

AGRICULTURAL USE AGREEMENT

This Agricultural Use Agreement (“Agreement”) is entered into as set forth below between The City of Oklahoma City (“City”) and James Eaton (“Permittee”).

RECITALS:

WHEREAS, the City owns and operates, and the Oklahoma City Water Utilities Trust (“OCWUT”) leases and finances, the Oklahoma City water system, including Kitchen Lake Park and surrounding property, located at 5501 Southeast 119th Street (“Site,” see Exhibit A, incorporated herein); and

WHEREAS, the City and OCWUT occasionally permit use of their property for activities that do not interfere with its primary purpose; and

WHEREAS, on October 9, 2012 (Item No. VI.N.2.), the City and OCWUT entered into a Lake Reservation Lease (“Lease”); and

WHEREAS, under the Lease, the City’s Parks and Recreation Department (“OKC Parks”) uses the Site, and surrounding property, to support recreational opportunities for residents of Oklahoma City; and

WHEREAS, Permittee leases OCWUT property near the Site for agricultural purposes; and

WHEREAS, for a number of years, the City has entered into annual Agreements allowing Permittee to cut and bale hay at the Site for personal use on his adjacent leasehold; and

WHEREAS, this benefits the City by lowering maintenance costs and reducing fire danger from overgrowth at the Site; and

WHEREAS, the City is willing to enter into this Agreement for the activity described above.

NOW, THEREFORE, the parties agree:

1. **GRANT AND PURPOSE**

The City and Permittee hereby enter into this Agreement to allow Permittee to temporarily use the Site to harvest one (1) cut of hay.

2. **ALL ACTIVITIES AT PERMITTEE’S EXPENSE**

Unless stated elsewhere in this Agreement, Permittee shall, at his expense, conduct all activities under this Agreement.

Agricultural Use Agreement – James Eaton

3. TERM

Upon City approval, this Agreement shall be retroactively effective from January 1, 2023, through December 31, 2023, or until the day after Permittee completes the one (1) hay harvest, whichever occurs first. This Agreement may also be terminated earlier, as provided for in Sections 16 and 17.

4. USE OF SITE

Permittee's use of the Site shall not violate applicable laws, rules, regulations, guidelines, or policies. Permittee shall comply with all lawful directives of the City's authorized agent(s), who shall be allowed, at any time, to fully enter or inspect the Site and all activities under this Agreement.

5. NO TRESPASSING

Trespassing on private property is prohibited.

6. TRASH AND DEBRIS

Permittee shall clean up and remove all trash and debris generated, or otherwise occurring, within the Site as a result of activities under this Agreement. Permittee shall do so before this Agreement expires or within twenty-four (24) hours after it is terminated.

7. NO DAMAGE TO CITY OR OCWUT PROPERTY

Permittee shall not cause or allow damage, drilling, painting, or permanent construction on City or OCWUT property unless approved by the City's authorized agent(s). The single hay harvest authorized by this Agreement shall not, by itself, constitute damage to City or OCWUT property.

8. NO DIGGING OR STAKING OF STRUCTURES

Permittee shall not dig holes or use stakes to secure temporary structures at the Site without approval of the City's authorized agent(s).

9. CONSIDERATION

A. Permittee shall pay the City two hundred dollars (\$200) for this Agreement, prior receipt of which is hereby acknowledged. In addition, Permittee shall be responsible for the cost of any damage to, or required cleaning of, the Site due to Agreement-related activities.

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- B. Permittee shall be entitled to harvest and keep one (1) cut of hay from the Site. Permittee shall notify the City's authorized agent(s) before beginning activities at the Site and coordinate with them to ensure non-interference with the City's operation and management of the Site.
- C. The consideration due under this Section shall be in addition to Permittee's responsibilities described elsewhere in this Agreement.

10. LOCKS AND STRUCTURES

Permittee shall not erect structures at the Site without approval of the City's authorized agent(s). Permittee shall not install locks on gates to the Site without obtaining approval from the City's authorized agent(s) and furnishing them with duplicate keys or lock combinations.

11. NO PROPERTY RIGHT

This Agreement grants Permittee no property right in the Site, except the consideration provided for in Subsection 9.B.

12. SAFETY

Permittee shall ensure that activities under this Agreement are conducted safely. Permittee shall use the Site only for the agricultural purposes described herein and shall take reasonable steps to maintain it in a clean, sanitary condition during authorized periods of use.

