

MAINTENANCE AND SERVICES CONTRACT

Public Works Department

This contract is made this 19th day of February, 2024, by and between the Oklahoma Earthbike Fellowship, Inc. (hereinafter "SPONSOR") and the City of Midwest City (hereinafter "OWNER"). The parties hereto, for and in consideration of the benefits and payments hereinafter provided, do hereby covenant and agree as follows:

I. GENERAL LANDSCAPE MAINTENANCE TERMS AND CONDITIONS

It is understood that all improvements on public property become the property of the OWNER. The OWNER and SPONSOR recognize the need and desirability of landscape improvements and maintenance of mountain bike trails at the following LOCATION: SCIP Recreational Trail (hereinafter called the "LOCATION") and are entering into this agreement to permit the SPONSOR to provide installation and maintenance of landscape improvements on publicly owned property (See Exhibit "A" for map).

SPONSOR and OWNER acknowledge and agree to the following terms and conditions:

- A. **MAINTENANCE--** SPONSOR agrees to purchase all materials and provide all labor for the maintenance of trails at the LOCATION at its sole cost and expense. It is agreed that SPONSOR will use volunteers to maintain mountain bike trails and improvements in accordance with the original construction plans and specifications approved by the OWNER. SPONSOR shall bear the responsibility to provide repair and maintenance of the mountain bike trails for one (1) year from the date hereof.

Any major reroute or modification of structures shall be submitted to the Public Works Director for approval. Any reroute or modification of structures shall require written approval from the Public Works Director prior to work being done by SPONSOR.

It is expressly agreed that there will be periodic inspection of the LOCATION by OWNER and SPONSOR to assure proper ongoing maintenance of the facilities. Any repairs identified through this inspection will be accomplished by OWNER or SPONSOR, depending upon whose responsibility it is under the terms of this contract, within a period of time agreed upon by SPONSOR and OWNER.

- B. **TEMPORARY CLOSURE--** OWNER has authority to temporarily close the LOCATION due to safety issues at any time. SPONSOR must also notify OWNER of any safety issue that will require temporary closure of LOCATION. SPONSOR may temporarily close the LOCATION due to adverse weather conditions such that the trail system would be damaged by users in accordance with the stipulations of section L of this agreement.
- C. **LAWS--** SPONSOR agrees to comply fully with all applicable Federal statutes and regulations, Oklahoma statutes, and OWNER ordinances, policies, permits and procedures.
- D. **INSURANCE--** Volunteers whose activities are limited to general trail maintenance, litter pickup, supplemental mowing, edging, and similar activities shall not be required to be insured by SPONSOR. OWNER acknowledges that SPONSOR has no employees, and

operates solely through volunteers. SPONSOR agrees that any change in that status shall be timely reported to OWNER and the procurement of any necessary Workers Compensation Insurance by SPONSOR. Further, SPONSOR agrees to maintain in force a policy of General Liability Insurance, naming OWNER as an additional insured, with limits at least as follows:

Property Damage Liability in an amount not less than Twenty-Five Thousand Dollars (\$25,000.00) for any claim or to any claimant who has more than one claim for loss of or damage to property arising out of a single accident or occurrence; and subject to the same limit for each claimant, One Million Dollars (\$1,000,000.00) for any number of claims for loss of or damage to property arising out of a single accident or occurrence.

Personal or Bodily Injury Liability in an amount not less than One Hundred Seventy-five Thousand Dollars (\$175,000.00) to any claimant for his claim for personal or bodily injuries, including accidental death, arising out of a single accident or occurrence; and subject to the same limit for each claimant, One Million Dollars (\$1,000,000.00) for any number of such claims arising out of a single accident or occurrence.

When "certificates of insurance" are submitted, they shall be on a form acceptable to OWNER.

- E. **RELEASE--** Volunteers of SPONSOR shall sign an appropriate Acknowledgement and General Release if engaged in bridge or trail maintenance, litter pickup, edging, supplemental mowing, or similar activities. SPONSOR agrees to maintain said Acknowledgment and General Release in its records for a period of two years from the date of signature, and to provide access thereto upon written request from the OWNER.

