

LEASE

between

THE CITY OF DETROIT, as Lessor

and

THE STATE OF MICHIGAN, as Lessee

(Belle Isle Park)

This Lease (Lease) is entered into as of the _____ day of _____, 2012, by the **City of Detroit** (Lessor), a municipal corporation by its Recreation Department, whose address is 18100 Meyers, Detroit, MI 48235, and the **State of Michigan** (Lessee) by its Department of Natural Resources (DNR), whose address is Stevens T. Mason Building, P.O. Box 30257, Lansing, Michigan 48909, and its Department of Transportation (MDOT), whose address is 425 W. Ottawa St. P.O. Box 30050, Lansing, MI 48909 (together, the “Parties”).

WITNESSETH:

WHEREAS, the Lessor is the owner of certain land and improvements located on Belle Isle in the City of Detroit that it operates as Belle Isle Park for the benefit of the public;

WHEREAS, the Lessor faces severe fiscal challenges and competing priorities that limit the resources available to support its management, operation, and maintenance of Belle Isle Park;

WHEREAS, Lessee manages, operates, and maintains a system of State parks pursuant to MCL 324.740101 *et seq.*, and is responsible for developing and maintaining a comprehensive plan for the development of outdoor recreation resources of the state pursuant to MCL 324.70301 *et seq.*;

WHEREAS, the Michigan Department of Transportation will acquire jurisdiction of certain roads and bridges pursuant to MCL 247.660a as set forth in this Lease; and

WHEREAS, the Parties enter this Lease effective September ____, 2012, (Effective Date) pursuant to which the Lessee assumes responsibility for the management, operation, and maintenance of the Park.

NOW, THEREFORE, in consideration of the mutual covenants, conditions, agreements, and undertakings contained herein, the Parties agree as follows:

1. LEASE PURPOSE

The purpose of this Lease is to continue and enhance the management, operation, and maintenance of the Park for the benefit of the public. The City hereby makes a grant of this Lease to the State and the State accepts the grant of this Lease, to manage and operate the Park as a State park, under authority of the Natural Resources and Environmental and Protection Act, 1994 PA 452, MCL 324.70301 and 324.74103. The City is transferring and MDOT is accepting jurisdiction of certain roads and bridges at the Park under the authority of MCL 247.660a.

2. GENERAL REQUIREMENTS

2.1 Leased Premises. The Lessor hereby leases to the Lessee, and the Lessee leases from the Lessor, the land described in attached Exhibit A, excluding the roads and bridges identified in Exhibit B and the greenhouses identified in Exhibit D. (Leased Premises).

2.1.1 DNR. The land and waterways in the Park, excluding the roads and bridges identified in Exhibit B and the greenhouses identified in Exhibit D will be under the authority of DNR.

2.1.2 MDOT. The roads and bridges identified in attached Exhibit B (that are eligible for funding under 1951 PA 51, MCL 247.651 *et seq.* [Act 51]) are transferred from the Lessor to MDOT pursuant to MCL 247.660a in the Memorandum of Understanding attached as Exhibit C. Those roads and bridges shall be under the jurisdiction of MDOT for a period of time not to exceed the term of this Lease. Upon expiration of this Lease, jurisdiction of the roads and bridges identified in attached Exhibit B shall be transferred from MDOT to Lessor.

2.1.3 Lessor. Lessor retains authority over the greenhouses identified in Exhibit D. Lessor is responsible for all operations, including utilities, maintenance and capital costs associated with the greenhouses as set forth in the Memorandum of Understanding attached as Exhibit D.

2.2 Rent Consideration. The Parties acknowledge that the value of the management, operation and maintenance services (Lessee Services) provided by the Lessee during any term of this Lease is fair and adequate consideration for this Lease. Lessee will not pay monetary consideration during the term of this Lease or any extension.

2.3 Operation as a State Park. During any term of this Lease, Lessee will operate, manage, and repair (collectively “Manage” or “Management”) the Park, as a State park for the benefit of the public. It is the goal of Lessee to maintain the Park during the Lease term in a manner that is consistent with other State park operations. Lessee, however, shall not be responsible for the maintenance and repair of any utility systems in the Park. Lessee will manage the Park with its own staff, contractors, and other State agencies as Lessee determines appropriate. Further, Lessee is not obligated to assume any liability under, or to continue any of Lessor’s contracts with individuals or private entities for Management of the Park. Lessee is not obligated to employ anyone employed by Lessor.

