

**Agenda**  
**Planning and Policy Committee**  
**West Olive Administration Building – Board Room**  
**12220 Fillmore Street, West Olive, Michigan 49460**  
**Thursday, May 13, 2010**  
**9:30 AM**

**Consent Items:**

1. Approval of the Agenda
2. Approval of April 8, 2010 Planning and Policy Committee Minutes

**Action Items:**

3. Convey Bike Path Easement to Port Sheldon Township  
Suggested Motion:  
To approve and forward to the Board of Commissioners the Bicycle Path and Walkway Easement wherein Ottawa County deeds an easement through Hemlock Crossing to Port Sheldon Township for a bike path along Crowell Street.
4. Award Bid for Eastmanville Bayou Improvement Project  
Suggest Motion:  
To receive bids for the Eastmanville Bayou Improvement Project and accept the low bid from Denny's Excavating in the amount of \$191,500 with funding from the Parks and Recreation budget.
5. Farmland Lease at Eastmanville Farm  
Suggested Motion:  
To approve and forward to the Board of Commissioners the Lease of Farmland with Luke Meerman at Eastmanville Farm.
6. Lease Addendum for Mt. Pisgah Trail Lease  
Suggested Motion:  
To approve and forward to the Board of Commissioners the Lease Addendum with the State of Michigan for the Mt. Pisgah Trail Lease at an annual cost of \$225.00.
7. Macatawa Shoreline and Marina Planning Project Grant Proposal  
Suggested Motion:  
To approve and forward to the Board of Commissioners the resolution authorizing submittal of the Macatawa Shoreline and Marina Planning Project grant proposal to the DNRE Coastal Management Program.
8. Funding Commitment to Fred Meijer Kenowa Trail  
Suggested Motion:  
To authorize the Parks and Recreation Commission to expend up to \$200,000 in parks millage funds toward construction of the Fred Meijer Kenowa Trail to offset costs of trail construction adjacent to the Upper Macatawa Natural Area and Spring Grove Park.

9. Wetland Mitigation and Option Agreement – Request Foods

Suggested Motion:

To approve and forward to the Board of Commissioners the option agreement with Request Foods for an easement to permit construction of a wetland mitigation project in the Holland Country Club property for an option fee of \$5,000.

**Discussion Item:**

None

**Adjournment**

**Comments on the day's business are to be limited to three (3) minutes.**

**PLANNING & POLICY COMMITTEE**

**Proposed Minutes**

DATE: April 8, 2010

TIME: 9:30 a.m.

PLACE: Fillmore Street Complex

PRESENT: Jane Ruiters, Gordon Schrotenboer, Roger Rycenga

ABSENT: Joyce Kortman, Dennis Swartout

STAFF & GUESTS: June Hagan, Fiscal Services Director; Sherri Sayles, Deputy Clerk; Greg Rappleye, Corporation Counsel; Mark Knudsen, Planning & Performance Director; David Hulst, IT Director; John Scholtz, Parks & Recreation Director; Media

**SUBJECT: CONSENT ITEMS**

Approve by consent the agenda of today as presented and approve by consent the minutes of the March 11, 2010, meeting as presented.

**SUBJECT: COUNTY POLICIES**

PP 10-018 Motion: To approve and forward to the Board of Commissioners the following proposed policies for review and comment: General Policies: 001 – Administrator’s Evaluation, 002 – Identify Theft Prevention; Fiscal Policies: 024 – Sale or Disposal of Used Equipment & Personal Property Policy, 025 – Travel and Meals Policy; Facilities Policies: 001 – Facilities Use Policy, 002 – Wellness Center Policy.  
Moved by: Schrotenboer UNANIMOUS

**SUBJECT: AGREEMENT FOR INFORMATION  
TECHNOLOGY SERVICES**

PP 10-019 Motion: To approve and forward to the Board of Commissioners the contract between the County of Ottawa and the County of Muskegon for the provision of Information Technology Services.  
Moved by: Ruiters UNANIMOUS

**SUBJECT: RECOVERY ZONE ECONOMIC DEVELOPMENT  
BOND (RZEDB) RESOLUTION FOR FUNDING  
ALLOCATION**

PP 10-020 Motion: To approve and forward to the Board of Commissioners the Resolution to allocate Recovery Zone Economic Development Bond (RZEDB) funds to the City of Coopersville in the amount of \$6,404,000.  
Moved by: Schrottenboer UNANIMOUS

**SUBJECT: DISCUSSION ITEMS**

1. Closed session to discuss property matters. (2/3 roll call vote required.)

PP 10-021 Motion: To go into a Closed Session at 9:53 a.m. to discuss property matters.  
Moved by: Schrottenboer UNANIMOUS

Yeas: Mr. Schrottenboer, Mrs. Ruitter, Mr. Rycenga. (3)

PP 10-022 Motion: To rise from Closed Session at 10:01 a.m.  
Moved by: Schrottenboer UNANIMOUS

2. Closed session to review written legal opinion. – Greg Rappleye asked that this be removed from today’s agenda.

**SUBJECT: ADJOURNMENT**

PP 10-023 Motion: To adjourn at 10:02 a.m.  
Moved by: Ruitter UNANIMOUS

# Action Request



**Committee:** Planning and Policy Committee

**Meeting Date:** 5/13/2010

**Requesting Department:** Parks and Recreation

**Submitted By:** June Hagan

**Agenda Item:** Convey Bike Path Easement to Port Sheldon Township

## SUGGESTED MOTION:

To approve and forward to the Board of Commissioners the Bicycle Path and Walkway Easement wherein Ottawa County deeds an easement through Hemlock Crossing to Port Sheldon Township for a bike path along Croswell Street.

## SUMMARY OF REQUEST:

The Ottawa County Parks and Recreation Commission is recommending conveyance of a bike path easement to Port Sheldon Township. The proposed 10 foot easement runs along the northern edge of Hemlock Crossing County Park, adjacent to Croswell Street, for a distance of approximately 1,200 feet. The easement is needed to allow construction of the township bike path in this area due to uneven terrain. The bike path will connect to the Lakeshore Drive bike path and a future phase will link to the entrance of Hemlock Crossing.

## FINANCIAL INFORMATION:

Total Cost: \$0.00 | County Cost: \$0.00 | Included in Budget:  Yes  No

If not included in budget, recommended funding source:

## ACTION IS RELATED TO AN ACTIVITY WHICH IS:

Mandated  Non-Mandated  New Activity

## ACTION IS RELATED TO STRATEGIC PLAN:

Goal: #3

Objective: #4

## ADMINISTRATION RECOMMENDATION:

Recommended

Not Recommended

County Administrator: **Alan G. Vanderberg**

Digitally signed by Alan G. Vanderberg  
DN: cn=Alan G. Vanderberg, c=US, o=County of Ottawa, ou=Administrator's Office, email=avanderberg@miottawa.org  
Reason: I am approving this document  
Date: 2010.05.07 14:25:03 -0400

Committee/Governing/Advisory Board Approval Date:



## MEMORANDUM

Date: May 3, 2010  
To: Ottawa County Board of Commissioners  
From: John Scholtz, Parks and Recreation Director  
RE: Convey Bike Path Easement to Port Sheldon Township

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The Ottawa County Parks and Recreation Commission is recommending conveyance of a bike path easement to Port Sheldon Township. The proposed 10 foot easement runs along the northern edge of Hemlock Crossing County Park, adjacent to Croswell Street, for a distance of approximately 1,200 feet. The easement is needed to allow construction of the township bike path in this area due to uneven terrain. The bike path will connect to the Lakeshore Drive bike path and a future phase will link to the entrance of Hemlock Crossing.

Proposed motion:

To approve the Bicycle Path and Walkway Easement wherein Ottawa County deeds an easement through Hemlock Crossing to Port Sheldon Township for a bike path along Croswell Street.

There is no fee proposed for granting the easement to Port Sheldon Township.

This request relates to a non-mandated activity and supports Goal 3 of the Board of Commissioner's Strategic Plan: To contribute to a healthy physical, economic, and community environment.

**BICYCLE PATH AND WALKWAY EASEMENT**

**Parcels No. 70-11-12-300-034  
and 70-11-12-400-001  
Croswell Street Project**

**THIS INDENTURE** made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2010, by and between **COUNTY OF OTTAWA, a Michigan public body corporate**, of 12220 Fillmore Street, West Olive, Michigan 49460, hereinafter “Grantor,” and **PORT SHELDON TOWNSHIP, a Michigan governmental township**, of 16201 Port Sheldon Road, West Olive, Michigan 49460, hereinafter “Township;”

**WITNESSETH:**

For and in consideration of the mutual benefit of the Grantor and the Township, the receipt of which is hereby acknowledged by Grantor, the Grantor does hereby grant, bargain, convey and assign unto the Township, its successors and assigns, a non-exclusive, perpetual and permanent easement and right-of-way over and across that certain piece or parcel of land situated in the **Township of Port Sheldon, County of Ottawa and State of Michigan**, the piece or parcel of land being owned by the Grantor in fee simple and described as follows:

**Fee Description:**

(a) The East one-half (E 1/2) of the Southwest one-quarter (SW 1/4) of Section 12, Town 6 North, Range 16 West, lying North of Pigeon River, except the North 14.50 rods of the West 41 rods. Also except commencing 24 rods West of the Northeast corner, thence West 148.50 feet, thence South 239.25 feet, thence East 148.50 feet, thence North 239.25 feet to beginning. Also part of the West one-half (W 1/2) of the Southwest one-quarter (SW 1/4) of Section 12, Town 6 North, Range 16 West, commencing at the West one-quarter (W 1/4) corner, thence South 88 degrees 39 minutes 07 seconds East 661.18 feet, thence South 00 degrees 03 minutes 15 seconds West 2191.99 feet along the West line of the East one-half (E 1/2) of the West one-half (W 1/2) of the Southwest one-quarter (SW 1/4) to the point of beginning, thence South 88 degrees 39 minutes 09 seconds

East 659.47 feet, thence South 00 degrees 05 minutes 56 seconds West 448.87 feet, thence North 88 degrees 34 minutes 53 seconds West 659.14 feet along the South Section line, thence North 00 degrees 03 minutes 15 seconds East 448.08 feet to beginning. (Parcel 70-11-12-300-034)

(b) Commencing on the East and West one-quarter (E & W 1/4) line of Section 12, Town 6 North, Range 16 West, 20 rods West of the West line of the Pere Marquette Railroad right-of-way, thence South 40 rods East to the West line of the Railroad right-of-way, thence Southerly along said line 120.00 feet more or less to the centerline of a ravine, thence South 42 degrees West 400.00 feet, thence South 30 degrees West 200.00 feet more or less to the intersection of the ravine and the Pigeon River, thence South 71 degrees West along the Pigeon River 574.00 feet, thence North 88 degrees West 290.00 feet more or less to the one-quarter (1/4) line, thence North along the one-quarter (1/4) line to the East and West one-quarter (E & W 1/4) line, thence East to beginning. (Parcel 70-11-12-400-001)

**IN A PUBLIC BICYCLE PATH AND WALKWAY EASEMENT SPECIFICALLY DESCRIBED AS FOLLOWS:**

**Easement Description:** The South 10.00 feet of the North 43.00 feet of above-described Fee Descriptions (a) and (b), the North 33.00 feet thereof being used or deeded for Crosswell Street, a public street.

This Easement is exempt from transfer tax by reason of MCL 207.526, Section 6(a); and MCL 207.505, Section 5(a).

The easement granted herein shall be for the purpose of installing, constructing, operating, maintaining, repairing, replacing, reinstalling, inspecting and keeping in working order the Bicycle Path and Walkway (including sidewalks, and boardwalks, at the election of the Township) which may run over and across the above-described easement and right-of-way, all hereinafter collectively referred to as the “Bicycle Path and Walkway Easement.”

The easement granted herein shall include the right to enter upon sufficient land owned by the Grantor which is adjacent to the Bicycle Path and Walkway as is required for the construction, installation, maintenance, repair, replacement, reinstallation, operation and inspection of said Bicycle Path and Walkway, together with the right to install signs on the adjacent land as to the use by the public.

**TO HAVE AND TO HOLD** said Bicycle Path and Walkway Easement and right-of-way over and across the above-described piece or parcel of land unto the Township, its successors and assigns, for the use and benefit of the Township, its successors and assigns, **FOREVER**.

The Grantor warrants that they have the right and authority to grant this easement as above-described and own the lands covered by the easement and right- of-way.



The easement and right-of-way shall include, but not be limited to, the right to enter upon the easement at any reasonable time for the purpose of such construction, maintenance, repair, replacement, reinstallation and inspection of its Bicycle Path and Walkway, together with the right to excavate a foundation for the location of such Bicycle Path and Walkway. The easement and right-of-way shall further include right to remove trees, brush, undergrowth and other obstructions situated upon the above-described piece or parcel of land which may interfere with the location, construction, maintenance or repair of such Bicycle Path or Walkway. The Township, as a consideration for our granting the right to construct and install such Bicycle Path and Walkway, shall be obligated to fill and grade to ground level the areas adjoining the Bicycle Path and Walkway and shall also be obligated to restore to their former condition, insofar as is reasonably possible, the drives, parking areas, shrubs and/or grass along side such Bicycle Path and Walkway. The Township further covenants and agrees that it will restore such piece or parcel of land to a similar condition, insofar as is reasonably possible, in the event it shall at any time become necessary to enter upon the easement for the purpose of maintenance, repair, replacement, construction or reinstallation of such Bicycle Path and Walkway.

The removal or demolition of any existing buildings, structures or fences required for the reasonable exercise of the foregoing powers shall be removed or demolished at the Township's expense.