SPONSOR agrees if any work will be done at the LOCATION by volunteers who are not employees of and not under any contract of employment with SPONSOR or the OWNER, volunteers will read and sign a copy of either Exhibit "B" or Exhibit "C" (the one that is appropriate) "ACKNOWLEDGMENT AND GENERAL RELEASE". SPONSOR further agrees any person under 18 years of age will not do any work without the written authorization of his/her parent or legal guardian as provided for on the release form for minors (see attachments). Release forms are the responsibility of SPONSOR to distribute, collect and maintain.

- F. **INDEMNIFICATION--** SPONSOR shall indemnify, defend, keep, and hold harmless the OWNER, its agents, officials, and employees against all suits or claims of any kind whatsoever arising out of or by reason of this agreement, its execution and/or its performance occasioned by the negligent act of SPONSOR.
- G. **TERMINATION--** Should SPONSOR fail to fulfill any of the terms or conditions, the OWNER may give written notice to SPONSOR to use diligence to correct such condition or default within thirty (30) days after receipt of such notice. The OWNER may, after the lapse of such thirty (30) days notice and failure by SPONSOR to correct or cure such default or condition, terminate this agreement; provided that if SPONSOR has commenced to cure or correct such default or condition within such 30 day period, SPONSOR will have a reasonable time after such thirty (30) day period within which to comply with said cure or corrections.

The OWNER may, without cause and without prejudice to any other right or remedy, elect to terminate the contract. In such case, the OWNER will provide thirty (30) days from delivery of a written notice to the SPONSOR.

- H. **SIGNS--** SPONSOR shall not install any signs in the landscape improvement areas without prior written approval of the Director of the Public Works Department. A drawing or drawings showing details of the design, location, size, type of lettering, installation methods, and the materials for the sign shall be submitted for review.
- I. **ENVIRONMENTAL--** SPONSOR agrees not to permit or introduce any chemical substance or hazardous material in or about the LOCATION by SPONSOR, its agents, employees, or contractors, without prior written consent of the Public Works Department. SPONSOR or SPONSOR's contractor will provide a list to the Public Works Department for review and approval of any "chemical substances" or "hazardous materials" to be used on the subject LOCATION (fertilizer, pesticide, herbicide, or insecticide) prior to such materials being applied. SPONSOR agrees to provide or cause to be provided a Material Safety Data Sheet (MSDS) for all products, substances or materials to be applied to the LOCATION. SPONSOR agrees that all chemical substances or hazardous materials shall be applied to the LOCATION by a Certified Chemical Applicator in the State of Oklahoma. Proof of current license of the applicator shall be provided with the list of substances, the MSDS sheets, insurance certificates, and other information required of contractors as set forth in this agreement.
- J. **AGREEMENT DURATION--** This agreement shall be effective upon approval by OWNER Council and may be renewed for an additional one (1) year term, if requested in writing by SPONSOR and approved by the OWNER Council, provided however this agreement may be terminated by either party upon written notice to the other in accordance with this agreement. The OWNER may modify or cancel this program and this agreement, after the occurrence of a default by SPONSOR hereunder which has not been cured or corrected as provided herein, within 30 days provided that written notice has been sent to the SPONSOR's contact person at the address last provided in accordance with this Agreement.
- K. **OWNER MAINTENANCE--** Should SPONSOR not renew this agreement after one (1) year terms and relinquish maintenance of LOCATION, OWNER will maintain LOCATION as funds permit. In the event of a natural disaster or an act of God, any damages to the facilities will be resolved through a joint effort by SPONSOR and OWNER based on the availability of funds.
- L. **TRAILHEAD--** OWNER shall maintain the trailhead parking surface, bathroom facilities, and water source. SPONSOR agrees to notify OWNER of any vandalism.

OWNER will furnish all necessary refuse and garbage containers and will remove and dispose of all rubbish, refuse and garbage resulting from the SPONSOR's activity, provided that refuse is deposited in receptacles provided. SPONSOR shall be responsible for the refuse and garbage pickup and facility cleanup on the grounds and agrees to restore all which existed prior to SPONSOR's usage.

OWNER shall furnish SPONSOR with adequate sets of keys to the facilities. Only locks and keys supplied by OWNER shall be used. SPONSOR agrees to furnish OWNER with

a list of those people to whom SPONSOR has furnished any key(s) and to inform OWNER of any changes therein. OWNER reserves the right to enter the facilities at any time for purposes of inspection, repair or to ascertain compliance with this contract. SPONSOR shall furnish OWNER with keys to structures that contain only SPONSOR equipment. Said keys will be kept in the Public Works Division office in the Midwest OWNER Service Center Facility. Locks and keys that are lost during the term of this contract will be replaced at SPONSOR's expense.