13. NO ASSIGNMENT OR SUBLETTING

Permittee shall not assign or sublet this Agreement without City approval.

14. LIAISONS

The City and Permittee shall each designate at least one (1) representative to coordinate Agreement-related issues and serve as liaisons between the parties.

15. INDEMNIFICATION

- A. Permittee shall release, defend, indemnify, and hold harmless the City and OCWUT, and their officers, agents, and employees, for any claims or liability arising from any activity under this Agreement. This provision shall survive the expiration or termination of this Agreement and not be limited by any other Agreement provision.

- B. The City and OCWUT are constitutionally and statutorily prohibited from indemnifying any third party. This includes, but is not limited to, Permittee, pursuant to Article X, Sections 9, 14, 17, 19, and 26 of the Oklahoma Constitution and the Oklahoma Governmental Tort Claims Act (51 O.S. § 151 et seq.), as it may be amended.

16. TERMINATION

- A. The City may terminate this Agreement, for any reason and without cost or liability, by giving written notice to Permittee. Upon delivery of such written notice by the City's authorized agent(s), this Agreement shall become void, and Permittee shall immediately cease occupying and using the Site. If he fails to do so, Permittee shall be considered trespassing on public property under Section 30-35 of the Oklahoma City Municipal Code, 2020, as amended ("Code"), and be subject to enforcement of the Code provisions.
- B. If the City terminates this Agreement before Permittee completes the single hay harvest, the City shall refund his two hundred dollar (\$200) Agreement fee, without interest. Such refund shall be processed according to City policy and may take up to eight (8) weeks.
- C. If, before Permittee conducts the hay harvest, the City receives excessive public complaints about high grass at the Site, or if the City's authorized agent(s) determine, in good faith, that the high grass is a hazard, they may direct Permittee to complete the hay harvest within seventy-two (72) hours. If Permittee is unable to do so, the City's authorized agents may terminate this Agreement. If so, they shall refund Permittee's Agreement fee, as provided for in Subsection 16.B.

17. BREACH

- A. Permittee shall timely comply with all Agreement terms. Failure to do so shall be an Agreement breach. Upon such breach, the City's authorized agent(s) may give verbal or written notice to Permittee and may terminate this Agreement immediately thereafter on behalf of the City. If so, Permittee shall promptly cease occupying and using the Site or be subject to enforcement for trespassing as provided in Subsection 16.A.
- B. The City may waive any Agreement breach. However, that shall not constitute a continuing waiver of similar or additional breaches. Also, the City may, at any time, require future compliance with previously waived Agreement provisions. If the City elects to give Permittee the chance to correct a breach before terminating this Agreement, Permittee shall immediately comply with the Agreement terms, as directed by the City's authorized agent(s).

18. RESTORATION OF DAMAGED PROPERTY

Permittee shall protect City and OCWUT property within the Site. This shall include, but is not limited to, pavement, signs, fences, electrical panels, trees, and other structures. If City or OCWUT property is damaged, Permittee shall timely restore it to pre-Agreement condition or better or otherwise compensate the City or OCWUT for actual losses. This Section excludes normal wear and tear on City or OCWUT property, as determined by the City's authorized agent(s).

19. AMENDMENT

This Agreement may be amended mutual consent of the parties.

20. LAWS AND OTHER APPROVALS

This Agreement shall be subject to applicable laws, rules, regulations, guidelines, and policies. Permittee shall obtain other approvals required to conduct activities under this Agreement. These may include, but are not limited to, vehicle registrations, commercial driver's licenses, state or federal Agriculture Department authorizations, etc. Misrepresentations by Permittee, or his associates, to obtain other necessary approvals to conduct activities under this Agreement shall be grounds for terminating this Agreement, as provided for in Subsection 17.A.

21. AGREEMENT BINDING ON HEIRS AND ASSIGNS

This Agreement shall be binding upon the parties' heirs, executors, administrators, successors, and assigns.

22. NO COMMERCIAL USE OF HAY

The hay harvested under this Agreement shall be for Permittee's private use. It shall not be sold or offered for any commercial purpose.

23. NO HAZARDOUS CHEMICALS OR MATERIALS

Permittee shall not use or store hazardous chemicals or materials at the Site without approval of the City authorized agent(s). If such approval is given, Permittee shall comply with applicable laws, rules, and regulations for transporting, storing, using, and disposing of such chemicals or materials.

