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| **DNR_Logo-Clear** | Michigan Department of Natural Resources **Gift and Acceptance Agreement for Designand/or Construction of a Facility***By authority of Part 5 of Act 451, P.A. of 1994, as amended.* |  |

 This Gift and Acceptance Agreement (Agreement), effective as of the date of the signed agreement, is entered into between **(Name of Organization Providing the Gift),** **(Type of Organization, i.e., Nonprofit Corporation)** whose address is,       and the STATE OF MICHIGAN through the DEPARTMENT OF NATURAL RESOURCES (DNR), whose address is P.O. BOX 30257, LANSING MI 48909-7757.

**RECITALS**

**A.** The DNR has jurisdiction over certain real property, located in  Township,
 County, MI (Site).

**B.** **(Name of Organization)** is an organization with a mission**.** **(Mission of organization not details of the project.)**

**C.** **(Name of Organization)** desires to engineer, construct and give a gift to the DNR of improvements to the Site (Site Improvements), subject to the terms and conditions of this Agreement. **(Name of Organization)** desires to enter the Site for the purpose of constructing the Site Improvements.

**D.** The DNR desires to accept **(Name of Organization)** gift of the Site Improvements, conditioned upon completion of the Site Improvements as provided in this Agreement. The DNR is willing to permit **(Name of Organization)** and its employees, agents, members and contractors to enter the Site to perform all work related to construction of the Site Improvements, subject to the terms and conditions of this Agreement.

**E.** **(Name of Organization)** and the DNR intend that the gift of Site Improvements will be used to enhance the Site for the benefit and recreation of the public.

**ARTICLE I**

**GIFT TO DNR**

* 1. **Gift of the Site Improvements.** **(Name of Organization)** hereby makes a gift of the Site Improvements to the DNR, as described on attached Exhibit A. This gift is conditioned upon the terms and conditions of this Agreement.
	2. **Conditional Acceptance of Gift.** The DNR agrees to accept the gift of the fully constructed Site Improvements, subject to the terms and conditions of this Agreement, and conditioned upon substantial completion of the Site Improvements, as required in this Agreement.
	3. **Donor Recognition.** **(Name of Organization)** shall be entitled, subject to applicable law and reasonable discretion of the DNR, to place and maintain in a visible location on the Site Improvements, at its own cost, a plaque, sign or other designation identifying its gift. The DNR may also recognize the donor pursuant to any applicable State of Michigan policy or procedure.

**ARTICLE II**

**LICENSE & CONDITION OF SITE**

**2.1.** **License to Enter Site.** The DNR grants **(Name of Organization)** and its employees, agents, members and contractors, a non-exclusive revocable license to enter the Site for the purposes of constructing the Site Improvements and other related work. The DNR agrees to provide access to the Site as reasonably required in connection with the construction of the Site Improvements and other related work. This license shall continue until the Site Improvements have been completed and accepted by DNR pursuant to Article VII, Section 7.2. of this Agreement.

**2.2. Condition of Site. (Name of Organization)** represents and warrants that **(Name of Organization)** has examined the Site and that the Site is in an appropriate condition, in its “as is” condition, for **(Name of Organization)** construction of the Site Improvements. **(Name of Organization)** agrees to maintain the Site in its presentcondition, except for the construction of the Site Improvements**.**

**ARTICLE III**

**DESIGN OF THE SITE IMPROVEMENTS**

**3.1.** **Design Plans.** Prior to beginning construction of Site Improvements, **(Name of Organization)** shall submit the engineering design plans for the Site Improvements (Plans), for the review and approval of the DNR. The DNR shall notify **(Name of Organization)** if the Plans are found to be deficient. In that event, the Plans shall be revised as directed by the DNR and resubmitted to the DNR for review and approval. The DNR shall promptly notify **(Name of Organization)** in writing when the DNR has approved the Plans. The Site Improvements are to be constructed in accordance with the final drawings and specifications approved by the DNR.