- M. **HAZARDS--** Should any of the improvements become a hazard or safety risk, the OWNER reserves the right to remove the hazard as quickly as possible.

II. **NOTICES**

Notices or other communications to the OWNER regarding this contract shall be sent by registered or certified mail, postage prepaid, addressed to:

Public Works Director
The City of Midwest City – Public Works Administration
8730 S.E. 15th Street
Midwest City, Oklahoma 73110

Notices or other communications to SPONSOR shall be sent by registered or certified mail, postage prepaid, to:

Oklahoma Earthbike Fellowship, Inc.
President
PO Box 2320
Oklahoma City, OK 73101

And by electronic notice to:

Oef.president@gmail.com , Bubbatrailrider@yahoo.com , Rstreets@midwestcityok.org

Exhibit "A" Map

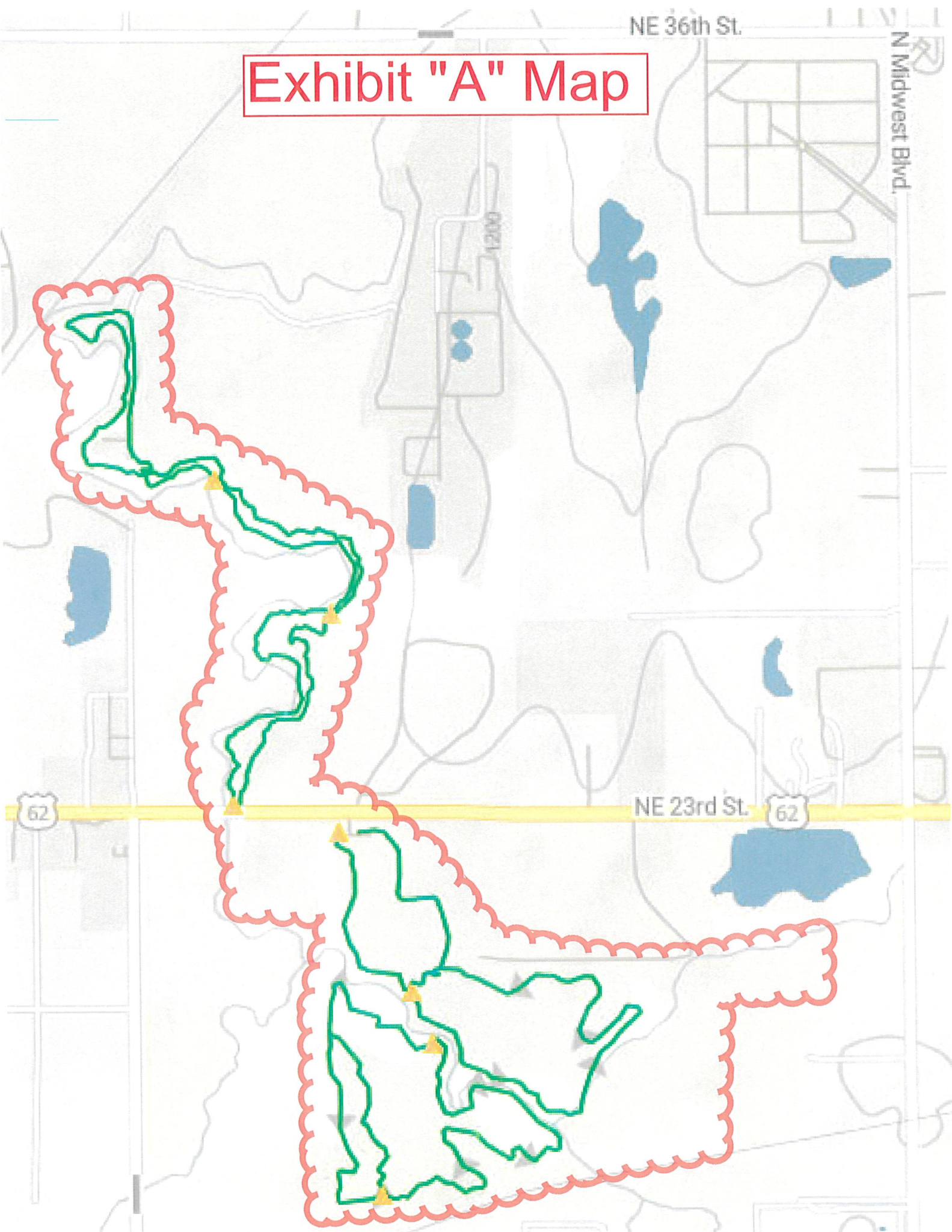


EXHIBIT "B"-- ACKNOWLEDGMENT AND GENERAL RELEASE

I acknowledge that I am a volunteer of Oklahoma Earthbike Fellowship, Inc. hereinafter referred to as "SPONSOR") and have agreed to assist in the maintenance of Mountain Bike Trails at: SCIP Recreational Trail (hereinafter referred to as "LOCATION") in Midwest City. I acknowledge that I am not an employee of and not under any employment contract with the SPONSOR or The City of Midwest City to perform work or labor at the LOCATION. I further acknowledge that I am at least 18 years of age, of sound body and mind, and have no physical or other impairments that would prevent or limit me from performing such volunteer work. I recognize that such work may involve heavy lifting and other strenuous and risky activity, the consequences of which I accept. If I am injured during such maintenance, I agree to look to my own resources and/or my own insurance to cover any medical bills or other losses that I may suffer. No worker's compensation will be available.

I hereby release SPONSOR and The City of Midwest City and their officers, agents, employees, affiliates, successors and assigns from any and all liability, claims and losses, of every kind, which I now have or ever had or which may later accrue, relating to any action or inaction taken by any of the foregoing with respect to the maintenance of the aforementioned landscape improvements and any and all activities undertaken in connection with such maintenance.

Signed this _____ day of _____, 20_____.

Print Name: _____

Signature : _____

NOTE: Copies of signed release forms shall be provided to the Midwest City Public Works Department upon request by the City of Midwest City.

