OAKLAND COUNTY PARKS

Holly Oaks Park Plan and Standards Manual
Appendix D: Signed Operating Agreement

Michigan Department of Natural Resources

OPERATING AGREEMENT #PRD-F-___-___
FOR THE HOLLY OAKS ORV PARK

BETWEEN

THE STATE OF MICHIGAN, AS PERMITTER AND

THE COUNTY OF OAKLAND, ADMINISTERED BY OAKLAND COUNTY PARKS AND RECREATION COMMISSION, AS PERMITTEE

This Operating Agreement, hereinafter "Agreement," is entered between the State of Michigan through its **Department of Natural Resources**, hereinafter "DNR" and/or "Permitter," and the **County of Oakland**, by, through, and administered by, its statutory agent, the Oakland County Parks and Recreation Commission, hereinafter "OCPRC" and/or "Permittee," whose address is 2800 Watkins Lake Road, Waterford, Michigan 48328.

RECITATIONS:

Pursuant to Section 503(1) of Public Act 451 of 1994 (1994 PA 451), as amended, MCL 324.503(1), Permitter is required to: protect and conserve the natural resources of the State; provide and develop facilities for outdoor recreation; prevent the destruction of timber and other forest growth by fire or otherwise; promote the reforesting of forest lands belonging to the State; prevent and guard against the pollution of lakes and streams within the State and enforce all laws provided for that purpose with all authority granted by law; and foster and encourage the protection and propagation of game and fish; and create, maintain, operate, preserve, and protect Michigan's significant natural and historic resources.

Permittee is authorized under Public Act 261 of 1965, MCL 46.351, *et seq.*, to plan, develop, preserve, administer, maintain, and operate park and recreational places and facilities in Oakland County, Michigan.

This Agreement has the following purposes: (1) for the Parties to pursue a joint undertaking to develop, operate, and maintain a park, (on State-owned land) (2) to provide members of the public with the opportunity for off-road vehicle ("ORV") activities in Southeast Michigan, and (3) to provide the possibility of considering other outdoor activities in the future, to be agreed upon by the Parties.

This Park provides an opportunity for Permitter and OCPRC to collaborate to provide ORV activities to the public: (1) with Permitter funding the purchase of the land for the park, through a grant from the Michigan Natural Resources Trust Fund, and (2) with OCPRC developing, operating and maintaining the Park with financial contributions from Permitter and third-parties, grants, and other assistance and collaboration with Permitter.

The Director of Permitter or his or her lawful designated Representative has determined that the purpose of this Agreement is necessary to implement Part 5 of 1994 PA 451, as amended, because use of State Lands in a regulated manner will protect and conserve the natural resources and provide facilities for outdoor recreation and understood by the Parties to be demanded in Oakland County and the surrounding region.

Permittee has determined that the purpose of this Agreement aligns with its statutorily permitted activities and will provide a unique recreational opportunity.

THEREFORE, Permitter and Permittee, for consideration specified in this Agreement, agree to the following terms and conditions:

1. **DEFINITIONS.** The following words shall be defined and interpreted as follows, whether used in the singular or plural, nominative or possessive case, and with or without quotation marks.

   a. **"Capital Improvement Project"** means a project that: (1) costs five thousand dollars ($5,000.00) or more and (2) extends the life cycle of an existing facility or asset; replaces, renovates, or remodels an existing facility or asset; or adds a new facility or asset.

   b. **"Claim"** means any alleged losses, claims, complaints, demands for relief or damages, lawsuits, causes of action, proceedings, judgments, deficiencies, liabilities, penalties, litigation, costs, and expenses, including, but not limited to, reimbursement for reasonable attorney fees, witness fees, court costs, investigation expenses, litigation expenses, amounts paid in settlement, and/or other amounts or liabilities of any kind which are incurred by or asserted against a Party, or for which a Party may become legally and/or contractually obligated to pay or defend against, whether direct, indirect or consequential, whether based upon any alleged violation of the federal or the state constitution, any federal or state statute, rule, regulation, or any alleged violation of federal or state common law, whether any such claims are brought in law or equity, tort, contract, or otherwise, and/or whether commenced or threatened.

   c. **"Fiscal Year"** means a year period commencing on October 1 and ending on following September 30.

   d. **"Holly Oaks ORV Park"** or **"Park"** means the off-road vehicle park operated on the Premises.

   e. **"Maintenance Project"** means a project that costs one thousand five hundred dollars ($1,500.00) or more, does not extend the life cycle of an

existing facility or asset, and is not a Capital Improvement Project (as defined herein).

f. **"Park Fees and Charges"** means the following fees and charges: (1) an entry fee into the Park (that is separate and distinct from the Recreation Passport Fee and the OCPRC vehicle pass), (2) equipment rental fees, (3) event program fees, (4) sponsorship of events/programs by third parties, and (5) and all other fees and charges charged and collected by Permittee associated with the use of the Park.

g. **"Park Operations Expenses"** means all direct expenses, which are salaries, fringe benefits, contractual services, commodities, depreciation, and internal services, needed to operate the Park according to the plans and program, described herein, and expended by Permittee.

h. **"Park Operations Loss"** means the dollar amount difference between the actual Park Operations Expenses and Park Revenue for a Fiscal Year.

i. **"Park Revenue"** means the monies generated from the Park Fees and Charges, applicable grants, and the billboard revenue. Park Revenue does not include monies paid for naming rights pursuant to Section 7.g.

j. **"Premises"** means the real property upon which the Park is located, described and depicted in Exhibit A. Exhibit A is fully incorporated into this Agreement.

k. **"Recreation Passport Fee"** means a fee defined in Section 805 of the Michigan Vehicle Code, 1949 PA 300, MCL 257.805.