The Township agrees to fully indemnify, save and keep harmless the Grantor from any and all claims for damage to real and personal property and injuries or death suffered by persons in any manner caused by or growing out of the construction, installation, repair, maintenance or presence of said Bicycle Path and Walkway over and across the piece or parcel of land of Grantor, except for the negligence of the Grantor, their heirs, representatives, successors or assigns. The Grantor further agrees that they will not construct a building, structure or improvement on such easement and right-of-way without first obtaining the written consent of the Township, and this conveyance includes a release of any and all claims to damage arising from or incidental to the exercise of any of the foregoing powers, except as above provided.

Port Sheldon Township recognizes that the easement crosses property that was acquired and improved with funds from the Michigan Natural Resources Trust Fund and that obligations exist as related to that funding as specified in grant agreements between Ottawa County and the State of Michigan dated September 27, 1999 and April 4, 2002. Port Sheldon Township agrees to honor these agreements in their use of the easement including, but not limited to, maintaining the property in a safe condition, and keeping the bike path open to the general public at all times on equal and reasonable terms with no discrimination based on the basis of sex, race, color, religion, national origin, residence, age or disability.



# Action Request



**Committee:** Planning and Policy Committee

**Meeting Date:** 5/13/2010

**Requesting Department:** Parks and Recreation

**Submitted By:** June Hagan

**Agenda Item:** Award Bid for Eastmanville Bayou Improvement Project

## SUGGESTED MOTION:

To receive bids for the Eastmanville Bayou Improvement Project and accept the low bid from Denny's Excavating in the amount of \$191,500 with funding from the Parks and Recreation budget.

## SUMMARY OF REQUEST:

The Ottawa County Parks and Recreation Commission is recommending award of bid and contract to the low bidder, Denny's Excavating, for the Eastmanville Bayou Improvement Project. This project is budgeted for 2010 and will create a new park access point on the Grand River and Eastmanville Bayou. Proposed improvements include a 40 car parking area, a small boat launch ramp on the bayou, a walkway under the bridge to access the portion of the site to the east of 68th Ave., plus other amenities including trailhead kiosk, picnic sites, interpretive displays, a canoe and kayak dock on the Grand River, and a rustic toilet.

## FINANCIAL INFORMATION:

Total Cost: \$191,500.00 | County Cost: \$191,500.00 | Included in Budget:  Yes |  No

If not included in budget, recommended funding source:

## ACTION IS RELATED TO AN ACTIVITY WHICH IS:

Mandated |  Non-Mandated |  New Activity

## ACTION IS RELATED TO STRATEGIC PLAN:

Goal: #4

Objective: #5

## ADMINISTRATION RECOMMENDATION:

Recommended |  Not Recommended

County Administrator: **Alan G. Vanderberg**

Digitally signed by Alan G. Vanderberg  
DN: cn=Alan G. Vanderberg, c=US, o=County of Ottawa, ou=Administrator's Office, email=avanderberg@miottawa.org  
Reason: I am approving this document  
Date: 2010.05.07 14:26:50 -0400

Committee/Governing/Advisory Board Approval Date:



## MEMORANDUM

Date: May 3, 2010  
To: Ottawa County Board of Commissioners  
From: John Scholtz, Parks and Recreation Director  
RE: Award Bid for Eastmanville Bayou Improvement Project

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The Ottawa County Parks and Recreation Commission is recommending award of bid and contract to the low bidder, Denny's Excavating, for the Eastmanville Bayou Improvement Project. This project is budgeted for 2010 and will create a new park access point on the Grand River and Eastmanville Bayou near the 68<sup>th</sup> Avenue bridge over the Grand River. Currently the Eastmanville Bayou Open Space, 157 acres with 1 ¾ mile of riverfront, has no parking area or other facilities. Proposed improvements include a 40 car parking area, a small boat launch ramp on the bayou, a walkway under the bridge to access the portion of the site to the east of 68<sup>th</sup> Ave., plus other amenities including trailhead kiosk, picnic sites, interpretive displays, a canoe and kayak dock on the Grand River, and a rustic toilet.

Proposed motion:

To receive bids for the Eastmanville Bayou Improvement Project and accept the low bid from Denny's Excavating in the amount of \$191,500 with funding from the Parks and Recreation budget.

Funding for this project in the amount of \$191,500 plus contingency is provided through the parks and recreation budget with parks millage dollars.

This request relates to a non-mandated activity and supports Goal 3 of the Board of Commissioner's Strategic Plan: To contribute to a healthy physical, economic, and community environment.



# Action Request



**Committee:** Planning and Policy Committee

**Meeting Date:** 5/13/2010

**Requesting Department:** Parks and Recreation

**Submitted By:** June Hagan

**Agenda Item:** Farmland Lease at Eastmanville Farm

## SUGGESTED MOTION:

To approve and forward to the Board of Commissioners the Lease of Farmland with Luke Meerman at Eastmanville Farm.

## SUMMARY OF REQUEST:

The Ottawa County Parks and Recreation Commission recommends the lease of approximately 145 acres of farmland at Eastmanville Farm to Luke Meerman. The Meerman family has been leasing this land for many years and the only changes to the lease from last year is the total acreage and lease rates. Agricultural use co-exists with equestrian and hiking trails which border the agricultural fields.

## FINANCIAL INFORMATION:

Total Cost: \$0.00 | County Cost: \$0.00 | Included in Budget:  Yes |  No

If not included in budget, recommended funding source:

## ACTION IS RELATED TO AN ACTIVITY WHICH IS:

Mandated |  Non-Mandated |  New Activity

## ACTION IS RELATED TO STRATEGIC PLAN:

Goal: #3

Objective: #5

## ADMINISTRATION RECOMMENDATION:

Recommended

Not Recommended

County Administrator: **Alan G. Vanderberg**

Digitally signed by Alan G. Vanderberg  
DN: cn=Alan G. Vanderberg, ou=County of Ottawa, ou=Administrator's Office, email=avanderberg@miottawa.org  
Reason: I am approving this document  
Date: 2010.05.07 14:32:23 -0400

Committee/Governing/Advisory Board Approval Date:



## MEMORANDUM

Date: May 3, 2010  
To: Ottawa County Board of Commissioners  
From: John Scholtz, Parks and Recreation Director  
RE: Farmland Lease at Eastmanville Farm

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The Ottawa County Parks and Recreation Commission recommends the lease of approximately 145 acres of farmland at Eastmanville Farm to Luke Meerman consistent with lease terms as presented. The Meerman family has been leasing this land for many years and the only changes to the lease from last year is the total acreage and lease rates. Lease rates are based upon input from MSU Extension and will result in total payment of \$9,015 for 2010 with 130 acres in hay and 15 acres in wheat. Agricultural use co-exists with equestrian and hiking trails which border the agricultural fields.

Proposed motion:

To approve and authorize the Board Chairperson and Clerk to sign the Lease of Farmland with Luke Meerman at Eastmanville Farm.

The annual lease rate for 2010 is \$9,015 based on 15 acres of wheat @ \$81 per acre plus 130 acres of hay @ \$60 per acre.

This request relates to a non-mandated activity and supports Goal 3 of the Board of Commissioner's Strategic Plan: *To contribute to a healthy physical, economic, and community environment.*

## LEASE OF FARMLAND

This Agreement is made this \_\_\_\_ day of \_\_\_\_\_ 2010, by and between the County of Ottawa, a Michigan municipal corporation, (“the County”) and Luke Meerman, 14238 - 60<sup>th</sup> Avenue, Coopersville, Michigan, 49404, (“Meerman”) with reference to the following facts and circumstances:

- A. The County owns property known as “Eastmanville Farm” located at 7851 Leonard Road, Coopersville, Michigan, 49404.
  
- B. The County has farmland at Eastmanville Farm, as more particularly described in Exhibit A attached hereto, and is interested in Leasing this land out for land management purposes.

Now therefore, for the mutual promises set forth herein, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

1. General Agreement: Meerman shall lease farmland at Eastmanville Farm, as more particularly described in Exhibit “A” attached hereto. The amount of property available to Meerman and leased under this agreement is estimated, but not warranted to be 145 acres, more or less. Meerman represents that he has seen the subject property and fully understands and accepts the quantity, location, and “as is” condition of the farmland subject to this lease.



2. Amount and Timing of Payments: The lease shall be in an amount of \$9,015 for 2010. This includes approximately 15 acres at \$81 per acre for grain production and approximately 130 acres at \$60 per acre for producing hay. This Lease shall be for the entire amount of farmland as shown in Exhibit A, and lease payments shall not be varied based upon the amount of land actually utilized by Meerman, its profitability or upon the specific uses made thereby. Meerman shall pay 50% of the annual amount due to the County on July 1 and on December 31, 2010. Payment will be made to:

County Of Ottawa  
Parks and Recreation  
12220 Fillmore Street  
West Olive, Michigan 49460

A portion of the lease payment may be paid in the form of services rendered including disking, re-seeding, moving gravel and topsoil, or mowing. The value and type of work to be performed shall be agreed to in advance with written authorization required from the Parks and Recreation Director.

3. Term of Lease: Meerman shall have access to the subject property as of the date of this agreement. This lease shall be in effect for a period of one (1) year, through December 31, 2010, and may be renewed by the parties thereafter on a year-to-year basis.

4. Additional Agreements of Meerman: Meerman understands and acknowledges that Eastmanville Farm operates as a publicly owned park serving residents and visitors of Ottawa County. Meerman agrees to conduct all farming operations on the Eastmanville Farm property in a neat, clean, and business-like manner, according to accepted standards and practices for well-run farming operations within

Ottawa County. All farm equipment, supplies and harvested crops will be maintained and stored in mutually agreed upon locations by Meerman in a neat and clean manner. All equipment and supplies will be removed by Meerman, at his sole expense and risk, at the close of this Agreement, unless otherwise agreed to by the parties in writing.

5. Use of Pesticides, Fertilizers, and Similar Chemical Sprays and

Applications: Meerman shall not use pesticides, fertilizers, and other chemical sprays and applications of a type, or in a manner, which may cause harm or physical distress to park users. During the term of this Lease, Meerman shall advise the Park Operations Superintendent of the proposed dates of any spraying or applications, and of the brand and types of all pesticides, fertilizers, chemical sprays or applications to be made to the farmland, and shall provide a written explanation of any and all known risks posed thereby. Providing, on a timely basis, a copy of any written information supplied, in the normal course of business, by a commercial source for such chemicals, sprays, or applications, shall be sufficient notification.

6. Prohibition Upon Sub-Lease by Meerman: The farmland subject to this

Lease shall not be sub-leased by Meerman to any person or entity without the express, written consent of the authorized representatives of the County.

7. Right to Enter Premises: During the term of this Lease, the County

reserves the right to enter, inspect, make repairs upon, develop mineral resources, post notices and otherwise have access to the farmland leased hereunder, including public use of park trails for equestrian activity and hiking, provided however, that the County will make every effort to coordinate public use so as not to unreasonably interfere with farming operations or destroy the crops of Meerman.

8. Insurance: At all times under this Lease Agreement, Meerman shall maintain comprehensive general liability insurance covering all risks and having limits of not less than \$1,000,000 dollars. The County of Ottawa shall be named as an additional insured on the policy. Proof of the existence of the Policy, shall be provided by Meerman at the commencement of this Lease Agreement, and shall be furnished at any time during the term of this Lease Agreement, upon written request of an authorized representative of Ottawa County.

9. Indemnification and Hold Harmless: Meerman shall indemnify and hold harmless the County of Ottawa, the Ottawa County Board of Commissioners, and the officers, directors, employees, and agents thereof, from any and all risks, claims, causes of action, lawsuits or expenses, including costs, interest, or attorney fees, arising or alleged to have arisen on the subject premises, or as a result of, or in association with, the operations of Meerman on the property which is the subject matter of this Lease Agreement. The obligation to indemnify and hold harmless hereunder extends to all claims for loss, whether for personal injury, property damage, or otherwise, to any person or entity.

10. Entire Agreement: The parties understand and acknowledge that this Lease Agreement constitutes the entire agreement of the parties, and that all prior agreements and understandings are fully merged herein. This Lease Agreement may not be changed or modified by the parties except by mutual agreement, set forth in writing and executed by the parties hereto.

In witness whereof, the parties have executed this Lease Agreement.

COUNTY OF OTTAWA

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Philip Kuyers, Chairperson  
Ottawa County Board of Commissioners

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Dan Krueger, Ottawa County Clerk

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Luke Meerman

# Action Request



**Committee:** Planning and Policy Committee

**Meeting Date:** 5/13/2010

**Requesting Department:** Parks and Recreation

**Submitted By:** June Hagan

**Agenda Item:** Lease Addendum for Mt. Pisgah Trail Lease

## SUGGESTED MOTION:

To approve and forward to the Board of Commissioners the Lease Addendum with the State of Michigan for the Mt. Pisgah Trail Lease at an annual cost of \$225.00 .

## SUMMARY OF REQUEST:

The Ottawa County Parks and Recreation Commission recommends approval of the lease addendum for the Mt. Pisgah Trail Lease with the State of Michigan to allow the Ottawa County Parks to cross portions of Holland State Park with equipment for routine maintenance of Park 12 properties as well as periodic construction projects. This lease addendum was prepared to assist Ottawa County Parks by providing on-going authorization via lease terms for crossing state land.