**3.2.** **Plan Revisions.** The parties acknowledge that the Plans may have to be revised after the initial review and approval. The Plans shall not be revised without the prior written agreement of the parties. The DNR shall be provided amended Plans detailing all agreed upon changes. The Plans and their revisions, if any, are to be incorporated by reference into this Agreement.

**3.3.** **Plan Revisions Relating to Site Conditions.**  The parties acknowledge that the Plans may have to be revised to accommodate unforeseen site conditions discovered at the time of construction. The construction changes shall not occur without the prior written approval of the DNR.

**3.4. As-Built Plans.** **(Name of Organization)** contractors shall provide to the DNR all final “as-built” or “record” drawings, warranties, operating and maintenance manuals and shop drawings required in connection with the furnishing of the materials, products, services or equipment for the Site Improvements.

* 1. **Design Corrections.** **(Name of Organization)** agrees that if it or its contractors commit or cause a negligent error or omission in the design of the Site Improvements, **(Name of Organization)** shall take such action, legal or otherwise, at **(Name of Organization)**’s cost, to obtain from the contractors, the contractors’ surety, or by other means, a design and/or Site Improvements that are free from such error or omission.

**ARTICLE IV**

**CONSTRUCTION CONTRACTS**

**4.1. Contracts.** **(Name of Organization)** may enter into contracts for the construction of the Site Improvements (Contracts). All contracts shall provide that the DNR shall be notified and may be involved in the pre-construction and construction progress meetings for the construction of the Site Improvements.

* 1. **Third Party Beneficiary. (Name of Organization)** shall include in all Contracts, that the DNR is the intended third party beneficiary of the obligations of the contractors under all construction contracts entered to construct the Site Improvements, and that DNR shall be entitled to directly enforce the construction contracts.
	2. **No Financial Obligation by DNR. (Name of Organization)** acknowledges that the DNR shall have no responsibility for any performance, including financial obligations, under the Contracts.
	3. **Compliance.** **(Name of Organization)** shall comply with all applicable laws, regulations, and codes in connection with its use of the Site.
	4. **Performance and Payment Bonds.** Before beginning any construction, the designated contractors shall provide **(Name of Organization)** and the DNR, written evidence from a surety company authorized to do business in the State of Michigan by the Michigan Department of Licensing and Regulatory Affairs – Insurance Bureau listed on the U.S. Department of the Treasury Circular 570, showing that performance bonds and payment bonds (Bonds) have been issued in the amount of one hundred percent (100%) of the value of the construction contracts for Site Improvements. The Bonds shall be obtained in a manner consistent with Michigan law. The State of Michigan shall be named as a co-obligee on the Bonds and may enforce the Bonds in the same manner as **(Name of Organization)**. Attorneys-in-Fact who sign the Bonds shall attach a certified copy of their Power of Attorney to sign such Bonds and to conduct business in the State of Michigan. **(Name of Organization)** agrees that if a contractor fails to achieve completion under its Contract, that **(Name of Organization)** shall take such action, legal or otherwise, at **(Name of Organization)**’s cost, as necessary to obtain completion by the contractor, through the contractor's surety, or by other means of enforcement available under the law. In the event **(Name of Organization)** fails to cure the contractor's default as set forth in this provision within sixty (60) days after the contractor’s default, DNR may, but is not obligated to, exercise its remedies as co-obligee under the Bonds **(Name of Organization)** shall notify DNR of a contractor's failure to perform a material obligation under a construction contract.
	5. **Permits.** DNR as the land owner may sign off on behalf of **(Name of Organization)**. The necessary preparation of permits, fees, filing and approvals required to construct the site improvements shall be the responsibility of the **(Name of Organization)**.
	6. **Contractor Coordination.** **(Name of Organization)** is responsible for coordinating its contractors, Plans and construction inspections.
	7. **Project Manager.** Prior to the commencement of any construction **(Name of Organization)** will provide to DNR written designation of the person to be its authorized representative (Project Manager). The Project Manager shall provide construction oversight to ensure that all construction activities comply with the Plans and the requirements of this Agreement. **(Name of Organization)** will provide prompt written notice to the DNR as to any change of Project Manager.