2. **DESCRIPTION OF PREMISES.** Permitter grants Permittee use of the Premises for the purposes and according to the terms and conditions set forth herein.
3. **TERM OF AGREEMENT.** This Agreement begins at 12:01 a.m. on January 1, 2020 and ends at midnight on December 31, 2040 (hereinafter "initial term").
4. **OPTION TO RENEW.** The initial term of this Agreement may be extended for one (1) additional term of ten (10) years or such other term as may be agreed to between the Parties, if Permittee gives Permitter one hundred twenty (120) days written notice before this Agreement. Permitter and Permittee may agree to additional terms of extension in the future under mutually agreeable terms and conditions.
5. **FEE FOR USE OF PREMISES.** Permittee shall not be required to pay a fee for use of the Premises, due to the services (as specified herein) Permittee will provide.
6. **DESIGNATION OF PARK & NAME OF PARK.** The Premises shall be designated a State Park with the following name: HOLLY OAKS ORV PARK. Depending on circumstances or potential economic advantage, or both, this name may be modified or supplemented as mutually agreed upon by the Parties.
7. **GOVERNANCE OF PREMISES.**
   a. **Administration.** The Parks and Recreation Division (PRD) Regulatory Unit Manager or his/her successor is the Permitter's Agreement Administrator

(hereinafter "the Permitter's Representative"). The OCPRC Executive Officer or his/her successor is Permittee's Agreement Administrator (hereinafter "Permittee's Representative"). Either Party may change its designated representative by providing the other Party written notice of such change.

b. **Off-Road Vehicle Advisory Workgroup.** If Permittee determines that recommendations or guidance are needed from the ORV user community regarding the Park, Permittee will seek recommendations or guidance, in its sole discretion, from state/national recognized authorities, including but not limited to the Off-Road Vehicle Advisory Workgroup. The recommendations or guidance received from these authorities is only advisory. The Parties may coordinate the creation of a "friends group" for the Park, if the Parties deem such a group is necessary or advisable.

c. **Disputes.** All disputes arising under or relating to the execution, interpretation, performance, or nonperformance of this Agreement involving or affecting the Parties shall first be submitted to the Permitter Representative and the Permittee Representative for possible resolution. If the Permitter Representative and the Permittee Representative cannot resolve the dispute, then the dispute shall be submitted to the signatories (or his/her successors) of this Agreement for possible resolution. If the dispute cannot be settled by the signatories or their successors, both Parties agree to move to the appropriate language pursuant to Section 17.

d. **Use of Premises.**
   i. Permittee has care, control, and exclusive use of the Premises to develop, operate, maintain, or improve the Premises for ORV activities, as further described and delineated herein, and to provide other outdoor activities mutually agreed upon by the Parties.
   ii. Permittee hereby acknowledges the use and occupancy of the Premises and shall be subject to the provisions of 1994 PA 451, as amended.
   iii. Permittee shall obtain Permitter's prior consent, in writing, to use the Premises for any purpose not described herein.

e. **Prohibited Activities on Premises.** The following activities are prohibited on the Premises:
   i. Authorizing public use of Premises in violation of any State law, order, or regulation;
   ii. Any planting of plants, removal of plants, landscaping or earthmoving on the Premises, inconsistent with the Park plans or program established under this Agreement, without the prior written consent of the Permitter Representative;
   iii. Storage of equipment or use of camping trailers or tents, inconsistent with the Park plans or program established under this Agreement, without prior written approval of the Permitter Representative;
   iv. Dumping or disposal of garbage/trash, spare parts, hazardous material, scrap metal and other waste onto the Premises, inconsistent with the Park plans or program established under this Agreement; and
   v. Disposal from off-site of trees, treetops, branches, roots, stumps, and other vegetative debris onto the Premises.

f. **Billboard Management.** At the time of Agreement execution, two (2)

billboards are located on the Premises. The billboard locations are depicted on Exhibit A. The Parties acknowledge that the billboards may remain on the Premises pursuant to a separate agreement between Permitter and the billboard service provider. Permitter shall be solely responsible, at its cost, to negotiate and maintain an agreement to permit the location, maintenance, and repair of the billboards on the Premises. The agreement shall include the following provisions: (1) the billboards will be maintained in a safe condition and in good appearance, at no cost to Permittee, (2) the billboard service provider will "indemnify, defend, and hold harmless the County of Oakland and its employees, officers, elected and appointed officials, and volunteers for the acts or omissions of the billboard owner, billboard service provider, or their employees and agents," and (3) the billboard service provider will name the "County of Oakland and its employees, officers, elected and appointed officials, and volunteers" as additional insured on liability insurance policies, if there are any. If the billboard(s) become obsolete or unrepairable, then Permitter shall be solely responsible to remove the billboard(s) and for the costs associated therewith. All monies received from such agreement shall be paid to Permittee and shall be solely used to fund Park Operations Expenses.

g. **Naming Rights for Geographical Features/Structures/Facilities.** Naming rights of geographical features, structures, and facilities will be developed and approved by Permittee, without approval from Permitter, but Permittee shall provide Permitter with thirty (30) calendar days written notice of such naming. Permittee shall ensure that the naming rights shall be coterminous with this Agreement. All monies received for the naming rights shall be paid to Permittee and shall be solely used to develop, operate, maintain, or improve the Park.