EXHIBIT "C" -- ACKNOWLEDGMENT AND GENERAL RELEASE
(For children 18 years of age and under)

I acknowledge that I am a volunteer of Oklahoma Earthbike Fellowship, Inc., hereinafter referred to as "**SPONSOR**") and I am allowing my child(ren) to participate in volunteer activities regarding the project described in this agreement. I have agreed to allow my child or children to assist in the maintenance of Mountain Bike Trails at: SCIP Recreational Trail (hereinafter referred to as "**LOCATION**"), in Midwest City. I acknowledge that neither I nor my child(ren) are employees of, or under any employment contract with the **SPONSOR** or The City of Midwest to perform work or labor at **LOCATION**. I further acknowledge that I am at least 18 years of age, of sound body and mind, and that neither I nor my child(ren) have any physical or other impairments that would prevent or limit us from performing such volunteer work. I recognize that such work may involve heavy lifting and other strenuous and risky activity, the consequences of which I accept. If I or my child(ren) are injured during such maintenance, I agree to look to my own resources and/or my own insurance to cover any medical bills or other losses that I or my child(ren) may suffer. No worker's compensation will be available.

I hereby release **SPONSOR** and The City of Midwest City and their officers, agents, employees, affiliates, successors and assigns from any and all liability, claims and losses, of every kind, which I or my child(ren) now have or ever had or which may later accrue, relating to any action or inaction taken by any of the foregoing with respect to the maintenance of the aforementioned landscape improvements and any and all activities undertaken in connection with such maintenance.

Signed this _____ day of _____, 20_____.

Print Name (Parent or Guardian): _____

Signature (Parent or Guardian): _____

Name of Child: _____ Age: _____

Name of Child: _____ Age: _____

NOTE: Copies of signed release forms shall be provided to the Midwest City Public Works Division upon request by the City of Midwest City.

OWNER:

City of Midwest City

SPONSOR:

Oklahoma Earthbike Fellowship, Inc.

By: *Kevin W. H.*

By: *Tommy D. Sikes*

Title: *Mayor*

Title: President, Oklahoma Earthbike Fellowship

Date Signed: *3-27-2024*

Date Signed: 2/19/2024

ATTEST:

Sara Hancock
CITY CLERK



APPROVED as to form and legality this *27th* day of *March* 20*24*.

[Signature]
CITY ATTORNEY