

## **SPECIAL PERMIT**

**AC-25-0027-DR**

This Special Permit ("Agreement") is made and entered into, as of the effective date hereinafter set forth by and among The City of Oklahoma City, a municipal corporation (also referred to as "Oklahoma City"), the Oklahoma City Waste Utilities Trust, a public trust (also referred to as "OCWUT"), and the Oklahoma Mountain Bike Association (also referred to as "Permittee") (collectively, the "Parties").

### **WITNESSETH:**

**WHEREAS**, Oklahoma City and OCWUT previous entered into a five (5) year License Agreement with Oklahoma Earth Bike Fellowship, on March 24, 2015, for non-motorized off-road vehicle activities and events; and

**WHEREAS**, Oklahoma Earthbike Fellowship recently changed its entity name to Oklahoma Mountain Bike Association; and

**WHEREAS**, the License Agreement expires March 23, 2025, and the Parties wish to enter into this Agreement to maintain and operate the Lake Stanley Draper non-motorized off-road vehicle facilities; and

**WHEREAS**, Oklahoma City owns and operates and OCWUT leases and finances the Oklahoma City water system, Oklahoma City sanitary sewer system, Oklahoma City reuse water system and the Oklahoma City solid waste system, (collectively "Oklahoma City Utility Systems") including but not limited to the Oklahoma City reservoirs, reservations and public water supply systems necessary to protect, collect, store and provide water for the inhabitants and industries of the greater Oklahoma City area; and

**WHEREAS**, the primary purpose of the Oklahoma City lakes and reservations is to provide drinking water to the greater Oklahoma City area, and

**WHEREAS**, Oklahoma City is the sole beneficiary of the OCWUT; and

**WHEREAS**, park and recreational functions are public purposes provided and supported by Oklahoma City; and

**WHEREAS**, Oklahoma City and OCWUT grant permits for recreational and park uses of the Oklahoma City reservoirs and reservations, which do not impair or conflict with the aforementioned primary purpose; and

**WHEREAS**, through the Oklahoma Municipal Code, the State of Oklahoma promotes the

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establishment, operation and support of public recreational facilities for the welfare of the people by local governmental units of Oklahoma, either singly or jointly; and

**WHEREAS**, Oklahoma City and the OCWUT permit recreational use of the Oklahoma City reservoirs and reservations, which do not impair or conflict with the aforementioned primary purpose, for the benefit to the public as part of a system of recreation pursuant to Oklahoma Statutes Title 11, § 33-104; and

**WHEREAS**, through the Recreational Land Use Act, the State of Oklahoma encourages landowners including public entities to make land available to the public for outdoor recreational purposes; and

**WHEREAS**, Oklahoma City and the OCWUT permit recreational use of the Oklahoma City reservoirs and reservations, which do not impair or conflict with the aforementioned primary purpose, to provide additional park area for outdoor recreational and sporting events purposes pursuant to Oklahoma Statutes Title 76 § 10.1; and

**WHEREAS**, the Permittee is a non-profit entity, which has received tax-exempt status under Section 501(c)(3) of the United States Internal Revenue Service Code, documentation of which is attached as **Attachment “A” (“Permittee Tax Status”)**, incorporated herein by reference; and

**WHEREAS**, the Permittee’s purpose is to provide recreational opportunities to the public and for the general welfare of the residents of Oklahoma City and the surrounding areas, more particularly described in **Attachment “B” (“Permittee Purpose”)**, incorporated herein by reference; and

**WHEREAS**, Permittee hereby agrees to provide recreational and park facilities and activities in accordance with this Agreement, which do not impair or conflict with the primary purpose of the reservoir and reservation, or cause adverse tax consequences to Oklahoma City or OCWUT, or cause additional costs to Oklahoma City Utility System ratepayers; and

**WHEREAS**, upon the effectuation of this Agreement, all previously entered into agreements and permits with Permittee are hereby deemed closed and terminated.

**NOW, THEREFORE**, in consideration of the exchange of covenants, promises, terms, and agreements of Permittee, Oklahoma City and OCWUT agree:

**1. PERMITTED ACTIVITIES**

Oklahoma City and OCWUT permit Permittee to operate and provide recreational and park facilities and activities for the public and for the general welfare, as set forth on **Attachment “C” (“Permitted Activities”)**, incorporated herein by reference, that do not impair or conflict with the primary purpose of the reservoir, reservation and/or Permitted Premises, or cause adverse tax consequences to Oklahoma City or OCWUT, or cause additional costs to Oklahoma City Utility System ratepayers.

## **2. COMMUNITY PROGRAMS**

Permittee agree to provide the Community Programs as set forth on **Attachment “D” (Community Programs”)**, incorporated herein by reference that do not impair or conflict with the primary purpose of the reservoir and reservation, or cause adverse tax consequences to Oklahoma City or OCWUT, or cause additional costs to Oklahoma City Utility System ratepayers.

## **3. PERMITTED PREMISES**

A. Oklahoma City and OCWUT permit Permittee to use the land as designated on **Attachment “E” (Permitted Premises”)** for the Permitted Activities and Community Programs. However, the Permitted Premises may be re-designated and relocated as necessary, whenever the land is needed for OCWUT purposes, or such other Oklahoma City or OCWUT reason as determined by the Utilities Director. The Utilities Director may re-designate the Permitted Premises to other OCWUT owned or leased land.

B. Permittee, at Permittee’s option, shall bear the cost and expense of moving and relocating to any such re-designation and relocation or the Permittee may terminate this Agreement; provided, Permittee may remove any Permittee Facilities, including any Permittee Capital Improvement but will not be compensated or reimbursed for any remaining Permittee Capital Improvement upon such termination, except as expressly provided in this Agreement, if applicable to any such Permittee Capital Improvement.

## **4. TERM**

The term of this Agreement shall commence on the effective date and shall be effective for the term set forth on **Attachment “F” (Effective Date and Term”)**, incorporated herein by reference, provided, this Agreement is also subject to cancellation and to termination as provided in this Agreement.

## **5. RESERVATION OF RIGHTS AND SPECIAL EVENT PERMITS**

A. The Permittee, Oklahoma City and OCWUT agree that the Permitted Premises is public property and not for the exclusive use of Permittee or any other person or entity.

B. Oklahoma City and OCWUT expressly reserve the right to:

1. use the Permitted Premises for the purpose of construction, improvement, operation and maintenance of the Oklahoma City Utility Systems; and
2. use the Permitted Premises for City-sponsored Special Events as defined herein; and
3. issue other and additional contemporaneous permits for use of the Permitted Premises for the benefit of Oklahoma City or OCWUT or as provided by law.

C. City-sponsored Special Events are activities permitted by approval of the Oklahoma City Council for contemporaneous use of the Permitted Premises that do not interfere with construction, improvement, operation and maintenance of the Oklahoma City Utility Systems and do not directly and substantially interfere with the contemporaneous use of the Permitted Premises by Permittee, as Permittee's use is defined in its Annual Report, Review and Reconciliation, unless and except as defined in this Agreement.

D. Any such City-sponsored Special Events request for temporary use of the Permitted Premises, or a portion thereof, must be compatible with proper use of the Permitted Premises and must be coordinated with Permittee. Permittee agrees to cooperate with Oklahoma City in scheduling these City-sponsored Special Events.

E. Should a City-sponsored Special Event suspend, restrict or inhibit Permittee's ability to operate or maintain the Permitted Premises under this Agreement, Permittee shall not be entitled to any compensation or to any relief from or modification to this Agreement as a result thereof. Provided, however, Oklahoma City will provide as much notice as reasonably possible, with the goal of providing advanced notice to the Permittee. Oklahoma City will coordinate the scheduling of such City-sponsored Special Events to minimize impact to and interference with Permittee's operation or maintenance of the Permitted Premises.

F. Entities requesting City-sponsored Special Events including a request for temporary use of the Permitted Premises, or a portion thereof, shall be required to apply

with the Utilities Department for Special Event Permits. Said requesting entity shall be required to have:

1. Separate public liability insurance coverage in the same amount as required from Permittee under this Agreement which includes the Permittee, Oklahoma City and OCWUT as additional insured; and
2. A security and damage deposit in the form of a cashier's check, bank check, or surety bond in the amount established by the Utilities Director, which may be used as determined by the Utilities Director to repay or indemnify Permittee, Oklahoma City, and OCWUT from damages and loss incurred and costs and expenses incurred by Permittee, Oklahoma City and OCWUT related to the City-sponsored Special Event Permit whether by City-sponsored Special Event Permittee or its patrons or participants; and
3. General liability releases in **Attachment "G" (Liability Release Forms)**, as may be customized for individual City-sponsored Special Events, signed by each City-sponsored Special Event's patrons, participants, also including volunteers and Special Event staff (a parent or legal guardian must sign and tender a liability release for each minor under the age of 18), and maintained by Oklahoma City for two (2) years after the City-sponsored Special Event, releasing Permittee, Oklahoma City and OCWUT for any injury, damage or loss incurred by the participant related to the City-sponsored event or on the Permitted Premises related to the City-sponsored event; and
4. Such security to protect Permitted Premises, emergency medical professionals, trash receptacles for the collection and disposal of waste on the Permitted Premises, and sanitary facilities including but not limited to port-a-potties and water, as may be required by the Utilities Director; and
5. All permits, licenses and approvals required by Oklahoma City, state and federal laws and regulations.

**6. PERMITTEE SPECIAL EVENT**

A. Permittee Special Event shall be defined as an event at the Permitted Premises other than regular activities included in the Annual Report Review and Reconciliation.

B. Permittee may schedule a Permittee Special Event either by having such Permittee Special Event approved as part of the Annual Report Review and Reconciliation or as a separately approved Permittee Special Event. To schedule a Permittee Special Event, Permittee must schedule the Permittee Special Event in its Annual Report Review and Reconciliation. If the Permittee does not schedule a Permittee Special Event as part of its Annual Report Review and Reconciliation, Permittee must obtain the prior approval of the Utilities Director at least sixty (60) calendar days before the Permittee Special Event. Permittee may not advertise a Permittee Special Event until the Permittee Special Event is approved.

C. Whenever Permittee hosts a Permittee Special Event, Permittee shall also be required to have signed and maintained for two (2) years after the Permittee Special Event liability releases from each participant, patron, volunteer and staff participating in the Permittee Special Event. A parent or legal guardian must sign and tender a liability release for each minor (under the age of 18) participant staff and volunteer. The required Liability Release Forms are attached as **Attachment “G” (Liability Release “Forms)**, and may be subsequently amended or modified by the Utilities Director. The Liability Release Forms shall be customized for individual Permittee Special Event(s). The Liability Release Forms will also release Oklahoma City and OCWUT from liability related to the Permittee Special Event. Said releases must be maintained by Permittee for two (2) years from the last day of the Permittee Special Event.

#### **7. DAYS AND HOURS OF OPERATION**

A. Permittee may use the Permitted Premises for the recreational uses and activities authorized in this Agreement during hours when the lake reservation is open as established in Oklahoma City Ordinance unless otherwise reduced or modified by the Utilities Director.

B. Permittee may request and the Utilities Director may, in his sole discretion, grant Permittee permission to use the Permitted Premises, as authorized in this Agreement, during such other or additional hours as the Utilities Director deems appropriate.

#### **8. CONSIDERATION**



In addition to the other covenants, promises, terms, and agreements hereunder, the consideration to be paid and/or provided by Permittee for this Agreement is set forth on **Attachment “H” (“Consideration”)**, incorporated herein by reference.

**9. FIRST CLASS MANNER**

A. Permittee must maintain the Permitted Premises in a “first class” manner. The term “first class” manner is hereby defined as the Permitted Premises being maintained and operated to provide safe, secure, sanitary, and quality activities and facilities and to provide safe, secure, sanitary, experiences for patrons and participants.

B. In addition to maintaining and operating the Permitted Premise in a “first class” manner, Permittee must regularly inspect, maintain, provide upkeep, and repair and replace, as necessary, all Existing Permittee Facilities, as defined below, and all unlisted and/or subsequently provided installed or constructed facilities and improvements also including but not limited to buildings, fencing, electrical, trees, lighting, picnic areas, parking lots, walkways, equipment, and other improvements located on the Permitted Premises and provide safe, secure, sanitary, and quality facilities and to provide safe, secure, sanitary, experiences for patrons and participants.

C. Further, Permittee agrees to maintain all real and personal property and all fixtures and improvements to or on the Permitted Premises or used by Permittee and/or its patrons and participants on or about the Permitted Premises in a safe, clean and orderly manner.

**10. “AS IS” CONDITION**

Permittee accepts the Permitted Premises “as is.” Permittee has inspected and does hereby accept the Permitted Premises and the Oklahoma City and OCWUT land, facilities and improvements thereon “as is.” Permittee’s acceptance of Oklahoma City and OCWUT land, facilities, and improvements does not authorize Permittee use of such land, facilities, or improvements except as expressly authorized in this Agreement. All existing Permittee Facilities and improvements required, provided or obtained for the administration, management, operation and maintenance of the Permitted Premises or for the Permittee activities on the Permitted Premises must be maintained by Permittee in a “first class” manner.

**11. EXISTING FACILITIES**

A. Permittee has created and provided a list and description of the Permittee's existing personal property, fixtures, structures, improvements, capital improvements, and facilities owned by Permittee and currently on the Permitted Premises as listed and described on **Attachment "I" ("Existing Permittee Facilities")**, incorporated herein by reference. Permittee has an affirmative duty and will update and supplement this list as new, additional, modified or replacement Existing Permittee Facilities periodically but no less than annually as part of the Annual Report, Review and Reconciliation. Permittee must provide documentation of actual costs of expenditures and documentation of actual costs of improvements and facilities.