8. **GOVERNANCE OF PARK.**

a. **Permittee Responsibilities.** Permittee shall be responsible to develop, operate, maintain, and improve the Park and for the costs associated therewith as set forth and described herein. Permittee shall develop, operate, maintain, and improve the Park according to the plans, budget, and program set forth and described herein. Any modifications to the Park Operations Budget or Park Capital Improvement Program must be addressed pursuant to this Section.

b. **Park Master Plan.** Prior to the opening date of the Park, Permittee shall create a Park Master Plan including but not limited to, a Baseline Analysis, Park Vision and Concepts, Industry Trends, a Public Engagement Summary, and a Park Marketing Plan. The Master Plan shall be created pursuant to Permittee's current policies and procedures. The creation of the Master Plan or modifications thereto shall follow the below approval process:

   i. Once a draft Master Plan or modifications thereto are created by Permittee, Permittee shall submit them to the Permitter's Representative for review, comments, and responses.

   ii. The Permitter Representative shall submit, in writing, to the Permittee Representative any comments or responses within thirty (30) business days of receipt of the draft Master Plan or modifications thereto. If written comments or responses are submitted to the Permittee Representative and not incorporated into the draft Master

Plan or modifications, then the Permittee and Permitter Representatives shall meet and discuss the differences. If the Permittee and Permitter Representatives are unable to reach a consensus, the Parties agree to address the differences pursuant to Section 7.

iii. If the Permitter Representative does not submit written comments or responses to the Permittee Representative within the 30-day period, then Permitter is deemed to not have any comments or responses and Permittee shall commence to have the Master Plan adopted and implemented pursuant to its policies and procedures.

c. **Park Operations Budget.** Prior to the opening date of the Park and for each year thereafter, Permittee shall create a Park Operations Budget, based on Permittee's fiscal year and Permittee's budget development schedule, estimating the Park's annual revenues and expenses. The Operations Budget shall be created pursuant to Permittee's current policies and procedures. The creation of the Operations Budget or modifications thereto shall follow the below approval process:

i. Once a draft Operations Budget or modifications thereto are created by Permittee, Permittee shall submit them to the Permitter's Representative for review, comments, and responses.

ii. The Permitter Representative shall submit, in writing, to the Permittee Representative any comments or responses within thirty (30) business days of receipt of the draft Operations Budget or modifications thereto. If written comments or responses are submitted to the Permittee Representative and not incorporated into the draft Operations Budget or modifications, then the Permittee and Permitter Representatives shall meet and discuss the differences. If the Permittee and Permitter Representatives are unable to reach a consensus, the Parties agree to address the differences pursuant to Section 7.

iii. If the Permitter Representative does not submit written comments or responses to the Permittee Representative within the 30-day period, then Permitter is deemed to not have any comments or responses and Permittee shall commence to have the Operations Budget adopted and implemented pursuant to its policies and procedures.

d. **Park Maintenance Management Plan.** When Permittee deems necessary, Permittee shall create a Park Maintenance Management Plan ("PMMP"), addressing Maintenance Projects and budgetary programs for a five (5) year period. The PMMP shall be created pursuant to Permittee's current policies and procedures. The creation of the PMMP or modifications thereto shall follow the below approval process:

i. Once a draft PMMP or modifications thereto are created by Permittee, Permittee shall submit them to the Permitter's Representative for review, comments, and responses.

ii. The Permitter Representative shall submit, in writing, to the Permittee Representative any comments or responses within thirty (30) business days of receipt of the draft PMMP or modifications thereto. If written comments or responses are submitted to the Permittee Representative and not incorporated into the draft PMMP or

modifications, then the Permittee and Permitter Representatives shall meet and discuss the differences. If the Permittee and Permitter Representatives are unable to reach a consensus, the Parties agree to address the differences pursuant to Section 7.

iii. If the Permitter Representative does not submit written comments or responses to the Permittee Representative within the 30-day period, then Permitter is deemed to not have any comments or responses and Permittee shall commence to have the PMMP adopted and implemented pursuant to its policies and procedures.

e. **Park Capital Improvement Program.** Permittee shall create a Park Capital Improvement Program ("CIP") forecasting Capital Improvement Projects for a five (5) year period. The CIP shall be created pursuant to Permittee's current policies and procedures and shall be included in Permittee's annual CIP. The creation of the CIP or modifications thereto shall follow the below approval process:

i. Once a draft CIP or modifications thereto are created by Permittee, Permittee shall submit them to the Permitter's Representative for review, comments, and responses.

ii. The Permitter Representative shall submit, in writing, to the Permittee Representative any comments or responses within thirty (30) business days of receipt of the draft CIP or modifications thereto. If written comments or responses are submitted to the Permittee Representative and not incorporated into the draft CIP or modifications, then the Permittee and Permitter Representatives shall meet and discuss the differences. If the Permittee and Permitter Representatives are unable to reach a consensus, the Parties agree to address the differences pursuant to Section 7.

