RECREATION FACILITY AGREEMENT

This Agreement ("Agreement") is made effective as of January 19, 2016 by and between the City of Three Rivers, a Michigan Home Rule City, 333 West Michigan Avenue, Three Rivers, Michigan 49093 ("City") and the County of St. Joseph, Michigan, a Michigan Governmental Entity, 125 West Main Street, Centreville, Michigan 49032 ("County").

RECITALS

A. The City and the County are "local governmental entities" as defined by 2011 P.A. 258, as amended, Act 258 (MCL 124.112 et seq.) ("Act"). The Act enables two local governmental entities to enter into a contract with each other to form a joint endeavor to perform or exercise any function, service, power or privilege that the local governmental entity could each exercise separately.

B. Pursuant to the Recreation and Playgrounds Act, MCL 123.51 et seq., both the City and the County are authorized to operate a system of public recreation.

C. The City and the County have agreed to assist in jointly developing a system of public youth recreation pursuant to the provisions of this Agreement whereby the County will fund, in part, the acquisition and development of a recreational facility ("Recreation Facility"), and the City will obtain property upon which the Recreational Facility will be located and on which the City will provide youth sports facilities and recreational programs.

D. By June 1, 2016, the City shall have selected a qualified and licensed Engineer/Architect ("Engineer") and an experienced construction manager ("Construction Manager") to plan and construct the Recreational Facility.

E. This Agreement has been approved by resolution of the City Commission and the County Board of Commissioners.

NOW, THEREFORE, in consideration of the mutual covenants set forth in this Agreement, the parties agree as follows:

1. City Responsibilities - Site Development: The City shall be responsible for the following:

(a) Acquiring, on or before April 1, 2016, approximately eighty (80) acres of vacant property in Lockport Township described on Exhibit "A" attached hereto and incorporated herein by reference ("Property") upon which the Recreational Facility shall be constructed.

(b) Annexing the Property into the City on or before June 1, 2016.

(c) Granting to the County, at the closing of the Property acquisition transaction, a real estate mortgage upon the Property substantially in compliance with the mortgage form attached hereto securing the performance by the City of its obligations set forth in this Agreement and providing mortgagee title insurance on the Property in the amount of $755,000.

(d) Obtaining engineering plans from its Engineer for the Recreation Facility on or before July 1, 2016.

(e) Commencing construction of the Recreation Facility on or before September 1, 2016.

(f) Completing of the construction of the Recreation Facility on or before July 1, 2017.

(g) Paying for all costs and expenses associated with the maintenance, repair and operation of the Recreational Facility.

2. <u>City Responsibilities – Recreational Programming.</u>

(a) Engaging with the various youth sports and other recreational programs ("Recreational Programs") to be offered to all residents of the Three Rivers Community as well as all other residents of St. Joseph County on like terms and conditions.

(b) Establishing, modifying and assessing, in its sole discretion, fees for participating in the Recreational Programs.

(c) Maintaining books and records regarding the participation of county residents in the Recreational Programs, together with all income and expenses associated with the Recreational Programs.

(d) Reporting annually each December to the County Board of Commissioners regarding the revenue, expenses, and participation levels in the Recreational Programs.

(e) Paying for costs and expenses related to the management and operation of the Recreational Programs, provided however, that the City may charge reasonable fees for use of the Recreational Facility and participation in Recreational Programs.

3. County Responsibilities: The County shall be responsible for disbursing up to $2,800,000 to the City for the acquisition of the Property and construction of the Recreational Facility as follows:

(a) $755,000 for the acquisition of the Property, payable under the following conditions:

(i) The City shall acquire the Property and furnish the County with a Title Insurance Policy showing that the City has acquired marketable title to the Property;

(ii) The County shall deposit in escrow with the Title Agency issuing the Title Policy the sum of $755,000, pending the annexation of the Property into the City;

(iii) The escrowed funds, under paragraph (ii) above, shall be released to the City promptly following the effective date of the annexation of the portion of the Property described on Exhibit "B" attached hereto and incorporated herein by reference ("Annexed Property") into the City under MCL 117.9(8) ("Act") and the execution on behalf of the City of a mortgage to the County covering the Property to secure the performance by the City of this Agreement. For purposes of this paragraph, the effective date of the annexation of the Annexed Property shall be the later of the dates certified copies of the Resolution of the City adopted under MCL 117.9(8) are filed with the State Boundary Commission, the County Clerk, and the Michigan Secretary of State (Office of the Great Seal) and the date of delivery to the County of an Opinion Letter executed by the City Attorney confirming the following:

- The City had the authority under the Act to annex the Annexed Property;
- The Resolution to annex the Annexed Property was duly adopted by the City and constitutes a binding action of the City; and
- The Annexed Property has been annexed into the City.