**ARTICLE V**

**CONSTRUCTION OF SITE IMPROVEMENTS**

**5.1 Financial Obligation.**  **(Name of Organization)** shall provide the material and labor to complete the construction of the Site Improvements. All labor will be conducted under the supervision of the respective licensed contractors, e.g., builder, plumber, electrician.

**5.2. Location.** The DNR has determined the location for the Site Improvements, as shown on a site drawing approved by both parties. Before construction work is started, the contractors or **(Name of Organization)** qualified volunteers shall stake, subject to the DNR’s review, the Site Improvement’s location. In addition, the contractors or qualified volunteers shall confirm, subject to the DNR's review, the location of any utility leads from the Site Improvements before construction work is started.

**5.3. Construction Period.** The parties agree that **(Name of Organization)** has **one** year total in which to construct the Site Improvements. The Site Improvements shall be completed within one year after commencement of construction.

**5.4. Construction Clean-up. (Name of Organization)** shall assure that all construction areas, as well as areas used for storage of construction equipment and construction materials, are kept free from waste materials and rubbish during construction. **(Name of Organization)** shall assure that all waste, tools, equipment, staging and surplus materials are removed, and construction areas are left clean and ready for use.

**5.5. Ingress and Egress.** Access routes for construction shall be identified and approved by the DNR prior to usage.

**ARTICLE VI**

**INSPECTION OF THE SITE IMPROVEMENTS**

**6.1. Special Inspection and Testing.**  The **(Name of Organization)** shall provide the DNR written notification at a minimum of forty-eight hours in advance in advance of any special inspections or testing at the construction site. Copies of all inspection and test reports shall be provided to the DNR.

* 1. **DNR Inspector.** The DNR may provide an authorized, qualified inspector to be present at the construction site on a regular basis during construction of the Site Improvements to periodically inspect the completed construction of portions of the Site Improvements. The DNR inspector shall be notified at a minimum of forty-eight hours in advance of scheduled progress meetings including those intended for substantial completion (punch list) and final completion. The DNR inspector shall be notified at a minimum of forty-eight hours in advance before any concrete is poured or underground piping is covered. The DNR inspector shall promptly notify **(Name of Organization)** Project Manager, in writing, in the event that the inspector determines any construction work is defective, or not in conformance with the Plans, or applicable laws, ordinances, or regulations. The Project Manager shall ensure that the responsible contractor takes corrective action within a time frame as agreed upon by the DNR inspector and the Project Manager.

**6.3. Inspections for the Benefit of DNR.** Inspections or observations by the DNR inspector shall not **(a)** create or impose any duty on the inspector to make the observations for the benefit of **(Name of Organization)**or any other entity, **(b)** release **(Name of Organization)**, the contractors, or their employees, agents or subcontractor from the obligation to perform the work in accordance with the construction contracts, or **(c)** represent acceptance of defective work.

**ARTICLE VII**

**SUBSTANTIAL COMPLETION AND ACCEPTANCE**

**7.1. Notice to Parties.** When the Project Manager determines that the Site Improvements are substantially complete, as defined in the Contracts, the Project Manager shall send written notice to **(Name of Organization)** and the DNR. **(Name of Organization)** and the DNR inspector shall within thirty (30) days of receipt of the written notice conduct an inspection of the completed Site Improvements to determine whether the construction has been completed according to the Plans and to prepare a punch list of items to be completed or corrected. When **(Name of Organization)** and the DNR inspector determine that the Site Improvements are substantially complete according to the Plans (Substantial Completion), the DNR inspector and **(Name of Organization)** shall prepare a Certificate of Substantial Completion (Certificate) in the form attached to this Agreement as Exhibit C.

**7.2. Execution of Certificate.** The Execution of the Certificate of Substantial Completion for the Site Improvements shall constitute an acceptance of the Site Improvements by the DNR and its Director in accordance with terms of the Certificate.