iii. If the Permitter Representative does not submit written comments or responses to the Permittee Representative within the 30-day period, then Permitter is deemed to not have any comments or responses and Permittee shall commence to have the CIP adopted and implemented pursuant to its policies and procedures.

f. **Park Operational Plan.** Prior to the opening date of the Park, Permittee shall create a Park Operational Plan, addressing day to day operations of the Park, including but not limited to the following matters: (1) rules, (2) staffing levels, (3) maintenance standards, (4) operational hours, (5) pest/rodent control, (6) garbage/trash service, (7) grounds maintenance, (8) portable restrooms, (9) utilities, telephone, and Internet service, (10) safety and security, (11) ingress and egress (access to and from the Park), and (12) vehicle and trailer parking. The Operational Plan shall be created pursuant to Permittee's current policies and procedures. The creation of the Operational Plan or modifications thereto shall follow the below approval process:

i. Once a draft Operational Plan or modifications thereto are created by Permittee, Permittee shall submit them to the Permitter's Representative for review, comments, and responses.

ii. The Permitter Representative shall submit, in writing, to the Permittee Representative any comments or responses within thirty (30) business days of receipt of the draft Operational Plan or modifications

thereto. If written comments or responses are submitted to the Permittee Representative and not incorporated into the draft Operational Plan or modifications, then the Permittee and Permitter Representatives shall meet and discuss the differences. If the Permittee and Permitter Representatives are unable to reach a consensus, the Parties agree to address the differences pursuant to Section 7.

iii. If the Permitter Representative does not submit written comments or responses to the Permittee Representative within the 30-day period, then Permitter is deemed to not have any comments or responses and Permittee shall commence to have the Operational Plan adopted and implemented pursuant to its policies and procedures.

iv. At least once a year, the Parties shall review and discuss the Operational Plan for the Park and any modifications that Permittee made to the Operational Plan.

g. **Park Access/Parking.** Permittee shall be responsible to determine how Park patrons will enter and exit the Park and to address parking at the Park. This responsibility and the costs associated therewith shall be addressed in the plans, budget, and program set forth and described herein. The Parties acknowledge that this responsibility may require Permitter or Permittee to lease/license property from third parties and may require an amendment to this Agreement.

h. **Park Improvements.** Permittee shall be responsible to provide and perform (either directly or through third parties) improvements for the Park. This responsibility and the costs associated therewith shall be addressed in the plans, budget, and program set forth and described herein.

i. **Park Maintenance.** Permittee shall be responsible to provide and perform (either directly or through third parties) operational maintenance and Maintenance Projects for the Park. This responsibility and the costs associated therewith shall be addressed in the plans, budget, and program set forth and described herein.

j. **Park Utilities.** Permittee shall be responsible to provide the utilities it deems necessary for the operation of the Park. The provision of and costs for the utilities shall be set forth in the plans, budget, and program set forth and described herein.

k. **Park Rules.** Prior to the opening date of the Park, Permittee shall create Park Rules. The Park Rules shall be created pursuant to Permittee's current policies and procedures. Once completed, Permittee shall submit the Park Rules to the Permitter Representative for comments and recommendations. Permitter shall submit its comments and recommendations to the Permittee Representative within thirty (30) business days of receipt of the Park Rules. If Permitter does not respond within the thirty (30) day period, then Permitter is deemed not to have any comments or recommendations. Permittee shall review and consider Permitter's comments and recommendations; however, if Permittee does not incorporate such comments and recommendations into the Park Rules, the Permittee is required to provide an explanation and justification for not incorporating such comments or recommendations. After receiving Permitter's comments and recommendations or passage of the thirty (30) day period (whichever is first), Permittee shall commence to have

the Park Rules adopted and implemented pursuant to its policies and procedures, so Permittee can enforce the Park Rules. Modifications to the Park Rules shall be codified according to the procedure set forth in this Section. The Park Rules created pursuant to this Section shall be deemed the Park Rules and shall be enforced by Permittee as permitted by law.

l. **Park Law Enforcement.** Permittee shall contract with the Oakland County Sheriff's Office or other governmental entity, selected by Permittee, to provide law enforcement services for the Park and to enforce the Park rules and other applicable laws.

m. **Signs.** Permittee shall be responsible to and is permitted to erect signs to identify the Park and features/structures located therein and to erect other signs that are typical and/or necessary at a public park of this nature.

n. **Volunteers.** Permittee will use volunteers at the Park in various capacities. All volunteers providing volunteer service at the Park shall become part of Permittee's volunteer program. The volunteers shall follow all rules and regulations for Permittee's volunteer program, including signing agreements required by such program.

o. **Exemption from Recreation Passport Fee & OCPRC Vehicle Pass.** Use of the Park by the public shall be exempt from the Recreation Passport Fee and exempt from the OCPRC vehicle pass. A separate fee shall be established, pursuant to this Agreement, for entry into the Park.

p. **State ORV Licenses & ORV Trail Permits.** Permittee shall sell State ORV Licenses and State ORV Trail Permits at the Park. All monies collected by Permittee for the sale of the licenses and permits shall be sent to Permitter pursuant to and through its Retail Sales System or any future system referred under a different name.

q. **Sponsorship of Events/Programs at Park by Third Parties.** Without approval from Permitter, Permittee may solicit or accept sponsorship of events/programs at the Park by third-parties, pursuant to Permittee's Sponsorship Policy, but Permittee shall use its best efforts to provide Permitter with five (5) calendar days written notice of such sponsorships. All monies received by Permittee from sponsorship of events/programs shall be solely used to fund Park Operations Expenses.