## FINANCIAL INFORMATION:

Total Cost: \$225.00 | County Cost: \$225.00 | Included in Budget:  Yes |  No

If not included in budget, recommended funding source:

## ACTION IS RELATED TO AN ACTIVITY WHICH IS:

Mandated |  Non-Mandated |  New Activity

## ACTION IS RELATED TO STRATEGIC PLAN:

Goal: #3

Objective: #5

## ADMINISTRATION RECOMMENDATION:

Recommended

Not Recommended

County Administrator: **Alan G. Vanderberg**

Digitally signed by Alan G. Vanderberg  
DN: cn=Alan G. Vanderberg, c=US, o=County of Ottawa, ou=Administrator's Office, email=avanderberg@miottawa.org  
Reason: I am approving this document  
Date: 2010.05.07 14:37:34 -0400

Committee/Governing/Advisory Board Approval Date:



## MEMORANDUM

Date: May 3, 2010  
To: Ottawa County Board of Commissioners  
From: John Scholtz, Parks and Recreation Director  
RE: Lease Addendum for Mt. Pisgah Trail Lease

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The Ottawa County Parks and Recreation Commission recommends approval of the lease addendum for the Mt. Pisgah Trail Lease with the State of Michigan. Ottawa County Parks has a need to cross portions of Holland State Park with equipment for routine maintenance of Park 12 properties as well as periodic construction projects. This lease addendum was prepared to assist Ottawa County Parks by providing on-going authorization via lease terms for crossing state land.

Proposed motion:

To approve and authorize the Board Chairperson and Clerk to sign the Lease Addendum with the State of Michigan for the Mt. Pisgah Trail Lease.

Ottawa County will be required to pay \$225 on an annual basis for the right to cross Holland State Park with equipment and materials required for both routine maintenance and special projects.

This request relates to a non-mandated activity and supports Goal 3 of the Board of Commissioner's Strategic Plan: *To contribute to a healthy physical, economic, and community environment.*

**LEASE ADDENDUM**  
**Between**  
**the State of Michigan, as Lessor**  
**and**  
**the County of Ottawa**  
**by and through the Ottawa County Parks and Recreation Commission**  
**as Lessee**

The State of Michigan, **Department of Natural Resources & Environment (DNRE)** (the Lessor), and the **Ottawa County Parks and Recreation Commission**, 12220 Fillmore Street, West Olive, MI 49460 (the Lessee), do hereby agree to the terms and conditions of this Addendum to the Holland State Park, **Mt. Pisgah Trail Lease** between the above stated parties executed on **March 14, 2008**. Where the Lease may conflict with this Addendum, the Addendum shall control the Agreement between the parties.

**WHEREAS**, the Purpose of this Lease is to allow Lessee to construct and maintain an entrance gazebo, informational kiosk, bike parking area, an ADA accessible asphalt/crushed stone path including a boardwalk/steps, and traverse Holland State Park lands located in the Lake Michigan Unit (Beach Campground), for the purpose of moving equipment used during construction, snow fence installation/removal, Brock Deck installation/maintenance, and beach grading.

The Lease shall be amended as follows:

1. Section 1, "**Description of Premises**", shall be amended as follows:

Lessor hereby leases to Lessee the Premises (see **Attachments A and A,1**) located on the property described as:

- Five(5) feet buffer area, on either side of the constructed Mr. Pisgah pathway and boardwalk/steps. (Buffer area is to allow for maintenance of the constructed infrastructure.) (see **Attachment A**)
- Road frontage on Ottawa Beach Road not to exceed 100'
- Approximately 250' across Holland State Park property, accessed from the beach camping loop. (see **Attachment A,1**)

Premises includes land owned by the State of Michigan and/or the DNRE that is located within the Holland State Park, County of Ottawa, State of Michigan. A portion of this property also being now known as a part of the Mt. Pisgah Trailway.

2. Section 2,A, "Use of Premises", shall be amended as follows:

A. Lessee hereby acknowledges that the use and occupancy of the Premises shall be subject to the provisions of 1994 PA 451, as amended, and confined to the following specific uses:

- 1) To construct and maintain an entrance gazebo, informational kiosk, bike parking area, an ADA accessible asphalt/crushed stone path, and boardwalk/steps as detailed on **Attachment A**.
- 2) To facilitate the development and improvement of this entrance gazebo, informational kiosk, bike parking area, an ADA accessible asphalt/crushed stone path, and boardwalk/steps, which may include but is not limited to, site prep, asphalt paving, hauling and laying of crushed stone, construction of wood boardwalk and steps, possible electrical work for lighting at kiosk area, and signage.
- 3) Use of approximately 250' of Holland State Park lands to access County property for the following purposes:
  - To construct and maintain a walkway and associated retaining walls.
  - To transport building materials and equipment.
  - Brock Deck installation and/or removal. (Approximate season of use, first or second week of May and first week of October of each lease year.)
  - Snow fence installation and/or removal. (Approximate season of use, first or second week of May and first week of October of each lease year.)
  - Beach grading and/or sand removal. (Approximate season of use, first or second week of May of each lease year.)
- 4) Lessor to facilitate the construction and/or maintenance work being completed by County employees and/or their Contractors on County property, which may include but is not limited to, providing access through locked gates and allowing for temporary storage of equipment and materials during loading/unloading.
- 5) Any other use which is agreed to in writing by both parties.

B. Lessee shall obtain Lessor's prior consent, in writing, signed by the DNRE Representative, to use the Premises for any purpose not listed in this Section. Lessor may terminate this Lease, as provided in Section 22A(3), if at any time, Lessee uses the Premises, without express written permission by Lessor, for purposes other than those enumerated in this Section.

3. Section 8, "Rent", shall be amended as follows:

Lessee shall pay rent to Lessor in the amount of **\$225 per year**. In addition, Lessee will be responsible for the cost of all development, maintenance, operation, and improvements to the site(s). Failure to make payment or perform maintenance of



improvements to the site(s) as necessary will be grounds for the Department to terminate the Lease.

Rent checks shall be made payable to the State of Michigan and should be mailed to the following address: Holland State Park, 2215 Ottawa Beach Road, Holland, MI 49424. **Rent is payable no later than April 1st of each Lease year.**

A \$10 per day Late Fee must be paid to the Lessor by Lessee for every day beyond the designated day of the year that Rent is paid late. Failure to pay the Rent on time will be grounds for the Department to terminate the Lease.

4. Section 9, “**Services by Lessee**”, shall be amended as follows:

Lessee shall furnish the following services at it’s own expense:

- A. Lessee will operate and maintain the Premises as provided for in Section 2A above at its sole expense.
- B. Prior to beginning any site prep or construction taking place on the Premises, Lessee will be responsible for providing construction drawings and details, and securing Lessor written approval.
- C. Lessee responsible for any electrical work required, including all associated cost. All electrical work must be completed by a licensed electrical contractor. Lessee responsible for any permits and inspections required, and Lessee must provide copies of permits and inspections to Lessor within five(5) days of receipt.
- D. If access is required during the winter months by visitors or Lessee, Lessee will be responsible for any snow removal required.
- E. If Lessee access to Premises is required through a locked gate, Lessor requests a five(5) day verbal notice from Lessee.
- F. Lessee to meet and abide by any seasonal weight restrictions when using/transporting equipment and materials.
- G. Lessee to obtain DNRE Representative approval for temporary storage on state lands of any equipment and/or materials prior to use. Lessee assumes all responsibility for any theft or vandalism of equipment and/or materials that may occur.
- E. Lessee shall provide Ottawa County emblem for adherence to the informational kiosk. Lessee shall replace as necessary.

- F. Lessee responsible for the enforcement of all state laws and local ordinances on the property.
  - G. Lessee shall maintain standards of cleanliness that will reflect favorable public opinion on the Lessee and the DNRE. If the DNRE Representative determines that the Lessee has failed to maintain an acceptable standard of cleanliness, and, if after forty-eight(48) hours or two(2) working days following verbal and written notification by Lessor, the problem is not rectified to the satisfaction of Lessor, Lessor may perform or have the duties of the Lessee performed by others at Lessee's sole expense.
  - H. Lessee responsible to immediately investigate and report to Lessor all instances of suspected trespass.
5. Section 26, "**Notices**", shall be amended as follows:

Any notice(s) to Lessor or to Lessee required by this Lease shall be complete if submitted in writing and transmitted by personal delivery (with signed delivery receipt), or certified or registered mail, return receipt requested. Unless either party notifies the other in writing of a different mailing address, notices to Lessor and Lessee shall be transmitted to the addresses listed below:

**TO LESSOR:**

<p>Land Administering Division (LAD)</p> <p>State of Michigan          Department of Natural Resources          &amp; Environment          Chief, Recreation Division          PO Box 30257          Lansing, MI 48909-7757</p>	<p>and LAD Administrator</p> <p>State of Michigan          Department of Natural Resources          &amp; Environment          Plainwell Operations Service Center          621 N. 10<sup>th</sup> Street          Plainwell, MI 49080          Attn: RD District Supervisor          (269) 685-6851</p>
---	--

**TO LESSEE:**

County of Ottawa  
 c/o Ottawa County Parks & Recreation Commission  
 12220 Fillmore Street  
 West Olive, MI 49460  
 Attn: John Scholtz, Director  
 (616) 738-4808

The terms and conditions of this Lease Addendum shall take effect on the day this Addendum is executed.

**TERMS ACCEPTED**

**LESSOR: DEPARTMENT OF NATURAL RESOURCES & ENVIRONMENT**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**

**RONALD A. OLSON, CHIEF  
RECREATION DIVISION**

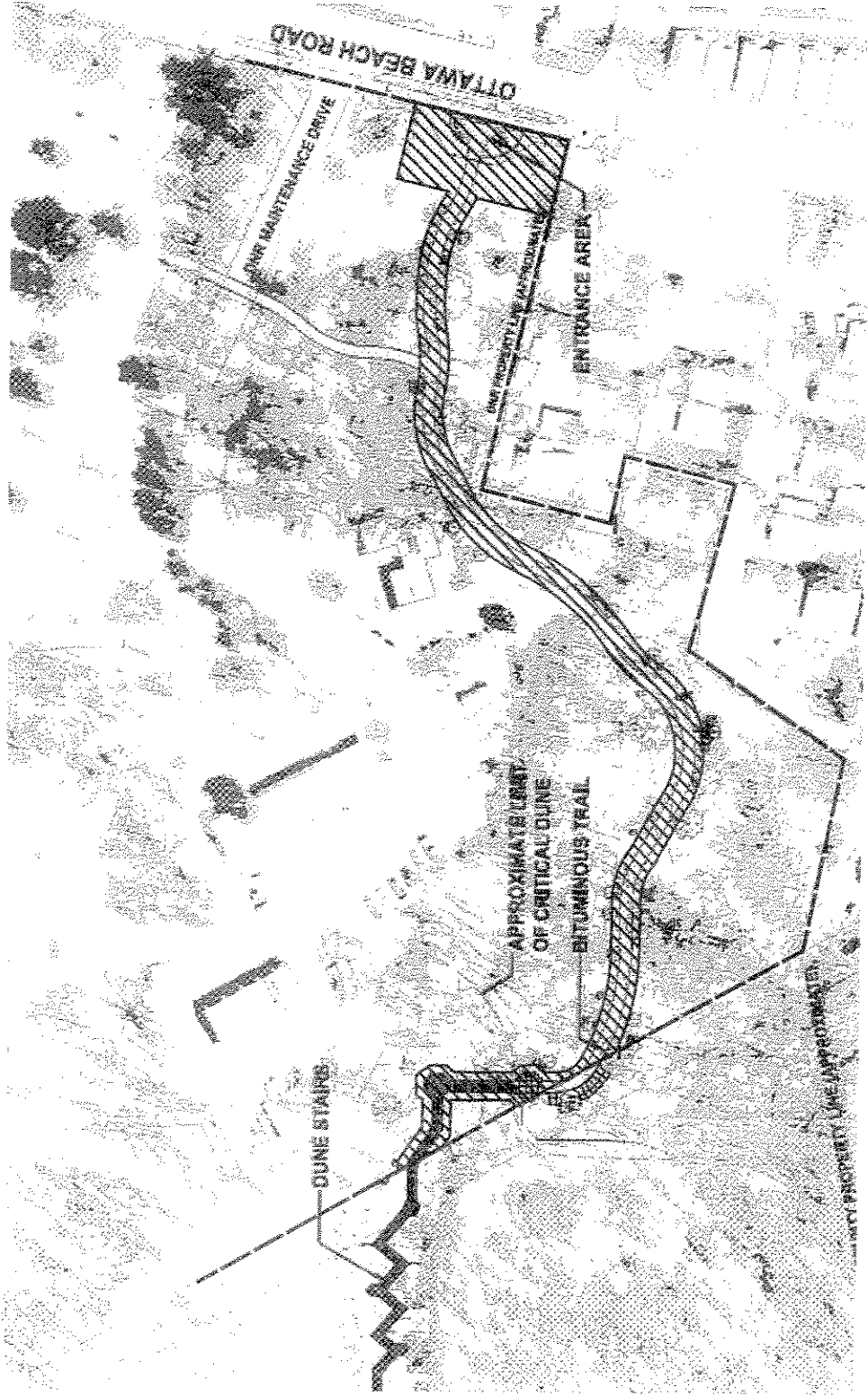
**LESSEE: OTTAWA COUNTY PARKS AND RECREATION COMMISSION**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Printed Name**