B. Permittee, Oklahoma City, and OCWUT have mutually created and provided a list and description of the existing personal property, fixtures, structures, improvements, capital improvements and facilities owned by Oklahoma City or OCWUT and currently on the Permitted Premises as listed and described on **Attachment "J" ("Existing Oklahoma City Facilities")**, incorporated herein by reference, including any addition or modification thereof.

C. Permittee, at its cost and expense, must provide Oklahoma City and OCWUT with As-Built drawings in the latest AutoCAD format compatible with Oklahoma City's current software, which drawings will depict Existing Permittee Facilities upon the Permitted Premises within thirty (30) calendar days of installation, modification or construction.

D. This Agreement and the Permitted Premises shall be subject to use by Oklahoma City and OCWUT for Oklahoma City Utility Systems purposes and to all and subsequent and existing Oklahoma City or OCWUT uses, grants, easements, permits, and rights-of-ways.

## **12. PROPERTY SAFEKEEPING**

Permittee shall be solely responsible for the safekeeping of any, and all, of the Permitted Premises, Existing Permittee Facilities and the property of its patrons and participants. Permittee shall hold Oklahoma City and OCWUT harmless for any loss, damage, theft or vandalism of the property of Permittee and its patrons and participants. Permittee shall sufficiently secure Permitted Premises, Existing Permittee Facilities, and the property of its patrons and participants to prevent



loss, damage, theft or vandalism. However, this paragraph does not create any right by any patron or participant as a third-party beneficiary as to this Agreement.

**13. PERMITTEE INSURANCE OF PERMITTEE FACILITIES**

Permittee must carry, at its own expense, such general liability and property insurance as it may deem necessary to protect Permittee's interests in Existing Permittee Facilities. Neither Oklahoma City nor OCWUT shall be required to repair or replace any Existing Permittee Facilities damaged by fire, act of God, act of third parties, or any other cause not the result of the direct acts of Oklahoma City or the OCWUT.

**14. VEHICULAR ACCESS TO NON-MOTORTIZED VEHICLE TRAILS**

Vehicle access to the Permitted Premises is limited to along and across South Post Road or such other access as may otherwise be designated by the Utilities Director in writing or by signage erected by the Oklahoma City or the OCWUT. Parking will be restricted to *existing* paved, gravel surfaces and compacted dirt surfaces designated as parking areas by signage approved by the Utilities Director. Until required environmental, biological, and archeological studies have been completed, staging area parking is limited to the area designated or subsequently constructed as provided in this Agreement.

**15. PERMITTEE FENCES**

A. Permittee may, at its own expense, install and maintain perimeter fencing around the Permitted Premises as shown on **Attachment "E" ("Permitted Premises")** and also such additional fencing as Utilities Director deems necessary to: secure and to identify the Permitted Premises, protect Permittee Existing Facilities, and save the patrons, participants and public from harm. Said perimeter fencing shall become the property of Oklahoma City upon the expiration, termination or cancellation of this Agreement, without cost to Oklahoma City or OCWUT, and shall not be removed by Permittee except upon direction of the Utilities Director. Provided, however, the Utilities Director may temporarily remove a section of the perimeter fencing to make extensions, modifications or repairs to the Oklahoma City Utility Systems, at the cost and expense of Oklahoma City or OCWUT.

B. Fencing shall ensure that ingress and egress to the non-motorized off-road trails are restricted to users with current permits and that users are in compliance with the Oklahoma City Municipal Code. This Agreement includes the authorization for the Permittee to cut, trim and

remove any shrubs, brush or other natural obstruction that impede the establishment, maintenance and operation of the fence, provided that removal of vegetation or ground cover or protection must be done in a manner which does not increase erosion, run-off or sedimentation, and must be in compliance with federal, state and local laws or regulations.

C. The Permittee is also permitted to clear select vegetation along a twenty-five (25) foot strip of ground, parallel to the fence for purposes of fence line maintenance. The Permittee agrees to preserve trees with a diameter greater than four (4) inches.

D. In the event mechanical clearance is utilized, disturbed areas must be timely and prudently graded and re-vegetated with native grasses wherever erosion is likely to occur. Any rutting created by the Permittee or the Permittee's authorized vehicles or equipment during mechanical clearance must be filled with soil similar to the native soil at the site and leveled sufficiently to prevent erosion. Standards for types of vegetative cover and application rates will be provided by the Parks and Recreation Department Grounds Maintenance Division. The Permittee must give the Utilities Director and the Parks and Recreation Director sufficient prior notice of the time when it intends to seed, re-seed, vegetate, re-vegetate, or restore an area so that Oklahoma City representatives may be present. The Permittee must maintain or re-plant any area as may be necessary to sustain adequate ground cover for a minimum of one year after the last planting.

E. The Permittee acknowledges that installation of a new fence and maintenance or repairs of existing fence shall be undertaken in such a manner that it does not increase erosion, runoff or sedimentation into any streams or tributaries of Lake Stanley Draper. Permittee agrees to refrain from using and agrees to prevent the use of any equipment or substances, which might constitute in any manner a present or potential pollution hazard to the area or the water quality in Lake Stanley Draper.

#### **16. DUTY TO PROTECT WATER QUALITY**

A. No activity or use of the Permitted Premises by Permittee or any of its patrons or participants may impact or deteriorate water quality in the reservoir or on the reservation.

B. Should any activity or use of the Permitted Premises by Permittee or any of its patrons or participants pollute or adversely impact or deteriorate water quality in the reservoir or on the reservation, then if not immediately ceased and remediated, Oklahoma

City or OCWUT may terminate this Agreement and/or pursue recovery and reimbursement of damages, losses, expenses and costs to remediate such pollution or adverse impact or deterioration.

C. Permittee must promptly make such design and/or operation changes as may be necessary to prevent any pollution and any adverse or deleterious impact or effect upon the reservoir or reservation.

**17. TITLE TO PERMITTED PREMISES**

A. It is expressly understood and agreed by Permittee, Oklahoma City, and OCWUT that nothing in this Agreement shall be construed to grant or convey unto Permittee any title or property right or interest of any nature or kind in the Permitted Premises or any Oklahoma City or OCWUT improvement, fixture or personal property thereon.

B. This Agreement only grants contemporaneous use of the Permitted Premises in accordance with this Agreement which does not impair or conflict with the primary purpose of the reservoir and reservation, or cause adverse tax consequences to Oklahoma City or OCWUT, or cause additional costs to Oklahoma City Utility Systems ratepayers.

C. It is further expressly understood and agreed by Permittee that this Agreement and use of the Permitted Premises described herein shall not be used or act as security or collateral on any loan and no lien or mortgage shall ever be placed upon the Permitted Premises.

D. It is expressly agreed that all oil and gas revenues, including surface damages, shall be the property of OCWUT, however, should the location or operation of oil and gas exploration or extraction facilities or operations interfere with Permittee's operation, Oklahoma City and OCWUT will apprise the oil and gas exploration entity to negotiate separate damages with Permittee.

**18. REVENUES**

All revenues, incomes, monies, or compensations generated by the property, including, but not limited to, easements, rights-of-ways, pipeline damages, surface damage agreements, not directly attributed to or a direct result of Permittee's Permitted Activities and Permittee Special Events, as set forth herein, are the sole property of OCWUT.

**19. PRICES**

A. Except as otherwise provided in this Agreement, Permittee may only offer permits and licenses at the prices established by OCWUT and Oklahoma City Municipal Code including any amendments thereto. Permittee will receive a commission for the sales of City licenses and permits set forth in **Attachment “U” (Permit Dealer License)**.

**20. PERMITTED PREMISES WASTE DISPOSAL**

A. Permittee shall remove all waste and debris of every kind deposited upon the Permitted Premises by the Permittee, its patrons and participants, at its own expense.

B. The Permittee shall provide and maintain adequate numbers and sizes of suitable containers, acceptable at the Permitted Premises for the collection and deposit of litter, debris, and waste pending removal. Permittee agrees to maintain the Permitted Premises in a good and clean condition at its own expense, which shall include the regular collection, removal and proper disposition of all litter, debris, and waste of all kinds from the Permitted Premises, regardless of source.

**21. DUMPING PROHIBITED**

A. Dumping is prohibited on the Permitted Premises. Dumping includes, but is not limited to refuse, garbage, trash, brush, furniture, appliances, tires, roofing shingles, petroleum products, household waste, toxic waste, automobiles, or machinery. Permittee shall not engage in dumping or allow others to engage in dumping on the Permitted Premises.

B. If dumping occurs on the Permitted Premises, Permittee shall be liable for all costs and expenses related to clean-up of the dumpsite and proper disposal of the waste.

C. This Agreement may be immediately terminated if the Permittee does not timely clean-up dumping on the Permitted Premises.

D. Notwithstanding the rights under this Agreement, Oklahoma City and OCWUT reserve the right to prosecute the responsible parties for illegal dumping.

**22. RESTORATION**

A. Upon expiration, cancellation, or termination of this Agreement for any reason whatsoever, Permittee must restore the Permitted Premises and must restore any reservoir and reservation area affected by Permittee under this Agreement to a condition equivalent to or better than that which existed at the time of the commencement of this Agreement,

unless otherwise directed by the Utilities Director. Permittee further agrees that under this Agreement the Permitted Premises must be clean and orderly upon the expiration, termination, or cancellation of this Agreement, for whatever reason it may expire, be terminated or canceled. In addition, Permittee shall surrender the Permitted Premises and the affected reservoir and reservation in a clean and orderly manner.

B. The Utilities Director may require that Permittee remove any or all Permittee Facilities installed by Permittee as may be provided hereunder.

C. Should Permittee fail to return the Permitted Premises to a condition satisfactory to the Utilities Director, then Oklahoma City or OCWUT may undertake any necessary steps to properly restore the Permitted Premises. Oklahoma City or OCWUT shall immediately invoice Permittee for any and all costs and expenses associated with Oklahoma City or OCWUT's cleaning or restoration of the Permitted Premise and Permittee shall immediately remit payment in full. Should Permittee fail to make immediate payment to Oklahoma City or OCWUT, and then Oklahoma City or OCWUT may take any and all necessary steps to collect payment due from Permittee, including, but not limited to, retaining or making a claim on the surety bond and/or a seeking appropriate legal and equitable remedies in a court of competent jurisdiction in the venue set forth in this Agreement.

### **23. CONSTRUCTION AND MAINTENANCE OF ACCESS**

A. Permittee shall be responsible for the maintenance and repair of adequate access to the Permitted Premises from Oklahoma City streets as to not cause traffic to back up on the Oklahoma City streets. The location access to the Permitted Premises may be altered by Permittee, at the sole cost and expense of Permittee, upon approval of the Public Works Director and the Utilities Director, and without cost or expense to Oklahoma City or OCWUT. Any access and access road construction and installation must be approved by the Public Works Director and the Utilities Director prior to commencement thereof. All construction and installation of access and access roads shall be the responsibility of the Permittee.

B. Permittee agrees to operate and maintain ingress/egress to the Permitted Premises to not cause traffic to back up on adjacent streets and to minimize the effect on traffic flow

to adjacent streets.

**24. CONSTRUCTION**

A. Permittee agrees that no construction, improvement, or modification of any nature, beyond what is required to maintain the Permitted Premises as described herein, shall be undertaken by Permittee upon the Permitted Premises, until Permittee has submitted detailed written plans of the proposed improvement, fixtures, structures, facilities or modification thereof and obtained the prior written consent of the Utilities Director. All improvements, fixtures, structures, and facilities, and modifications thereof must be installed in accordance with plans approved by the Utilities Director and the manufacturer's recommendations and requirements.

B. It is further agreed that any construction, improvement or modification of any nature undertaken by Permittee shall comply with the Americans with Disabilities Act and any successor legislation.

**25. ADA ACCESS AND ACCOMMODATIONS**

Permittee agrees to not block or obstruct any existing American with Disabilities (ADA) facility or improvement, including but not limited to entrances, ramps, sidewalks, parking spaces, toilets, docks, and other ADA facilities. Permittee must provide ADA accessible entrances, sidewalks, parking spaces, bathrooms and toilets and must make Permitted Activities, Community Programs, and Permittee Facilities reasonably accessible as required by ADA. The Permittee agrees that any new facilities or major improvements constructed by Permittee must comply with ADA requirements.

**26. FIRST AID KIT**

A. Permittee shall keep and maintain a fully equipped first aid kit at the Permitted Premises during Permittee Special Events at Permitted Premises. All participants, patrons, volunteers, and staff shall be required to administer their own first aid during their permitted use or activities at the Permitted Premises.

B. Permittee shall have on duty, at all times during tournament competition hours and during Permittee Special Events, with less than 2,500 participants, patrons, volunteers, and staff; a staff member trained in basic First Aid and Cardiopulmonary resuscitation (CPR) available to attend to patrons and participants.



C. Permittee shall not authorize healthcare providers to issue medical recommendations at the Permitted Premises or Permittee Special Events. Nothing in this Section shall prohibit Permittee from facilitating emergency medical care to participants, patrons, volunteers, and staff as provided by EMSA, Oklahoma City police officer, firefighters, or others.

**27. SAFETY RULES AND EMERGENCY PLANS**

A. Permittee has adopted a Safety Plan, including but not limited to Safety Rules and Emergency Procedures. The Safety Plan must be amended, modified, or supplemented by Permittee to timely and adequately address any additional requirements of the Utilities Director, which the Utilities Director may deem necessary at any time throughout the term of this Agreement.

B. Permittee has adopted safety rules and will practice and strictly adhere to the safety rules set forth in **Attachment "K" ("Safety Rules")**, incorporated by reference.

C. Permittee has also adopted emergency procedures and will practice and strictly adhere to the emergency plans and procedures set forth in **Attachment "L" ("Emergency Plans")**, incorporated by reference. The Emergency Plans must include but is not limited to plans and procedures for thunderstorm and tornado events.