**7.3. Claims.** The execution by the DNR and **(Name of Organization)** of the Certificate shall constitute a waiver of all claims against any contractor with respect to construction of the Site Improvements except those arising from: (a) unsettled liens; (b) faulty or defective work appearing after the date of substantial completion; (c) failure of the work to comply with the requirements of the Plans or the requirements of the applicable construction contracts; (d) terms of any special warranties required by the Plans; (e) insurance and indemnification obligations of any contractor under the Contract; (f) failure of any contractor to complete punch list items in accordance with the Certificate; or (g) unsettled claims.

**7.4. Contractor Warranties.** **(Name of Organization)** agrees that each Contract shall provide that, commencing at the time of Substantial Completion of the Site Improvements, all warranties provided by the contractors under the Contracts or under law shall inure to the benefit of, and shall be enforceable by, the DNR and its employees and agents for a timeframe of at least one calendar year. **(Name of Organization)** shall provide the DNR with all warranties provided by each contractor at the time of completion of the construction of the Site Improvements.

**7.5. Contractor Default.** **(Name of Organization)** agrees that if a contractor fails to achieve Substantial Completion of the Site Improvements under its Contract including punch list items, through no fault or neglect of the DNR, **(Name of Organization)** shall take such action, legal or otherwise, at **(Name of Organization)**’s cost, to obtain completion of the Site Improvements by any means of enforcement available under law, including but not limited to, performance by the contractor’s bond surety.

**ARTICLE VIII**

**INDEMNIFICATION**

***(Note:* Organization must agree to this section or gift cannot be accepted)**

**8.1. Indemnification.** **(Name of Organization)** shall indemnify and hold harmless the State of Michigan, its departments, divisions, agencies, sections, commissions, officers, employees and agents, from and against all claims, costs, suits, demands, actions, liabilities, damages, causes of action or judgments, including but not limited to, alleged violations of environmental laws, that may in any manner be imposed on or incurred by the State, its agents and employees, for any bodily injury, loss of life, and/or damage to property, resulting from, arising out of, or in any way connected with the **(Name of Organization)’**s design and/or construction of the Site Improvements or use of the site.

**ARTICLE IX**

**INSURANCE**

***(Note:* Organization must agree to this section or gift cannot be accepted)**

**9.1. Levels and Purpose.** **(Name of Organization)** shall provide to the DNR proof of the minimum levels of insurance coverage as indicated below. The purpose of this coverage shall be to protect the State of Michigan from claims which may arise out of or result from the performance of the terms of this Agreement, whether performed by **(Name of Organization)**, or by any contractor, subcontractor, or by anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable.

**9.2. Waiver of Rights.** **(Name of Organization)** waives all rights against the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees and agents for recovery of damages to the extent these damages are covered by the insurance policies **(Name of Organization)** is required to maintain pursuant to this Agreement.

**9.3. Minimum Coverage and Deductibles.** The insurance policies shall be written for not less than any minimum coverage herein specified or required by law, whichever is greater. All deductible amounts for any of the required policies shall be not greater than $10,000.00.

**9.4. Insurance Company.** Insurance will be provided by a responsible and reputable insurance company licensed or admitted to do business in the State of Michigan.

**9.5. Proof of Insurance.** Before starting work, a designated contractor shall cause to be furnished to the DNR, certificates of insurance verifying insurance coverage. The certificates are to be prepared and submitted by the insurance provider and not **(Name of Organization)** or any other insured party. The certificates shall contain a provision indicating that the coverage afforded under the policies will not be cancelled or materially changed without thirty (30) days prior written notice to the DNR. The insurance policies shall also contain a provision or endorsement providing that the insurers’ rights of subrogation are waived. In addition, any citing of a policy of insurance must include a listing of the states where that policy’s coverage is applicable.

**9.6. Automobile.**  Automobile insurance must be obtained as required by law for claims arising from ownership, maintenance, or use of motor vehicles.

**9.7. Types and Amounts.**  **(Name of Organization)** shall obtain the following types and amounts of insurance:

(a) Commercial General Liability (CGL) Insurance with a limit of not less than one million dollars CGL limit each occurrence.

(b) The State of Michigan, its officers, agents, employees, departments, and commissions, must be listed as additional insureds on the Commercial General Liability policy. Such additional insured status shall be limited to **(Name of Organization)**’s obligations under this Agreement. All insurance coverage provided relative to this Agreement is primary to any comparable insurance (including self-insurance) carried by the State.