\_\_\_\_\_  
**Title**



ATTACHMENT A

# Mt. Pisgah/Holland State Park Lease Area Plan

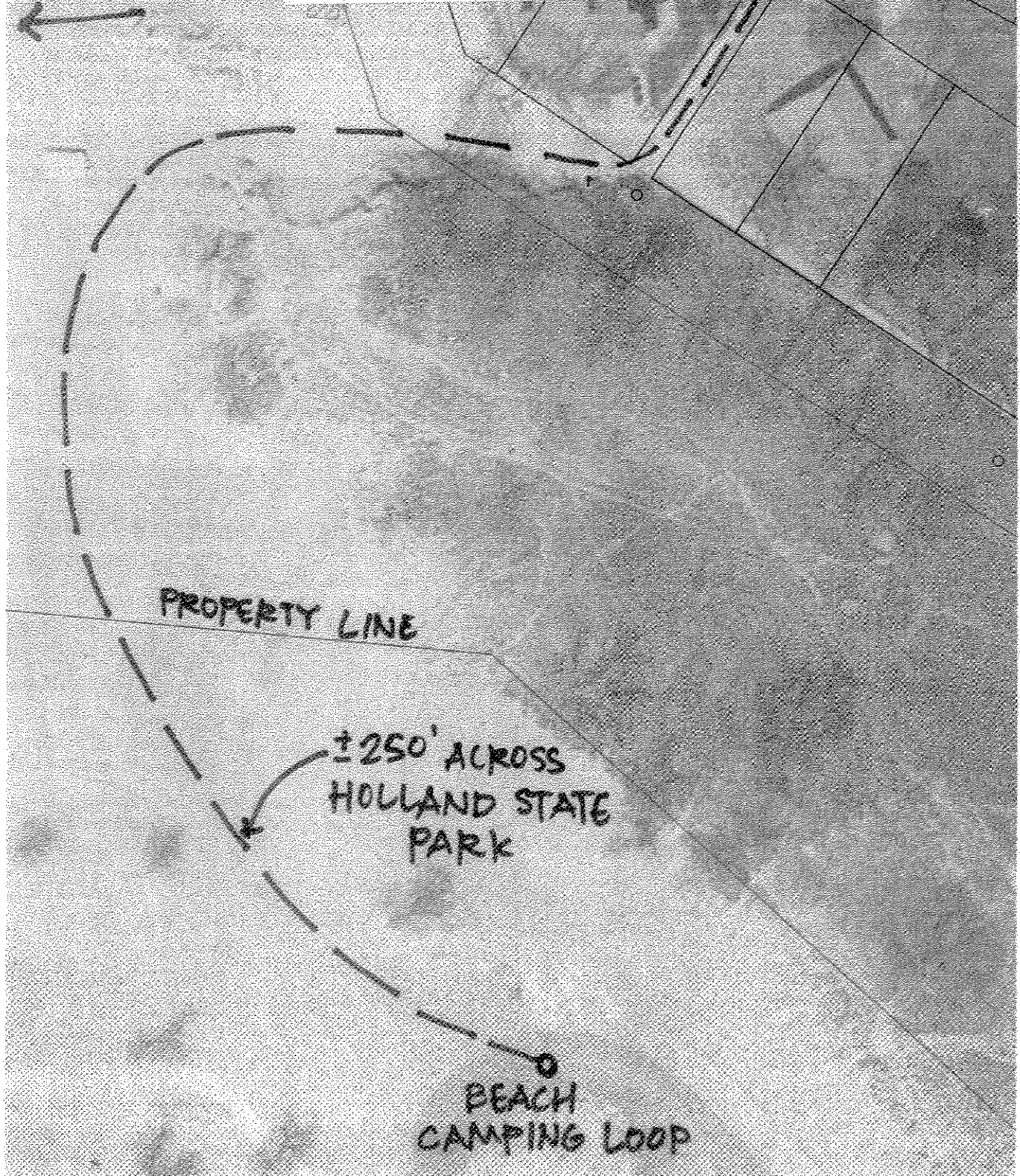
February 11, 2008

LAKE MICHIGAN



Attachment A.1

PROJECT SITE



PROPERTY LINE

±250' ACROSS  
HOLLAND STATE  
PARK

BEACH  
CAMPING LOOP

# Action Request



**Committee:** Planning and Policy Committee

**Meeting Date:** 5/13/2010

**Requesting Department:** Parks and Recreation

**Submitted By:** June Hagan

**Agenda Item:** Macatawa Shoreline and Marina Planning Project Grant Proposal

## SUGGESTED MOTION:

To approve and forward to the Board of Commissioners the resolution authorizing submittal of the Macatawa Shoreline and Marina Planning Project grant proposal to the DNRE Coastal Management Program.

## SUMMARY OF REQUEST:

A Macatawa Shoreline and Marina Planning Project grant proposal to the Michigan Department of Natural Resources and Environment through their Coastal Management Program would assist in the improvement and development of a 1,300 foot section of the Lake Macatawa shoreline extending from the Holland Harbor Fishing Project (proposed for construction in 2010) eastward to the existing Black Lake Boardwalk. The planning project will include a feasibility study and master plan for a new or renovated marina plus detailed planning and design development for the remainder of the shoreline consistent with the Park 12 Master Plan.

## FINANCIAL INFORMATION:

Total Cost: \$40,000.00 | County Cost: \$20,000.00 | Included in Budget:  Yes |  No

If not included in budget, recommended funding source:

## ACTION IS RELATED TO AN ACTIVITY WHICH IS:

Mandated |  Non-Mandated |  New Activity

## ACTION IS RELATED TO STRATEGIC PLAN:

Goal: #3

Objective: #5

## ADMINISTRATION RECOMMENDATION:

Recommended

Not Recommended

County Administrator: **Alan G. Vanderberg**

Digitally signed by Alan G. Vanderberg  
DN: cn=Alan G. Vanderberg, c=US, o=County of Ottawa, ou=Administrator's Office, email=avanderberg@miottawa.org  
Reason: I am approving this document  
Date: 2010.05.07 10:46:56 -0400

Committee/Governing/Advisory Board Approval Date:





## MEMORANDUM

Date: May 3, 2010  
To: Ottawa County Board of Commissioners  
From: John Scholtz, Parks and Recreation Director  
RE: Macatawa Shoreline and Marina Planning Project Grant Proposal

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The Ottawa County Parks and Recreation Commission recommends approval of the Macatawa Shoreline and Marina Planning Project grant proposal to the Michigan Department of Natural Resources and Environment through their Coastal Management Program. Ottawa County Parks is seeking to improve and develop a 1,300 foot section of the Lake Macatawa shoreline extending from the Holland Harbor Fishing Project (proposed for construction in 2010) eastward to the existing Black Lake Boardwalk. The planning project will include a feasibility study and master plan for a new or renovated marina plus detailed planning and design development for the remainder of the shoreline consistent with the Park 12 Master Plan. A comprehensive cost estimate will be developed to facilitate possible phasing and applications for grant funding.

Proposed motion:

To approve and authorize the Board Chairperson and Clerk to sign the resolution authorizing submittal of the Macatawa Shoreline and Marina Planning Project grant proposal to the DNRE Coastal Management Program.

Estimated cost of the planning work is \$40,000 with \$20,000 proposed from the Coastal Management Program and \$20,000 from the Parks and Recreation budget.

This request relates to a non-mandated activity and supports Goal 3 of the Board of Commissioner's Strategic Plan: *To contribute to a healthy physical, economic, and community environment.*

**COUNTY OF OTTAWA**

**STATE OF MICHIGAN**

**RESOLUTION**

At a regular meeting of the Board of Commissioners of the County of Ottawa, Michigan, held in the Ottawa County Fillmore Street Complex, West Olive, Michigan in said County on the 25th day of May, 2010 at 1:30 o'clock p.m. local time.

PRESENT:

ABSENT:

It was moved by Commissioner \_\_\_\_\_ and supported by Commissioner \_\_\_\_\_ that the following Resolution be adopted:

WHEREAS, the Ottawa County Parks and Recreation Commission has identified the Lake Macatawa Shoreline at the Historic Ottawa Beach Parks parcels as a key coastal property for improvement and recreational development; and

WHEREAS, it is the policy and practice of the Parks and Recreation Commission to undertake a comprehensive planning process for new park properties and development of existing properties to ensure that park plans are sensitive to environmental concerns, public attitudes, recreational needs and other factors; and

WHEREAS, funding is available from the U.S. Department of Commerce through the Coastal Management Program; and

WHEREAS, the County of Ottawa will be responsible for supplying a 50% local match for the proposed \$40,000 master plan project; and



NOW, THEREFORE, BE IT RESOLVED, that the Ottawa County Board of Commissioners authorizes submittal of the grant application for the Ottawa Beach Lake Macatawa Shoreline Planning project to the Michigan Department of Natural Resources & Environment and fully intends to carry out the project if awarded.

BE IT FURTHER RESOLVED, that all resolutions and parts of resolutions insofar as they conflict with this Resolution are hereby repealed.

YEAS:

NAYS:

ABSTENTIONS:

RESOLUTION ADOPTED.

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Philip Kuyers  
Chairperson, Ottawa County  
Board of Commissioners

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Daniel C. Krueger  
Ottawa County Clerk

#### CERTIFICATION

I, the undersigned, duly qualified Clerk of the County of Ottawa, Michigan, do hereby certify that the foregoing is a true and complete copy of a Resolution adopted by the Board of Commissioners of the County of Ottawa, Michigan, at a meeting held on May 25, 2010 the original of which is on file in my office. Public Notice of said meeting was given pursuant to and in compliance with Act No. 267, Public Acts of Michigan, 1976, as amended.

IN WITNESS WHEREOF, I have hereto affixed my official signature this \_\_\_\_th day of May, A.D., 2010.

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Daniel C. Krueger, Ottawa County Clerk

# Action Request



**Committee:** Planning and Policy Committee

**Meeting Date:** 5/13/2010

**Requesting Department:** Parks and Recreation

**Submitted By:** June Hagan

**Agenda Item:** Funding Commitment to Fred Meijer Kenowa Trail

## SUGGESTED MOTION:

To authorize the Parks and Recreation Commission to expend up to \$200,000 in parks millage funds toward construction of the Fred Meijer Kenowa Trail to offset costs of trail construction adjacent to the Upper Macatawa Natural Area and Spring Grove Park.

## SUMMARY OF REQUEST:

The Fred Meijer Kenowa Trail is a bicycle path proposed to run from the Upper Macatawa Natural Area east to connect with Kent County trails. The project has been spearheaded by three townships: Jamestown and Zeeland Townships in Ottawa County and Byron Township in Kent County. The project will be funded by a grant from the Michigan Department of Transportation in the amount of \$1,932,000 and local match dollars. Ottawa County Parks has tentatively agreed to commit \$200,000 to fund the cost of the trail adjacent to Spring Grove Park and the Upper Macatawa Natural Area. This project is significant because it provides a regional connection, it links directly to a county park, and the project must be completed before grant funding can be secured for a trail through the Upper Macatawa Natural Area.

## FINANCIAL INFORMATION:

Total Cost: \$4,021,919.00 | County Cost: \$200,000.00 | Included in Budget:  Yes |  No

If not included in budget, recommended funding source:

## ACTION IS RELATED TO AN ACTIVITY WHICH IS:

Mandated |  Non-Mandated |  New Activity

## ACTION IS RELATED TO STRATEGIC PLAN:

Goal: #3

Objective: #5

## ADMINISTRATION RECOMMENDATION:

Recommended

Not Recommended

County Administrator: **Alan G. Vanderberg**

Digitally signed by Alan G. Vanderberg  
DN: cn=Alan G. Vanderberg, c=US, ou=County of Ottawa, ou=Administrator's Office, email=avanderberg@miottawa.org  
Reason: I am approving this document  
Date: 2010.05.07 10:40:24 -0400

Committee/Governing/Advisory Board Approval Date:



## MEMORANDUM

Date: May 3, 2010  
To: Ottawa County Board of Commissioners  
From: John Scholtz, Parks and Recreation Director  
RE: Funding Commitment to Fred Meijer Kenowa Trail

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The Fred Meijer Kenowa Trail is a bicycle path proposed to run from the Upper Macatawa Natural Area east to connect with Kent County trails. The project has been spearheaded by three townships: Jamestown and Zeeland Townships in Ottawa County and Byron Township in Kent County. The townships have been successful in securing a grant from the Michigan Department of Transportation in the amount of \$1,932,000. Local match dollars are needed to make the project a reality and Ottawa County Parks has tentatively agreed to commit \$200,000 to fund the cost of the trail adjacent to Spring Grove Park and the Upper Macatawa Natural Area. Ottawa County Parks has, in certain situations, agreed to bike path funding to assist with payment of the cost of trail projects adjacent to county park lands. This project is significant because it provides a regional connection, it links directly to a county park, and the project must be completed before grant funding can be secured for a trail through the Upper Macatawa Natural Area, a project proposed for MDOT funding which will not receive consideration until the Fred Meijer Kenowa Trail is in place.

Proposed motion:

To authorize the Parks and Recreation Commission to expend up to \$200,000 in parks millage funds toward construction of the Fred Meijer Kenowa Trail to offset costs of trail construction adjacent to the Upper Macatawa Natural Area and Spring Grove Park.

The Parks and Recreation Commission would contribute \$200,000 toward trail construction costs currently estimated at \$4,021,919. Other project partners have committed the following: MDOT - \$1,931,919; Byron Township - \$289,000; Jamestown Township - \$579,600; Zeeland Township - \$390,600; and Meijer Foundation - \$630,000.

This request relates to a non-mandated activity and supports Goal 3 of the Board of Commissioner's Strategic Plan: *To contribute to a healthy physical, economic, and community environment.*

# Action Request



**Committee:** Planning and Policy Committee

**Meeting Date:** 5/13/2010

**Requesting Department:** Parks and Recreation

**Submitted By:** June Hagan

**Agenda Item:** Wetland Mitigation and Option Agreement – Request Foods

## SUGGESTED MOTION:

To approve and forward to the Board of Commissioners the option agreement with Request Foods for an easement to permit construction of a wetland mitigation project in the Holland Country Club property for an option fee of \$5,000.