**28. WARNING OR NOTICE**

Permittee must establish a procedure, approved by the Utilities Director, for the provision by the Permittee of warnings and notices of adverse weather, dangers to health, welfare, or safety, and/or cessation of the hours of operation to its patrons and participants.

**29. RULES, REGULATIONS AND FEES**

A. Permittee has adopted and provided to Oklahoma City and OCWUT a copy of the Permittee's patron and participant rules, regulations and fees related to the operation of the Permitted Premises, the activities on the Permitted Premises, and the behavior of the patrons and participants at the Permitted Premises attached as **Attachment "M" ("Permittee Rules, Regulations and Fees")**, incorporated herein by reference. Permittee will provide Oklahoma City and OCWUT with all updates and revisions of the Permittee Rules, Regulations and Fees.

B. Oklahoma City or OCWUT may request or require as condition of any

amendment to this Agreement, updates or revisions to Permittee Rules, Regulations and Fees, as may be necessary to conform to the Permittee Rules, Regulations and Fees to the rules, regulations and fees of the Oklahoma City Parks and Recreation Departments applicable to similar activities, uses, properties and facilities and to address the concerns of the Utilities Director.

### **30. YOUTH PROTECTION POLICY**

A. Permittee shall ensure that prior to participating in any youth activities at the Permitted Premises all instructors, coaches, supervisors, staff, and employees pass a background screening process consistent with the Oklahoma City Parks Department's Youth Protection Policy, attached as **Attachment "N" ("Youth Protection Policy")** and incorporated herein by reference. Permittee hereby acknowledges receipt of the Youth Protection Policy from Parks Department staff. Permittee shall maintain documentation of all such background screening processes for so long as such instructors, coaches, supervisors, staff, and employees participate in the activities and operations at the Permitted Premises, and Permittee shall provide documentation for inspection and copying by the Oklahoma City and OCWUT upon request.

B. Permittee shall keep a registry of all employees, contractors and subcontractors entering and exiting the Permitted Premises.

### **31. RELEASES**

A. All Permittee's participants, instructors, coaches, supervisors, staff, and employees utilizing the Permitted Premises must sign a release that indemnifies, releases and holds harmless OCWUT, Oklahoma City and Permittee, a copy of which is attached hereto as **Attachment "G" ("Liability Release Forms")** and incorporated herein by reference. Said registry shall note the name, date, time of entry, and time of exiting the Permitted Premises.

B. Permittee will construct, within thirty (30) calendar days of the Effective Date, and maintain for the term and any renewal or extension of the term of this Agreement, a sign approved by the Utilities Director that notifies and requires patrons that entry to the Permitted Premises constitutes the acknowledgement and agreement by each patron, as part of the consideration for entry, including that:

1. patron is fully and solely responsible for supervision and safety of any minor accompanying patron into the Permitted Premises and for any minor for whom the patron is parent, guardian or otherwise responsible; and
2. patron accepts the Permitted Premises and the Permittee Facilities “as is;” and
3. patron accepts the full and sole responsibility for inspecting the Permitted Premises and Permittee Facilities to determine whether same are unsecure, defective or unsafe; and
4. patron has the sole responsibility to immediately leave the Permitted Premises, if the patron finds the Permitted Premises and/or the Permittee Facilities unsecure, defective or unsafe for the patron or for any minor the patron accompanies into the Permitted Premises and for whom the patron is parent, guardian or otherwise responsible.

### **32. MINORS**

Minors are persons under 18 years of age. An adult is a person 18 years of age or older. Minors must have a release signed by their parent or legal guardian to be a participant in any Permittee Special Event. Children 14 years of age and under must be accompanied on the Permit Premises at all times by an adult 18 years of age or older who shall be responsible for the safety and wellbeing of the minor. No adult may sign a release for any minor that is not their child or for whom that adult is not the legal guardian.

### **33. NONDISCRIMINATION**

Permittee agrees not to unlawfully discriminate in the provision of services or in the hiring of employees. Permittee agrees not to unlawfully discriminate among participants or in the provision of Permitted Activities to patrons and participants. Permittee shall sign and abide by the affidavit of non-discrimination attached hereto as **Attachment "O" ("Certificate of Discrimination")** incorporated herein by reference.

### **34. INSPECTION**

Permittee will make the Permitted Premises available to Oklahoma City and OCWUT for inspection upon request. This right to inspect does not create a duty upon Oklahoma City or OCWUT to Permittee or any third party for inspection of or for the condition of Existing Permittee

Facilities or for the condition of the Permitted Premises.

**35. LOCKS**

No locks shall be installed by Permittee on gates or doors to the Permitted Premises without first notifying OCWUT and furnishing two duplicate keys to the Utilities Director.

**36. ANNUAL REPORT, REVIEW AND RECONCILIATION**

A. On or before February 1st of each calendar year of this Agreement, Permittee agrees to provide an Annual Report, including:

1. a copy of annual participant records and current board member contact information; and
2. a completed Report of Funds Form, with Permittee's documented actual costs and expenses attached, pursuant to the timelines stated in the Consideration paragraph; and
3. an operations and maintenance budget for the upcoming calendar year; and
4. an accounting of revenues received for Permitted Activities at the Permitted Premises membership fees, Permittee Special Event and other activities; and
5. an itemized list of all goods and services to be sold and the prices of each item on the Permitted Premises for the upcoming season; and
6. schedule of regular events and seasons and a schedule of Permittee Special Events for the upcoming calendar year; and
7. a report on Community Program, including services provided, topics addressed, and/or skills training and the number of attendees held during the year of the calendar of the Annual Report and including the planned Community Programs for the coming calendar year; and
8. copy of all proposed amendments to the approved Permittee Rules, Regulations and Fees for patrons, fans, team and individual participants in the Permitted Activities for the upcoming season; and
9. copy of any proposed revisions to the Safety Rules and/or the Emergency Plans; and
10. documentation of any planned or proposed improvements and all planned or proposed construction of Permittee Facilities and Permittee Capital

Improvements to be installed, replaced or constructed in the upcoming calendar year; and

11. a copy of the certificate of insurance, or renewal thereof, for the public liability insurance required in this Agreement; and
12. a copy of active Storm Water Quality permit; and
13. a log of all known incidents at the Permitted Premises including the date and time of each incident, the nature of each incident; names, addresses, and telephone numbers of the persons involved; and
14. such other additional issues as requested by the Utilities Director to be included.

B. On or before January 1 of each year, the Permittee and the designee of the Utilities Director must inspect the Permitted Premises and meet to review, verify and reconcile:

1. the Annual Report and supporting documentation; and
2. Agreement compliance and outline any compliance plan to rectify non-compliance, if any; and
3. status of any construction in progress and the schedule for any planned construction; and
4. Permitted Activity plans and schedules for the coming year; and
5. any maintenance or safety concerns and any changes to Permittee operations and maintenance; and
6. documentation of Consideration to be paid, credits against Consideration, and any additional information needed to reconcile and determine Consideration; and
7. discuss and reconcile any other issues or concerns of any party.

C. After the review, on or before February of each year, the Permittee will provide the Utilities Director a revised and reconciled Annual Report to include any additional or other plans, reconciliations, documentation, or information added, requested or to be reconciled pursuant to the issues raised during the onsite inspection or the meeting.

D. It is understood by the Permittee that:

1. all proposed and planned construction; and

2. any change in the Permittee Rules, Regulations or Fees, Safety Rules, and/or Emergency Plans; and
3. any changes in Permittee Purpose or Permittee Activities; and
4. any change in goods and services or the price of goods and services to be sold on the Permitted Premises, and
5. must be submitted to the Utilities Director for review and approval before the change is implemented by the Permittee.

**37. NO DRUGS OR ALCOHOL**

A. Permittee shall refuse entry and service to any patron or participant during Permittee Activities that appear under the influence of drugs or alcohol.

B. Permittee may not provide or sell alcohol or drugs on the Permitted Premises.

C. The Utilities Director will not grant a special permit for the use of alcoholic beverages, as authorized but not required by Oklahoma City Municipal Code §38-158(c), and amendment and additions thereto.

D. No one will be permitted to bring, possess, or drink alcohol on the Permitted Premises.

E. No one under the influence of alcohol or drugs will be permitted on the Permitted Premises.

**38. MAINTENANCE OF PERMITTEE FACILITIES**

A. Permittee agrees to maintain the Permitted Premises and all facilities, capital improvements and other improvements including, but not limited to, utilities, structures, buildings, facilities, installations, fences, stands, sanitation sewer systems, water systems, irrigation systems, and grounds ("Permittee Facilities") in a "first class" manner and in a good, safe clean and orderly condition solely at its own expense.

B. Permittee shall maintain the Permittee Facilities in accordance with all local, state and federal regulations and laws and best management practices.

C. Should Permittee fail to maintain Permittee Facilities in accordance with this Agreement, then Oklahoma City or the Utilities Director may issue a compliance report documenting such failure and directing the Permittee to remove, secure and/or repair such Permittee Facilities within thirty (30) calendar or less if in the discretion of Oklahoma City



or the Utilities Director such failure creates or maintains an imminent safety or health hazard.

D. Each failure of Permittee to timely maintain the Permittee Facilities strictly in accordance with this Agreement or to timely respond to a compliance report as provided therein shall constitute a breach of this Agreement for which this Agreement may be modified or terminated by Oklahoma City or OCWUT without additional notice to Permittee and without cost or expense to Oklahoma City or OCWUT.

E. In addition, should Permittee fail in any manner to fulfill its legal obligations to timely secure, remove, and/or repair the Permittee Facilities in a safe manner, and then OCWUT and Oklahoma City may, in its discretion, at Permittee's expense, take all necessary steps to ensure the maintenance and security of the Permitted Premises and the Permittee Facilities. Steps taken may include, but not be limited to:

1. securing or closing all or a portion of the Permitted Premises, and/or
2. securing or closing any or all Permittee Facilities.

F. Should Permittee fail to timely reimburse OCWUT or Oklahoma City for the above expenses within thirty (30) calendar days of invoicing, then OCWUT and/or Oklahoma City may terminate this Agreement and/or OCWUT and/or Oklahoma City may pursue legal action to ensure repayment.

### **39. CONSTRUCTION AND IMPROVEMENTS**

The Permittee agrees that no construction of any permanent improvement, or any modification thereto, of any nature shall be undertaken by the Permittee upon the Permitted Premises under this Agreement, unless the Permittee has submitted detailed written plans of the proposed improvement and obtained the prior written consent of the Utilities Director. It is further agreed that any construction of any permanent improvement, or any modification thereto, of any nature undertaken by the Permittee must comply with the Americans with Disabilities Act. All permanent improvements shall be the property of the Permittee. Provided upon expiration, termination or cancellation of this Agreement, at the option of the Utilities Director, such permanent improvements may become the exclusive property of Oklahoma City should the Permittee fail to remove any existing permanent improvements, in which case the Permittee will dedicate and transfer such permanent improvements to Oklahoma City free of any lien, mortgage

or financial encumbrance.

### **DEFINITIONS**

As used herein the singular shall include the plural and the following shall have these meanings:

1. "Public Works Director" shall mean the Public Works Director of The City of Oklahoma City, or designated representative.
2. "Utilities Director" shall mean the Utilities Director of the City of Oklahoma City, or designated representative.
3. "City Manager" shall mean the City Manager of the City of Oklahoma City, or designated representative.
4. "City Council" shall mean the governing body of the City of Oklahoma City.
5. "Patron" shall include any fan, member, guests, invitees, public, attendee, guest, invitee, contractor, and subcontractor on the Permitted Premises at the request, permission, or acquiescence of the Permittee.
6. "Participant" shall include all persons of any age utilizing the Permitted Premises or Permittee Existing Facilities whether as a player, coach, trainer or otherwise.
7. "Expire" or "expiration" shall mean the cessation of this Agreement as a result of the end of the term and also including cessation of this Agreement related to a determination of a court of public ouster or other court determination of partial or full invalidation of this Agreement, provided however the Permittee duties of indemnification and insurance shall continue as provided in this Agreement for acts or omissions that occurred prior to expiration.
8. "Cancel" or "cancellation" shall mean the cessation of this Agreement by voluntary act of the OCWUT and/or Oklahoma City solely for the convenience of OCWUT and/or Oklahoma City before expiration, but not including termination or expiration of this Agreement, provided however the Permittee duties of indemnification and insurance shall continue as provided in this Agreement for acts or omissions that occurred prior to cancellation.

9. "Terminate" or "termination" shall mean the cessation of this Agreement by act of the OCWUT and/or Oklahoma City related to a breach by the Permittee or by act of the Permittee willfully terminating this Agreement, provided however the Permittee duties of indemnification and insurance shall continue as provided in this Agreement for acts or omissions that occurred prior to termination.

**40. COOPERATION**

Permittee must, upon request, cooperate with the Oklahoma City Police Department, Oklahoma City Fire Department, Oklahoma City Utilities Department, Oklahoma Department of Environmental Quality, Oklahoma Water Resources Board, Oklahoma City-County Health Department, and OCWUT in their operation and maintenance of the reservoir and reservation also including but not limited to the Permitted Premises.

**41. SIGNAGE**

Permittee must obtain written consent from the Utilities Director and obtain all necessary permits prior to installing identification signs at the Permitted Premises. Such identification signs must also be in accordance with any applicable Oklahoma City codes and regulations.

**42. UTILITIES**

A. Oklahoma City does hereby agree that Permittee may purchase utilities to and for the benefit of the Permitted Premises from Oklahoma City at rates as set forth in the Oklahoma City Municipal Code, and any amendment or addition thereto. Permittee agrees to abide by any recycling, conservation, or water emergency directive issued by the Utilities Director, City Manager, or City Council.

B. Permittee shall be responsible for all other utilities, including but not limited private trash service, gas, internet, telephone, and electricity for the Permitted Premises.