(c) The contractor shall provide Professional Liability Coverage in the case of faulty workmanship, design etc. and will name the DNR and the **(Name of Organization)** and/or its agents and contractors as additional insureds.

**9.8. Workers Compensation.** **(Name of Organization)** shall obtain workers compensation insurance under the Michigan Workers Compensation Act or similar employee benefit act or any other state act applicable to an employee, along with Employer’s Liability Insurance for claims for damages due to bodily injury, occupational sickness or disease or death of an employee when workers compensation may not be an exclusive remedy, subject to a limit of liability of not less than $100,000 each incident.

**ARTICLE X**

**NONDISCRIMINATION AND UNFAIR LABOR PRACTICES**

***(Note:* Organization must agree to this section or gift cannot be accepted)**

* 1. **Compliance.** **(Name of Organization)** shall comply with the Elliot-Larsen Civil Rights Act, 1976 PA 435, 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 practice and equal opportunity laws, and covenants. **(Name of Organization)** shall not discriminate against any employee or applicant for employment, 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. **(Name of Organization)** agrees to require, in every contract or subcontract entered into for the performance of this Agreement, covenants not to discriminate in employment.
	2. **Violation is a Breach.** A violation of the discrimination covenants shall be regarded as a material breach of this Agreement.
	3. **Listed Contractors.** The DNR may void this Agreement, if **(Name of Organization)** or any of its contractors, subcontractors, manufacturers, or suppliers appear in the register compiled by the Michigan Department of Energy, Labor and Economic Growth pursuant to 1980 PA 278, as amended, MCL 423.321 et seq. (Employers Engaging in Unfair Labor Practices Act).

**ARTICLE XI**

**MISCELLANEOUS**

**11.1. Naming Recognition.** If the gift(s) involves the naming of the gift(s) in honor of an individual, the DNR reserves the right to submit that individual’s name for a criminal background review.  If the review is unacceptable, the DNR reserves the right to decline the gift(s).

**11.2.** **Non-Waiver.** No failure by the DNR or **(Name of Organization)** to insist upon strict performance of any covenant, agreement, term or condition of this Agreement or to exercise any right, agreement, term or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach or of such covenant, agreement, term or condition.

**11.3. Entire Agreement.** This Agreement represents the entire and integrated agreement between the DNR and **(Name of Organization)** with respect to the construction of the Site Improvements and supersedes all prior negotiations, representations or agreements, either written or oral, relating to the construction of the Site Improvements. This Agreement may be amended only by written instrument signed by both parties.

**11.4. DNR Authority.** The DNR represents that the DNR and/or the DNR Director, or designee, has authority as may be required by law to enter into this Agreement and to accept the gift of the Site Improvements, subject to the terms and conditions of this Agreement.

**11.5 (Name of Organization) Authority.** **(Name of Organization)** represents that any signatory to this Agreement signing on its behalf has the authority to enter into this Agreement and to give the gift of the Site Improvements to the DNR.

**11.6. Termination.** **(Name of Organization)** may terminate this Agreement and terminate its gift of the Site Improvements before commencement of construction work on the Site.

**11.7. No Reversionary Interest.** **(Name of Organization)** and the DNR agree that **(Name of Organization)** will have no lien against, nor any reversionary interest in, the Site and/or Site Improvements.

**11.8. Cure.** Every enumerated condition in this Agreement is a material condition. If **(Name of Organization)** breaches any material condition, the DNR in its sole discretion, may seek any remedy provided by statute or under the common law, provided it has first given ninety (90) days written notice to **(Name of Organization)** to cure the alleged breach and **(Name of Organization)** has failed to cure or diligently pursue a cure of said breach.