2.3.1 Roads and Bridges. For any period of time that this Lease and the Memorandum of Understanding are in effect, MDOT will maintain the roads and bridges identified in Exhibit B. MDOT is not obligated to assume any liability under, or to continue any of Lessor's contracts related to any of the roads or bridges. MDOT is not obligated to employ anyone employed by Lessor.

2.3.2 Funding for Roads and Bridges. For any period of time that the roads and bridges identified in Exhibit B are under MDOT's jurisdiction, MDOT will develop an asset management plan outlining short and long term strategies to maintain the roads and bridges in an acceptable condition. MDOT will use Michigan transportation funds the City would have received under Act 51 for roads and bridges identified in Exhibit B as if jurisdiction had not been transferred to MDOT to maintain those roads and bridges.

2.4 DNR Rules and Orders. During the term and any extensions of this Lease, the use of the Leased Premises will be subject to the DNR State park laws, rules, regulations, the Director's land use orders and any other State law applicable to State park management. Additionally, Lessee may adopt the Lessor's rules and regulations that protect the natural resources and health and safety of the public.

2.5 Recreation Passports. The Lessee will institute the State's Recreation Passport access program requirements for vehicles as set forth in MCL 257.805; MCL 324.2001; MCL 324.74115; MCL 324.74116; MCL 324.74117; MCL 324.74120, and other applicable laws. The Recreation Passport fee requirements are waived for the Park until March 31, 2013, pursuant to MCL 324.74116(4)(c).

2.6 Park Revenue. During any term of this Lease, Lessee will collect, receive, and administer, subject to applicable law, all revenue generated or earned from Lessee's Management of the Park, including but not limited to revenue generated or earned from: grants; endowments; special events; private lease revenue; concessions; vendors and other contractors; revenue licenses; permit revenue; fees collected; and revenue generated or earned from sponsorships, advertising, and cooperative ventures (collectively "Park Revenue"). Park Revenue does not include Recreation Passport Revenue. Lessee may only use Park Revenue to Manage and improve the Park as set forth in this Lease, including expenditures for promotion and marketing of Park events and programs, and for any incurred legal expenses arising out of Lessee's fulfillment of its obligations under this Lease.

2.7 Park Sub-Account. Lessee will establish a sub-account in the Department of Natural Resources State Park improvement account (Sub-Account) to administer Park Revenue referenced in paragraph 2.7.

2.8 Revenue Paid to Lessor. Lessor must remit to Lessee, for deposit in the Sub-Account, any payments paid to Lessor for events that occur at the Park after the Effective Date of the Lease, including payments Lessor has already received. Lessor must also remit to Lessee, for deposit in the Sub-Account any Park Revenue paid to Lessor after the end of the Transition Period.

2.9 Accounting and Audits. Lessee will provide Lessor an annual accounting of the Park Revenue. Lessor has the right to review and audit the Lessee's records related to Park Revenue annually.

2.10 Law Enforcement, Fire Protection, and EMS Services (Public Safety). Lessor and Lessee will cooperate, based on a security plan, to provide Public Safety services, for the benefit of visitors, volunteers, and employees in the Park, during the term of this Lease and any extensions. Lessor and Lessee agree to jointly complete a security plan during the Transition Period that will designate roles for each entity and provide for shared jurisdiction to enforce all laws, including local ordinances, within the Park.

2.11 Reports. Lessee will provide annual reports concerning Lessee's Management of the Park to the Mayor of the City of Detroit and Detroit City Council.

2.12 Advisory Committee. The Parties will create an advisory committee to advise the Parties on implementation of improvements and master planning for the Park. The advisory committee will consist of five (5) members appointed by the Governor; three (3) members appointed by the Mayor of the City of Detroit; two (2) members appointed by City Council; and one (1) member, who shall also chair the committee, jointly appointed by the Governor and the Mayor.

