this purpose through the Department of Parks, Recreation, and Community Facilities ("DPRCF"), collectively the "Parties".

WHEREAS, the Fiscal Agent is a nonstock corporation, organized exclusively for charitable purposes within the meaning of Section 501 (c) (3) of the Internal Revenue Code, as amended (the "Code"); and

WHEREAS, the goal of the Fiscal Agent is to work with program providers to ensure that Richmond city youth engage in meaningful expanded learning opportunities and Out of School Time ("OST") programs; and

WHEREAS, DPRCF, provides quality OST programs and activities to Richmond city youth; and

WHEREAS, DPRCF has proposed that the Fiscal Agent sponsor a project (the "Project") to accept grant funds from the CarMax Foundation in the amount of up to \$89,040.00 for DPRCF's implementation of the CarMax Basketball Youth Development and Summer Camp to benefit Richmond city youth; and

WHEREAS, the Fiscal Agent has determined that sponsorship of the Project would be consistent with its mission and its desire to enter into an agreement with the City for the implementation and operation of the Project; and

WHEREAS, the Fiscal Agent is willing to act as fiscal agent on behalf of the City to receive grant funds from the CarMax Foundation in the amount of up to \$89,040.00 for the Project and to spend funds received solely for the implementation and operation of the Project, including reimbursement to the City for all funds expended by the City for the Project and payment of funds to any vendor providing services for the Project.

NOW, THEREFORE, by entering into this Agreement, the Parties agree as follows:

1. **Term.** This Agreement shall continue until December 30, 2022, unless terminated sooner as provided for in Section 10 of this Agreement.
2. **Receipt of Funds.** The Fiscal Agent agrees to receive grant funds from the CarMax Foundation in the amount of up to \$89,040.00 to be used by DPRCF solely for the Project and to distribute the funds received for such purpose. Subject to Section 8 of this Agreement, all grant funds paid by the CarMax Foundation to the Fiscal Agent designated for the Project shall be deposited and held by the Fiscal Agent for the benefit

AFFECTED AGENCIES: Parks, Recreation and Community Facilities, Budget, and Finance Departments

RELATIONSHIP TO EXISTING ORD. OR RES.: None

REQUIRED CHANGES TO WORK PROGRAM(S): None

ATTACHMENTS: Fiscal Agency Agreement between NextUp RVA, Inc. and City of Richmond

STAFF: Christopher Frelke – Director of Parks, Recreation & Community Facilities 646-1128
Ray Chavis – Parks, Recreation & Community Facilities 646-1084

of the Project and for DPRCF's use of such funds for the Project. The Fiscal Agent agrees to comply with the terms and conditions of the 2022 CarMax Basketball Youth Development and Summer Camp Grant Award ("Grant Award") (Attachment A).

3. **Reporting of Funds.** The Fiscal Agent agrees to report all funds it receives from the CarMax Foundation for the Project as required by law. The Fiscal Agent agrees to notify the City within 48 hours of any change in its status as a 501 (c) (3) charitable tax-exempt organization under applicable IRS regulation and federal law.
4. **Financial Accounting and Reporting by the Fiscal Agent.** The funds for the Project are considered restricted grant funds. The Fiscal Agent shall track the restricted grant funds, including the CarMax Foundation grant receivables and payables for the Project, through its designated accounting system, in accordance with generally accepted accounting principles. All funds deposited into the designated accounting system will be used for the Project, less a 3% administration fee pursuant to Section 8 of this Agreement.
5. **Disbursement of Funds by the Fiscal Agent.** The Fiscal Agent shall notify the City in writing upon its receipt of funds from the CarMax Foundation for the Project and detail the funds received. The Fiscal Agent shall issue payment of such funds to the City within thirty (30) days of receipt of an invoice detailing funds expended for the purpose of the Project. The Fiscal Agent shall issue payment of such funds to any vendor providing services for the Project within thirty (30) days of receipt of an invoice detailing the funds expended by the vendor in furtherance of the Project. The Fiscal Agent will provide the City with a written report reflecting revenue and expenses to the City every 60 days or as requested by the City with five (5) business days' advance notice. The Fiscal Agent will provide the City with a final written report of all revenues and expenses by January 31, 2023.
6. **Authorization for Payment of Past Invoices and Reimbursement to the City.** This Agreement authorizes the Fiscal Agent to reimburse the City for past invoices related to the City's expenditure of funds for the purpose of the Project in the amount of \$29,205.00. The City shall provide the Fiscal Agent with any past invoices showing funds expended by the City related to the Project within thirty (30) days of the signing of this Agreement and the Fiscal Agent shall reimburse the City for payment of the funds expended by the City for past invoices for the Project within seven (7) days of receipt of the invoices. Future payments shall be paid pursuant to the terms of this Agreement.
7. **Audit.** The Fiscal Agent and the City will maintain all financial records relating to the Project in accordance with generally accepted accounting principles and the terms and conditions of the Grant Award. The Fiscal Agent and the City will make all financial records available to auditors and entities named in the Grant Award upon request.
8. **Administration Fee.** The City agrees that, in exchange for the Fiscal Agent's administrative cost of processing grant funds, financial accounting, and record management, the Fiscal Agent will deduct a 3% administration fee from the grant funds received from the CarMax Foundation that are designated for or issued to the City or any

vendor providing services for the Project. The total administration fee is no more than \$2,671.20.