24. NO ENVIRONMENTAL DAMAGE

Permittee shall cause no environmental damage at the Site. If such damage occurs, Permittee shall immediately remedy the situation, pursuant to applicable environmental regulations, or otherwise compensate the City or OCWUT for actual damages or losses.

25. SECTION HEADINGS

The section headings of this Agreement are for convenience of reference only and shall not affect its meaning or interpretation. Permittee acknowledges that he was able to fully review all Agreement terms before signing. This Agreement shall not be construed in favor of (or against) either party based on who drafted it.

26. REPRESENTATIONS

Permittee warrants that he can fulfill his obligations under this Agreement.

27. CITY DESIGNEE

The City Manager of the City or designee is authorized to exercise any right or duty of the City under this Agreement.

28. GOVERNING LAW

This Agreement shall be governed by, and construed according to, Oklahoma law.

29. NO OUTSIDE EMPLOYEES OR MINORS

Only Permittee and his adult family members shall perform tasks at the Site. No outside employees or volunteers, minors, or others shall do so.

30. RELEASES

Permittee shall ensure that, before performing any tasks at the Site, all adult volunteers sign an Acknowledgment and General Release ("Release," see Exhibit B, incorporated herein). Permittee shall provide copies of signed Releases to the City's authorized agent(s).

31. NOTICES

- A. Official Communications to the City regarding this Agreement shall be sent to:

The City of Oklahoma City
Parks and Recreation Department
420 W. Main, Suite 210
Oklahoma City, OK 73102
(405) 297-3882
okcparks@okc.gov

and

The City of Oklahoma City
City Clerk
200 North Walker Avenue, 2nd Floor
Oklahoma City, OK 73102
(405) 297-2391
cityclerk@okc.gov

- B. Official communications to Permittee regarding this Agreement shall be sent to:

Mr. James Eaton
6400 South Triple X Road
Choctaw, OK 73020
(405) 831-7692
cheyanne2201@yahoo.com

or to such persons and addresses as the parties later designate in writing.

32. PROPERTY “AS-IS”; INSPECTION BEFORE HAY CUT

- A. Permittee accepts the Site “as-is” and without warranty. This includes, but is not limited to, the hay growing on the Site.
- B. Before beginning the hay harvest, Permittee shall inspect the Site to identify and remove hidden debris, or other hazards, that may endanger equipment, property, or persons.

REMAINDER OF PAGE LEFT BLANK; SIGNATURE PAGE TO FOLLOW

APPROVED by James Eaton this 24 day of July, 2023.

Oklahoma County)

State of Oklahoma)SS.



James Eaton
James Eaton

This instrument was acknowledged before me on this 26th day of July, 2023.

Notary Public Kelley Maynard My commission expires 7/21/25

APPROVED by the Council of The City of Oklahoma City this 15TH day of AUGUST, 2023.

Amy K Simpson
City Clerk



David Holt
Mayor

REVIEWED for form and legality.