(b) Up to $2,045,000 in monthly draws for the construction of the Recreation Facility once the Annexed Property has been transferred into the City boundaries, payable upon certification from the Construction Manager and/or Engineer that the requested draws are for approved construction costs relating to the Recreational Facility and that all proper waivers of lien have been provided by all contractors and subcontractors.

4. Construction Process: The following process will be utilized in the construction of the Recreational Facility:

(a) The City shall comply with the competitive bid process and procedure as provided by City Charter and City Code in determining acceptable bid proposals for all phases of this project.

(b) The Construction Manager and/or Engineer shall be responsible for obtaining all appropriate wavier of lien forms from all contractors and sub-contractors working on the project.

5. Term of Agreement: This Agreement shall be for a term of Twenty-Five (25) years commencing as of January 1, 2016 and concluding December 31, 2041.

6. Events of Default: Each of the following shall constitute an event of default:

(a) The City abandons or withdraws from the development or operation of the Recreational Facility or indicates its intention to do so.

(b) The City fails to complete construction of the Recreational Facility by July 1, 2017, unless extended by the County upon the request of the City for a period not to exceed six (6) months.

(c) The City otherwise fails to comply with the terms and conditions of this Agreement.

7. Remedies in Event of Default: If any event of default as defined above occurs and continues after all applicable grace periods have expired, if any, then the County has the right, but not the obligation, to terminate this Agreement effective immediately, foreclose its Mortgage and take control of the Recreational Facility.

8. Modification of Agreement: Modification, amendment or waiver of any of the provisions of this Agreement may be made only upon the written mutual consent of the parties.

9. Completeness of Agreement: This Agreement contains all of the terms and conditions agreed upon by the parties and no agreements oral or otherwise, regarding the subject matter of this Agreement or any part hereof shall have any validity and/or bind any of the parties.

10. Notices: Any notice, demand or communication required, permitted, or desired to be given under this Agreement shall be deemed effectively given when personally delivered or mailed by first class mail addressed as follows:

If to City: City of Three Rivers
City Manager

333 W. Michigan Avenue
Three Rivers, MI 49093

If to County: County of St. Joseph
County Administrator
125 W. Main Street
Centreville, MI 49032

11. Counterparts: This Agreement may be executed in any number of counterparts and each such counterpart shall be considered a valid original.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date stated below by authority of the respective City Commission and County Board of Commissioners.

CITY OF THREE RIVERS

Dated: January 19, 2016

By: Thomas J. Lowry
Thomas J. Lowry, Its Mayor

By: Melissa J. Bliss
Melissa J. Bliss, Its City Clerk

"City"

COUNTY OF ST. JOSEPH

Dated: January 19, 2016

By: Allen J. Balog
Allen J. Balog
Its Chairman

"County"

EXHIBIT "A" TO RECREATION FACILITY AGREEMENT

Parcel One: Commencing 990 feet North of the center of Section 7, Township 6 South, Range 11 West, Lockport Township, St. Joseph County, Michigan; Thence East 224 feet to the point of beginning (being the Northeast corner of the parcel of land, known as 57357 North Main Street, and shown on tax records as parcel # 75-009-007-003-00); Thence continuing East 1,763.34 feet; Thence South 990 feet; Thence West 1,624.22 feet; Thence North 273.75 feet; Thence West 159.12 feet; Thence North 716.25 feet to the point of beginning. Consisting of 39.07 acres, more or less.

PIN 75-009-007-009-00 (split)

Parcel Two Commencing 533 feet North of center of Section 7, Township 6 South, Range 11 West, Lockport Township, St. Joseph County, Michigan; Thence North 66 feet; Thence East 224 feet; Thence South 66 feet; Thence West 224 feet to the point of beginning. Consisting of 00.8075 acres, more or less.

PIN 75-009-007-007-00

Parcel Three All that part of the South ½ of Northeast ¼ of Section 7, and the South ½ of the Northwest ¼ of Section 8, Township 6 South, Range 11 West, described as follows: Commencing at the East ¼ corner of said Section 7, and running thence North 8958'57" West, 1252.08 feet (recorded as North 8957'00" West, 1246.62 feet) to a concrete monument at the Northeast corner of Sunnymede No. 1; Thence South 8951'54" West, 559.14 feet (recorded as South 8951'00" West 559.31 feet) along the Northerly boundary of said plat to a concrete monument at the Northeast corner of Fairview Park Addition; Thence South 8954'43" West, 457.50 feet (recorded as South 8941'40" West, 457.48 feet); Thence North 0011'37" West (recorded as North 0011'00" West) , parallel with the North-South ¼ line of said Section 7, a distance of 274.02 feet (recorded as 273.75 feet); Thence South 8956'02" West, 159.32 feet, (recorded as South 8956'53" West, 159.12 feet); Thence North 0011'37" West (recorded as North 0011'00" West) parallel with said North-South ¼ line of Section 7 and along a line 224 feet Easterly thereof, 714.75 feet (recorded as 716.25 feet); Thence North 8956'02" East (recorded as North 8956'53" East), along the North line of the South 60 rods of the West 120 rods of the Northeast ¼ of said Section 7, a distance of 1768.89 feet (recorded as 1763.34 feet); Thence North 0010'30" West, 342.83 feet (recorded as North 0008'18" West, 343.00 feet) to a