9. **Termination.** Either party may terminate this Agreement for any reason at any time prior to its expiration upon thirty (30) days' written notice to the other party. Notice of this termination shall be pursuant to Section 21 of this Agreement.

This Agreement shall terminate if the CarMax Foundation terminates the grant for the Project.

Upon termination, except as provided for in Sections 8 and 10 of this Agreement, all funds designated for this Project that are held by the Fiscal Agent shall be returned to the CarMax Foundation within seven (7) business days.

10. **Miscellaneous.** If the Fiscal Agent loses its tax-exempt status, dissolves the organization, or no longer meets the requirements of a fiscal agent in accordance with the CarMax Foundation grant, or for any other reason is unable to continue to serve as the Fiscal Agent, all assets, less any liabilities incurred by the Fiscal Agent, shall be returned to the CarMax Foundation within seven (7) business days.

11. **Unused Funds.** The Fiscal Agent agrees to return any unused funds to the CarMax Foundation within seven (7) business days of the completion of the Project.

12. **Limited Liability of the Fiscal Agent.** The Fiscal Agent shall not be responsible for any personal injury that occurs to DPRCF employees, volunteers, or participants and/or any property damage that occurs during any activity related to the Project.

13. **Anti-Discrimination.** DPRCF will not discriminate against any youth or staff who wants to participate in the Project because of race, religion, color, sex, national origin, age, disability, sexual orientation, gender identity, and/or any other basis prohibited by federal or state law relating to discrimination, except where the disability is such that, even with reasonable accommodations, the disability prevents the student or staff member from meaningfully participating in the activity. However, per the terms of this Agreement, if the disability prevents a student or staff member who would like to participate from meaningfully participating in the program, DPRCF will offer a similar but alternative activity where a person with a disability could more meaningfully participate.

14. **Severability.** If any provision of this Agreement is held to be invalid or unenforceable for any reason, this Agreement shall remain in full force and effect in accordance with its terms, disregarding such unenforceable or invalid provision.

15. **Captions.** The caption headings contained herein are used solely for convenience and shall not be deemed to limit or define the provisions of this Agreement.

16. **Complete Agreement.** This Agreement constitutes the entire agreement between the Parties and supersedes all prior assignments, whether written or oral, with respect to the subject matter of this Agreement.
17. **Amendment.** The Parties may amend this Agreement at any time by mutual consent. Unless otherwise provided herein, this Agreement may only be amended in writing. Any amendment to this Agreement shall be in accordance with the terms and conditions of the Grant Award.
18. **Governing Law.** All issues and questions concerning the construction, enforcement, interpretation and validity of this Agreement, or the rights and obligations of the City and the Fiscal Agent in connection with this Agreement, shall be governed by, and construed and interpreted in accordance with, the laws of the Commonwealth of Virginia, without giving effect to any choice of laws or conflict of laws rules or provisions, whether of the Commonwealth of Virginia or any other jurisdiction, that would cause the application of the laws of any jurisdiction other than those of the Commonwealth of Virginia.
19. **Forum and Venue.** Any and all disputes, claims and causes of action arising out of or in connection with this Agreement, or any performances made hereunder, shall be brought, and any judicial proceeding shall take place, only in the Circuit Court of the City of Richmond, Virginia.
20. **No Third-Party Beneficiaries.** Notwithstanding any other provision of this Agreement, the City and the Fiscal Agent hereby agree that: (i) no individual or entity shall be considered, deemed or otherwise recognized to be a third-party beneficiary of this Agreement; (ii) the provisions of this Agreement are not intended to be for the benefit of any individual or entity other than the City or the Fiscal Agent; (iii) no individual or entity shall obtain any right to make any claim against the City or the Fiscal Agent under the provisions of this Agreement; and (iv) no provision of this Agreement shall be construed or interpreted to confer third-party beneficiary status on any individual or entity. For purposes of this section, the phrase "individual or entity" means any individual or entity, including, but not limited to, individuals, contractors, subcontractors, vendors, sub-vendors, assignees, licensors and sub-licensors, regardless of whether such individual or entity is named in this Agreement.
21. **Notices.** Any notice to be given under this Agreement shall be in writing and shall be considered as properly given or made if delivered personally, by messenger, by recognized overnight courier service or by registered or certified U.S. mail with return receipt requested, or electronic mail and addressed to the address of the intended recipient at the following addresses:

NextUp RVA, Inc.

Barbara Couto Sipe, President & CEO
NextUp RVA, Inc.

3409 Moore Street
Richmond, VA 23230
804-409-5633
bcsipe@nextuprva.org

The City

Christopher Frelke
Director of Richmond Parks, Recreation and Community Facilities
City of Richmond Parks and Recreation
1209 Admiral St,
Richmond, VA 23220
804-646-3399
christopher.frelke@rva.gov

- 22. Schedule of Attachments.** The following attachments are incorporated into this Agreement by reference:

Attachment A: CarMax Basketball Youth Development and Summer Camp Grant Award

Signature Page to Follow

Signed

Barbara Couto Sipe, President & CEO
NextUp RVA, Inc.

Date: _____

CITY OF RICHMOND

By:

Lincoln Saunders
Chief Administrative Officer

Date: _____

APPROVED AS TO TERMS

By:

Christopher Frelke, Director of Parks
Recreation and Community Facilities,
City of Richmond

Date: _____

APPROVED AS TO FORM:



Keisha Dillard-Brady
Senior Assistant City Attorney

Date: 1/3/2023