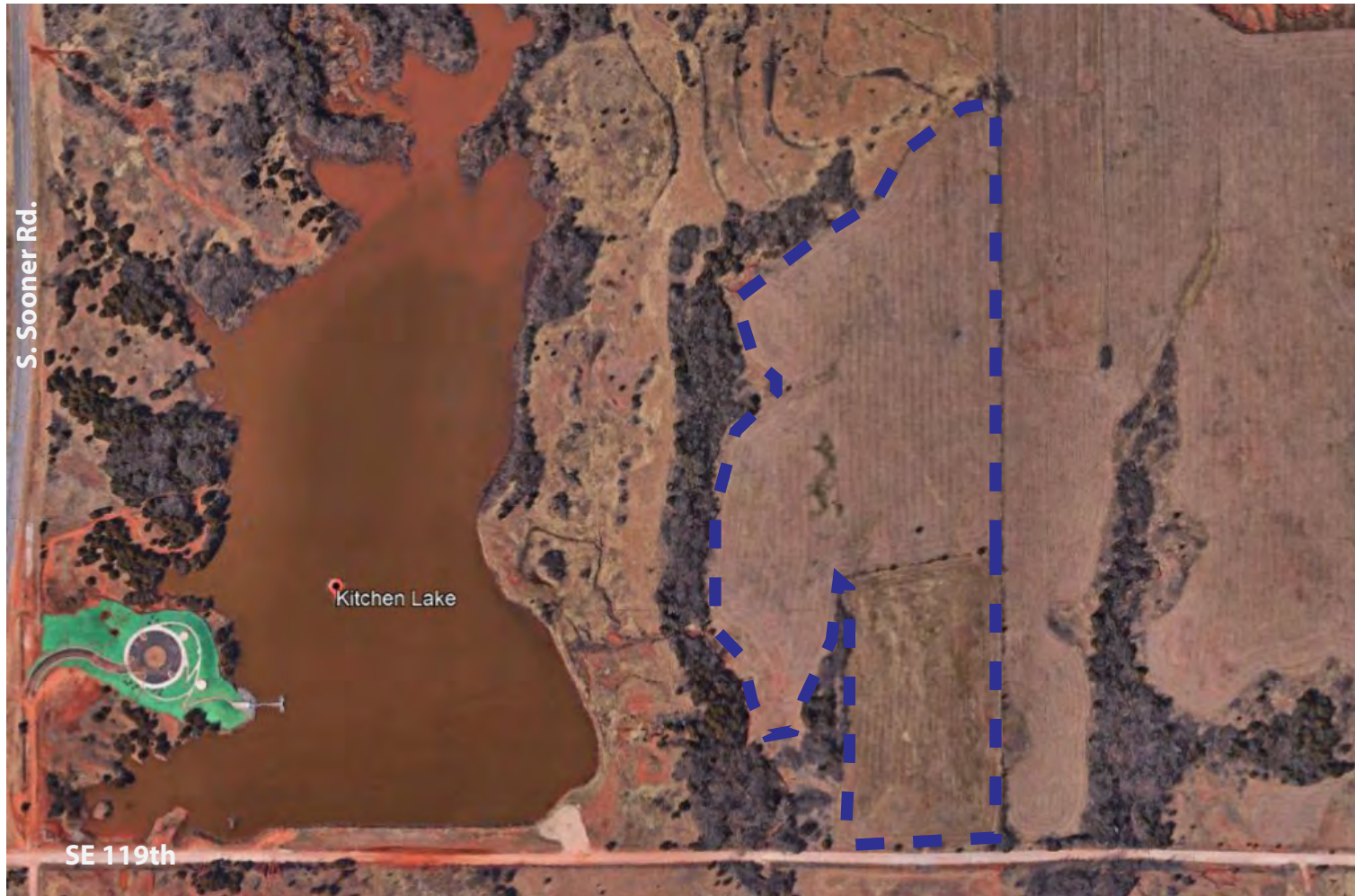
Susan Randall
Assistant Municipal Counselor

Exhibit A

Site

(Attached)

EXHIBIT A SITE



Eaton Agricultural Lease

Agricultural Lease - SE 119th St. & S. Sooner Rd.
Oklahoma City Parks and Recreation Department
August 14, 2018

— — — Exhibit A Site



Exhibit B
ACKNOWLEDGMENT AND GENERAL RELEASE

I acknowledge that I have agreed to take part in the "James Eaton Agricultural Use Agreement" ("Agreement") at Kitchen Lake Park in Oklahoma City ("Site"). I also acknowledge that I am not employed or contracted by The City of Oklahoma City ("City") or the Oklahoma City Water Utilities Trust ("OCWUT") to perform work or other tasks at the Site. I further acknowledge that I am at least eighteen (18) years of age and have no impairments that prevent me from performing such work or tasks.

I understand that this activity may involve strenuous physical exertion and carries inherent risks, including, but not limited to, property damage, injury, or death. I also understand that I can avoid these inherent risks by not participating. I further understand that factors beyond my control, including negligence, may affect my safety. In signing this Acknowledgement and General Release ("Release"), I affirm that neither the City nor OCWUT can guarantee my safety and that I participate willingly. If injured, I will rely solely on my own insurance or resources to cover any medical bills or other expenses or losses. I understand that no workers' compensation or third-party insurance will be available to me.

I hereby release the City and OCWUT, and their agents, affiliates, successors, and assigns, from all liability related, in any way, to my work or other tasks at the Site.

Signed this 24 day of July, 2023.

Print Name: JAMES EATON

Signature: James Eaton

Print Name: Sheila Eaton

Signature: Sheila Eaton

Print Name: Shyanne Williams

Signature: Shyanne Williams

Print Name: Jesse Williams

Signature: Jesse Williams

Print Name: _____

Signature: _____

Print Name: _____

Signature: _____

Print Name: _____

Signature: _____

Print Name: _____

Signature: _____

NOTE: Upon request, Permittee James Eaton shall provide copies of signed Releases to the City.