C. If Permittee is permitted to construct, install, and maintain a water sprinkler system on the Permitted Premises, the Permittee shall cause the water sprinkler system to be in accordance with Oklahoma City policies and ordinances and Permittee shall pay for any and all water utilized. Permittee must maintain the water sprinkler systems in leak-free working order.

**43. INDEMNIFICATION**

The Permittee agrees to indemnify, defend, and hold Oklahoma City and OCWUT harmless from and against any and all losses, costs, expenses, liabilities, damages, consequential damages, fines, penalties, claims, actions, or causes of action, liability and for injuries or death to persons, and damages to or loss of property caused by or occurring incident to the acts or omissions of the Permittee or the acts or omissions of its agents, employees, contractors, subcontractors, patrons or participants under this Agreement. The Permittee shall not be liable for any injury, damage, or loss occasioned by the sole negligence of OCWUT or Oklahoma City and its agents or employees, respectively. Provided further each party must give the other parties hereto prompt and timely notice of any claim or suit instituted which, in any way, directly or indirectly, contingently or otherwise, affects or might affect any other party. Oklahoma City and OCWUT shall have the right, but not the obligation, to settle claims or actions or defend claims and actions against Oklahoma City and/or OCWUT hereunder.

#### **44. INSURANCE**

A. The Permittee shall, during the term of this Agreement, carry Commercial General Liability and Property Damage Insurance, with responsible insurance underwriters authorized to do business in the State of Oklahoma and acceptable to the Utilities Director. Such insurance must protect Oklahoma City and OCWUT, individually and jointly, from all claims for injury or death to persons and from property damage or loss arising from acts or omissions by the Permittee. The amounts of the insurance coverage available and applicable to each act or occurrence and to each insured and additional insured shall not be less than the maximum cumulative liability exposure of Oklahoma City and OCWUT as set out in 51 O.S. §§ 151 et seq. (Governmental Tort Claims Act), and any successor, addition, or amendatory statutes.

B. The Permittee must obtain and maintain a policy and must furnish Oklahoma City and OCWUT a certificate evidencing such insurance. The insurance policy must also provide that Oklahoma City and OCWUT are additional insureds and that the policy or policies cannot be cancelled or materially modified without thirty (30) calendar days written notice to Oklahoma City and OCWUT. This Agreement will be revoked by the Utilities Director or designee if the insurance coverage lapses, or the insurance is terminated.

C. The Permittee has provided the attached insurance certificate, **Attachment “P”**

(“Insurance”), incorporated herein by reference, which Permittee represents complies with this insurance requirement. During this Agreement, the Permittee must renew such Insurance or obtain other insurance adequate to comply with this Agreement prior to the expiration or termination of this insurance, and any subsequent insurance.

D. The foregoing insurance shall survive the expiration, cancellation, or termination of this Agreement for insured events occurring before such expiration, cancellation, or termination.

#### **45. BREACH AND DEFAULT**

A. A breach of any provision of this Agreement shall act as a breach of the entire Agreement unless said breach is expressly waived in writing by all other parties hereto. Failure to enforce or timely pursue any breach shall not be deemed a waiver of that breach or any subsequent breach. No waiver of any breach by any party hereto of any terms, covenants, or conditions of this Agreement shall be deemed a waiver of any subsequent breach of the same, similar, or different nature.

B. Further, except as otherwise specifically and expressly provided and any other paragraph hereto, should any party hereto breach this Agreement or fail to perform, keep or observe any of the terms, covenants, or conditions of this Agreement, this Agreement may be terminated by any party not in default thirty (30) calendar days after receipt of written notice unless timely cured by the party in breach, less and except as such lesser time is provided in this Agreement.

C. Oklahoma City and OCWUT reserve the right to cure any breach by another party; provided however this right shall not create any obligation to cure any breach of any other party. Cure by a party not in breach shall not be deemed to be a cure by the party in breach.

D. Provided, however, any breach by Permittee which:

1. interferes with or impacts the primary purpose of the reservoir, reservation or Permitted Premises or the operation or use of the Oklahoma City Utility Systems or Oklahoma City Existing Facilities; or
2. interferes with or impacts the Oklahoma City public safety or public warning system, must be cured immediately; and the Oklahoma City and the OCWUT

reserve the right to immediately terminate this Agreement, if Permittee fails to immediately cure any such breach.

E. Should the Oklahoma City or the OCWUT breach this Agreement, Permittee may only recover that proportion of the prepaid annual rental for the unexpired term. Permittee may not collect or recover any other or additional damages, losses, or expenses.

**46. REMOVAL OF PROPERTY**

In the event this Permit expires or is canceled or terminated, for any reason, the Utilities Director shall provide Permittee a list of all Permittee Facilities that shall be removed from the Permitted Premises by Permittee. Permittee shall within thirty (30) calendar days after expiration, cancellation, or termination of this Permit, remove said Permittee Facilities without damaging the reservoir, the reservation, or any land belonging to Oklahoma City or OCWUT. Any Permittee Facilities not removed within thirty (30) calendar days after the expiration, cancellation, or termination of this Agreement shall become the property of Oklahoma City. Provided, however, Oklahoma City reserves the right to require Permittee to remove all Permittee Facilities.

**47. COST OF FACILITIES**

It is further understood and agreed by and between the parties that during the term of this Agreement all of the Permittee Facilities constructed or installed by Permittee at its expense shall remain the property of Permittee separate and apart from the Permitted Premises, except as otherwise expressly provided herein, and except as remaining on the Permitted Premises with the consent of the Utilities Director after the expiration, cancellation, or termination of this Agreement. Neither OCWUT nor The City of Oklahoma City shall be liable or have any responsibility to reimburse or otherwise compensate Permittee for any Permittee Facilities remaining on the Permitted Premises at or after the expiration, cancellation, or termination of this Agreement.

**48. NOTICES**

Notices or other communications to the parties pursuant to the provisions hereof shall be sufficient if hand delivered or sent by certified mail, postage prepaid, or delivered by email with receipt confirmation to the address and address set forth on **Attachment “Q” (“Notice”)**, incorporated by reference, or such addressee or address as subsequently designated by the party by written notice in accordance herewith.

**49. ENVIRONMENTAL**



A. Permittee hereby covenants not to permit or introduce any chemical substance or hazardous material to be brought upon, kept or used in or about the Permitted Premises by Permittee, its agents, employees, contractors, or invitees without the prior written consent of the Utilities Director, which the Utilities Director shall not unreasonably withhold as long as Permittee demonstrates to the Utilities Director reasonable satisfaction that such chemical substance and hazardous material is necessary or useful to Permittee's operation hereunder and will be used or kept and stored in a manner that complies with all laws regulating any such chemical substance and hazardous material so brought upon or used or kept in or about the Permitted Premises. If Permittee breaches the obligations stated in the preceding sentence, or if the presence of the chemical substance or hazardous material on the Permitted Premises caused or permitted by Permittee results in contamination of the water supply, or if contamination of the Permitted Premises by the chemical substance or hazardous material otherwise occurs for which Permittee is legally liable to Oklahoma City and/or OCWUT for damage resulting there from, Permittee shall indemnify, defend and hold Oklahoma City and/or OCWUT and its officers, agents and employees harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses (including without limitation, diminution in value of the Permitted Premises, damages for the loss or restriction on use of rentable or usable space or of any amenity of the Permitted Premises). The foregoing indemnity shall survive the expiration, cancellation or termination of this Agreement.

B. As used herein, the term "chemical substance" means a substance obtained by a chemical process or used for producing a chemical effect, including but not limited to pesticides, herbicides and fertilizers; and the term "hazardous material" means any hazardous or toxic substance, material or waste, including but not limited to those substances, materials and wastes listed by the Environmental Protection Agency as hazardous substances (40 CFR Part 302) and amendments thereto, or such substances, materials and wastes that are or become regulated under any applicable local, state or federal law.

**50. INSPECTION FOR CONTAMINATION**

A. Oklahoma City, OCWUT and its employees and agents shall have the right, but

not the duty, to inspect the Permitted Premises at any time to determine whether Permittee is complying with the terms of this Agreement.

B. If Permittee is not in compliance with this Agreement, Oklahoma City shall have the right to immediately enter upon the Permitted Premises to remedy any contamination caused by Permittee's failure to comply at Permittee's expense and this Agreement shall terminate immediately without notice, notwithstanding any other provisions of this Agreement.

C. Neither Oklahoma City nor OCWUT shall be liable for any interference caused by inspection or remediation of any contamination.

D. This right to inspect does not create a duty upon Oklahoma City or OCWUT to Permittee or any third party for inspection of or for the condition of the Permitted Premises.

**51. TIME IS OF ESSENCE**

For the purpose of this Agreement, time shall be deemed of the essence.

**52. THIRD-PARTY BENEFICIARIES**

All parties expressly agree that no third-party beneficiaries, expressly or implicitly, are intended to be or shall be created or acknowledged by this Agreement. This Agreement does not create any rights in third parties.

**53. VENUE AND CHOICE OF LAW**

All parties hereto expressly agree that the venue of any litigation relating to or involving this Agreement and/or the rights, obligations, duties and covenants therein shall be in District Court for Oklahoma County, State of Oklahoma. All parties agree that this Agreement shall be interpreted and enforced in accordance with Oklahoma law and all rights of the parties shall be determined in accordance with Oklahoma law.

**54. AMENDMENT**

This Agreement may only be amended by subsequent separate written agreement of the formally approved by Permittee, the governing bodies of Oklahoma City and OCWUT. This requirement may not be waived or amended by any oral or written statement of any Oklahoma City or OCWUT employee.

**55. ABIDE BY LAW**

A. Permittee agrees that the rights and privileges granted by this Agreement are

subject to all ordinances, laws and regulations of OCWUT, Oklahoma City, State of Oklahoma, and United States of America, and all amendments and additions thereto.

B. Permittee must faithfully abide by the ordinances, laws, rules and regulations of the OCWUT, Oklahoma City, State of Oklahoma, the United States of America and their authorized agencies and authorities including but not limited to the Oklahoma City-County Health Department, Oklahoma State Department of Health, the Oklahoma Department of Environmental Quality.

C. Although Permittee's responsibility for compliance with all applicable ordinances, laws, and regulations, Oklahoma City and OCWUT, certain ordinances, laws and regulations are specifically brought to Permittee's attention certain Oklahoma City ordinances listed in **Attachment "R" ("Certain Oklahoma City Ordinances")**, which is incorporated herein by reference, provided, however, such list of Certain Oklahoma City Ordinances is not exhaustive and such list of Certain Oklahoma City Ordinances does not waive, limit, release or excuse Permittee's responsibility to strictly observe and comply with all applicable ordinances, laws, and regulations of Oklahoma City, OCWUT, the State of Oklahoma, and the United States of America and their authorized agencies and authorities, and all amendments and additions thereto.

#### **56. PERMITS AND LICENSES**

A. Permittee shall obtain all necessary permits and licenses required by Oklahoma City, the State of Oklahoma, and the United States of America for the operation, construction, activity or use of or at the Permitted Premises by the Permittee. Neither Oklahoma City nor OCWUT are required by this Agreement to apply for, obtain, or consent to any license for any uses or activity of Permittee and its employees, agents, invitees, participants, contractors and subcontractors on the Permitted Premises.

B. Permits or licenses from Oklahoma City will not be deemed approval for different or additional activities or uses or any construction or operation unless included in this Agreement, or amendment hereto, or unless approved by the Utilities Director.

#### **57. ZONING, LICENSES AND HEALTH SAFETY REGULATIONS**

A. Permittee shall be solely responsible for obtaining all different or additional zoning of the Permitted Premises required for activities and uses on the Permitted Premises

prior to initiating such activity or use. Neither Oklahoma City nor OCWUT are required by this Agreement to apply for, obtain, or consent to any zoning of the Permitted Premises required for any activity or use of Permittee and its employees, agents, invitees, participants, patrons, contractors and subcontractors.

B. Permittee shall be responsible for meeting and complying with any and all applicable health and safety regulations, including, but not limited to: health, environmental and safety, which may be required or imposed by any authorized public entity or authority, including but not limited to: Occupational Safety and Health Administration, Corps of Engineers, Environmental Protection Agency, United States Fish and Wildlife Service, Oklahoma Department of Environmental Quality, City-County Health Department, and Oklahoma City, related to any activity or use by Permittee and its employees, agents, invitees, participants, patrons, contractors and subcontractors on the Permitted Premises.

**58. ASSIGNMENT**

A. The rights and privileges granted by this Agreement shall not be assigned or sublet without the prior written approval of Oklahoma City and OCWUT.

B. Provided, however, the Utilities Director is hereby authorized to approve a sublet, but not an assignment, of this Agreement for both Oklahoma City and OCWUT.

**59. SUBCONTRACTORS**

Permittee may hire qualified employees and staff or use volunteers authorized to operate activities and uses under this Agreement, which shall not be deemed an assignment, subcontract or sublet of this Assignment. Permittee will be responsible to Oklahoma City and OCWUT for all acts and omissions of Permittee's staff, employees, volunteers, contractors, and subcontractors.

**60. EXPIRATION OR TERMINATION**

Neither OCWUT nor Oklahoma City shall be liable for any costs, injury, damage, expense, or loss accruing to Permittee pursuant to the expiration or termination of this Agreement. In addition, this provision shall not act in any way to limit any rights, liabilities or duties provided for elsewhere in this Agreement.

**61. CONSTRUE AGREEMENT**

The language in all parts of this Agreement shall in all cases be construed as a whole and

any uncertainty will be interpreted in favor of the Oklahoma City and OCWUT.