## SUMMARY OF REQUEST:

Ottawa County has agreed in concept to sell an easement to Request Foods which would allow the company to utilize approximately 21 acres at the recently acquired Holland Country Club property for a wetland mitigation project. They would pay \$5,000 for the option agreement which would last four months and then have the ability to extend the option four times for periods of 90 days each at \$1,000 per extension. All option fees would be applicable to the easement purchase price of \$3,500 per acre (estimate \$73,500 total).

## FINANCIAL INFORMATION:

Total Cost: \$0.00 | County Cost: \$0.00 | Included in Budget:  Yes  No

If not included in budget, recommended funding source:

## ACTION IS RELATED TO AN ACTIVITY WHICH IS:

Mandated  Non-Mandated  New Activity

## ACTION IS RELATED TO STRATEGIC PLAN:

Goal: #3

Objective: #5

**ADMINISTRATION RECOMMENDATION:**  Recommended  Not Recommended

County Administrator: **Alan G. Vanderberg**

Digitally signed by Alan G. Vanderberg  
DN: cn=Alan G. Vanderberg, c=US, o=County of Ottawa, ou=Administrator's Office, email=avanderberg@miottawa.org  
Reason: I am approving this document  
Date: 2010.05.07 14:22:34 -0400

Committee/Governing/Advisory Board Approval Date:



## MEMORANDUM

Date: May 4, 2010  
To: Ottawa County Board of Commissioners  
From: John Scholtz, Parks and Recreation Director  
RE: Wetland Mitigation and Option Agreement – Request Foods

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Ottawa County has agreed in concept to sell an easement to Request Foods which would allow the company to utilize approximately 21 acres at the recently acquired Holland Country Club property for a wetland mitigation project. The attached document, a Wetland Mitigation Easement and Option Agreement, would formalize this proposal and grant Request Foods an option to use the site (a specific 21 acre portion of our 122 acre site) for the mitigation project. They would pay \$5,000 for the option agreement which would last four months and then have the ability to extend the option four times for periods of 90 days each at \$1,000 per extension. All option fees would be applicable to the easement purchase price of \$3,500 per acre (estimate \$73,500 total). The document, as drafted, arrived too late for full review by Ottawa County legal counsel. Review is occurring at the present time and a summary of proposed changes will be presented at the meeting. Rather than delay for approval in June, Ottawa County Parks is trying to help Request Foods meet their timeline for the mitigation project.

### Proposed motion:

To approve and forward to the Board of Commissioners the option agreement with Request Foods for an easement to permit construction of a wetland mitigation project in the Holland Country Club property for an option fee of \$5,000.

The Parks and Recreation Commission would receive revenues of \$73,500 total from sale of the easement. The funds would be used to help off-set acquisition costs.

This request relates to a non-mandated activity and supports Goal 3 of the Board of Commissioner's Strategic Plan: *To contribute to a healthy physical, economic, and community environment.*

## WETLAND MITIGATION EASEMENT AND OPTION AGREEMENT

1. **Parties.** This Wetland Mitigation Easement and Option Agreement (“**Agreement**”) is effective as of the \_\_\_\_ day of \_\_\_\_\_, 2010 (“**Effective Date**”), by and between OTTAWA COUNTY PARKS AND RECREATION COMMISSION, a Michigan public body corporation, having an address of 12220 Filmore Street, West Olive, Michigan 49460 (“**Owner**”), and REQUEST FOODS, INC., a Michigan corporation, having an address of 3460 John F. Donnelly Drive, Holland, Michigan 48422 (“**Operator**”), who are sometimes individually referred to as a “**Party**” and collectively as the “**Parties**”.

2. **Project.** Operator intends to develop certain separate property located in the City of Holland, Ottawa County, Michigan (the “**Development Property**”) and, in connection therewith, Operator is required by the State of Michigan Department of Natural Resources and Environment (“**MDNRE**”) to construct certain wetlands mitigation facilities (the “**Wetlands Mitigation Facilities**”) on an approximately twenty-one (21) acre area (the “**Mitigation Area**”) located on a portion of the Owner’s approximately thirty (30) acre parcel of property that is legally described on the attached **Exhibit “A”** to this Agreement (“**Owner’s Property**”). Upon completion of such construction, Operator is further required, by the MDNRE, to cause to be placed upon the Mitigation Area a conservation easement substantially in the form attached as **Exhibit “B”** to this Agreement (the “**Conservation Easement**”). The Easements referenced in Section 4, the Improvements referenced in Section 7, and Operator’s interest in this Agreement are sometimes collectively referred to as the “**Operator Property**”.

3. **Option.** Owner grants to Operator the exclusive option (“**Option**”) to acquire the Easements referenced in Section 4 in accordance with the following terms and conditions.

3.1 **Option Term.** The initial period during which Operator may exercise the Option shall be for a term of four (4) months, commencing on the Effective Date and expiring on the date immediately preceding the four (4) month anniversary of the Effective Date (“**Option Term**”). Operator shall have the right to extend the Option Term by four (4) consecutive additional periods of ninety (90) days each (each, an “**Extended Option Term**”) by sending written notice to Owner at any time prior to the expiration of the then current Extended Option Term, which notice must be accompanied by the applicable Option Extension Payment (as defined in Section 3.2), if any. References herein to the Option Term shall mean the initial four (4) month period and, to the extent exercised by Operator, also the Extended Option Terms, unless the context otherwise expressly requires.

3.2 **Option Payment.** As initial consideration for the granting of the Option, Operator agrees to pay Owner, within ten (10) business days after the Effective Date, a fully refundable option payment (“**Option Payment**”) equal to Five Thousand Dollars (\$5,000.00), which shall be applicable to the Purchase Price (hereinafter defined). If Operator wishes to extend the Option Term as provided in Section 3.1, Operator shall pay Owner an amount equal to One Thousand Dollars (\$1,000.00) for the first (1<sup>st</sup>) ninety (90) day Extended Option Term, and an amount equal to One Thousand Five Hundred Dollars (\$1,500.00) for the second (2<sup>nd</sup>) Extended Option Term (each an “**Option Extension Payment**”). Such Option Extension Payments shall be non-refundable and shall be applicable to the Purchase Price. No further

payment will be required by Operator in connection with the exercise by Operator of any further extensions of the Option Term. If Operator shall fail to timely make the initial payment required within ten (10) business days of the Effective Date and/or any Option Extension Payment, Owner shall provide written notice to Operator of Operator's failure and Operator shall have the opportunity to cure such failure in the manner prescribed in Section 17.

3.3 **Use of Owner's Property.** During the Option Term, Operator and its employees, agents and contractors shall have a non-exclusive right to enter upon the Owner's Property and the right of ingress and egress over and across the Owner's Property for the purposes of (i) surveying the Owner's Property; and (ii) performing such other inspections, tests and studies as Operator may desire in connection with the Option, including, without limitation, environmental, geotechnical, and soil tests. The temporary easement for access granted to Operator under this Section 3.3 shall be irrevocable during the Option Term.

3.4 **Right to Grant Option.** Owner warrants and represents to Operator that (i) the statements in Section 8 concerning Owner's title to the Owner's Property are true and correct; (ii) Owner has the authority to grant this Option to Operator without the consent or approval of any other party; and (iii) there are no other existing options, rights of first refusal, contracts to purchase, leases, mortgages, conservation easements, restrictive covenants or farmland development agreements that would prevent Operator from exercising its rights with respect to the Option.

3.5 **Exercise of Option.** Operator shall not exercise the Option unless certain economic incentives for which Operator has applied are approved by the State of Michigan. Operator's exercise of the Option shall be effective upon Operator's delivery of written notice to Owner ("**Option Notice**") of Operator's exercise of the Option at any time during the Option Term, which such Option Notice shall be in recordable form and shall be recorded by Operator against the Owner's Property. On the Commencement Date, the Easements referenced in Section 4 shall automatically become effective, and Operator and Owner shall be subject to all of the terms and conditions of this Agreement with respect to such Easements and all rights and obligations relating thereto.

3.6 **Termination of Option.** If Operator fails to exercise the Option within the Option Term, the then current Option Term shall nevertheless continue until such time as owner shall provide written notice to Operator of Operator's failure to timely exercise such extension, and Operator shall have ten (10) business days thereafter to exercise such extension of the Option Term, failing which the Option and the rights of Operator as the optionee shall automatically terminate.

4. **Grant of Easements.** Upon exercise of the Option by Operator, Owner grants to Operator, and Operator accepts from Owner, for the Easement Term referenced in Section 5.1, the following easements over and across the Owner's Property in accordance with the terms and conditions of this Agreement. The foregoing easements located on the Owner's Property are collectively referred to as the "**Easements.**" If Operator exercises the Option in accordance with Section 3.5, the Easements granted hereunder shall become automatically effective upon the Commencement Date (hereinafter defined), without the requirement of any further action on the part of Owner.

4.1 **Mitigation Area Easement.** Owner grants Operator an irrevocable easement for purposes of constructing, installing, maintaining, operating, repairing, replacing, relocating and removing all or any part or element of the Improvements in accordance with the provisions of **Exhibit “C”** to the Agreement (the “**Mitigation and Monitoring Plan**”). This easement is referred to as the “**Mitigation Area Easement**” and the property subject to the burden of this easement is referred to as the “**Mitigation Area Easement Property.**” Operator may exercise its right to use all or any part of the Mitigation Area Easement Property as and when Operator deems it necessary or advisable to do so to perform the activities for which this Mitigation Area Easement is granted. The Mitigation Area Easement shall be exclusive to Operator during any period in which Operator is performing any construction, installation maintenance, repair, replacement, relocation or removal of the Wetlands Mitigation Facilities. Owner shall not disturb or permit the disturbance of the Wetlands Mitigation Facilities, nor construct or permit to be constructed any improvements in the Mitigation Area Easement Property without the prior written approval of Operator, nor shall Owner engage in or permit any use of the Mitigation Area or the Owner’s Property that might, in the sole opinion of the Operator, adversely affect or interfere with the operations of the Wetlands Mitigation Facilities. Any work performed by Owner in the Mitigation Area Easement Property shall be coordinated with Operator.

4.2 **Access Easement.** Owner grants to Operator an irrevocable, non-exclusive easement for vehicular and pedestrian ingress and egress from and between public roadways and the Mitigation Area, over, across, and along the Owner’s Property, by means of any existing roads or lanes thereon, or otherwise by such route or routes as Operator or Owner may construct from time to time, and also as may be required by the Conservation Easement. This easement is referred to as the “**Access Easement.**” Owner shall maintain in good condition any roadways located on the Owner’s Property (each, the “**Roadways**”). Owner reserves the right to use and to grant others the right to use any Roadways; provided, however, that such use shall not interfere with the rights of the Operator or the grantee of the Conservation Easement.

4.3 **Surface Water Drainage Easement.** Owner grants to Operator an irrevocable easement for the draining of surface water from the Mitigation Area Easement Property in, onto, under, over, across, and along the Owner’s Property and any adjacent properties owned by Owner. This easement is referred to as the “**Surface Water Drainage Easement.**”

4.4 **Location and Relocation of Easements.** The locations and routes of the Easements referenced in this Section 4 and Improvements referenced in Section 7 may not be determined until the completion of Operator’s inspection, testing, study and surveying of the Owner’s Property. Along with the Option Notice, Operator shall deliver to Owner a proposed plan of development showing the contemplated locations and routes of the Easements and Improvements, which shall thereupon be deemed to constitute **Exhibit “C”** to this Agreement as though attached hereto at the time this Agreement was signed, and the Purchase Price payable under Section 6 shall be determined on the basis of the acreage of the Mitigation Area Easement Property as so determined. During the final development and construction of the Wetlands Mitigation Facilities, such locations and routes may need to be amended. Owner and Operator acknowledge and agree that the locations and routes of such Easements and Improvements as shown on the attached **Exhibit “C”** may be relocated or rerouted by Operator, at any time during the Easement Term, so long as the nature and extent of any such relocated or rerouted Easements and Improvements are not materially different and impose no materially greater burden on the



Owner's Property than the original locations or routes. Operator agrees to provide Owner an "as built" survey of any such relocated or rerouted Easements which, upon approval by the MDNRE, shall serve as **Exhibit "C"** to this Agreement and shall also serve as the legal description for the Conservation Easement area. Upon any redetermination of the location of any of the Easements and Improvements, Operator may unilaterally amend the Short Form of Easement and Option Agreement referred to in Section 20.1 in order to update any legal descriptions or depictions of the locations of the Easement and Improvements therein, and record such amendment in the Official Records of the County in which the Owner's Property is located.

5. **Term of Agreement.**

5.1 **Easement Term.** The term of Easements referenced in Section 4 ("**Easement Term**") shall commence upon the Operator's exercise of the Option pursuant to Section 3.5 ("**Commencement Date**"), and continue for the period ending five (5) years after the Owner's grant of the Conservation Easement pursuant to Section 12, or such longer period as the MDNRE may require the Operator to monitor the Wetland Mitigation Facilities. Upon the MDNRE's determination that all wetlands mitigation requirements have been met, the Easements referred to herein, other than the Conservation Easement, will terminate automatically without necessity of further action by any party.

5.2 **Force Majeure.** "**Force Majeure**" shall mean causes beyond the reasonable control of and without the fault or negligence of the party claiming Force Majeure, including but not limited to acts of God, labor unrest (including, but not limited to, slowdowns, picketing, boycotts or strikes), flood, earthquake, storm, fire, lightning, explosion, epidemic, war, revolution, riot, civil disturbance, sabotage, change in law or applicable regulation and action or inaction by any federal, state or local legislative, executive, administrative judicial agency or body which, in any of the foregoing cases, by exercise of due foresight such party could not reasonably have expected to avoid, and which, by the exercise of due diligence, it is unable to overcome. The parties shall be excused from performing their respective obligations under this Agreement and shall not be liable in damages or otherwise if and to the extent that they are unable to so perform or are prevented from performing by Force Majeure, provided that: (i) the non-performing party, as promptly as practicable after the occurrence of the Force Majeure, but in no event later than thirty (30) days thereafter, gives the other party written notice describing the particulars of the occurrence; (ii) the suspension of performance is of no greater scope and of no longer duration than is reasonably required by the Force Majeure; and (iii) the non-performing party uses good faith and commercially reasonable efforts to remedy its inability to perform.