found iron found marking the Northwest corner of the East ½ of the Southeast ¼ of the Northeast ¼ of said Section 7; Thence South 8959'22" East (recorded as North 8958'41" East) along the North ⅛ line of Sections 7 and 8, as previously established 1620.34 feet; Thence South 2857'00" West, 844.87 feet; Thence South 6103'00" East, 233.00 feet to the centerline of Buckhorn Road; Thence South 2857'00" West, 266.03 feet along the centerline of Buckhorn Road; Thence North 6103'00" West, 233.00 feet; Thence South 2857'00" West, 410.68 feet; Thence South 8958'57" West, (recorded as South 8956'30" West), 220.29 feet along the East-West ¼ line of Section 8 to the point of beginning. Containing 78.63 acres of land and being subject to the rights of public over Buckhorn Road and any other easements of record.

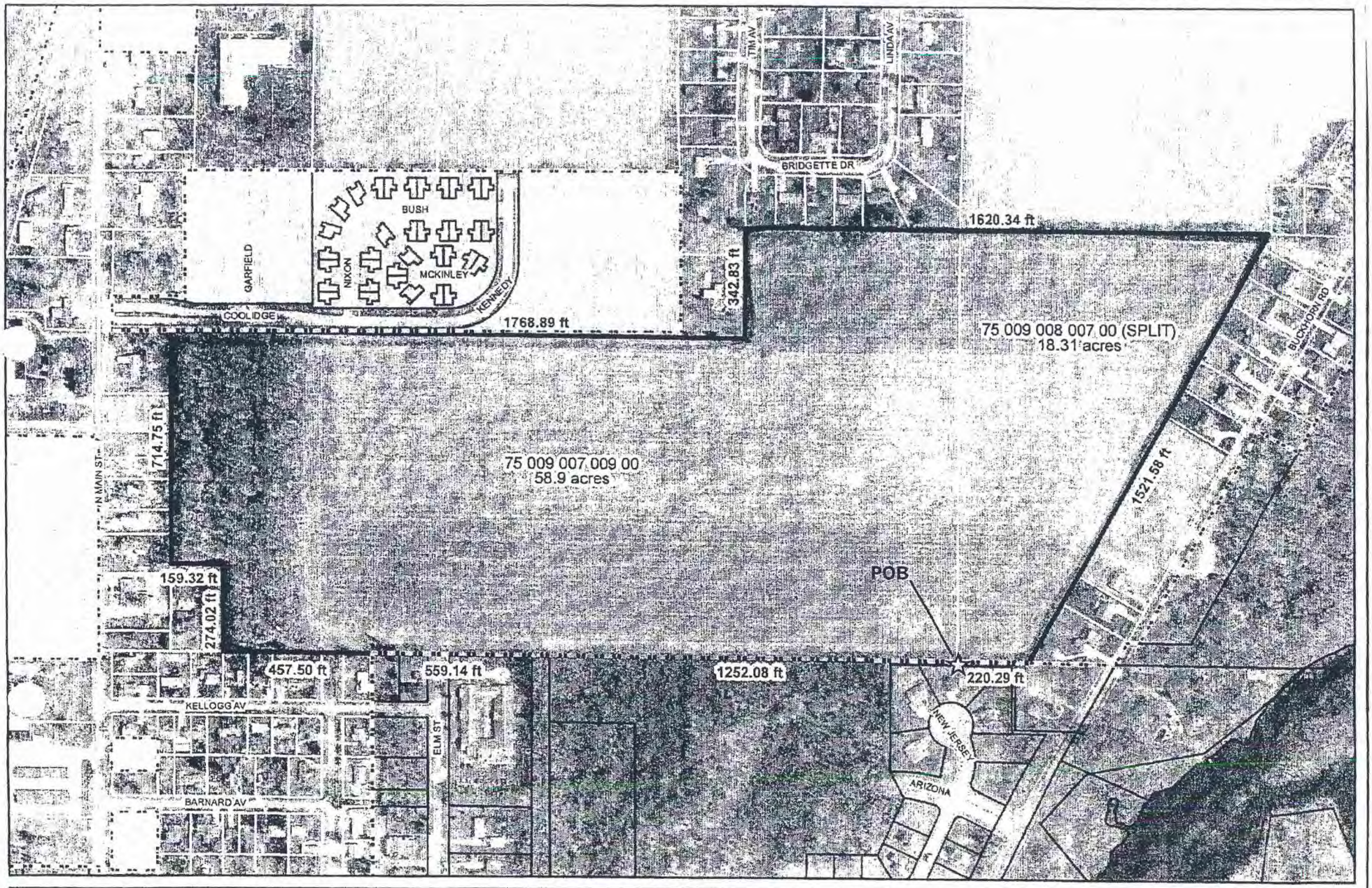
EXCEPT, Commencing 990 feet North of the center of Section 7, Township 6 South, Range 11 West, Lockport Township, St. Joseph County, Michigan; Thence East 224 feet to the point of beginning (being the Northeast corner of the parcel of land, known as 57357 North Main Street, and shown on tax records as parcel # 75-009-007-003-00); Thence continuing East 1,763.34 feet; Thence South 990 feet; Thence West 1,624.22 feet; Thence North 273.75 feet; Thence West 159.12 feet; Thence North 716.25 feet to the point of beginning. Consisting of 39.07 acres, more or less.

