

PARTICIPATION AGREEMENT FOR VEGETATIVE MANAGEMENT

This Participation Agreement for Vegetative Management at Hall Park Lakes ("Agreement") is entered into as of the 11th day of January, 2022, between the City of Norman, Oklahoma, a municipal corporation (the "City") and the Hall Park Property Owners' Association, Inc., a domestic not-for-profit corporation ("POA"), collectively the "Parties".

WITNESSETH:

WHEREAS, the City annexed the Town of Hall Park in 2003 and took ownership of the town's assets, including, among other things, three lakes located within Hall Park northwest of the intersection of Robinson and 24th Avenue NE that are now connected to the City's stormwater system, together referred to as the "Hall Park Lakes"; and

WHEREAS, the City undertook a comprehensive review and analysis of flooding, water quality, and erosion over a period of four years aimed at reducing flooding dangers, protecting water quality, enhancing the environment and advancing recreational opportunities which culminated in the 2009 Storm Water Master Plan; and

WHEREAS, the Storm Water Master Plan recommended the implementation of a City stream maintenance program focused on those stream reaches and/or detention facility areas where capital improvements are constructed in order to protect those investments as well as in areas where serious problems have been identified; and

WHEREAS, the City formally accepted certain appendices to the Storm Water Master Plan through the adoption of Resolution No. R-0910-68 on November 10, 2009; and

WHEREAS, the City formally adopted the following principle as an underlying value for proceeding with the implementation of the Storm Water Master Plan through the adoption of Resolution No. R-0910-68: "Preservation of water quality and protection of private property from flooding and resulting damage for current and future residents of the City of Norman are the highest priority for governing stormwater management"; and

WHEREAS, the City formally adopted the 2009 Storm Water Master Plan Final Report by Resolution No. R-1011-120 on June 28, 2011; and

WHEREAS, Resolution No. R-1011-120 established the study and creation of a Stormwater Utility with an appropriate rate structure approved by the voters as the next priority for the City Council and stormwater management; and

WHEREAS, to date, a stormwater utility rate structure has been proposed twice to the voters but has not been approved; and

WHEREAS, the POA has approached the City about a cost sharing approach to balance the interests of the private property owners and the interests of the City.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

- I. Project Scope. The purpose of this project is to address aquatic vegetation management in the Hall Park Lakes through a partnership with the POA. The vegetation management program will consist of installation of aeration system(s), vegetation treatment, application of probiotics on an as needed basis, and addition of grass carp. The POA has completed the addition of grass carp to Lake Tranquility.
- II. Responsibilities of the City.
 - A. The City authorizes the POA to access the lakes for the purpose of providing ongoing maintenance.
 - B. The City has caused to be installed an electric meter box, at a location of the electric service provider's choosing, to provide electric service for an aeration system for Lake Tranquility. Installation of additional electric meter boxes to provide electric service for additional aeration systems for the remaining two (2) lakes will be based on an evaluation of the effectiveness of the vegetation management program in Lake Tranquility. Installation of an electric meter box for the North Lake (Sleepy Hollow) will occur within three years of the effective date of this agreement followed by installation of an electric meter box for the West Lake within six (6) years of the effective date of this agreement only upon continued effectiveness of the program. Locations will be selected based on recommendations from the electric service provider. The City will be responsible for paying the cost of electricity for the installed aeration system(s). After Year 1 of the program, maintenance of the aeration system will be the responsibility of the City.
 - C. The City may continue to purchase and apply probiotics as needed to Lake Tranquility beginning in Year 2 of this agreement as recommended during the annual evaluation of its effectiveness, not to exceed eight applications per year during the months of March through October. Application of probiotics to the North and/or West Lakes may occur at a future date to be determined by the City based on an evaluation of its effectiveness in Lake Tranquility and subsequent to installation of an aeration system in each of these lakes.
 - D. The City will evaluate the effectiveness of this program in Lake Tranquility using an independent third party on an annual basis and, if effective, will maintain the aeration system in Lake Tranquility, as it is installed, contingent on available funding each fiscal year. Use of any installed aeration system may be suspended at the sole discretion of the City beginning in Year 2 should

maintenance or electricity costs exceed available funding for this activity. An evaluation of the effectiveness will involve an assessment of the program's improvement of water quality, a reduction in invasive aquatic vegetation as determined by a plant survey, and the cost-effectiveness of the program by the City and Hall Park POA. The plant survey will be conducted by an independent third party using the same process as was used in the 2019 survey completed in support of the Oklahoma Water Survey's POND (Protecting Our Neighborhood Detention) program.

III. Responsibilities of the POA.

- A. The POA will hire and fund in full the initial costs of the program contingent on available funds and affirmative vote of the Hall Park POA Board each fiscal year. The Hall Park POA will fully fund the aeration system, grass carp stocking, vegetation treatment and first year probiotics treatments for Lake Tranquility (Main Lake) in 2022. Upon determination of the program's effectiveness in Lake Tranquility by the City and Hall Park POA, the Hall Park POA will fully fund the aeration system, grass carp stocking, vegetation treatment and first-year probiotic treatments for the North Lake (Sleepy Hollow) no later than March 2025. Upon determination of the program's effectiveness in Lake Tranquility and the North Lake by the City and Hall Park POA, the Hall Park POA will fully fund the aeration system, grass carp stocking, vegetation treatment and first-year probiotic treatments for the West Lake no later than March 2028.
- B. The POA will be responsible for addressing any noise complaints received by the City related to the aeration system(s) and cause to be installed any such necessary noise suppression methods as necessary at the POA's expense.

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IV. Termination.

If, upon annual evaluation of the program, the City and Hall Park POA determines that the program is not effective using the evaluation method described in Section II.D. of this Agreement, the City may terminate the agreement with thirty (30) days written notice to the POA. Additionally, if funding for the program is not made available by the City or the POA upon adoption of its budget, this contract will terminate upon ten (10) days written notice to the other party. The City will work with the POA to address possible funding sources for ongoing maintenance of systems prior to termination of this contract.

IN WITNESS WHEREOF, this Agreement is entered into the 11th day of January, 2022.

HALL PARK PROPERTY OWNERS' ASSOCIATION, INC.

By: Jonathan Stapleton
 Name: Jonathan Stapleton
 Title: HPPOA President

Attest: Marilyn Watley
 (Corporate Seal)



CITY OF NORMAN, OKLAHOMA

By: _____
 Name: Darrel Pyle
 Title: City Manager

Attest: _____
 City Clerk

(Seal)

Approved as to form and legality this _____ day of _____, 2022.

 City Attorney