**62. WHOLE AGREEMENT**

This Agreement is the complete agreement between the parties and no additions, amendments, alterations, or changes in this Agreement shall be effective unless reduced to writing and signed by all parties hereto. It is understood and agreed by the parties hereto that this Agreement contains all the covenants, stipulations, and provisions agreed upon by said parties. No party is or shall be bound by any statement or representation not in conformity herewith.

**63. ORIGINALS**

This Agreement may be executed in multiple counterparts, each of which shall be as an original

**64. SURETY**

A. Waived

**65. TAX COVENANTS**

Permittee acknowledges and agree to the tax covenant attached on **Attachment “T” (“Tax Covenants”)**, incorporated by reference.

**66. NO PUBLIC OUSTER**

Should a court of competent jurisdiction determine that this Agreement to create a public ouster or violate public policy, then this Agreement shall be deemed void; however, if a court of competent jurisdiction determines only a portion of this Agreement to create a public ouster or violate public policy, then the parties may mutually agree to continue pursuant to this Agreement to the extent permitted by court order or this Agreement will terminate upon thirty (30) calendar days’ notice to all parties hereto or such lesser time as ordered by the court.

***[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]***

This Agreement was executed by Permittee, **Oklahoma Mountain Bike Association**, on this 6<sup>th</sup> day of MARCH, 2025.

By *Jonny M. Hiles*

As PRESIDENT

of Oklahoma Mountain Bike Association, herein referred to as Permittee.

Signed and sworn to, before me this 6<sup>th</sup> day of March, 20 25.

*Brett McCormick*

Notary Public

My Commission Expires: 3-18-28

My Commission No. 24003802





**APPROVED** by the Trustees and signed by the Chairman of The Oklahoma City Water  
Utilities Trust this 8TH day of APRIL, 2025.

**ATTEST:**

**OKLAHOMA CITY WATER UTILITIES TRUST**

Amy K. Simpson  
Secretary



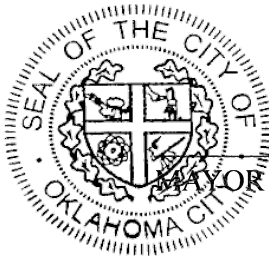
Joe Cook  
Chairman

**APPROVED** by the Council and signed by the Mayor of The City of Oklahoma City  
this 8TH day of APRIL, 2025.

**ATTEST:**

**THE CITY OF OKLAHOMA CITY**

Amy K. Simpson  
City Clerk



David Holt  
Mayor

**REVIEWED** for form and legality.

Frank Green  
Assistant Municipal Counselor

## **Attachment "A"**

### **Permittee Tax Status**

A. Permittee expressly represents to Oklahoma City and OCWUT that it is a 501(c)(3) tax-exempt entity.

B. As a condition of this Agreement, Permittee expressly agrees to maintain its tax-exempt status. Should Permittee's status as a tax-exempt entity change or be challenged, Permittee must immediately notify Oklahoma City and OCWUT. Should Permittee lose its tax-exempt status, or should Permittee allow its tax-exempt status to lapse, the Utilities Director may immediately upon notice cancel or terminate this Agreement without prior notice or opportunity to cure.

C. Should the Permittee lose tax-exempt status or should the Permittee tax-exempt status lapse, Permittee will be liable and must indemnify and hold harmless Oklahoma City and OCWUT for any resulting tax consequence, fine, penalty or cost incurred by Oklahoma City, OCWUT or its bondholders as a result of such loss or lapse.

D. Oklahoma City and OCWUT state the following key facts:

1. The bonds issued to fund the acquisition of the Permitted Premise are no longer outstanding; and
2. There is no tax-exempt funded capital improvements on the Permitted Premises on the Effective Date of this Agreement; and
3. All Permittee Capital Improvements, Permittee Facilities and improvements on the Permitted Premises must be funded by the non-profit entity; and
4. In the event the Agreement is cancelled during the term and Oklahoma City

5. or OCWUT purchases specifically listed and approved Permittee Capital Improvements, neither Oklahoma City nor OCWUT will use tax-exempt financing to acquire said capital improvements; and
6. Any Oklahoma City Utility System facilities and improvements on or near the Permitted Premises are for general system-wide purposes, not for a principal purpose of serving the Permittee or its operations, maintenance, facilities or improvements.

## **Attachment “B”**

### **Permittee Purpose**

The purpose of this Agreement is to grant Permittee non-exclusive, limited use of a parcel of land located near South Post Road and north of Southeast 89th Street to develop, operate and maintain a Non-Motorized Off-Road Vehicle Area to promote and engage in non-motorized off-road vehicle activities and events, including the promotion, operation, and management at the Lake Stanley Draper Non-Motorized Off-Road Vehicle Area.

## **Attachment “C”**

### **Permitted Activities**

Permittee may conduct the following activities on the Permitted Premises:

- Construction of Non-Motorized Off-Road Vehicle trail improvements and facilities as authorized and approved in this Agreement.
- Provide Non-Motorized Off-Road Vehicle facilities and programming of special events to operate and provide recreational and park facilities and activities for the public and for the general welfare in accordance with this Agreement.

## **Attachment "D"**

### **Community Programs**

A. Permittee agrees to advertise and provide at least 2 free workshop(s) per calendar year that are open to the general public for the purpose of promoting the Permitted Activities. Permittee agrees to provide the workshops at its sole cost as part of its community programs and at no cost to Oklahoma City, OCWUT or the general public. Due to occupancy limitations, Permittee reserves the right to offer the workshops to registrants on a first come, first serve basis, however, these workshops may be divided into sessions of smaller groups to most efficiently and effectively educate and train the general public. The Permittee may restrict participation to participants over or under a certain age. The Permittee will verify the age of all participants before permitting the participant to enroll in the workshop. Participants are required to sign and tender a release or have a parent or legal guardian sign and tender a release. Participants may be required to present or provide evidence of their age, height, and weight.

B. Permittee agrees to provide the planned dates, location, and subject of the annual workshops in their Annual Report, Review and Reconciliation. Should the dates, location or subject of the workshop change, Permittee agrees to notify the Utilities Director in writing.



**Attachment "E"**

**Permitted Premises**

**Draper Non-Motorized Off-Road Vehicle Trails**

**Parcel 1**

Part of SEC 31, T11N, R1W, SW/C S  $\frac{1}{2}$  of N  $\frac{1}{2}$  of S  $\frac{1}{2}$  of NW4, N256 FT, E851FT, S256SFT, W851FT TO BEG.

5.0013 acres MOL

**Parcel 2**

Part of NW4 of SEC 31, T11N, R1W, S1/2 of S1/2 of NW4, EX 50FT 18.3448 acres MOL

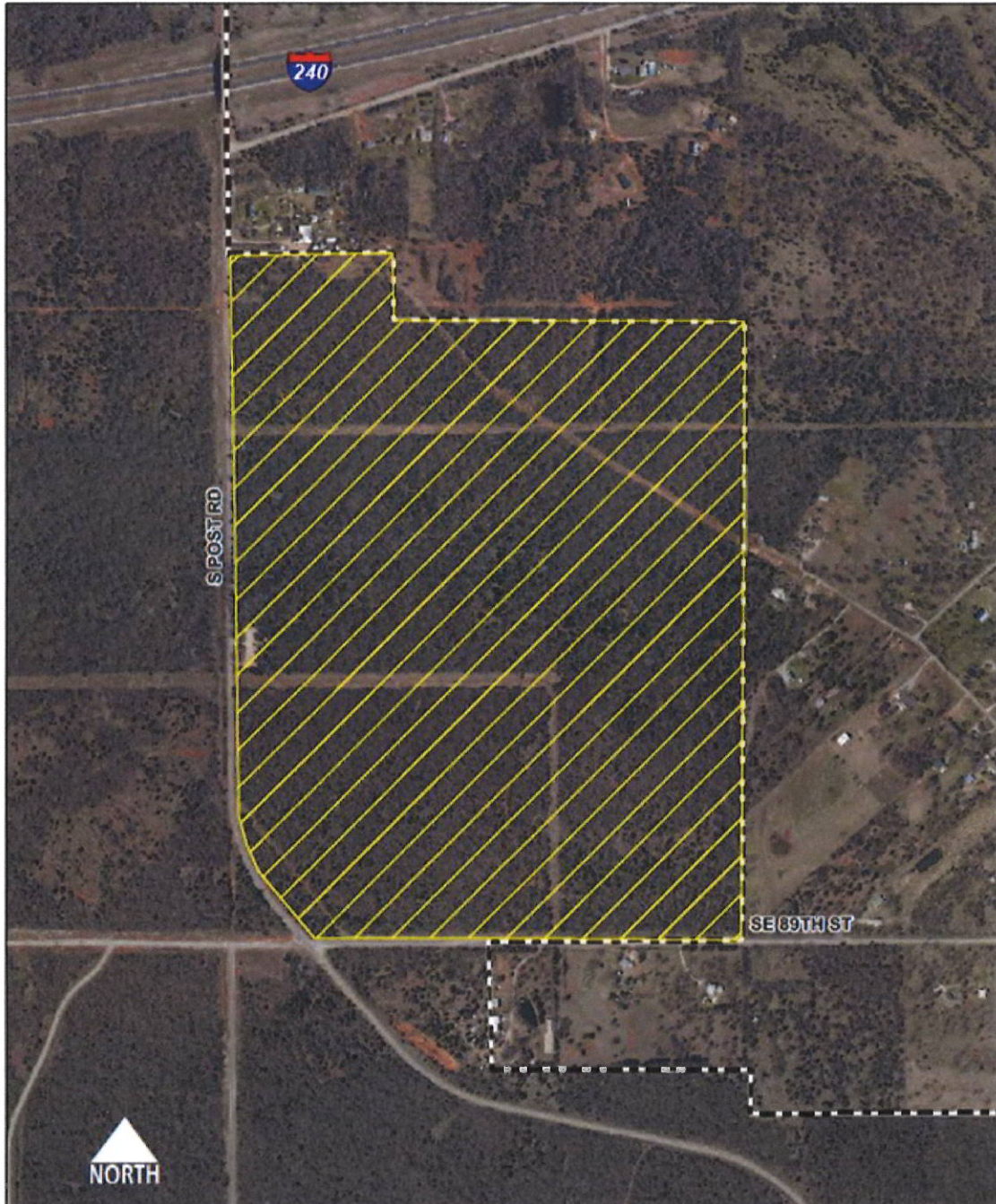
**Parcel 3**

PT OF SW4, SEC 31, T11N, R1W, SW4 EX A TRI TR IN SW/C BEING 800FT ON W, 550FT ON S, AND 970.62FT ON NELY SIDE EX W50FT OF N1840FT

154.0427 acres MOL

**Attachment “E”**

**Permitted Premises**



## **Attachment "F"**

### **Effective Date and Term**

A. This Agreement will commence upon the last party hereto to sign, which shall be the effective date of this Agreement.

B. The term of this Agreement is for three (3) years beginning the effective date.

C. This Agreement may be renewed by mutual consent of the Parties for two (2) additional three (3) year terms.

D. The Permittee may request a renewal by written notice to the Utilities Department sixty (60) calendar days prior to the end of the then current term. Should Oklahoma City and OCWUT agree to the renewal request, the Utilities Director shall provide written approval at least thirty (30) calendar days prior to the end of the then current term. However, nothing in this Agreement obligates Oklahoma City or OCWUT to renew this Agreement.

E. If the Parties do not wish to renew this Agreement, the Agreement shall expire at the end of the then current (3) three year term.

**Attachment "G"**  
**Liability Release Forms**  
**ACKNOWLEDGMENT AND GENERAL RELEASE**  
**(FOR ADULTS 18 YEARS AND OLDER)**

I acknowledge that I am 18 years of age or older and I am participating in the Permitted Activities at the Permitted Premises as a participant, volunteer, employee, contractor, or patron. I acknowledge and understand the Permitted Premises includes a reservoir and/or reservation owned by The City of Oklahoma City ("Oklahoma City") and leased to the Oklahoma City Water Utilities Trust ("OCWUT").

I affirm that I am not an employee of and is not under any employment contract with Oklahoma City or the OCWUT. Further, I acknowledge and understand that no workers' compensation will be available from Oklahoma City or the OCWUT should I be injured.

I further acknowledge that I am capable of participating in Permitted Activities at the Permitted Premises and I do not know any reason why I cannot safely participate in Permitted Activities at the Permitted Premises without injuring self or others.

I acknowledge that I am familiar with, or have made myself familiar with, the nature of the Permitted Activities and the Permitted Premises and the potential for injury involved and related thereto. I understand the Permitted Activities involve strenuous physical exertion and carries inherent risks. I recognize such participation includes the potential and possibility of injury, the consequences of which I and my minor accept. I understand the minor can avoid these risks by not participating. I affirm and agree that neither Permittee, the City, nor OCWUT can guarantee my safety and that I agree to participate willingly.

I accept and agree that if I am injured while participating in Permitted Activities at the Permitted Premises that my personal medical insurance, or my own resources, will cover any medical bills by me any other losses suffered related thereto.

I hereby release Oklahoma City, OCWUT, and Permittee, and their officers, agents, employees, affiliates, successors, and assigns from any and all liability, claims, and losses of every kind, which have occurred, or which may later occur, related to any action or inaction taken by any of the foregoing with respect to the participation in the Permitted Activities at the Permitted Premises.

\_\_\_\_\_  
Date Signed

Address: \_\_\_\_\_

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Witness's Name

\_\_\_\_\_  
Witness's Signature

Permittee: \_\_\_\_\_

Permitted Premises: \_\_\_\_\_

Permitted Activities: \_\_\_\_\_

***\*Patron includes employees, staff, contractors, agents, volunteers, guests, invitees, and fans.***



**Attachment "G"**  
**Liability Release Forms**  
**ACKNOWLEDGMENT AND GENERAL RELEASE**  
**(FOR MINORS UNDER 18 YEARS OF AGE)**

I acknowledge and state that I am a parent or legal guardian of the below named minor, who is under 18 years of age, and who is participating in the Permitted Activities at the Permitted Premises as a participant, volunteer, employee, contractor, or patron. I acknowledge and understand the Permitted Premises includes a reservoir and/or reservation owned by The City of Oklahoma City ("Oklahoma City") and leased to the Oklahoma City Water Utilities Trust ("OCWUT").