r. **Use of Park by Third-Parties** – Notwithstanding any other provision in this Agreement, Permittee may license use of the Park to third-parties for events or programs, without notification of or approval from Permitter. Permittee shall allow such use via written agreement with the third-party, pursuant to Permittee's policies and procedures. For consistency and to avoid conflicts, all third-parties desiring to use the Park for events or programs shall schedule such use through Permittee.

s. **Use of Park by Permitter** – Permitter may use the Park for events or programs, such as classes for the Michigan ORV Safety Course, if such use does not conflict with scheduled events or programs. Permitter must request use of the Park for its events or programs, through Permittee to avoid conflicts and to ensure a consistent scheduling of events and programs at the Park.

9. **FINANCE OF REAL PROPERTY ACQUISITION.**

a. **To Date.** The Parties acknowledge Permitter acquired the Premises with grant monies from the Michigan Natural Resources Trust Fund and

Permittee was not and is not obligated to contribute any monies toward the acquisition of the Premises.

b. **Future Real Property Acquisitions.** The Parties acknowledge that Permittee is not obligated, in any way, to contribute monies to acquire additional lands to expand the Park, beyond the geographical boundaries at the time of Agreement execution.

10. **FINANCE OF PARK OPERATIONS.**

a. **Payments in Lieu of Taxes.** Permitter shall make all payments in lieu of taxes related to the Premises pursuant to MCL 324.2152 – 324.2154 and as otherwise required by law.

b. **Billboard Revenue.** All revenue related to the location of the billboards on the Premises shall be paid to Permittee by Permitter; such revenue shall be used to fund the Park Operations Expenses.

c. **Park Fees & Charges.** Permittee shall establish all Park Fees and Charges at the Park. The Park Fees and Charges shall be created, adopted, and implemented pursuant to Permittee's current policies and procedures. The monies generated by the Park Fees and Charges shall be paid to Permittee and shall be deemed Permittee's. Permittee shall record the monies generated by the Park Fees and Charges according to generally accepted accounting principles and in a manner similar to how Permittee records other Fees and Charges it collects and charges. The monies generated by the Park Fees and Charges shall be used to fund Park Operations Expenses. The Permittee is subject to audits by an independent auditor. All expenses associated with the independent audit and auditor shall be paid solely by Permitter.

d. **Grants.**

i. **2016 Grant.** Permitter was awarded a 2016 ORV Trail Improvement Fund Grant in the amount of $160,000 for development and improvements to the Park. Except for monies expended by Permitter prior to the execution of this Agreement for Park development, this entire amount shall be paid or reimbursed to Permittee for costs it incurs or has incurred in developing, operating, maintaining, or expansion of the Park. Permittee does not have any match funding requirement for this grant.

ii. **2019 Grant.** Permitter applied for a 2019 ORV Trail Improvement Fund Grant in the amount of $250,000 for development and improvements to the Park. The entire amount awarded to Permitter under this grant shall be paid or reimbursed to Permittee for costs it incurs or has incurred in developing, operating, maintaining, or improvement of the Park. Permittee does not have any match funding requirement for this grant.

iii. **Future Grants.** The Parties shall use their best efforts to work together to secure grant funding for future Park expansion, development, improvements, operation, and maintenance.

iv. **Grant Requirements.** The Parties acknowledge grant funds have been used and will be used in the future for the creation, development, improvement, operation, maintenance, or expansion of the Park. The Parties shall comply with all applicable grant requirements and obligations. Upon written request, a Party shall

provide copies of grant documentation to the other Party, including the grant application and agreement.

e. **Funding of Park Operations Losses.** Each Fiscal Year, if Park Revenue does not completely fund the Park Operations Expenses, then Permitter shall reimburse Permittee fifty percent (50%) of the Park Operations Loss. If there is a Park Operations Loss, Permitter shall pay its portion of such to Permittee within sixty (60) days of September 30 each year. If the reimbursement amount is not appropriated, the Permitter must obtain supplemental budget funding.

f. **Park Revenue Exceeding Park Operations Expenses**. Notwithstanding any other provisions, if Park Revenue exceeds Park Operations Expenses, then such monies shall be kept by Permittee and recorded in a restricted account, within the OCPRC Fund, ("Restricted Account") to be solely used for Park development, operation, maintenance, or improvement or as otherwise required by law or grants.

11. **WASTE.** Permittee shall not to commit or allow to be committed any waste or nuisance on the Premises and will not use or allowed to be used the Premises for any unlawful purpose.

12. **CONDITION OF PREMISES.** Permittee stipulates, represents and warrants that Permittee has examined the Premises and performed a Phase I Environmental Site Assessment (ESA) and takes possession of the Premises subject to such Phase I ESA. Permittee acknowledges that the Premises or portions thereof may be subject to restrictions or closures, if endangered species are present.