2.13 Non-Profit Entities. Lessee and Lessor will work cooperatively with the Belle Isle Conservancy or its successor.

2.14 Title to Leased Premises. Before expiration of the Transition Period, Lessor must furnish to Lessee a legible copy of the recorded instruments evidencing title in the Lessor to the Leased Premises, and copies of all other recorded and unrecorded documents limiting or restricting the use of, or affecting title, to the Leased Premises. Lessee accepts the Leased Premises subject to easements, encumbrances, and restrictions of record.

3. TRANSITION RESPONSIBILITIES

3.1 Transition Period. This Lease includes a ninety (90) calendar day transition period commencing on the Effective Date of this Lease (Transition Period). During the Transition Period, the Parties will work cooperatively to facilitate the transfer of the Management of the Park from the Lessor to the Lessee.

3.2 Assignments. Within thirty (30) Business Days of the Effective Date of this Lease, Lessor will take all actions needed to effectuate assignment to Lessee its interests in the following, subject to Lessee's acceptance:

3.2.1 Grants and Endowments. Within thirty (30) Business Days of the Effective Date of this Lease, Lessor must provide to Lessee copies of the grant and endowment agreements and all documents Lessor identifies as having grant or endowment imposed restrictions and conditions. A list of those agreements will be added to this Lease as an exhibit at a later date.

Lessee acknowledges that some or all portions of the Park may be subject to restrictions and conditions imposed by sources of grant funds and endowments used to acquire or make improvements to the Park, and that this Lease is subject to those restrictions and conditions. Before expiration of the Transition Period, Lessor will transfer to the Lessee all unexpended grant and endowment funds for deposit in the Park's Sub-Account.

3.2.2 Leases, Licenses, Permits, and other Agreements between Lessor and Third Parties (Third Party Agreements). Within thirty (30) Business Days of the Effective Date of this Lease, Lessor must provide Lessee with copies of all Third Party Agreements relating to the use or occupancy of the Park. Lessee will review the Third Party Agreements and, before expiration of the Transition Period, provide the Lessor with a list of the Third Party Agreements Lessee will assume. Lessor will promptly take all actions needed to effectuate the assignment of the Third Party Agreements to the Lessee.

3.2.3 Vendor Contracts. Within thirty (30) Business Days of the Effective Date of this Lease, Lessor must provide Lessee with copies of all contracts that Lessor has entered for goods or for maintenance or other operational services for the Park (Vendor Contracts). Lessee will review the Vendor Contracts and, before expiration of the Transition Period, provide the Lessor with a list of the Vendor Contracts Lessee decides to continue. Lessee is not obligated to assume any Vendor Contracts.

3.2.4 Personal Property. Within Ninety (90) calendar days of the Effective Date of this Lease, Lessor must provide Lessee with an inventory of personal property that will remain at the Park for its operation and maintenance to which the City may transfer title to Lessee without necessitating a vote of the people. Lessee will review the inventory and, before expiration of the Transition Period, provide the Lessor with a list of the inventory Lessee decides to keep. Lessor must facilitate transfer of title to personal property to the Lessee. Lessor must remove from the Park personal property not transferred to Lessee within ninety (90) calendar days after expiration of the Transition Period.

3.3 Environmental Condition. Within thirty (30) calendar days of the Effective Date of this Lease, Lessor must provide Lessee with copies of all of its records regarding the Park's environmental condition, including but not limited to: any environmental assessments or investigations, locations of any off-site fill placements, location of above and below ground tanks, any Due Care plans obligations and requirements; any information on releases of hazardous substances and any response activities taken or planned.

3.4 Lessor's Park Staff. Lessor will maintain and pay all expenses for its Park staff during the Transition Period and assign staff to work with Lessee in all manners necessary to facilitate Lessee's assumption of its obligations under this Lease.

4. TERM, OPTIONS TO TERMINATE, QUIET ENJOYMENT, AND SURRENDER OF POSSESSION

4.1 Term. The term of this Lease is thirty (30) years from this Lease's Effective Date. The Lease shall be extended, under the same terms and conditions, for a second thirty (30) year term unless the Lessee provides written notice to the Lessor of the Lessee's intent not to extend the term at least one (1) year before the initial term expires or the Lessor provides written notice to the Lessee of Lessor's intent not to extend the term at least one (1) year before the initial term expires. The Lease shall be further extended, under the same terms and conditions for a third thirty (30) year term unless the Lessee provides written notice to the Lessor of the Lessee's intent not to extend the term at least one (1) year before the second term expires.