5.3 **Termination by Operator.** Operator, at its option, shall have the right to terminate this Agreement at any time during the Option Term and the Easement Term, as to all or any part of the Operator Property, effective thirty (30) days after written notice of such termination to Owner. Upon any such full termination by Operator, the parties shall be relieved of all further duties and obligations under this Agreement, other than (i) the payment of any accrued and unpaid obligations owed by either party as of the date of termination; and (ii) any other obligations and liabilities that are expressly stated in this Agreement to survive such termination. Upon any such partial termination by Operator, the Parties shall be relieved of all further duties and obligations under this Agreement with respect to the portion thereof

terminated by Operator, subject to the obligations and liabilities referenced in items (i) and (ii) above that shall continue to be applicable to the terminated portion of this Agreement, and Owner and Operator agree to execute an amendment to this Agreement and the Short Form of Agreement referenced in Section 20.1 evidencing such partial termination. In the event of Operator's termination of this Agreement during the Option Term, the Option Payment (\$3,500.00) shall be returned by Owner to Operator and Owner shall retain any Option Extension Payments made by Operator.

6. **Payments.** Within thirty (30) days following the Commencement Date, Operator agrees to pay Owner Three Thousand Five Hundred Dollars (\$3,500.00) per acre of the Mitigation Area Easement as determined in accordance with Section 4.4, with fractional acreage charged on a proportional basis, as consideration for the Easements and Operator's other rights and interests in the Owner's Property (the "**Purchase Price**").

7. **Improvements.** Operator shall have the right, at its sole cost and expense, to construct, install, maintain, use, operate, repair, replace, relocate and remove all facilities, structures, equipment, machinery, materials and property of every kind and character required for the construction and operation of the Wetlands Mitigation Facilities on the Owner's Property including, without limitation, culverts, bridges, drainage ditches, dikes and similar structures and facilities (collectively, the "**Improvements**"). All Improvements shall at all times during the Easement Term remain the property of Operator, and Owner shall have no right, title or interest therein. All Improvements constructed or placed on the Owner's Property by Operator during the Easement Term may be repaired, replaced, relocated, removed, added to or expanded upon by Operator at any time during the Easement Term. Operator hereby indemnifies and agrees to hold Owner and the Owner's Property free, clear and harmless of and from all construction liens and claims of liens and all other liability, claims and demands, including attorneys' fees, for amounts owed by Operator for construction of the Improvements. All Improvements located on the Owner's Property upon the expiration of the Easement Term shall automatically become the property of Owner without necessity of further act by any party.

8. **Ownership and Title Matters**

8.1 **Ownership.** Owner is the holder of fee simple title to all of the Owner's Property, and has the right, without the joinder of any other party, to enter into this Agreement and grant Operator the Easements.

8.2 **Authority.** The person or persons signing this Agreement as Owner have the power and authority legally necessary to enter into this Agreement and grant the Easements to Operator in accordance with the terms of this Agreement.

8.3 **Other Agreements.** The Owner's Property is not subject to any other agreements, options, rights of first refusal, easements, restrictive covenants or other prior right of any party to purchase, lease or acquire easements or other interests in the Owner's Property, or create any prior claim or right that would preclude or interfere with Operator's rights and interests under this Agreement and the Easements.

8.4 **Subordination, Non-Disturbance & Attornment Agreement.** Owner represents and warrants, as of the Effective Date of this Agreement, that there are no mortgages encumbering the Owner's Property, except as disclosed by a title commitment issued to Operator (each, an "**Owner Mortgage**"). Owner shall deliver to Operator an executed and duly acknowledged Subordination, Non-Disturbance and Attornment Agreement ("**SNDA**"), to be prepared and provided by Operator, from each mortgagee of each Owner Mortgage pursuant to which such mortgagee agrees, among other things, not to disturb Operator's possession and use of the Owner's Property or its rights under this Agreement. Operator may record each such SNDA in the Official Records of the County in which Owner's Property is located. In the event Owner has failed to deliver a SNDA from each holder of an Owner Mortgage, Operator may, in addition to its rights and remedies at law, in equity, and under this Agreement, take such action and pay such amounts as it deems reasonably necessary to effect the rights granted to Operator hereunder, and record against the Owner's Property a lien for all amounts expended in such efforts, and Owner hereby grants to Operator a lien upon Owner's Property for any amounts so expended and hereby consents to the recording of such lien against Owner's Property.

9. **Representations and Warranties of Owner.** Owner hereby makes the following representations and warranties to and for the benefit of Operator:

9.1 **Physical Condition.** Owner has no actual knowledge of any existing physical conditions of the Owner's Property which would prevent or significantly restrict Operator's development of the Owner's Property for the purposes specified in this Agreement, or which could, with the passage of time, or the giving of notice, constitute a violation of any currently applicable governmental law, ordinance, order, rule or regulation.

9.2 **Legal Restrictions.** Owner has no knowledge of any law, regulation, ordinance or order of any local, state or federal governmental authority which would prohibit or significantly restrict Operator's development of the Owner's Property pursuant to this Agreement, including, without limitation, the Land Division Act, Act No. 288 of the Public Acts of 1967, as amended ("**Act**"). To the extent that the exercise of this Option on Owner's Property will or does constitute a "division" under the Act, Owner shall promptly obtain at its cost all necessary approvals required by the Act for the Easements. This Agreement does not violate any contract, agreement, instrument, judgment or order to which Owner is a party or which affects the Owner's Property. To the best of Owner's knowledge, the Owner's Property is currently in full and complete compliance with all governmental laws, ordinances, orders, rules and regulations applicable to the Owner's Property.

9.3 **No Litigation.** No litigation is pending and, to the best of Owner's knowledge, no litigation or administrative actions are proposed, threatened or anticipated with respect to any matter affecting the Owner's Property. If Owner learns of any litigation or administrative action proposed, threatened or instituted with respect to the Owner's Property, Owner shall give Operator notice within five (5) days of learning of the litigation or action.

9.4 **Survival.** The representations and warranties set forth in this Section 9 shall survive the execution and delivery of this Agreement.

10. **Use, Operation and Maintenance.**

10.1 **No Required Installation or Operation.** Nothing in this Agreement shall be interpreted as imposing on Operator any obligation to install Wetlands Mitigation Facilities or other Improvements on the Owner's Property, or to operate the Wetland's Mitigation Facilities on the Owner's Property. Operator shall have the sole discretion to determine if and when any Improvements may be constructed on Owner's Property, and if and when to commence the operation of the Wetlands Mitigation Facilities on the Owner's Property or continue operation of any Improvements from time to time.

10.2 **Uses Reserved by Owner.** Except as otherwise expressly limited herein, Owner expressly reserves the right to use the Owner's Property for recreational purposes in a manner that does not unreasonably interfere with Operator's use of the Operator Property and which does not interfere with or destroy the Wetlands Mitigation Facilities.

10.3 **Permits and Approvals.** Operator shall be responsible, at its sole cost and expense, for obtaining any governmental permits and approvals necessary for the construction and operation of the Wetlands Mitigation Facilities and the construction and operation of the Improvements. Owner shall cooperate with Operator as necessary to obtain any governmental or utility approvals or permits, including signing applications and requests for consideration, provided that Operator shall reimburse Owner for all its reasonable out-of-pocket expenses directly incurred in connection with such cooperation.

10.4 **Compliance with Laws.** Operator shall comply in all material respects with valid laws applicable to the Owner's Property and the Operator Property. Operator shall have the right, in its sole discretion and at its sole expense, in Operator's name or Owner's name, to contest the validity or applicability to the Owner's Property and the Operator Property of any law, ordinance, statute, order, regulation, property assessment or the like made by any governmental agency or entity. Operator shall control any such contest and Owner shall cooperate with Operator in every reasonable way in such contest, at no out-of-pocket expense to Owner.

11. **Taxes.** Owner covenants and agrees to pay prior to delinquency all real and personal property and other taxes, general and special assessments, and other charges of every description ("**Taxes**") levied or assessed against the Owner's Property and all improvements thereon. In the event of the failure of Owner to pay the Taxes prior to delinquency, Operator shall have the right to cure such default by payment of those Taxes and any penalties or interest on such Taxes which are due, and may, in addition to its rights and remedies at law, in equity, and under this Agreement, take such action and pay such amounts as it deems reasonably necessary to effect the rights granted to Operator hereunder, and record against the Owner's Property a lien for all amounts expended in such efforts, and Owner hereby grants to Operator a lien upon Owner's Property for any amounts so expended and hereby consents to the recording of such lien against Owner's Property.

12. **Grant of Conservation Easement.** Upon completion of Operator's initial construction of the Wetlands Mitigation Facilities, Operator shall deliver to Owner the completed Conservation Easement and all exhibits thereto. Upon delivery of the proposed Conservation

Easement to Owner, Owner shall have ten (10) days to review and approve the Conservation Easement. Owner may not object to the terms and conditions of the Conservation Easement, unless such terms and conditions are both (a) materially different than the terms and conditions of the Conservation Easement as contemplated by this Agreement and the Mitigation and Monitoring Plan attached hereto, and (b) create material burdens or obligations on Owner beyond the burdens and obligations of the Conservation Easement contemplated by this Agreement and the Mitigation and Monitoring Plan attached hereto. Once the Conservation Easement is in a form satisfactory to Operator, Owner, and the MDNRE, Owner will execute and deliver to MDNRE the Conservation Easement, and deliver a copy to Operator. Owner and Operator will cooperate to cause the MDNRE to execute and record against the Owner's Property the original executed Conservation Easement with the Ottawa County Register of Deeds, and Owner will comply with the terms of the Conservation Easement as grantor thereunder.

13. **Assignment and Sublease.** Operator shall have the right, without Owner's consent, to sell, convey, lease, or assign all or any portion of the Operator Property, on either an exclusive or a non-exclusive basis, or to grant subeasements, co-easements, easements, licenses or similar rights with respect to the Operator Property (collectively, "**Assignment**"), to one or more persons or entities (collectively "**Assignee**"). Any such Assignee shall use the Operator Property only for the uses permitted under this Agreement. When Operator has assigned its interests under this Section 13, or has conveyed a subeasement or other interest, Operator shall give notice of the assignment or conveyance (including the address of the Assignee for notice purposes) to Owner; provided the failure to give such notice shall not constitute a default under this Agreement, but rather shall only have the effect of not binding Owner with respect to such assignment or conveyance until such notice is given. Any such assignment by Operator of its interests in this Agreement shall release Operator from all obligations accruing after the date that liability for such obligations is assumed by the Assignee. Operator may unilaterally record against Owner's Property evidence of such Assignment.

14. **Hazardous Materials.**

14.1 **Owner's Covenants Regarding Hazardous Materials.** Owner represents and warrants that, to the best of Owner's knowledge, the Owner's Property is not and has not been in violation of any federal, state or local environmental health or safety laws, statute, ordinance, rule, regulation or requirement ("**Environmental Laws**"), and Owner has not received any notice or other communication from any governmental authorities alleging that the Owner's Property is in violation of any Environmental Laws. "**Hazardous Materials**" shall mean any asbestos containing materials, petroleum, explosives, toxic materials, or substances regulated as hazardous wastes, hazardous materials, hazardous substances, or toxic substances under any federal, state, or local law or regulation. Owner represents and warrants that, except as disclosed to Operator in writing, to the best of Owner's knowledge, no underground storage tanks and no Hazardous Materials are or were located on the Owner's Property during or prior to Owner's ownership of the Owner's Property. Owner shall not violate in a material way any Environmental Law relating to the Owner's Property.

14.2 **Operator's Covenants Regarding Hazardous Materials.** Operator shall, at Operator's sole cost and expense, promptly take removal or remedial action required by Environmental Laws with regard to any material violation of any Environmental Laws with

regard to any Hazardous Materials brought onto the Owner's Property by Operator or its employees, agents, or contractors. Owner shall cooperate with Operator with regard to any scheduling or access to the Owner's Property in connection with any action required hereunder.

15. **Indemnity and Insurance.**

15.1 **Indemnity by Operator.** Operator shall defend, indemnify, protect and hold Owner harmless from and against all liabilities, costs, expenses, obligations, losses, damages, claims, (collectively "**Liability**") resulting from the negligence, willful misconduct, or breach of this Agreement by Operator, its agents, contractors or employees, invitees, licensees and permittees; provided, however, that such Liability is not due to any negligence, willful misconduct, or breach by Owner, its agents, contractors or employees, invitees, licensees or permittees.

15.2 **Indemnity by Owner.** Owner shall defend, indemnify, protect, and hold Operator harmless from and against all Liability resulting from the negligence, willful misconduct, or breach of this Agreement by Owner, its agents, contractors or employees, invitees, licensees and permittees; provided, however, that such Liability is not due to any negligence, willful misconduct, or breach by Operator, its agents, contractors, employees, invitees, licensees, or permittees.