I affirm that my child is not an employee of and is not under any employment contract with Oklahoma City or the OCWUT. Further, I acknowledge and understand that no workers' compensation will be available from Oklahoma City or the OCWUT should I be injured.

I further acknowledge that the minor is capable of participating in Permitted Activities at the Permitted Premises and I do not know any reason why the minor cannot safely participate in Permitted Activities at the Permitted Premises without injuring self or others.

I acknowledge that I am familiar with, or have made myself familiar with, the nature of the Permitted Activities and the Permitted Premises and the potential for injury involved and related thereto. I understand the Permitted Activities involve strenuous physical exertion and carries inherent risks. I recognize such participation includes the potential and possibility of injury, the consequences of which I and my minor accept. I understand the minor can avoid these risks by not participating. I affirm that neither Permittee, the City, nor OCWUT can guarantee my safety and that I willingly agree to permit the minor to participate.

I accept and agree that if the minor is injured while participating in Permitted Activities at the Permitted Premises, I agree that my personal medical insurance, or my own resources, will cover any medical bills of the minor and any other losses suffered related thereto.

I hereby release Oklahoma City, OCWUT, and Permittee, and their officers, agents, employees, affiliates, successors, and assigns from any and all liability, claims, and losses of every kind, which have occurred, or which may later occur, related to any action or inaction taken by any of the foregoing with respect to the participation of the minor in the Permitted Activities at the Permitted Premises.

\_\_\_\_\_  
Print Name of Minor

\_\_\_\_\_  
Date Signed

Minor's Address: \_\_\_\_\_

\_\_\_\_\_  
Print Parent or Guardian's Name

\_\_\_\_\_  
Parent or Guardian's Signature

Parent or Guardian's Address: \_\_\_\_\_

\_\_\_\_\_  
Print Witness's Name

\_\_\_\_\_  
Witness's Signature

Permittee: \_\_\_\_\_

Permitted Premises: \_\_\_\_\_

Permitted Activities: \_\_\_\_\_

*\*Patron includes employees, staff, contractors, agents, volunteers, guests, invitees, and fans.*

## **Attachment "H" – Page 1**

### **Consideration**

A. For and in consideration of the permission herein granted, the Permittee agrees to provide the maintenance, operations, and services and faithfully perform the duties and meet the obligations described herein as a portion of the consideration under this Agreement. In addition, the Permittee shall make such payments or additional private improvements as credits against such payments as provided below.

B. In addition to the commission reserved by the Permittee under its Permit Dealer License, Oklahoma City, and OCWUT agree that the Permittee may apply for reimbursement of non-grant reimbursable funds expended to fulfill the Permittee's responsibilities provided for in this Agreement. Said reimbursement, if and as approved by the Utilities Director or their designee shall be reimbursed from Non-Motorized Off-Road Vehicle Permit Revenues up to ninety percent (90%) of said total permit revenues. The remaining percentage of Non-Motorized Off-Road Vehicle permit revenues shall be retained by OCWUT.

C. To be considered for reimbursement, a Report of Funds as attached hereto, expended by the Permittee in fulfillment of the terms of this Agreement must be submitted along with all receipts, reports, records and all other information to support the information provided in the Report of Funds. The Report of Funds and all receipts, reports, records and all other information shall be submitted to the Utilities Director by January 15th of each calendar year. The City of Oklahoma City and/or OCWUT shall have the right to audit the records of the Permittee during the initial term, or any renewals of this Agreement. Either the Oklahoma City or OCWUT will provide notice to the Permittee of the intent to conduct an audit.

D. Programmed Improvements shall mean renovations and enhancements to Existing Permittee Facilities such as buildings, structures, or other permanent improvements and facilities listed on the Report of Funds Form but not purchase of personal property or purchase of disposable or consumable commodities or construction of Permittee Capital Improvements.





## **Attachment "I"**

### **Existing Permittee Facilities**

(Attach List of Existing Permittee Facilities)

- 1) Changing station
- 2) Qty 2: Picnic Tables
- 3) Stake fence at parking lot
- 4) Trail sign with open/close status
- 5) Natural grass auxiliary parking lot
- 6) ~12.5mi natural surface trail

**Attachment “J”**

**Existing Oklahoma City Facilities**

(Attach List of Oklahoma City Facilities)

Gravel Parking Lot

## **Attachment "K"**

### **Safety Rules**

#### **Safety Regulations and Operating Guidelines**

##### **Draper Non-Motorized Off-Road Vehicle Trails**

###### **Trail Safety Regulations:**

- Helmets are required at all times.
- Protective eyewear and gloves are strongly recommended.
- Ride only on designated trails, and respect any trail closures.
- Ride in the marked direction of the trail.
- Recognize your personal limits and ride within those at all times.
- Call 911 in the event of an emergency.

###### **Trail Etiquette:**

- Be courteous to all trail users and wildlife.
- Call out to warn others when preparing to pass.
- Slower riders should yield safely at the earliest opportunity.
- Do not stop where you obstruct the trail or are not visible to approaching riders.

###### **Hours of Operation:**

- Between the hours of 5 am to 11 pm.

**Attachment "L"**

**Emergency Plans**

(Attach Permittee Emergency Plans)

# Lake Stanley Draper Mountain Bike Trail

## Emergency Plan

### Purpose

This plan outlines procedures to ensure the safety of trail users during emergencies, including medical incidents, severe weather, fires, or other hazards. The goal is to provide clear guidance for evacuation, sheltering, and coordination with emergency services.

### General Guidelines

- **Emergency Contact:** Call 911 to report any medical emergency, fire, or other urgent situation. Provide your location (trail name, mile marker, or nearest landmark) and details of the incident.
- **Designated Meeting Point:** The parking lot is the primary rendezvous location for emergency personnel and trail users during evacuations or rescues.
- **Access Route:** The White Trail is designated for emergency access to reach injured trail users and for evacuation in case of fire or other hazards requiring immediate exit.

### Emergency Procedures

#### 1. Medical Emergencies

- **Action:** If a trail user is injured or experiences a medical issue (e.g., crash, heart attack, dehydration):
  - Call 911 immediately and provide specific location details (e.g., "White Trail, 1 mile from parking lot").
  - If trained, provide first aid until help arrives.
  - If possible, send another rider to the parking lot to guide emergency personnel via the nearest trail connection.
- **Evacuation:** Use the White Trail or nearest trail to transport or guide the injured person to the parking lot for emergency pickup, if safe and feasible.
- **Stay Calm:** Keep the injured person calm and comfortable while awaiting help.

#### 2. Severe Weather (Tornado, Lightning, etc.)

- **Tornado Warning:**
  - When tornado sirens are heard, immediately seek shelter.
  - Move to the lowest ground possible (e.g., a ditch or depression off the trail) if no sturdy structure is nearby.
  - Avoid open fields, tall trees, or metal objects that could attract lightning or debris.



- Once safe, proceed to the parking lot via the White Trail or nearest trail after the threat passes to meet emergency personnel if needed.
- Lightning:
  - If thunder is heard or lightning is seen, suspend riding and seek shelter in a low area away from trees or ridges.
  - Wait 30 minutes after the last thunderclap before resuming activity.

### 3. Wildfire

- Action: If smoke, flames, or fire alerts are observed:
  - Evacuate immediately using the White Trail to reach the parking lot.
  - Do not attempt to outride a fire—move quickly and calmly in the opposite direction of the fire’s spread.
  - Call 911 to report the fire, providing your location and observations (e.g., “Fire near Red Trail junction”).
- Stay Low: If smoke is heavy, stay low to the ground to avoid inhalation while evacuating.

### 4. Lost or Missing Person

- Action:
  - If a rider is reported missing, notify 911 with their last known location and description.
  - Do not conduct a large search party unless directed by emergency personnel—stay safe and avoid additional risk.
  - Gather at the parking lot to provide information to responders.

### 5. Other Hazards (e.g., Fallen Trees, Flooding)

- Action:
  - Report hazards to trail management or 911 if they pose an immediate danger.
  - Avoid blocked sections and use the White Trail to detour to the parking lot if necessary.
  - Warn other riders of the hazard if safe to do so.
  - Please consider reporting trail hazards via the TrailBot app which can be downloaded for free from the Apple or Google Play store. This allows you to check trail conditions and report hazards and their exact geo location directly to the trail manager.

## Communication

- Cell Phones: Carry a charged phone to call 911 in emergencies. Note areas with poor signal and plan accordingly.
- Trail Markers: Familiarize yourself with trail maps and markers to provide accurate location details to responders.
- Whistles: Carry a whistle to signal for help (three short blasts is a universal distress signal).

### **Preparation and Prevention**

- Pre-Ride Checklist:
  - Check weather forecasts and avoid riding during severe conditions.
  - Carry a basic first aid kit, water, and emergency supplies (e.g., flashlight, multi-tool).
  - Inform someone of your riding plans and expected return time.
- Trail Etiquette:
  - Ride within your ability to reduce injury risk.
  - Follow all posted signs and rules to stay on safe routes.
  - Riders should always call ahead to warn pedestrians of their approach. “Rider Back” is the common phrase used to warn a pedestrian ahead on the trail. Consider telling the pedestrian the number of riders in your group if applicable. The phrase “X riders back” is often used.
  - Hikers/Trail Runners should step to the side of the trail as a mountain biker approaches. Blocking the mountain bike trail is not an accepted behavior.

### **Coordination with Emergency Services**

- Meeting Point: Direct all emergency personnel to the parking lot as the central hub.
- Access: Inform responders that the White Trail can be used to gain faster access to reach injured or stranded trail users.
- Information: Provide clear details to 911 (e.g., nature of emergency, number of people affected, exact location).

### **Post-Emergency Actions**

- Debrief: After an incident, report details to trail management for review and improvement of safety measures.
- Recovery: Ensure injured parties receive follow-up care, and damaged trails are repaired or marked as closed.

This plan ensures trail users and responders can act swiftly and safely in any emergency. Always prioritize personal safety and follow instructions from emergency personnel when they arrive.

## **Attachment “M”**

### **Permittee Rules, Regulations and Fees**

- **Wear a helmet at all times.**
- **Stay on designated trails to protect the environment.**
  - Keep your speed under control, especially on turns and descents.**
- **No littering—pack out all trash.**
- **Ride within your skill level and avoid risky maneuvers.**
- **Use lights if riding at dawn, dusk, or night.**
- **Respect wildlife and avoid disturbing animals.**
- **Follow any posted trail signs or closures.**
- **Let others know when passing—use a bell or call out.**
  - **Bikers, call ahead to hikers/runners**
  - **Runners/Hikers, step to the side of the trail to yield right of way.**
- **The use of headphones while on the natural surface trail is prohibited.**

**Attachment “N”**

**“Youth Protection Policy”**

(Attach Permittee’s Youth Protection Policy)

**City of Oklahoma City**  
**Parks and Recreation Department**  
**YOUTH PROTECTION POLICY**

Section I:

1. The City of Oklahoma City Parks and Recreation Department (Department) operates numerous recreational facilities in which youth sports/activities organizations play a prominent role. The Department wishes to protect the youth of the City who are participating in youth sports/activities sponsored or funded by the City, or by any youth sports/activity organization using a City facility.
2. This Youth Protection Policy (Policy) shall apply to all volunteers who have direct contact with youth sports/activities participants (with the exception of special event volunteers) for any youth sports/activities organizations sponsored or funded by the City, or by any youth sports/activities organizations using a City facility.
3. The City hereby adopts the standards of the National Recreation and Park Association (NRPA) recommended guidelines for credentialing volunteers. The following are the criteria for the exclusion of adult volunteers including, but not limited to, managers, sports officials, coaches, or any other volunteer who has direct contact with youth sports/activities participants. An adult means a person eighteen (18) years of age or older. Any adult volunteer shall be disqualified from participating as a volunteer of a youth sports/activity organization if the person has been found guilty of any one of the crimes listed below. "Guilty" means that person was found guilty following a trial, entered a guilty plea, or entered a no contest plea accompanied by a finding of guilt, regardless of whether there was an adjudication of guilt or a withholding of guilt.
  - a. All sex offenses, regardless of the amount of time since the offense. Examples include, but are not limited to: child molestation, rape, sexual assault, sexual battery, sodomy, prostitution, solicitation, indecent exposure, or similar offenses.
  - b. All felony offenses involving violence, regardless of the amount of time since the offense. Examples include, but are not limited to: murder, manslaughter, aggravated assault, kidnapping, robbery, or aggravated burglary.
  - c. All felony offenses, other than violence or sex offenses, within the past ten (10) years. Examples include, but are not limited to: drug offenses, theft, embezzlement, fraud, or child endangerment.
  - d. All misdemeanor violence offenses within the past ten (10) years. Examples include, but are not limited to: simple assault, battery, domestic violence, or hit and run.