4.2 Grant Obligations. From and after the termination of this Lease pursuant to paragraph 4.1, the Lessor shall operate and maintain the Leased Premises in accordance with the same long term grant obligations and encumbrances imposed under the term of any of the grants obtained by the Lessee to construct the improvements on the Leased Premises. Such grant obligations may extend past the expiration or termination of this Lease.

4.3 Lessee Termination. This Lease may be terminated by the Lessee after eighteen (18) months prior written notice to Lessor. Such notice must give both the proposed date of termination and identify those obstacles to continuation of the Lessee's obligations that prompted such notice. At any time between receipt of a notice of an intent to terminate from the Lessee until one (1) month prior to the termination date, the Lessor may call for up to three negotiating sessions where the parties shall work in good faith to resolve any obstacles to the continuing of this Lease for its current Term. The Director of the Department of Natural Resources shall attend such sessions in person.

4.4 Lessor's Option to Terminate for Cause. In the event the Lessee materially breaches this Lease, the Lessor must provide Lessee notice of the breach and must provide a thirty (30) Business Day period to cure. If Lessee fails to timely cure, Lessor may, at its option terminate this Lease, and the Lessee will surrender possession of the Leased Premises including all improvements within ninety (90) Business Days of notice of termination.

4.5 Quiet Enjoyment. The Lessee, upon performance of its obligations specified in this Lease, will peacefully and quietly have, hold, and enjoy the Leased Premises for the term of this Lease and any extensions.

4.6 Surrender of Possession and Park Revenue. Upon the termination or expiration of this Lease or any extension, the Lessee will promptly and peacefully yield, surrender, and deliver the Leased Premises to the Lessor. Lessee will also transfer any unexpended balance of Park Revenue then in the Sub-Account, to the Lessor.

5. CONDITION OF THE LEASED PREMISES

5.1 No Representations. The Lessee acknowledges that the Lessor has made no representations, express or implied, as to the condition of the Leased Premises, including but not limited to the state of repair, or any other representations not contained in this Lease. The Lessee at its sole cost may but is not obligated to perform a baseline environmental assessment in

accordance with Part 201 of the Natural Resources and Environmental Protection Act, Act 451 of 1994, as amended.

5.2 Hazardous Substances after Transition Period. The Lessee covenants that in the event a release or the threat of a release of a hazardous substance by the Lessee occurs on, in or under the Leased Premises after the Transition Period, the Lessee will report, investigate and take response activity consistent with Federal, State and local laws and regulations including, without limitation, Part 201 of the Natural Resources and Environmental Act (NREPA), MCL 324.20101, *et seq.*

5.3 Entry by Lessor. The Lessor or Lessor's agent may enter restricted areas of the Leased Premises with forty-eight (48) hours advance notice to the Lessee except for immediate access needed due to emergency situations, in which event, notice must be given as soon as possible.

6. PARK MANAGEMENT

6.1 Park Maintenance and Repair. Lessee will maintain and repair the Park including the MacArthur Bridge, other bridges, roads, walkways, and waterways, as provided in paragraph 2.3. Lessee is not obligated to assume any liability under, or to continue any of Lessor's contracts with individuals, or private entities for maintenance or repair of the Park.

6.2 Park Improvements and Alterations. It is Lessee's intent to make improvements and alterations, to the Park consistent with the phased management approach set forth in Exhibit E, State park operations, and existing restrictions, including restrictions in grant agreements, historic designations, donation encumbrances, or other agreements. Upon the termination of this Lease, unless otherwise agreed to in writing by the Parties, all improvements and alterations will remain on the Leased Premises, and will become the property of the Lessor. Lessor acknowledges that some or all Park improvements may be subject to restrictions and conditions imposed by sources of grant funds and endowments used to acquire or make the Park improvements, and that Lessor must accept Park improvements subject to those restrictions and conditions.

6.3 Leases. Lessee has exclusive authority over all aspects of current and future Park leases, including the leases Lessor assigns or transfers to Lessee pursuant to this Lease, subleases for land, and subleases for water access on or to the Park. Lessee's authority includes the authority to enter into leases, terminate, modify, assign, and administer leases. Lessor agrees to take all actions required to assign or transfer such leases to Lessee in accordance with this paragraph 6.3.