15.3 **Insurance.** Each of Operator and Owner, respectively (the "**Insuring Party**"), shall, at its expense, maintain a broad form comprehensive coverage policy of public liability insurance insuring itself against loss or liability caused by the Insuring Party's or its Related Persons' occupation and use of, and activities on, the Owner's Property, in an amount not less than One Million Dollars (\$1,000,000.00) of combined single limit coverage per occurrence, accident or incident whether primary or umbrella, and shall name the other party (the "**Additional Insured Party**") as additional insured under such policy. After receiving a written request from the Additional Insured Party, the Insuring Party shall deliver a certificate of such insurance to the Additional Insured Party. As used herein, the term "**Related Person**" means any member, partner, principal, officer, director, shareholder, predecessor-in-interest, successor-in-interest, employee, agent, heir, representative, contractor, sublessee, grantee, licensee, invitee or permittee of a specified party, or any other person or entity that has obtained or hereafter obtains rights or interests from such party.

15.4 **Release and Waiver of Subrogation.** Owner and Operator hereby release and discharge the other party, and any officer, agent, employee or representative of such party, from any liability whatsoever arising from loss, damage or injury for which insurance (permitting waiver of liability and containing waiver of subrogation) is carried by the party at the time of such loss, damage or injury to the extent of any recovery by the injured party under such insurance.

15.5 **Survival.** The obligations of the Parties under this Section 15 shall survive expiration or other termination of this Agreement.

16. **Waiver of Statutory Liens.** Owner, to the extent permitted by the laws and Constitution of the State of Michigan, hereby waives its statutory liens created under Michigan law in any

property of Operator (including, but not limited to, all Improvements and any other fixtures, machinery, equipment, furnishings, and other articles of personal property now or hereafter placed on the Owner's Property by Operator).

17. **Default and Remedies.** Either party shall be in default of this Agreement if it shall fail to meet any of its obligations under the terms of this Agreement and shall not cure such default within thirty (30) days after receiving notice thereof from the other party (or if such default cannot be cured through the exercise of reasonable diligence within such 30 day period, if the defaulting party fails to commence corrective action within such 30 day period and thereafter diligently prosecutes same to completion) ("**Default**"). Upon the occurrence of a Default, the non-defaulting party may pursue any and all actions or remedies that may be available at law or in equity, except that Owner hereby waives all rights it may have, in law or in equity, to terminate this Agreement prior to the expiration of the Easement Term. Owner hereby grants to Operator a lien upon Owner's Property for any amounts that may be owed by Owner to Operator under this Agreement, and consents to the recording of such liens by Operator upon Owner's Property.

18. **Condemnation.**

18.1 **Complete Taking.** If, at any time, any authority having the power of eminent domain shall condemn all or substantially all of the Owner's Property, or all of the Improvements thereon, for any public use or otherwise, then the interests and obligations of Operator under this Agreement in or affecting the Owner's Property shall cease and terminate upon the earlier of (i) the date that the condemning authority takes physical possession of the Owner's Property or the Improvements thereon, (ii) the date that Operator is, in its sole judgment, no longer able or permitted to operate the Wetlands Mitigation Facilities on the Owner's Property in a commercially viable manner, or (iii) the date of the condemnation judgment, at which time Owner and Operator shall be relieved of any and all further obligations to each other under this Agreement.

18.2 **Partial Taking.** If, at any time during the Easement Term, any authority having the power of eminent domain shall condemn any portion of the Improvements or the Owner's Property, then the interest and obligations of Operator under this Agreement and the Easements as to any portion of the Improvements or the Owner's Property so taken shall cease and terminate upon the earlier of (i) the date that the condemning authority takes possession of any portion of the Improvements or the Owner's Property, (ii) the date that Operator is, in its reasonable judgment, no longer able or permitted to operate the Wetlands Mitigation Facilities on the Owner's Property, or any portion thereof, in a commercially viable manner, or (iii) the date of the condemnation judgment; and, unless this Agreement is terminated as hereinafter provided, this Agreement and the Easements shall continue in full force and effect as to the remainder of the Improvements and the Owner's Property. If the remainder of any other portion of the Improvements or the Owner's Property is or becomes insufficient or unsuitable for Operator's purposes hereunder, as determined by Operator in its sole discretion, then Operator shall have the right to terminate this Agreement and the Easements as to the portion of the Owner's Property to which Operator continues to hold the rights, at which time Owner and Operator shall be relieved of any further obligations and duties to each other under this Agreement.

18.3 **Apportionment, Distribution of Award.** In the event of any taking, the award by the court for the taking of the Owner's Property shall be paid to Owner or Operator consistent with applicable Michigan law.

19. **Notice.**

19.1 **Writing.** All notices given or permitted to be given hereunder shall be in writing.

19.2 **Delivery.** Notice is considered given either (i) when delivered in person to the recipient named below, (ii) upon receipt after deposit in the United States mail in a sealed envelope or container, postage and postal charges prepaid, return receipt requested or certified mail, addressed by name and address to the party or person intended, or (iii) twenty-four (24) hours (excluding Saturday, Sunday or any banking holiday) from proper and timely delivery to an overnight courier service addressed by name and address to the party or person intended as follows:

Notice to Owner: Ottawa County Parks and Recreation Commission  
12220 Filmore Street  
West Olive, Michigan 49460  
Attention: John A. Scholtz

Notice to Operator: Request Foods, Inc.  
3460 John F. Donnelly Drive  
Holland, Michigan 48422  
Attention: William J. Rysdyk

19.3 **Change of Recipient or Address.** Either party may, by notice given at any time or from time to time, require subsequent notices to be given to another individual person, whether a party or an officer or representative, or to a different address, or both. Notices given before actual receipt or notice of change shall not be invalidated by the change.

20. **Miscellaneous Provisions.**

20.1 **Easement Agreement.** Simultaneously with the execution of this Agreement, Owner and Operator agree to execute and acknowledge a Short Form of Easement and Option Agreement in the form of **Exhibit "E"** attached to this Agreement which Operator shall record at its expense in the real property records of the County in which the Owner's Property is located.

20.2 **Further Assurance.** The Parties hereto shall at all times hereafter execute any documents and do any further acts which may be necessary or desirable to carry out the purposes of this Agreement and to give full force and effect to each and all of the provisions hereof.

20.3 **Approvals.** Whenever in this Agreement the approval or consent of either party is required or contemplated, unless otherwise specified, such approval or consent shall not be unreasonably withheld or delayed.



20.4 **Amendments.** This Agreement shall not be amended or modified in any way except by an instrument signed by Owner and Operator.

20.5 **Severability.** If any term or provision of this Agreement, or the application thereof to any person or circumstance shall, to any extent, be determined by judicial order or decision to be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those as to which it is held to be invalid, shall be enforced to the fullest extent permitted by law.

20.6 **Attorneys Fees.** After the Agreement is executed, if an action or proceeding is brought to enforce any term or condition of the Agreement on the part of Owner or Operator, the prevailing party in such litigation shall be entitled to be paid by the non-prevailing party its reasonable attorneys fees at the trial court and all appellate levels.

20.7 **Governing Law.** Except as otherwise provided herein, this Agreement shall be governed by the applicable laws of the State of Michigan, and the County in Michigan, where the Owner's Property is located, shall be considered the proper forum or jurisdiction for any disputes arising in connection with this Agreement.

20.8 **Section Headings.** The Section headings herein are inserted only for convenience of reference and shall in no way define, limit or describe the scope or intent of any provision of this Agreement.

20.9 **Entire Agreement.** This Agreement and the attached Exhibits shall constitute the entire agreement between the Parties and supersedes all other prior writings and understandings.

20.10 **Effect of Termination.** Notwithstanding any other provision of this Agreement to the contrary, any termination of this Agreement pursuant to the terms hereof shall not release either Party from liabilities, obligations or indemnities arising prior to the effective date of such termination or which survive the termination hereof.

20.11 **Time of Essence.** Time is of the essence of each provision of this Agreement.

20.12 **No Waiver.** No waiver by either Party of any provision of this Agreement shall be deemed to be a waiver of any provision hereof or of any subsequent breach by the other Party.

20.13 **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which together shall constitute a single instrument.

20.14 **No Merger with Other Agreements.** It is the intent of the parties hereto that this Agreement is separate from, and that it not be merged with or extinguished by, any other agreement or agreements executed by either or both of the Parties hereto.

20.15 **Running with the Land.** With respect to each Easement: (a) to the extent permitted by law, such Easement shall be appurtenant to the Wetlands Mitigation Facilities; (b) such Easement shall run with the Owner's Property (and such other lands, as applicable) and inure to the benefit of and be binding upon Owner and the holder of the Easements and their

respective successors and assigns, and all persons claiming under them; (c) no act or failure to act on the part of Operator or the holder of the Easements shall be deemed to constitute an abandonment, surrender or termination thereof, except upon recordation by such holder of a quitclaim deed specifically conveying the Easements back to Owner; (d) nonuse of the Easements shall not prevent the future use of the entire scope thereof in the event the same is needed; and (e) no use of or improvement to the Owner's Property (or such other lands) or any lands benefited by the Easements, and no transfer, shall, separately or in the aggregate, constitute an overburdening of the Easements.

**SIGNATURES FOLLOW ON NEXT PAGES**





**EXHIBIT "A"**

**Legal Description of Owner's 30+ Acre Property**



ACCORDINGLY, Grantor hereby conveys unto the Grantee, forever and in perpetuity, this Conservation Easement as set forth in this Agreement pursuant to Subpart 11 of Part 21, Conservation and Historic Preservation Easement, of the NREPA, MCL 324.2140 et seq., on the terms and conditions stated below.

#### COVENANTS, TERMS, CONDITIONS AND RESTRICTIONS

1. The purpose of this Agreement is to protect the functions and values of existing or established wetlands and its natural resource values on the Easement Premises, consistent with the Permit, and the protection of the benefits to the public derived from wetlands and integral habitat, by requiring Grantor to maintain the Easement Premises in its natural and undeveloped condition.
2. Except as authorized under MDEQ Permit Number \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ -P, issued on \_\_\_\_/\_\_\_\_/20\_\_\_\_ or as otherwise provided in this Agreement, Grantor shall refrain from, and prevent any other person from, altering or developing the Easement Premises in any way. This includes, but is not limited to:
  - a) Alteration of the surface topography;
  - b) Creation of paths, trails, or roads;
  - c) The placement of fill material as defined in Part 303 of the NREPA, MCL 324.30301 et seq., as amended;
  - d) Dredging, removal or excavation of any soil or minerals;
  - e) Drainage of surface or groundwater;
  - f) Construction or placement of any structure;
  - g) Plowing, tilling, mowing or cultivating the soils or vegetation;
  - h) Alteration or removal of vegetation, including the planting of non-native species;
  - i) Ranching, grazing, farming;
  - j) Use of chemical herbicides, pesticides, fungicides, fertilizers, spraying with biocides, larvicides or any other agent or chemical treatments, unless as part of an MDEQ-approved Management Plan;
  - k) Construction of unauthorized utility or petroleum lines;
  - l) Storage or disposal of ash, garbage, trash, debris, abandoned equipment or accumulation of machinery, bio-solids or other waste materials, including accumulated vegetative debris, such as grass clippings, leaves, yard waste or other material collected and deposited from areas outside the Easement Premises;
  - m) Use or storage of automobiles, trucks or off-road vehicles including, but not limited to, snowmobiles, dune buggies, all-terrain vehicles, and motorcycles;
  - n) Placement of billboards or signs, except as otherwise allowed in the Permit or this Agreement;
  - o) Use of the wetland for the dumping of untreated storm water or the directing of treated storm water to the easement premises at a volume that adversely impacts the hydrology of the wetland;
  - p) Actions or uses detrimental or adverse to water conservation and purity, and fish, wildlife or habitat preservation.

3. Cutting down, burning, destroying, or otherwise altering or removing trees, tree limbs, shrubs or other vegetation, whether living or dead, is prohibited within the Easement Premises, except with the written permission of Grantee, expressly for the removal of trees or limbs to eliminate danger to health and safety, to reduce a threat of infestation posed by diseased vegetation, invasive non-native plant species that endanger the health of native species or as otherwise provided in the MDEQ-approved Management Plan for the Easement Premises.
4. Grantor is not required to restore the Easement Premises due to alterations resulting from causes beyond the owner's control, including, but not limited to, unauthorized actions by third parties that were not reasonably foreseeable; natural causes or natural disasters, such as unintentional fires, floods, storms, or natural earth movement.
5. Grantor, Permittee or its authorized agents or representatives may enter the Easement Premises to perform activities within the Easement Premises consistent with the Permit or the mitigation requirements. Grantor or Permittee shall provide 5 days notice to the Grantee of undertaking any mitigation activity, even if the mitigation project has been conceptually approved. Any activities undertaken pursuant to the Permit, a mitigation project or this Agreement, shall be performed in a manner to minimize the adverse impacts to existing wetland or mitigation areas.
6. Grantor warrants that Grantor has good and sufficient title to the Easement Premises described in Exhibit B.
7. Grantor warrants that any other existing interests or encumbrances in the Easement Premises have been disclosed to the MDEQ.
8. Grantor warrants that to the best of Grantor's knowledge no hazardous substances or hazardous or toxic wastes have been generated, treated, stored, used, disposed of or deposited in or on the property.
9. This Agreement does not grant or convey to Grantee or members of the general public any right to possession or use of the Easement Premises.
10. Grantor shall continue to be responsible for the upkeep and maintenance of the Easement Premises to the extent it may be required by law.
11. Grantee and its authorized employees and agents, as shown in Exhibit D, may enter the Easement Premises at reasonable times to determine whether the Easement Premises are being maintained in compliance with the terms of this Agreement, mitigation, or other conditions of the Permit; and for purposes of taking corrective actions for failure to comply. If Grantee is entering the Easement Premises for purpose of taking corrective actions, Grantor shall be provided with 14 days notice to provide the opportunity to cure the failure to comply.