- e. Two (2) misdemeanor drug or alcohol offenses within the past seven (7) years. Examples include, but are not limited to: driving under the influence, simple drug possession, drunk and disorderly conduct, public intoxication, or possession of drug paraphernalia.
  - f. Any other misdemeanor within the past five (5) years that would be considered a potential danger to children or is directly related to the functions of that volunteer. Examples include, but are not limited to: contributing to the delinquency of a minor, providing alcohol to a minor, or theft – if the volunteer is to handle money.
  - g. Any adult volunteer who has been charged with any of the disqualifying offenses above, and with a case pending in court, shall not be permitted to volunteer until the official adjudication of the case.
- 4. The Department shall require all adult volunteers to complete a background screening and to pay a fee to cover the background screening process. Exception: the cost of a background screening process fee shall be paid for by the Department for volunteers associated with Department's youth sports programs and activities.
  - 5. Sports officials/umpires working Parks and Recreation Department youth sports programs and activities shall pay the fee to cover the costs of the background screening process. Adult volunteers who have not successfully passed the background screening process shall not be allowed to officiate/umpire any youth sports/activities games, leagues, tournaments, etc.
  - 6. The City shall use a qualified entity to undertake the background screenings. The criteria set forth above shall be applied by the background screening entity. The background screening entity shall conduct the background screenings and provide the results to the Department.
  - 7. If the Department determines an adult volunteer does not meet the criteria set forth herein, the Department shall provide notice to the adult volunteer that they shall not be permitted to volunteer in any youth sports/activities program, league, tournament, etc.

## Section II:

- 1. All partner youth sports/activities organizations shall comply with this Policy and shall not permit any adult volunteer who has not successfully passed the background check to participate as a volunteer with their organization. All volunteers associated with partner youth sports/activities organizations using City property shall comply with this Policy.

2. The youth sports/activities organization shall submit an affidavit, on a form provided by the Department (**see Exhibit A**), that the youth sports/activities organization shall not use any volunteer who has direct contact with youth sports/activities participants who has not undergone a background check as required by this Policy, or who failed the background check based upon criteria set forth in this Policy. Such affidavit shall be submitted to the Department Director or his designee prior to any youth sports/activities. Prior to the background checks, all volunteers shall submit the national background screening consent form (**see Exhibit B**).
3. In addition to the above requirements, and in accordance with this Policy, all youth sports organizations that are independent sanctioning authorities and that have athletic coaches who volunteer for a youth athletic team for twenty (20) or more hours within a calendar year shall provide evidence that a background check of the athletic coach has been conducted. An “independent sanctioning authority” means a private, nongovernmental entity that organizes, operates, or coordinates a youth athletic team, sport or activity, if the team includes one or more minors and is not affiliated with a private school.

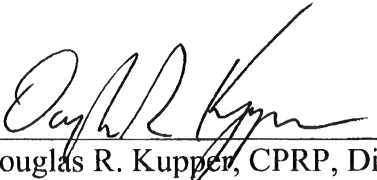
Attachments:

Exhibit A – Affidavit Form

Exhibit B – National Background Screening Consent Form

Recommended by the Oklahoma City Park Commission: March 18, 2015.

Effective Date: March 18, 2015.

  
\_\_\_\_\_  
Douglas R. Kupper, CPRP, Director  
Parks and Recreation Department

City of Oklahoma City  
Parks and Recreation Department

I, the undersigned, being first duly sworn, do hereby affirm, under oath and penalty of perjury, that the following statements are true:

- Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

This instrument was acknowledged before me on this            day of           , 20   .

Notary Public \_\_\_\_\_ My commission expires \_\_\_\_\_.

## **Exhibit B**

### **Oklahoma City Parks and Recreation Department National Background Screening Consent Form**

Applicant's **Legal** Name (printed):

\_\_\_\_\_

Social Security Number: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Applicant's Address:

\_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

I, \_\_\_\_\_, authorize and give consent for the Oklahoma City Parks and Recreation Department (Department) to obtain information regarding myself. This includes the following:

- Local & National Criminal Background Records/Information
- All 50 State Sex Offender Registries
- Full Address Trace
- Social Security Verification

I, the undersigned, authorize this information to be obtained, either in writing or via telephone, in connection with my application. Any person, firm or organization providing information or records in accordance with this authorization is released from any and all claims of liability for compliance. Such information will be held in confidence in accordance with the Department's guidelines.

By signing this document, I provide the Department my consent for an initial background check, as well as any subsequent background checks the Department deems necessary.

Print Name: \_\_\_\_\_ Date: \_\_\_\_\_

Signature: \_\_\_\_\_

## Attachment "O"

### Certification of Non-Discrimination

In connection with the performance of work under this Agreement, the Permittee agrees as follows:

A. The Permittee agrees not to discriminate against any party pursuant to this Agreement because of race, creed, color, sex, national origin, physical handicap, or ancestry. The Permittee shall take affirmative action to ensure that parties are treated without regard to their race, creed, color, national origin, sex, or ancestry.

B. In the event of the Permittee's non-compliance with this non-discrimination clause, the Agreement may be canceled or terminated by the Utilities Director. The Permittee may be declared by Oklahoma City or OCWUT ineligible for further agreements with the said agency until satisfactory proof of intent to comply shall be made by the Permittee.

C. The Permittee agrees to include this non-discrimination clause in any sub-contracts connected with the performance of this Agreement.

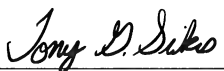
D. The Permittee agrees not to discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, physical handicap, or ancestry. The Permittee shall take affirmative action to ensure that employees are treated without regard to their race, creed, color, national origin, sex, or ancestry. Such actions shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruiting or recruitment, advertising, lay-off, or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship. The Permittee shall agree to post in a conspicuous place, available to employees and applicants for employment notices this Certificate of Non-Discrimination.

I have read the above stated clauses and agree to abide by them.

Date: 3/13/25

Name: Tony Sikes  
(Please Print)

Title: President - Oklahoma Mountain Bike Association

Signature: 

**Attachment “P”**

**“Insurance”**

(Attach Insurance Certificate)



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
05/04/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).**

<b>PRODUCER</b>  Pachner & Associates, LLC  PO Box 140, Keene, NY, 12942	<b>CONTACT NAME:</b>	
	<b>PHONE (A/C, No, Ext):</b> 518-576-2100	<b>FAX (A/C No):</b> 866-406-9548
	<b>E-MAIL ADDRESS:</b> don@pachner.us	
	<b>PRODUCER CUSTOMER ID :</b>	
	<b>INSURER(S) AFFORDING COVERAGE</b>	<b>NAIC #</b>
<b>INSURED</b> Sports Marketing Program Management Inc. Oklahoma Earthbike Fellowship DBA Oklahoma Mountain Bike Association  POB 2320-73101 Oklahoma City, OK, 73101	<b>INSURER A :</b> Texas Insurance Company 16543	
	<b>INSURER B :</b>	
	<b>INSURER C :</b>	
	<b>INSURER D :</b>	
	<b>INSURER E :</b>	
	<b>INSURER F :</b>	

**COVERAGES****CERTIFICATE NUMBER:** A-SP-SU-24-03-05-299086**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS		
A	<b>GENERAL LIABILITY</b>	Y	N	BESGLPTNV011301_170012_02	05/04/2024	05/04/2025	EACH OCCURRENCE	\$ 1,000,000.00	
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY						FIRE DAMAGE TO PREMISES RENTED (Any one premises)	\$ 300,000.00	
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						MED EXP (any one person)	\$ 5,000.00	
	<input checked="" type="checkbox"/> INCLUDES ATHLETIC PARTICIPANTS						PERSONAL & ADV INJURY	\$ 1,000,000.00	
	GENERAL AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	\$ 3,000,000.00	
	<input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC						PRODUCTS - COMP/OP AGG	\$ 2,000,000.00	
								\$	
								\$	
	<b>AUTOMOBILE LIABILITY</b>						COMBINED SINGLE LIMIT (Ea accident)	\$	
	<input type="checkbox"/> ANY AUTO <input type="checkbox"/> HIRED AUTOS						BODILY INJURY (Per person)	\$	
	<input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						BODILY INJURY (Per accident)	\$	
	<input type="checkbox"/> SCHEDULED AUTOS						PROPERTY DAMAGE (Per accident)	\$	
	<b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR						EACH OCCURRENCE	\$	
	<b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE						AGGREGATE	\$	
	DEDUCTIBLE							\$	
	RETENTION \$							\$	
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b>	Y/N	N/A				WC STATUTORY LIMITS	OTHER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/ MEMBER EXCLUDED? (Mandatory in N-H) <input type="checkbox"/> If yes, describe under SPECIAL PROVISIONS below								
	E.L. EACH ACCIDENT						\$		
	E.L. DISEASE - EA EMPLOYEE						\$		
A	<b>OTHER</b>	Y	N	BESGLPTNV011301_170012_02	05/04/2024	05/04/2025	E.L. DISEASE - POLICY LIMIT		
	Abuse/Molestation						Each Occurrence: \$ 25,000.00 Aggregate: \$ 50,000.00		

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Liability Policy Deductible: \$0.00 Deductible for Bodily Injury and \$ 1000.00 per Property Damage Claim. ISO Occurrence form CG 00 01 04 13 and company's specific forms. Coverage for Participant Legal Liability requires that every participant signs a waiver/release. The certificate holder is named as Additional Insured with respect to (continued on next page)

**CERTIFICATE HOLDER****CANCELLATION**Oklahoma City Water Utilities Trust  
420 W Main St. Suite 500  
Oklahoma City, OK, 73102

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Mark Di Perno

<b>AGENCY</b> Pachner & Associates, LLC		<b>NAMED INSURED</b> Oklahoma Earthbike Fellowship DBA Oklahoma Mountain Bike Association	
<b>POLICY NUMBER</b> BESGLPTNV011301_170012_02		<b>POB 2320-73101</b> Oklahoma City, OK, 73101	
<b>CARRIER</b> Texas Insurance Company	<b>NAIC CODE</b> 16543	<b>EFFECTIVE DATE:</b> 05/04/2024	

**ADDITIONAL REMARKS**

**THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,**

**FORM NUMBER:** 25 **FORM TITLE:** Certificate of Liability Insurance

negligent acts or omissions of the Named Insured and only with respect to the Operations of the Insured during the coverage period.  
 RE: Registered Mountain Biking - Trail Maintenance participants: 05/04/2024 - 05/04/2025; Registered Mountain Biking - Recreational, XC, Trail riding participants: 05/04/2024 - 05/04/2025;



## **Attachment “Q”**

### **Notices**

#### **Notices to the Oklahoma City Water Utilities Trust:**

General Manager  
Oklahoma City Water Utilities Trust  
420 W. Main Street, Suite 500  
Oklahoma City, Oklahoma 73102

#### **Notices to the City of Oklahoma City:**

Utilities Director  
The City of Oklahoma City  
420 W. Main Street, Suite 500  
Oklahoma City, Oklahoma 73102

and

City Clerk  
The City of Oklahoma City  
200 N. Walker Avenue, Second Floor  
Oklahoma City, Oklahoma 73102

or such person subsequently holding those titles and positions.

#### **Notices to Permittee, Oklahoma Mountain Bike Association:**

OMBA President  
PO Box 2320  
Oklahoma City, OK 73101

## **Attachment "R"**

### **Certain Oklahoma City Ordinances**

#### **§ 38-305. - Restricted areas.**

- (a) No person may operate an off-road vehicle, as defined in this chapter, upon any City-owned or City-operated lake reservation or upon the lands of the West Elm Creek Reservation except as provided in Subsection (b).
- (b) Off-road vehicles may be operated only on the Lake Stanley Draper Reservation and the West Elm Creek Reservation and only on areas specifically designated and posted by the Utilities Director for off-road vehicles.
- (c) No vehicles other than properly permitted off-road vehicles shall be operated in designated off-road vehicle areas. This provision shall not apply to vehicles operated by employees, officers or agents of the City and/or the Oklahoma City Water Utilities Trust while in the performance of their duties.

(Ord. No. 20531, § 2, 2-13-96; Ord. No. 22658, § 1, 2-15-05; Ord. No. 23451, § 7, 9-25-07)

#### **§ 38-306. Permits.**

- (a) A permit is required for the operation of an off-road vehicle on any City-operated reservation. Permits will be sold only at the place or places designated by the Utilities Director.
- (b) As a prerequisite to obtaining an off-road vehicle permit, the applicant or the applicant's parent or legal guardian, if the applicant is under 18 years of age, must sign a liability release statement. The liability release statement for a person under 18 years of age must be signed by that person's parent or legal guardian.
- (c) The issuance of an off-road vehicle permit shall not authorize nor be deemed to authorize permittee to operate any motorized off-road vehicle on any City streets or to obviate any other regulation or restriction in any other ordinance, statute, or law regarding the operation of vehicles.
- (d) Annual permits shall be effective for the permit year from May 1 to the next April 30 regardless of when the permit is purchased, provided however permits may be purchased in advance for the next permit year. Daily permits shall be effective only until midnight of the day referenced on the daily permit and may be purchased in advance.
- (e) Neither permit purchasers nor permit dealers shall be entitled to any exchange, refund, rebate, or discount on subsequent purchase for any lost or misplaced permits. No permittee shall be entitled to any refund, rebate, or discount on subsequent purchase due to the revocation or suspension of an off-road vehicle permit under this article. In addition, permits may not be returned for any exchange, refund, rebate, or discount on subsequent purchases after the commencement of the term of the permit.