13. **LIABILITY/ASSURANCES.**

a. **Responsibility for Claims.** Each Party shall be responsible for any Claims made against that Party by a third-party and for the acts or omissions of its employees, volunteers, officers, or officials arising under or related to this Agreement.

b. **Legal Representation.** Each Party shall seek its own legal representation and bear the costs associated with such representation, including judgments and attorney fees, for any Claim that may arise from the performance of this Agreement.

c. **No Right to Indemnification.** Neither Party shall have any right under this Agreement or under any other legal principle to be indemnified or reimbursed by the other Party or any of its agents regarding any Claim.

d. **Responsibility for Costs/Fines/Fees.** Each Party shall be solely responsible for all costs, fines and fees associated with any acts or omissions by its employees, volunteers, officers, or officials arising under or related to this Agreement.

e. **Legal Title.** Permitter warrants that it has legal title to the Premises and the authority to enter into this Agreement. Permitter, at its sole expense, shall defend (including payment of attorney fees) Permittee against any Claim, as

defined herein, challenging Permitter's right to execute this Agreement with Permittee.

f. **Governmental Function/Reservation of Rights.** Performance of this Agreement is a governmental function. This Agreement does not, and is not intended to, impair, divest, delegate or contravene any constitutional, statutory, and/or other legal right, privilege, power, obligation, duty, or immunity of the Parties. Nothing in this Agreement shall be construed as a waiver of governmental immunity.

g. **Limitation of Liability.** In no event, shall either Party be liable to the other Party for any consequential, incidental, direct, indirect, special, and punitive or other damages arising out of this Agreement.

h. **Damage or Destruction by Permittee.** Except for normal wear and tear, Permittee shall be responsible for any damage to the Premises or the facilities or equipment located thereon, which is caused by Permittee or its elected officials, officers, employees, or volunteers. If damage occurs, Permittee shall make the necessary repairs and/or replacements or cause a third-party to make the necessary repairs and/or replacements.

i. **Damage or Destruction by Permitter.** Except for normal wear and tear, Permitter shall be responsible for any damage to the Premises or the facilities or equipment located thereon, which is caused by Permitter or its elected officials, officers, employees or volunteers. If damage occurs, Permitter shall make the necessary repairs and/or replacements or cause a third-party to make the necessary repairs and/or replacements.

j. **Personal Property Damage.** Permittee assumes the risk of loss for any property damage or loss resulting from fire, theft or other means to Permittee's personal property during this Agreement.

k. **Report of Injury or Property Damage.** Permittee shall submit a written report to the Permitter Regulatory Unit Manager regarding any incident resulting in personal injury or property damage within five (5) business days. Incidents resulting in serious personal injury, which requires medical transport from the Park, shall be reported to the Permitter Regulatory Unit Manager immediately, by telephone or in person. A written report is to follow as described above.

l. **Compliance with Laws.** Permittee shall comply with all applicable federal, state or local laws, regulations, rules, and ordinances related to the creation, operation, maintenance, use, or expansion of the Premises and Park. Permittee shall obtain any necessary permits regarding its use of the Premises. Permittee acknowledges that any violations of the federal, state or local regulations or convictions of any resource violations may be considered a default by Permittee and Permitter may terminate this Agreement, as provided herein.

m. **Assignment/Sublease.** Except as otherwise provided in this Agreement, Permittee shall not sell, mortgage, rent, assign, or parcel out this Agreement or any interest therein.

24. **NO UNNAMED ENTITIES/PARTNERS.** The Parties acknowledge there are no unnamed entities or partners having authority over the operation or management of the Premises.

25. **MODIFICATION.** This Agreement shall not be modified by or interpreted by reference to any course of dealing or usage of trade and shall not be modified by any course of performance. The Agreement can only be modified or amended in writing and any modification or amendment must be executed in the same manner as this Agreement was originally executed.

26. **WAIVER.** The failure of either Party to enforce any term or condition in this Agreement shall not be construed as a waiver or relinquishment. No term or condition of this Agreement shall be deemed to have been waived by either Party, unless such waiver is in writing.

27. **SEVERABILITY.** If any term or condition of this Agreement or the application thereof is deemed to be invalid or unenforceable, the remainder of this Agreement shall not be affected and this Agreement shall be valid and enforceable to the fullest extent permitted by law.

28. **GOVERNING LAW.** This Agreement shall be governed, interpreted, and enforced by the laws of the State of Michigan. Any dispute arising under this Agreement must be resolved in the Michigan Court of Claims.

29. **REQUIRED APPROVALS.** This Agreement shall not be binding or effective on either Party until executed (and notarized) by both Parties.

30. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the Parties regarding this transaction. This Agreement supersedes all proposals or other prior agreements and all other communications between the Parties relating to this transaction.

CHIEF, PARKS AND RECREATION DIVISION
DEPARTMENT OF NATURAL RESOURCES
THE STATE OF MICHIGAN (Permittee)

By: _____
Ronald A. Olson, Chief

STATE OF MICHIGAN)
) §.
County of Ingham)

The foregoing instrument was acknowledged before me this 16 day of September, 2019, by Ronald A. Olson, Chief, Parks and Recreation Division.