12. This Agreement shall be binding upon the successors and assigns of the parties and shall run with the land in perpetuity, unless modified or terminated by written agreement of the parties.
13. This Agreement may be modified only in writing through amendment of the Agreement. Any modification shall be consistent with the purpose and intent of the Agreement.
14. In addition to the right of the parties to enforce this Agreement, it is also enforceable by others against the owner of the land, in accordance with Part 21, Subpart 11 of the NREPA, MCL 324.2140 *et seq*, as amended.
15. Grantor shall indicate the existence of this Agreement on all future deeds, mortgages, land contracts, plats, and any other legal instrument used to convey an interest in the Easement Premises.
16. A delay in enforcement shall not be construed as a waiver of the Grantee's rights to enforce the conditions of this Agreement.
17. This Agreement shall be liberally construed in favor of maintaining the purpose of the Conservation Easement.
18. If any portion of this Agreement is determined to be invalid by a court of law, the remaining provisions will remain in force.
19. This Agreement will be construed in accordance with Michigan law. All legal action related to this conservation easement must be filed and pursued in Michigan state courts.
20. In addition to the terms of the Permit issued by Grantee, this document sets forth the entire agreement of the parties. It is intended to supersede all prior discussions or understandings.
21. Within 90 days after this Agreement is executed, Grantor shall place and maintain, at Grantor's expense, signs, fences, or other suitable markings along the Easement Premises to clearly demarcate the boundary of the Easement Premises, or as otherwise provided in the Permit.
22. The terms 'Grantor' and 'Grantee' wherever used in this Agreement, and any pronouns used in place thereof, shall include, respectively, the above-named Grantor and their personal representatives, heirs, successors, and assigns, and the above-named Grantee and their successors and assigns.

## LIST OF ATTACHED EXHIBITS

- Exhibit A:** A legal description of the Grantor's property, inclusive of the Easement Premises.
- Exhibit B:** A legal description of the Easement Premises.
- Exhibit C:** A survey map depicting the Easement Premises that also includes identifiable landmarks, such as nearby roads, to clearly identify the easement site.
- Exhibit D:** A legal description that provides a path of legal access to the Easement Premises and a map that indicates this access site that MDEQ staff will use for ingress and egress to and from the Easement Premises or, if the Easement is directly connected to a publicly accessible point, such as a public road, a statement is required that authorizes MDEQ staff ingress and egress to and from the Easement Premises with a map that clearly indicates the connection of the public access site to the Easement Premises.
- Exhibit E:** *If applicable*, a Cooperative Stewardship Agreement that includes baseline documentation and any vegetation and/or site Management Plans.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first above written. In signing this Agreement, the Signatory warrants that he or she has the authority to convey the Conservation Easement on behalf of the Grantor.

GRANTOR:

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

John A. Scholtz \_\_\_\_\_

Type/Print Grantor's Name exactly as signed

Executive Director \_\_\_\_\_

Title (if signing on behalf of an organization)

Ottawa County Parks and Recreation Commission \_\_\_\_\_

Organization Name (if signing on behalf of an organization)

STATE OF MICHIGAN     }  
  }  
  } ss  
COUNTY OF \_\_\_\_\_}

IF SIGNING ON BEHALF OF AN ORGANIZATION, THIS MUST BE COMPLETED:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_  
by \_\_\_\_\_, (name[s]) the \_\_\_\_\_, (title)  
of \_\_\_\_\_, (Organization name) a \_\_\_\_\_, (state)  
corporation, partnership, municipality, or limited liability company (circle one), on behalf of the  
organization.

\_\_\_\_\_  
(Signature of Notary Public)

\_\_\_\_\_  
(Typed or Printed name of Notary Public)

My commission is in: \_\_\_\_\_ County, Michigan

Acting in: \_\_\_\_\_ County, Michigan

My Commission Expires: \_\_\_\_\_

(OR) IF SIGNING AS AN INDIVIDUAL OR MARRIED PERSON, THIS MUST BE COMPLETED:

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

by \_\_\_\_\_, (name[s]) \_\_\_\_\_  
(marital status).

\_\_\_\_\_  
(Signature of Notary Public)

\_\_\_\_\_  
(Typed or Printed name of Notary Public)

My commission is in: \_\_\_\_\_ County, Michigan

Acting in: \_\_\_\_\_ County, Michigan

My Commission Expires: \_\_\_\_\_

GRANTEE:

STATE OF MICHIGAN  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
LAND AND WATER MANAGEMENT DIVISION

\_\_\_\_\_  
Elizabeth M. Browne, Division Chief

STATE OF MICHIGAN     }  
                                  } ss  
COUNTY OF INGHAM    }

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by Elizabeth M. Browne, Division Chief, Land and Water Management Division, State of Michigan, on behalf of the Michigan Department of Environmental Quality.

\_\_\_\_\_  
(Signature of Notary Public)

\_\_\_\_\_  
(Typed or Printed name of Notary Public)

Acting in: Ingham County, Michigan

My Commission is in \_\_\_\_\_ County, Michigan

My Commission Expires: \_\_\_\_\_

**FORM DRAFTED BY:**  
The Honorable Mike Cox,  
Attorney General  
Department of Attorney General  
Environment, Natural Resources, and  
Agriculture Division  
P.O. Box 30755  
Lansing, Michigan 48909

**AFTER RECORDING, RETURN TO:**  
Michigan Department of Natural Resources and  
Environment  
Land and Water Management Division  
Constitution Hall, 1<sup>st</sup> Floor South  
P.O. Box 30458  
Lansing, Michigan 48909-7958

(November 1, 2009)

## EXHIBIT “C”

### Mitigation and Monitoring Plan

#### T SURVEY WORK

Preparation of a topographic survey of the mitigation area with one foot contours to refine the conceptual design and meet MDNRE requirements. The mitigation area, Black River, Noordeloos Creek, ditches, and surrounding upland area will be included in this survey. Additional surveys will identify a legal description for the mitigation area and a linear access route to the mitigation area. In addition, as-built drawings of the mitigation area will be prepared as required by MDNRE.

#### GEOTECHNICAL WORK/SOIL BORINGS/ HYDROGEOMORPHIC ASSESSMENT

Hand soil borings and exploratory soils pits possibly utilizing heavy equipment to evaluate the underlying soil material and determine infiltration rates, shall be performed. Any areas disturbed during the due diligence period will be graded back to original graded and seeded with an appropriate grass mix at the contractors expense. A detailed hydrogeomorphic assessment of Noordeloos Creek and the Black River will be performed to determine the flood frequency and bankfull discharge. This information will be used to develop a wetland hydrologic model used in mitigation design.

#### WETLAND DESIGN

Niswander Environmental has created an initial conceptual design for the site that includes the proposed mitigation area as part of its work for Ottawa County Parks. Approximately 20.34 acres of forested wetland mitigation will be constructed to offset the wetland impacts at the Development Property. The site will be designed to be periodically flooded with 6 to 12 inches of water seasonally as well as areas of saturated soils, which is required for creation of forested wetland. A hydrologic model of the proposed mitigation area, a design justification report, and final design plans for submission to MDNRE will be prepared. Final design plans will be submitted to Ottawa County Parks for review and approval. These plans will identify staging areas, construction sequencing, and final grades.

#### WETLAND CONSTRUCTION

Construction of the mitigation site will involve but is not limited to mass grading, tree removal, berm construction, land balancing, stream bank modification, installation of wildlife structures, seeding, planting, and invasive species removal. Planting and seeding of the mitigation wetland will be performed in accordance to MDNRE requirements and specifications. Approximately 400 trees/shrubs per acre of mitigation wetland will be planted. A 15% mortality of planted trees is anticipated and replanting will be performed as necessary to meet MNDRE’s requirement of 300 living trees per/acre.

#### MITIGATION MONITORING

The mitigation site will be monitored for the period specified in the issued permit, which is anticipated to be five years. Monitoring will conform to all MDNRE requirements as outlined in the issued permit and MDNRE general monitoring guidelines. Monitoring includes annual visits

to document the percentage of wetland/upland vegetation, vegetation diversity, wildlife use, hydrologic development, and year to year comparisons. An annual report will be generated detailing development of the mitigation site and will include a photographic log, as required in the permit.

#### CORRECTIVE ACTIONS

Corrective measures will be identified during each annual monitoring visit and completed as necessary. All corrective actions performed will be documented in the annual monitoring reports to MDNRE. It is anticipated that corrective actions may include but not be limited to invasive species control (through herbicide application) and additional seeding.

**EXHIBIT "D"**

**Legal Description of Mitigation Area**



## EXHIBIT “E”

### SHORT FORM EASEMENT AND OPTION AGREEMENT

OTTAWA COUNTY PARKS AND RECREATION COMMISSION, a Michigan public body corporation, having an address of 12220 Filmore Street, West Olive, Michigan 49460 (“**Owner**”), and REQUEST FOODS, INC., a Michigan corporation, having an address of 3460 John F. Donnelly Drive, Holland, Michigan 48422 (“**Operator**”), have entered into that certain Wetlands Mitigation Easement and Option Agreement (“**Agreement**”) whereby Owner granted to Operator an option for the following easements in connection with the development, construction and operation of a wetlands mitigation project in Ottawa County, Michigan (jointly and severally, the “**Easements**”):

- (1) Mitigation Area Easement
- (2) Access Easement
- (3) Surface Water Drainage Easement

covering all or portions of the real property described in **Exhibit “A”** attached hereto and made a part hereof (the “**Owner's Property**”).

1. The period during which the Option may be exercised (“**Option Term**”) shall begin on the date when both Owner and Operator have executed the Agreement, and shall continue for a period not to exceed sixteen (16) months. Operator may exercise the Option by giving written notice to Owner (“**Option Notice**”) at any time during the Option Term, which shall be recorded in the County where the Operator Property is located. On the date of Operator’s exercise of the Option (the “**Commencement Date**”), the Easements referenced in this Short Form Easement and Option Agreement (“**Short Form**”) shall automatically become effective, and Operator and Owner shall be subject to all of the terms and conditions of the Agreement with respect to such Easements and all rights and obligations relating thereto. The Easements were granted by, and the terms and conditions of the Easements are as more fully set forth in the Agreement executed by and between the Owner and Operator as of the same date this Short Form is fully executed;

2. The term of the Easements (“**Easement Term**”) commences as of the Commencement Date and shall end five (5) years after the Owner’s grant, to the State of Michigan Department of Natural Resource and Environment (“**MDNRE**”), of a Conservation Easement, as set forth in the Agreement, or such longer period as the MDNRE may require the Operator to monitor the Wetland’s Mitigation Area. The Easement Term may be extended pursuant to the terms of the Agreement for a period of time equal to the period of Force Majeure as defined in the Agreement.

3. Pursuant to the terms and conditions of the Agreement:

(a) Upon any redetermination of the location of any Easements or Improvements from time to time, Operator may unilaterally amend this Short Form in order to update any legal descriptions or depictions of the locations of the Easements and Improvements herein, and record such amendment against the Owner's Property. The Easements shall be further defined pursuant to an as built survey to be prepared by Operator upon completion of construction of the wetland mitigation project.

(b) The Easements and any restriction contained in the Agreement run with the land affected thereby and are binding upon, and inure to the benefit of the Owner and Operator, their respective successors, heirs mortgagees, assigns, personal representatives, tenants, or persons claiming through them.

(c) The address of the Owner is:  
Ottawa County Parks and Recreation Commission  
12220 Filmore Street  
West Olive, Michigan 49460  
Attention: John A. Scholtz

The address of the Operator is:  
Request Foods, Inc.  
3460 John F. Donnelly Drive  
Holland, Michigan 48422  
Attention: William J. Rysdyk

4. Owner has granted to Operator a lien upon Owner's Property for any amounts that may be owed by Owner to Operator under the Agreement, and Owner consents to the recording of such liens by Operator against Owner's Property.

5. Capitalized terms used but not defined herein shall have the meaning ascribed to such terms in the Agreement.

6. The sole purpose of this instrument is to give notice of the Agreement and all of its terms, covenants and conditions to the same extent as if the Agreement were fully set forth herein. This instrument shall in no way amend or be used to interpret the Agreement, and in the event of any conflict or inconsistency between any of the terms and conditions of this Short Form and any term and/or condition of the Agreement, the term and/or condition of the Agreement shall govern and control. All covenants and agreements of this Short Form and the Agreement shall run with the land until such time as the Agreement is terminated. A full and complete copy of the Agreement is on file at the offices of Operator and Owner.

IN WITNESS WHEREOF, the Owner and Operator have executed this Short Form Easement and Option Agreement on the date set forth below.

**Signature page to Short Form Easement and  
Option Agreement by and between Ottawa County Parks and Recreation  
Commission, as Owner, and Request Foods, Inc., as Operator**

**Owner**

OTTAWA COUNTY PARKS AND RECREATION COMMISSION,  
a Michigan public body corporation

By: \_\_\_\_\_

Printed Name: John A. Scholtz

Its: Executive Director

STATE OF MICHIGAN )

)ss:

COUNTY OF \_\_\_\_\_ )

Acknowledged before me in \_\_\_\_\_ County, Michigan, on  
\_\_\_\_\_, 2010, by \_\_\_\_\_, as  
\_\_\_\_\_ of Ottawa County Parks and Recreation Commission, a  
Michigan public body corporation, for the corporation.

\_\_\_\_\_  
Notary public, State of Michigan, County of \_\_\_\_\_

**My commission expires** \_\_\_\_\_

Acting in the County of \_\_\_\_\_



**EXHIBIT "A"**

**Legal Description of Owner's Property**

Tax Parcel Number: *[insert Tax Parcel Number]*

Common Address: *[insert Common Address of Property, if available]*