(Ord. No. 20531, § 2, 2-13-96; Ord. No. 22658, § 1, 2-15-05; Ord. No. 23451, § 7, 9-25-07)

#### **§ 38-307. Regulations; restrictions.**

- (a) The operation of off-road vehicles on any City-operated reservation is subject to the following restrictions and regulations:

- (1) persons age 18 and older must have a current, valid State driver's license in their possession to obtain a permit and while operating a motorized off-road vehicle. Any person whose driver's license has been suspended or revoked may not obtain a permit or operate a motorized off-road vehicle.
- (2) all off-road vehicle operators and passengers must wear a protective helmet designed and manufactured for use with the type of off-road vehicle being operated.
- (3) all off-road vehicle operators and passengers must wear protective eyewear and protective footwear.
- (4) all motorized off-road vehicles must be equipped with effective equipment to arrest sparks and a manufacturer-designed muffler to minimize exhaust and engine noise.
- (5) all motorized and nonmotorized off-road vehicles shall only be operated within the respective areas and trails designated for motorized or nonmotorized off-road vehicles. All motorized off-road vehicles must be walked across paved roads.
- (6) no person shall load or unload a motorized off-road vehicle except in the designated staging areas for motorized vehicles.
- (7) off-road vehicle operators must possess current off-road vehicle permits.
- (8) operators possessing annual off-road vehicle permits must display their permit emblems on the back of their helmets during the operation of off-road vehicles at the Lake Stanley Draper and West Elm Creek Reservations.
- (9) no person shall operate an off-road vehicle between the hours of sunset and sunrise except by special permit issued by the Utilities Director or his/her designee.
- (10) no person shall operate or ride on an off-road vehicle while under the influence of an intoxicating substance or a controlled dangerous substance or while in a drunken, intoxicated, inebriated, or stupefied condition.
- (11) no person operating an off-road vehicle on a City-operated reservation shall fail to obey a lawful order of the Director of Water [Utilities], a police officer or security personnel nor shall any person fail to abate any conduct, which violates this Code or creates a hazard to the public or to a reservoir or a reservation.
- (12) operators under the age of 16 must also possess a permit and be accompanied by, and be under the supervision of, a parent, guardian or other adult with a valid current driver's license.
- (13) all operators of off-road vehicles must produce their off-road vehicle permits for inspection by police officers, security personnel, the manager of the Lake Stanley Draper marina and concession, City employees or other individuals as may be designated by the Utilities Director or the Director to oversee off-road vehicle activities on any City-operated reservation.
- (14) all operators of off-road vehicles operate their vehicles and utilize City-operated reservations at their own risk. Neither the City nor the Oklahoma City Water Utilities Trust nor any of their employees, officers, trustees shall be liable for any property damage or loss or any personal injury including death resulting from operation of off-road vehicles, utilization of any City-operated reservation, or acts or omissions of others while on any City-operated reservation.
- (15) no person shall operate a motorized three-wheel vehicle on any City-operated reservation.
- (16) the Utilities Director, Chief of Police, and the Director shall have the authority to permanently revoke or temporarily suspend any off-road permit for violation of any provision of this Code.
- (17) operators of four-wheel motorized off-road vehicles on City-operated reservations are limited as follows:

Age of Operator	Maximum Size of Motorized Vehicle
(A) 6 to 11 years old	50 cubic centimeter motor
(B) 12 to 15 years old	125 cubic centimeter motor
(C) 16 years old and older	250 cubic centimeter motor

(18) no person may operate a two-wheel motorized off-road vehicle with a motor greater than 250 cubic centimeters unless the operator has a current valid driver's license. The current valid driver's license must be in the operator's possession.

(19) no person may operate a motorized off-road vehicle in violation of this article. Children under the age of six may not operate a motorized off-road vehicle and may not be a passenger on an off-road vehicle except with their parent or guardian as the operator.

(Ord. No. 20531, § 2, 2-13-96; Ord. No. 22658, § 1, 2-15-05; Ord. No. 23451, § 7, 9-25-07; Ord. No. 23756, § 2, 12-2-08)§

**§ 38-308. Authority of the Utilities Director, Director and Police Chief.**

(a) The Utilities Director, Director, and the Police Chief each have the authority to close an off-road vehicle area.

(b) The Utilities Director, Director, and the Police Chief each have the authority to further limit the types of vehicles used in off-road vehicle areas.

(c) No person shall violate a closure order. Any person who violates a closure order shall be subject, upon conviction, to a fine of not more than \$750.00 and/or six months confinement, excluding costs.

(Ord. No. 20531, § 2, 2-13-96; Ord. No. 22658, § 1, 2-15-05; Ord. No. 23451, § 7, 9-25-07)

State law reference(s)—Penalty for ordinance violations, 11 O.S. § 14-111.

**Attachment "S"**

**Surety**

(Attach surety bond or notate that a check has been received and deposited)

Waived

## Attachment "T"

### Tax Covenants

***Qualified Management Agreement Safe Harbor.*** The Parties understand that all or a portion of the Permitted Premises was financed by the proceeds of tax-exempt debt. If this Agreement is interpreted as a Qualified Management Agreement, this Agreement shall be interpreted in a manner that is in compliance with the safe harbors found in Rev. Proc. 2017-13 (the "Rev. Proc."). In connection therewith, notwithstanding any other parts of this Agreement that might be interpreted to the contrary, the Parties agree as follows (with the meaning of such representations interpreted consistent with the terms of the Rev. Proc.):

- (a) This Agreement shall not be interpreted as a lease.
- (b) The Parties represent and agree that any payments to the Permittee under this Agreement are reasonable compensation for the services to be rendered by the Permittee under this Agreement.
- (c) No element of any Permittee compensation paid hereunder shall take into account, or be contingent upon, either the Permitted Premises net profits or both the Permitted Premises revenues and expenses (other than any reimbursements of direct and actual expenses paid by the Permittee to unrelated third parties) for any fiscal period. Furthermore, the Permittee shall not be required to bear a share of the net losses of Oklahoma City or OCWUT from the operation of the Permitted Premises.
- (d) Any Permittee compensation hereunder shall be payable at least annually, and any deferred compensation (with interest or late payment fees as applicable) shall be paid no later than the end of five years after the original due date of the payment.
- (e) OCWUT, Oklahoma City or other qualified user shall bear the risk of loss upon damage or destruction of the Permitted Premises to the extent required by the Rev. Proc. This provision is expressly NOT intended to relieve the Permittee or any other person or entity from any liability or obligation owed to OCWUT, Oklahoma City or any other person or entity as a result of, or relating to, damage or destruction of the Permitted Premises to the extent not required by the Rev. Proc., but merely to intended meet the minimum requirements of the Rev. Proc. and shall not be interpreted more broadly. For example, without limitation, as provided in the Rev. Proc., a qualified user does not fail to meet this risk of loss requirement as a result of insuring against risk of loss through a third party or imposing upon the service provider a penalty for failure to operate the managed property in accordance with the standards set forth in this Agreement. Without limitation, as described in Section 6.03, the Permittee shall be liable to OCWUT and Oklahoma City, as applicable, for any damage or destruction of the Permitted Premises caused by, or arising out of, the Permittee's acts and/or omissions or breach of this Agreement.
- (f) The Permittee shall not take any tax position that is inconsistent with being a service provider to OCWUT or Oklahoma City with respect to the Permitted Premises. For example, the Permittee agrees not to claim any depreciation or amortization deduction, investment tax credit, or deduction for the payment as rent with respect to Permitted Premises.
- (g) OCWUT must approve the annual budget for the Permitted Premises, capital

expenditures with respect to the Permitted Premises, each disposition of property that is part of the Permitted Premises, rates charged for the use of the Permitted Premises, and the general nature and type of use of the Permitted Premises.

(h) Not more than 20 percent of the voting power of the governing body of OCWUT or Oklahoma City (collectively, together with their successors and assigns, the "Potential Qualified Users") shall be vested in the directors, officers, shareholders, partners, members and employees of the Permittee; the governing body of the Potential Qualified Users shall not include the chief executive officer of the Permittee or the chairperson (or equivalent executive) of the Permittee's governing body; and the chief executive officer of the Permittee shall not be the chief executive officer of any of the Potential Qualified Users or any of their related parties as defined in Treasury Regulation 1.150-1(b).

**Termination Clause:** Should the OCWUT or Oklahoma City issue or plan to issue tax-exempt debt related to the Permitted Premises or the OCWUT or Oklahoma City improvements thereon and the IRS deems or OCWUT's Bond Counsel or Tax Counsel advise OCWUT or Oklahoma City that this Agreement adversely affects or will adversely affect the tax-exempt exempt status of the said financing, then the OCWUT or Oklahoma City may terminate this Agreement, without cost or expense to OCWUT or Oklahoma City and without payment, purchase or compensation.



**Attachment "U"**  
**(Permit Dealer License)**

**WHEREAS**, the ordinances of The City of Oklahoma City (City) provide that no person shall fish, boat, or engage in certain other activities upon a City-operated reservation without first obtaining a City permit; and

**WHEREAS**, any person required to have a City permit shall complete an application and pay the fees established by ordinance; and

**WHEREAS**, residents and patron of Oklahoma City benefit by being able to purchase City permits near the Lake Hefner, Overholser, and Draper Reservations; and

**WHEREAS**, the party executing this Permit Dealer License (Permittee) desires to sell City permits to the public.

**NOW, THEREFORE**, the parties agree:

**1. GRANT**

The City hereby grants Permittee the non-exclusive right to sell to the public City permits for fishing, boating and certain other activities.

**2. TERM**

This Permit Dealer License (License) shall be effective for one (1) year from the date of approval by the City. Upon mutual consent, it may be renewed annually. However, Permittee must request annual renewals in writing and least thirty (30) calendar days before the current License expires. Such written requests shall be made to the City's Parks and Recreation or designee (Parks Director) using the contact information contained in Section 11.

**3. ADVERTISING**

Permittee may install signs related to its sale of City permits under this License. Such signs shall be consistent with City Ordinances and approved in advance by the Parks Director.

**4. PERMITS**

Permittee shall sell City permits to the public in accordance with policies and procedures of the City's Parks and Recreation Department. Permittee shall keep separate records and receipts for the permits as required by the Parks Director. Permittee shall purchase from the City, in advance, all such permits at fees established in the City's Municipal Code (less a commission reserved by Permittee), attached and incorporated herein.

**5. RETURNED CHECKS**



If Permittee makes a payment to the City under this License by check, and the check is returned due to insufficient funds or other reasons, the City shall notify Permittee. In such case, Permittee must tender a cashier or bank check for the payment, plus a return-check fee of twenty-five dollars (\$25.00). In addition, the City may terminate this License immediately without cost or liability to the City, as provided for in Section 18.

**6. INSPECTION**

The Parks Director may, at any reasonable time of his choosing, review, inspect, or copy all permits, records, or receipts related to this License. If informed by the Parks Director of any discrepancy in those permits, records, or receipts, Permittee shall correct them within ten (10) calendar days. Permittee's failure to do so shall constitute a breach of this License. Upon such breach, the Parks Director may terminate this License immediately without cost or liability to the City, as provided for in Section 18; or, at his option, the Parks Director may (1) pursue collection against Permittee for any obligation under this License; and/or (2) direct Permittee to deliver the City's copy of all permits to the City's Parks and Recreation Department; and/or (3) pursue all other available remedies.

**7. SUBCONTRACTS**

This License shall not be subcontracted or assigned without written consent of the Parks Director.

**8. INDEMNIFICATION**

Permittee shall release defend, indemnify, and hold harmless the City, and its officers, agents, and employees, for any claims or liability arising from, or connected with, any activity under this License. This provision shall survive the expiration or termination of this License, shall not be limited by any other provision of this License, and shall be binding upon Permittee and its representatives, successors, and assigns. The City is constitutionally and statutorily prohibited from indemnifying any third party, including, but 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., Tort Claims Act), as it may be amended.

**9. TERMINATION WITHOUT CAUSE**

The City may terminate this License, at any time and for any or no reason, upon thirty (30) calendar days' written notice to Permittee.

**10. NON-DISCRIMINATION**

Permittee shall not discriminate against any person because of age; race; creed; color; religion; sex (to include sexual orientation); national origin; ancestry; or disability as defined by the Americans with Disabilities Act, as it may be amended, in the sale of any permit or in furnishing services, privileges, or activities under this License.

**11. NOTICES**

Notices to the City pursuant to this license shall be sent by email or regular or certified mail, postage prepaid, addressed to:

The City of Oklahoma City  
Parks and Recreation Department  
Central Business Office  
420 West Main, Suite 210  
Oklahoma City, OK 73102  
(405) 297-3882  
[parkrentals@okc.gov](mailto:parkrentals@okc.gov)

or to such persons or addresses as the City may later designate in writing.  
Notices to Permittee pursuant to this License shall be sent by email or registered or certified mail, postage prepaid, using the contact information contained on Page 4, or to such persons or addresses as Permittee may later designate in writing.

**12. TIME OF THE ESSENCE**

For this License, time shall be of the essence.

**13. ANTI-COLLUSION**

Permittee warrants it has not colluded with the City, or its agents, regarding this License. Permittee warrants that it has not exchanged, given, donated, or promised money or other valuable things (directly or indirectly), for special consideration by the City, or its agents, to procure this License.

**14. CITY'S AUTHORIZED AGENT**

The Parks Director is authorized to exercise any right or duty of the City under this License.

**15. AMENDMENT**

This License may be amended by mutual, written agreement of the parties.

**16. WHOLE LICENSE**

This License contains all terms agreed to by the parties. Neither party shall be bound by any statement or representation not in conformity with this License.

**17. CONSTRUCTION OF LICENSE**

This License shall be construed as a whole according to its fair meaning. The Section headings of this License are for convenience only and shall not affect its meaning or interpretation.

**18. TERMINATION FOR CAUSE**

Permittee shall comply with all License terms. Its failure to do so shall constitute a breach of this License. Such breach may be grounds for immediate termination of this License by the City without cost or liability to the City. Within twenty-four (24) hours of any cancellation notice, as provided for under this Section, Permittee shall reimburse the City by returning all unsold permits and the cash from City permits sold up to the time of cancellation.

**19. WAIVER OF BREACH**

The City may waive any breach of this License. However, any waiver shall not constitute a continuing waiver of such breach, or similar breaches, of this License. Also, the City may later require Permittee to comply with any previously waived breach of this License.

**20. COMPLIANCE WITH LAWS**

This License shall be subject to applicable laws, rules, regulations, guidelines, and policies, and any action to enforce or interpret this License must be brought in the Oklahoma County District Court for the State of Oklahoma.