6.4 Contracts, Licenses, and Permits. Lessee has the exclusive rights to enter into contracts, and issue licenses and permits for the Park.

6.4.1 Special Events. Special events that are under existing agreements for 2012 and beyond will continue as planned; however, Lessee will collect and receive any fees or other revenue generated from any event that occurs after the Effective Date of this Lease.

6.5 Utilities. After the Transition Period, Lessee will pay 100% of all use charges for public utilities services consumed in the Park, including but not limited to heating, cooling, illumination, power, water, sewer, and telecommunications (if any), restricted to the Lessee's Management and improvement of the Park, that are incurred after the Transition Period. Additionally, Lessee will pay for those utility infrastructure improvements or maintenance charges that are necessitated by Lessee's improvement of the Park pursuant to this Lease that are incurred after the Transition Period.

7. ASSIGNMENT AND SUBLETTING

7.1 Except as provided in paragraph 7.2 the Lessee must not assign this Lease or any rights hereunder, nor sublet the Leased Premises, or any part thereof, nor use, nor permit it to be used for any purposes inconsistent with this Lease without the prior written consent of the Lessor, which shall not be unreasonably withheld.

7.2 Lessee may enter into other agreements, including but not limited to subleases, licenses, permits, and contracts for any part of the Leased Premises for recreation related purposes consistent with paragraph 2.3.

8. NOTICES

Any notice which either Party may or is required to give under this Lease must be in writing and sent by USPS, postage prepaid, by first class mail, addressed as follows:

a) Notice to the Lessee:

Chief, Parks and Recreation Division
Michigan Department of Natural Resources
Stevens T. Mason Building
P.O. Box 30257
Lansing, MI 48909-7757

Director, Michigan Department of Transportation
425 W. Ottawa St. P.O.
Box 30050
Lansing, MI 48909

b) Notice to the Lessor:

Detroit Recreation Department

Attn: Department Director
18100 Meyers
Detroit, MI 48235

9. GENERAL PROVISIONS

9.1 Waiver. One or more waivers of the breach of any covenant or condition under this Lease, or failure by either party to give notice thereof, must not be construed as a waiver of a further breach of the same covenant or condition.

9.2 Representations. No agreement will be binding upon the Parties unless made in writing and signed by them. No representation except those written in this Lease, or any collateral agreement to the Lease will be binding upon the Parties unless they are in writing and approved by the Parties according to the amendment procedure in this Lease.

9.3 Remedies Not Exclusive. It is agreed that each of the rights, remedies and benefits provided by this Lease are cumulative, and are not exclusive of any other rights, remedies and benefits contained in this Lease, or of any other rights, remedies and benefits allowed by law.

9.4 Successors and Assigns. The covenants, conditions and agreements made and entered into by the Parties inure to the benefit of and are binding upon their respective successors, representatives and permitted assigns.

9.5 Statutory Requirements.

9.5.1 Both the Lessor and the Lessee will comply with the Elliott-Larsen Civil Rights Act, 1976 PA 453, as amended, MCL 37.2101 *et seq*, the Persons with Disabilities Civil Rights Act, 1976 PA 220, as amended, MCL 37.1101 *et seq*, and all other federal, state, and local fair employment practices and equal opportunity laws and covenant that they shall not discriminate against any employee or applicant for employment, to be employed in the performance of this Lease, with respect to his or her hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment, because of his or her race, religion, color, national origin, age, sex, height, weight, marital status, or physical or mental disability that is unrelated to the individual's ability to perform the duties of a particular job or position. A breach of these requirements is a material breach of the Lease.

9.5.2 Unfair Labor Practices. The State may void this Lease, if the Lessor, or any of its contractors, subcontractors, manufacturers or suppliers appear in the register compiled pursuant to 1980 PA 278, as amended, MCL 423.321 *et seq*. (Employers Engaging in Unfair Labor Practices Act).

9.6 Business Day. Business day means any day other than a Saturday, Sunday, or State-recognized legal holiday from 8:00am through 5:00pm EST.

9.7 Appropriation of Funds. DNR's and MDOT's performance of obligations under this Lease is subject to the availability of appropriated funds.