PREPARED BY:
PARKS AND RECREATION DIVISION
MICHIGAN DEPARTMENT OF NATURAL RESOURCES
8717 N. ROSCOMMON ROAD
ROSCOMMON, MI 48653

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DIANE MARIE MUNSON, Notary Public
State of Michigan, County of Oakland
My Commission Expires: 07/04/2022
Acting in Ingham County

COUNTY OF OAKLAND (Permittee):

By: _____
David T. Woodward, Chairperson
Oakland County Board of Commissioners

STATE OF MICHIGAN)
) §.
County of Oakland)

The foregoing instrument was acknowledged before me this 16 day of AUGUST, 2019, by

JoAnn M Stringfellow
Notary Signature

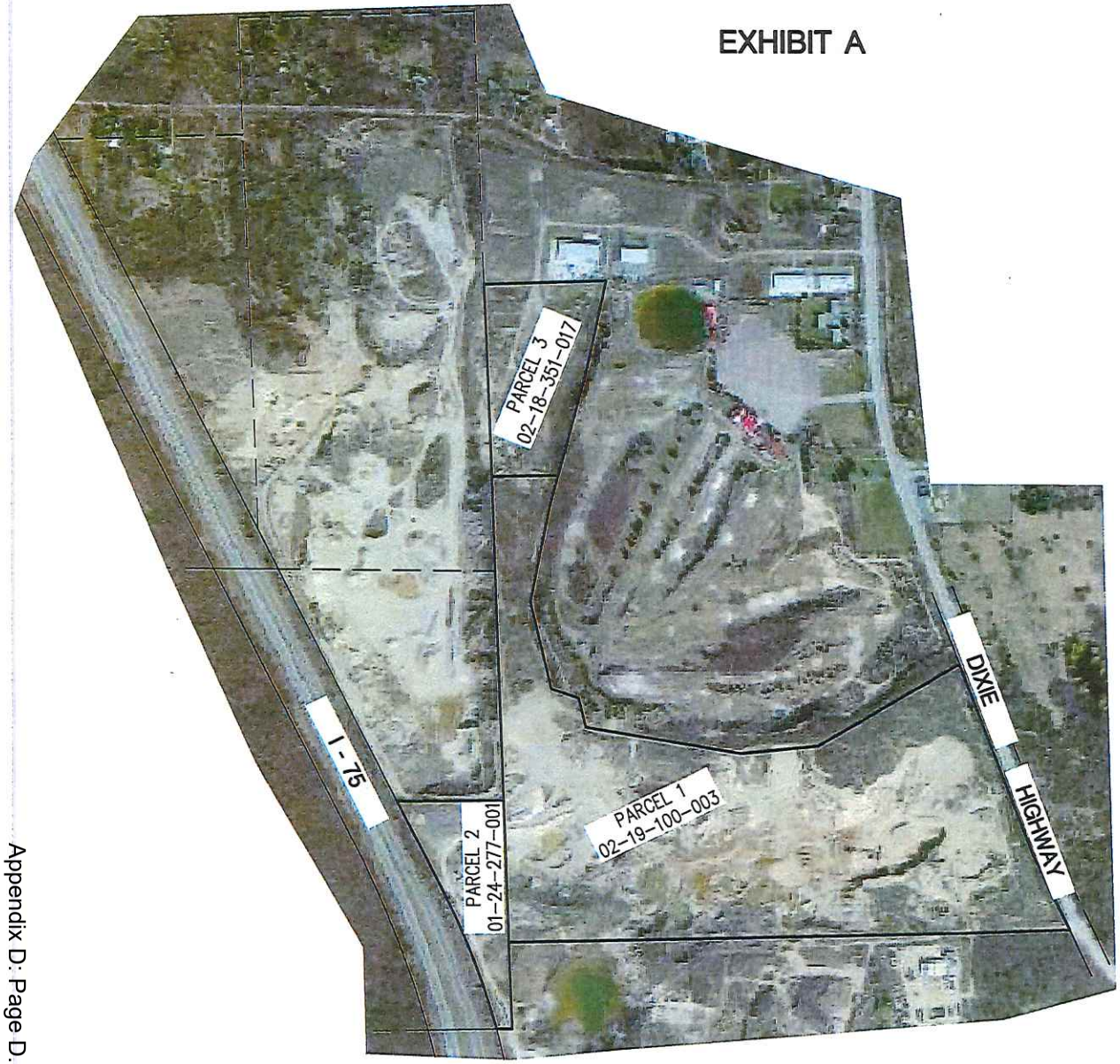
JOANN M. STRINGFELLOW
Notary Public - State of Michigan
County of Oakland
My Commission Expires June 28, 2020
Acting in the County of OAKLAND

Notary Public, OAKLAND County
Acting in Oakland County
My Commission Expires: 6-28-20

(06-18-19) VERSION

DW INIT

EXHIBIT A



FOR PURPOSES OF THIS AGREEMENT THE PREMISES ARE MADE UP OF THE FOLLOWING PARCELS:

PARCEL 1:

LEGAL DESCRIPTION FROM KIEFT ENGINEERING SURVEY JOB No. 2011.172.