**11.9. Notice, Mailing, Addresses and Delivery.** Any notice or other communication to the DNR required by this Agreement shall be complete if submitted in writing and transmitted by personal delivery (with signed delivery receipt), or certified or registered U.S. mail return receipt requested. Unless either party notifies the other in writing of a different mailing address, any notice or other mailing to the DNR and **(Name of Organization)** shall be transmitted to the addresses listed below:

(a) **(Name of Organization):**

 **(Address of Organization)**

(b) **DNR:**

**(Local Facility Where Gift is Being Rendered)**

**11.10. Notice.** All notices and other communications shall be sufficiently given and shall be deemed given on the earlier of (i) the date of personal delivery or (ii) date delivered as evidenced by the return receipt.

**11.11. Severability.** Should any provision of this Agreement or its amendments be found to be illegal or otherwise unenforceable by a court of law, such provision shall be severed from the Agreement, and such action shall not affect the enforceability of the remaining provisions of the Agreement.

**11.12. Applicable Law.** This Agreement shall be interpreted in accordance with the laws of the State of Michigan.

 The DNR and **(Name of Organization)** have executed this Agreement in duplicate, each of which shall be deemed an original. The parties have executed this Agreement as of the date first written below by the DNR.

|  |  |
| --- | --- |
| Witnesses: | **(NAME OF ORGANIZATION)** |
|  |  | By: |  |
| Name: |  | Name:Title: |  |
|  |  | Date: |  |
|  | **MICHIGAN DEPARTMENT** |
| Witnesses: |  | **OF NATURAL RESOURCES**  |
|  |  | By: |  |
| Name: |  | Name:Title: | Ronald A. OlsonChief, DNR Parks & Recreation Division |
|  |  | Date: |  |

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| **DNR_Logo-Clear** | Michigan Department of Natural Resources **Exhibit A****Description of Site Improvements:***By authority of Part 5 of Act 451, P.A. of 1994, as amended.* |  |

**(Scope and outline of project; clearly defined roles & responsibilities)**

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| **DNR_Logo-Clear** | Michigan Department of Natural Resources **Exhibit B****Rider to the Agreement Between** **(NAME OF ORGANIZATION) and Contractor***By authority of Part 5 of Act 451, P.A. of 1994, as amended.* |  |

 The following provisions modify, and are incorporated into, the construction contract (Construction Contract) between **(Name of Organization)** and **(Contractor)** dated  for construction of the Site Improvements described in the Construction Contract. In the event of any conflict between the provisions of this Rider and the Construction Contract, this Rider shall govern.

1. The Contractor acknowledges that at the time of substantial completion as identified in the Construction Contract, the Site Improvements will be donated to the Department of Natural Resources (DNR) pursuant to the Gift and Acceptance Agreement (Gift Agreement) between **(Name of Organization)** and the DNR.

2. The Contractor acknowledges that the DNR is the intended third party beneficiary of the obligations of the Contractor under the Construction Contract and shall be entitled to enforce such obligations directly.

3. The Contractor acknowledges that the DNR shall have no responsibility for the performance of obligations under the Construction Contract.

4. Payment and performance bonds (Bonds) shall be issued by a commercial surety licensed to do business in the State of Michigan, in a form and substance acceptable to **(Name of Organization)** and the DNR, each in the amount of one hundred percent (100%) of the Construction Contract’s amount. The Bonds shall be multiple obligee bonds naming **(Name of Organization)** and the State of Michigan and their respective successors and assigns as obligees. In the event that the Construction Contract amount is increased, the Contractor shall immediately cause the amount of the Bonds to be increased to the amount of the increased Construction Contract.

5. All insurance required by the Contractor under the Construction Contract shall include the State of Michigan, its departments, agencies, officers and employees as additional insureds.

6. Insurance shall be provided by insurers licensed in the State of Michigan as evidenced by a Certificate of Authority issued by the Michigan Department of Licensing and Regulatory Affairs.

7. The insurance afforded the additional insureds shall be primary insurance and the coverage and limits provided shall not be reduced or prorated by the existence of any other insurance applicable to any loss the additional insured may have suffered. Contractor's liability

insurance shall remain in effect until the end of the warranty periods, when it may be correcting, removing or replacing defective work.