9.8 Entire Agreement, Severability, and Required Approvals. All terms and conditions of this Lease are as set forth in this Lease. This Lease, with all enclosures and attachments, as listed below, constitutes the entire agreement of the Parties with regard to this transaction. Should any provision of this Lease or any addendum thereto be found to be illegal or otherwise unenforceable by a court of competent jurisdiction, such provision must be severed from the remainder of the Lease and all other terms and conditions of this Lease will continue in full force and effect. This Lease is not valid or authorized until approved by the Mayor of the City of Detroit, the Detroit City Council, and the Lessee.

9.9 Amendments. No amendment or extension of this Lease shall be effective and binding on the Parties unless it expressly makes reference to this Lease, is in writing and is signed and acknowledged by the duly authorized representatives of the Lessor and the Lessee, and approved by the Mayor of the City of Detroit and the Detroit City Council.

9.10 Memorandum of Lease. Upon final execution of this Lease, Lessee will record a Memorandum of Lease with the Wayne County Register of Deeds.

9.11 Governing Law. This Lease shall be interpreted in accordance with the laws of the State of Michigan.

9.12 Effective Date. This Lease is effective on the date it is approved by the Detroit City Council.

9.13 Counterparts. This Lease may be executed in any number of counterparts each of which shall be deemed an original agreement, but all of which together shall constitute but one Lease. Copies (whether facsimile, photostatic or otherwise) of signatures to this Lease will be deemed to be originals and may be relied on to the same extent as the originals.

9.14 List of Exhibits. The following Exhibits are attached to and made a part of this Lease:

- Exhibit A Legal Description
- Exhibit B Identification of Roads and Bridges
- Exhibit C Memorandum of Understanding between the City and MDOT
- Exhibit D Memorandum of Understanding between the City and DNR Regarding the Belle Isle Greenhouses
- Exhibit E Phased Management Approach of Belle Isle dated July 2012

IN WITNESS WHEREOF, the Lessor and the Lessee, by and through their duly authorized representatives, have executed this Lease as of the dates of their respective signatures:

SIGNATURE PAGES FOLLOW

THIS LEASE WAS CO-DRAFTED BY THE PARTIES.

LESSOR:

CITY OF DETROIT
by its Recreation Department

Witness:

1st Witness:
Print name of witness

Print name:
Title:

2nd Witness
Print name of witness

THIS CONTRACT WAS APPROVED
BY THE CITY COUNCIL ON

APPROVED BY THE LAW
DEPARTMENT PURSUANT TO § 6-406
OF THE CHAPTER OF THE CITY OF
DETROIT

Date

Purchasing Director Date

Corporation Counsel Date

THIS CONTRACT IS NOT VALID OR AUTHORIZED UNTIL APPROVED BY
RESOLUTION OF THE CITY COUNCIL AND SIGNED BY THE PURCHASING
DIRECTOR.

State of Michigan, County of Wayne

The foregoing instrument was acknowledged before me this ____ day of September, 2012, by

_____, the _____,

Typed or printed name(s) of person(s) signing this document

for the _____ of the City of Detroit, a Michigan

Municipal Corporation. _____, Notary Public in the County

of _____, Acting in the County of _____, State of Michigan.

My commission expires: _____.

LESSEE:

STATE OF MICHIGAN
Department of Natural Resources

Witnesses:

1st Witness:
Print name of witness

Print Name:
Title:

2nd Witness:
Print name of witness:

State of Michigan, County of Ingham

The foregoing instrument was acknowledged before me this ____ day of September, 2012, by

_____, the Notary for the State of
Typed or printed name(s) of person(s) signing this document

Michigan Department of _____, Notary Public in the County

Notary's signature
of _____, Acting in the County of _____, State of Michigan.

My commission expires: _____.

LESSEE:

STATE OF MICHIGAN
Department of Transportation

Witnesses:

1st Witness:
Print name of witness

Print Name:
Title:

2nd Witness:
Print name of witness:

State of Michigan, County of Ingham

The foregoing instrument was acknowledged before me this ____ day of September, 2012, by

_____, the Notary for the State of
Typed or printed name(s) of person(s) signing this document

Michigan Department of _____, Notary Public in the County

Notary's signature
of _____, Acting in the County of _____, State of Michigan.

My commission expires: _____.

EXHIBIT A
LEGAL DESCRIPTION

9/11/12 Version (3) (5:40 p.m.)