PART OF WEST 1/2 OF THE NE 1/4 AND PART OF THE NW 1/4 LYING W'LY OF DIXIE HIGHWAY (US-10), SECTION 19, T5N, R8E GROVELAND TOWNSHIP, OAKLAND COUNTY, MICHIGAN DESCRIBED AS BEGINNING AT THE NW CORNER OF SECTION 19, T5N, R8E; TH N 88°32'57" E (REC. AS N 88°34'10"E) 372.18 FT ALONG THE NORTH LINE OF SECTION 19; TH S 15°08'23" E (REC. AS S 16°48'40" W) 178.63 FT; TH S 11°22'23" W (REC. AS S 13°02'40" W) 560.00 FT; TH S 13°19'55" E 503.38 FT (REC. AS S 10°54'40" E 506.06 FT); TH S 71°19'29" E (REC. AS S 69°40'10" E) 159.98 FT; TH S 13°56'54" E (REC. AS S 12°17'35" E) 166.54 FT; TH S 80°28'39" E (REC. AS S 78°49'20" E) 881.71 FT; TH N 84°21'31" E (REC. AS N 86°00'50" E) 433.68 FT; TH N 59°47'47" E 920.60 FT (REC. AS N 61°27'06" E 922.91 FT) TO A POINT ON THE W'LY RIGHT-OF-WAY LINE OF DIXIE HIGHWAY (60' 1/2 WIDTH); TH ALONG SAID W'LY RIGHT-OF-WAY S 20°51'37" E 1158.31 FT; TH ALONG A CURVE TO THE LEFT 467.77 FT, SAID CURVE HAVING A RADIUS OF 2928.50 FT, A DELTA OF 09°09'06" AND A LONG CHORD OF S 25°31'18" E 467.27 FT TO A POINT ON THE E-W 1/4 LINE OF SECTION 19; TH ALONG SAID E-W 1/4 LINE S 88°03'19" W 559.49 FT TO THE CENTER OF SECTION 19, T5N, R8E; TH CONTINUING ALONG SAID E-W 1/4 LINE S 88°39'34" W 2586.51 FT TO THE WEST 1/4 CORNER OF SECTION 19, T5N, R8E; TH N 01°55'17" W 2100.65 FT ALONG THE WEST LINE OF SECTION 19 TO THE SE CORNER OF SECTION 13, T5N, R7E; TH CONTINUING ALONG SAID WEST LINE N 01°54'12" W 539.17 FT TO THE POINT OF BEGINNING. CONTAINING 89.18 ACRES MORE OR LESS. SUBJECT TO EASEMENTS AND RESTRICTION OF RECORD, IF ANY.

PARCEL 2:

LEGAL COMPILED FROM AVAILABLE SOURCES. NO SURVEY WORK WAS COMPLETED.

PART OF SECTION 24, TOWN 5 NORTH, RANGE 7 EAST, TOWNSHIP OF HOLLY, OAKLAND COUNTY, MICHIGAN, DESCRIBED AS: THAT PART OF THE SOUTH 1/2 OF THE NORTHEAST 1/4 OF SECTION 24 LYING EAST OF I-75 HIGHWAY. MORE PARTICULARLY DESCRIBED AS BEGINNING AT THE EAST 1/4 CORNER OF SAID SECTION 24; THENCE S88°50'13"W, 87.4 FEET TO THE EASTERLY RIGHT OF WAY OF I-75; THENCE ALONG SAID EASTERLY RIGHT OF WAY THE FOLLOWING TWO COURSES: 1) ALONG A CURVE CONCAVE TO THE LEFT RADIUS OF 3976.17 FEET, ARC LENGTH 834.8 FEET, CHORD BEARS N20°49'19"W, 833.3 FEET; 2) N26°50'14"W, 573.7 FEET TO THE NORTH LINE OF THE SOUTH 1/2 OF THE NORTHEAST 1/4 OF SAID SECTION 24; THENCE ALONG SAID NORTH LINE OF THE SOUTH 1/2 OF THE NORTHEAST 1/4 N89°30'13"E, 598.8 FEET TO THE EAST LINE OF SAID SECTION 24; THENCE S01°56'12"E, ALONG SAID EAST SECTION LINE, 1295.0 FEET TO THE POINT OF BEGINNING.

PARCEL 3:

LEGAL DESCRIPTION FROM TITLE SOURCE TITLE COMMITMENT ORDER NUMBER 62454414. UNIT 12, GROVE STAR TEK PARK CONDOMINIUM, ACCORDING TO THE MASTER DEED RECORDED IN LIBER 22036, PAGES 101 THROUGH 154, BOTH INCLUSIVE, AND AMENDED BY FIRST AMENDMENT TO MASTER DEED RECORDED IN LIBER 25152, PAGES 497 THROUGH 509, BOTH INCLUSIVE, OAKLAND COUNTY RECORDS, AND DESIGNATED AS OAKLAND COUNTY CONDOMINIUM SUBDIVISION PLAN NO. 1310, TOGETHER WITH RIGHTS IN GENERAL COMMON ELEMENTS AND LIMITED COMMON ELEMENTS, AS SET FORTH IN THE ABOVE DESCRIBED MASTER DEED AND AS DESCRIBED IN ACT 59 OF THE PUBLIC ACTS OF 1978, AS AMENDED.

LEGAL DESCRIPTIONS PROVIDED FOR DISCUSSION/CLARIFICATION PURPOSES ONLY. WRITTEN BASED UPON PROVIDED RECORDS. NO SURVEY WORK WAS COMPLETED AT THIS TIME. NOT FOR PROPERTY TRANSFER USE.

ROWE PROFESSIONAL SERVICES COMPANY

DATE: OCT. 2018
PROJECT MGR: DRS
REVIEWER: DRS
SCALE: 1" = 600'

PREPARED FOR:
OAKLAND COUNTY PARKS
PROPERTY DESCRIPTION
HOLLY OAKS ORV PARK

SHT: 1 OF 1
JOB No: 18C0252

PLOTTED: 10/23/2018 2:37 PM R:\Projects\18C0252\Dwg\Survey\SV-18C0252-MASTER.dwg