8. Any liquidated damages provisions of the Construction Contract shall not apply to the DNR.

9. Commencing at the time of substantial completion of the Site Improvements, all warranties provided by the Contractor under the Construction Contract or under law shall be transferred from **(Name of Organization)** to the DNR, shall inure to the benefit of, and shall be enforceable by, the State of Michigan and its departments, boards and agencies. **(Name of Organization)** shall provide to the DNR all separate warranties provided by the Contractor at the time of substantial completion of the constructed Site Improvements.

10. Contractor shall comply with the Elliot-Larsen Civil Rights Act, 1976 PA 435, 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, and local fair employment practice and equal opportunity laws, and covenants that Contractor shall not discriminate against any employee or applicant for employment to be employed in the performance of this Agreement, 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. Contractor agrees to include, in every contract or subcontract entered into for the performance of the Construction Contract, these covenants not to discriminate in employment. A violation of the discrimination covenants shall be regarded as a material breach of the Construction Contract.

11. The Michigan Department of Licensing and Regulatory Affairs is required by 1980 PA 278, MCL 423.321 et seq., to compile and maintain a register of employers who have been found in contempt of court by a federal court of appeals on not less than three occasions involving different violations during the preceding seven years for failure to correct an unfair labor practice as prohibited by Section 8, Chapter 372 of the National Labor Relations Act, 29 U.S.C. 158. **(Name of Organization)** may void the Construction Contract if the Contractor or any subcontractor, manufacturer or supplier of Contractor appears in the register.

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| **DNR_Logo-Clear** | Michigan Department of Natural Resources **Exhibit C**Certificate of Substantial Completion*By authority of Part 5 of Act 451, P.A. of 1994, as amended.* |  |

TO: **(NAME OF ORGANIZATION):**

 **Attn:**

FROM: **MICHIGAN DEPARTMENT OF NATURAL**

 **RESOURCES:**

**Attn:**

PROJECT: **(Brief Project Description)**

SITE IMPROVEMENTS

COMPLETED: **(Date)**

DATE OF SUBSTANTIAL

COMPLETION: **(Date)**

 In accordance with the Gift and Acceptance Agreement for Design and/or Construction of a Facility between **(Name of Organization)** and the DNR, dated **(Date)**  the work performed by the contractor to construct the identified Site Improvements was inspected by **(Name of Organization)** and the DNR’s authorized inspector and found to be substantially complete in accordance with the Plans. The Date of Substantial Completion set forth above is the date certified by the DNR when construction is sufficiently complete, in accordance with its Plans approved by the DNR and identified in the Gift and Acceptance Agreement, to enable the DNR to occupy or use the Site Improvements as intended, as expressed in the Gift and Acceptance Agreement, and a certificate of occupancy was obtained where applicable.

 A punch list of items to be completed or corrected by the responsible contractor is attached.

 Warranties provided by the contractor under the construction contract or under law shall commence on the Date of Substantial Completion, except that warranties for punch list items shall commence on the date such items are completed, as reasonably determined by the DNR.

 The DNR accepts the identified Site Improvements, and assumes full possession thereof.

 The DNR and **(Name of Organization)** waive, as of the Date of Substantial Completion set forth above, all claims against the contractors with respect to construction of the identified Site Improvements, except those arising from (i) unsettled liens; (ii) faulty or defective work appearing after the Date of Substantial Completion; (iii) failure of the work to comply with the requirements of the construction contracts and the Plans; (iv) terms of any special warranties required by the Plans; (v) insurance and indemnification obligations of the contractors under the contract documents; (vi) failure of the contractors to complete punch list items in accordance with the Certificate of Substantial Completion; or (vii) unsettled claims by the DNR and **(Name of Organization)**.

 The contractor will complete or correct, to the satisfaction of the DNR inspector, the work on the punch list of items attached hereto within  days from the above Date of Substantial Completion.

|  |  |
| --- | --- |
| **MICHIGAN DEPARTMENT OF****NATURAL RESOURCES:** | **(NAME OF ORGANIZATION):*****(signed upon completion of project only)*** |
| By: |  | By: |  |
| Title: Ronald A. Olson, Chief, DNR Parks & Recreation DivisionDate: | Title:Date: |