EXHIBIT "B" TO RECREATION FACILITY AGREEMENT

Land situated in the Township of Lockport, County of St. Joseph, State of Michigan, described as follows:

All that part of the South 1/2 of the Northeast 1/4 of Section 7 and the South 1/2 of the Northwest 1/4 of Section 8, Township 6 South, Range 11 West, Lockport Township, St. Joseph County, Michigan, more particularly described as follows: Commencing at the East 1/4 corner of said Section 7 and running thence North 89 degrees 58 minutes 57 seconds West 1252.08 feet (recorded as North 89 degrees 57 minutes 00 seconds West 1246.62 feet) to a concrete monument at the Northeast corner of Sunnymede No: 1, thence South 89 degrees 51 minutes 54 seconds West 559.14 feet (recorded as South 89 degrees 51 minutes 00 seconds West 559.31 feet) along the Northerly boundary of said plat to a concrete monument at the Northeast corner of Fairview Park Addition, thence South 89 degrees 54 minutes 43 seconds West 457.50 feet (recorded as South 89 degrees 41 minutes 40 seconds West 457.48 feet), thence North 00 degrees 11 minutes 37 seconds West (recorded as North 00 degrees 11 minutes 00 seconds West), parallel with the North-South 1/4 line of said Section 7, a distance of 274.02 feet (recorded as 273.75 feet), thence South 89 degrees 56 minutes 02 seconds West 159.32 feet (recorded as South 89 degrees 56 minutes 53 seconds West 159.12 feet), thence North 00 degrees 11 minutes 37 seconds West (recorded as North 00 degrees 11 minutes 00 seconds West), parallel with said North-South 1/4 line of Section 7 and along a line 224 feet Easterly thereof, 714.75 feet (recorded as 716.25 feet), thence North 89 degrees 56 minutes 02 seconds East (recorded as North 89 degrees 56 minutes 53 seconds East),along the North line of the South 60 rods of the West 120 rods of the Northeast 1/4 of said Section 7, a distance of 1768.89 feet (recorded as 1763.34 feet), thence North 00 degrees 10 minutes 30 seconds West 342.83 feet (recorded as North 00 degrees 08 minutes 18 seconds West 343.00 feet) to a found iron mark marking the Northwest corner of the East 1/2 of the Southeast 1/4 of the Northeast 1/4 of said Section 7, thence South 89 degrees 59 minutes 22 seconds East (recorded as North 89 degrees 58 minutes 41 seconds East) along the North 1/8 line of Section 7 and 8, as previously established, 1620.34 feet, thence South 28 degrees 57 minutes 00 seconds West 1521.58 feet more or less, thence South 89 degrees 58 minutes 57 seconds West (recorded as South 89 degrees 56 minutes 30 seconds West) 220.29 feet, along the East-West 1/4 line of Section 8, to the point of beginning.

Tax Parcel Numbers: 75-009-007-009-00 and a portion of 75-009-008-007-00



THREE RIVERS MICHIGAN

City of Three Rivers Boundary
Proposed Annexation Area
City of Three Rivers Parcels
Lockport Township Parcels
Transferred to City (Act 425)

Proposed Annexation

0 250 500 1,000 ft

N W E S

Produced by: City of Three Rivers, MI
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