

EM SUBMISSION NO.: EME 4952014

PRESENTED: 9-2-14

ADOPTED: 9-10-14

BY THE EMERGENCY MANAGER:

**RESOLUTION AUTHORIZING THE CITY OF FLINT TO ENTER INTO A PARK
PARTNERSHIP AGREEMENT WITH MOTT COMMUNITY COLLEGE**

The City of Flint Master Plan has set goals to provide and maintain a balanced and equitable system of parks and recreation for all citizens of the City of Flint; and

Mott Community College is dedicated to expanding access to quality recreational facilities and programs to all citizens of the City of Flint; and

Pursuant to the mutual covenants contained in the Park Partnership Agreement attached hereto and made a part hereof, the City of Flint and Mott Community College seek to work together to operate Kearsley Park.

IT IS RESOLVED that effective immediately upon adoption of this resolution, the City of Flint and Mott Community College shall be authorized to enter into the Park Partnership Agreement attached hereto and made a part hereof, in accordance with the mutual covenants set forth therein.

IT IS FURTHER RESOLVED that the Park Partnership Agreement is specific to Kearsley Park only.

APPROVED AS TO FORM:



Peter M. Bade, City Attorney

EM DISPOSITION:

ENACT ✓ FAIL _____ REFER TO COUNCIL _____



Darnell Earley, Emergency Manager

DATED 9-10-14

KEARSLEY PARK PARTNERSHIP AGREEMENT

This agreement (hereinafter "Agreement") is made between the City of Flint, a municipal corporation located at 1101 South Saginaw St., Flint, MI 48502 (hereinafter "City") and Mott Community College located at 1401 East Court St., Flint, MI 48503 (hereinafter "College"); collectively referred to herein as the "Parties". In consideration of the mutual covenants contained herein, the consideration of which is hereby stipulated to, the Parties mutually agree to the following terms.

1. Park: This Agreement shall be for construction of improvements ("Improvements") upon the following Park:
 - A. Kearsley Park; hereinafter referred to as the "Park".
2. Park As-Is: The City is providing the Park AS IS, with all faults, and makes no representations regarding the condition of the Park or its usability for any purpose, including, without limitation, the construction of Improvements. The College shall inspect the Park and make all determinations as to its usability for any purpose prior to use of the Park.
3. Compliance with Laws, Regulations, and Permitting: The Parties agree to comply with all federal, state, and local laws, regulations, and permitting requirements in the performance of this Agreement. The City hereby designates the College as its representative for the purpose of submitting all permitting applications, which shall only be done with prior approval of the City.
4. Park Reservations and Special Events: The College will annually provide the City a schedule of all College softball games and practices, which shall serve as a request to use the Park Improvements for that purpose, and which shall be considered a reservation request and shall be given priority by the City to the extent permitted by law.
5. Park Improvements: Park Improvements that become fixtures of the Park shall become property of the City upon the termination of this Agreement. In addition to the requirements set forth herein, the College shall obtain approval from the City for all design Improvements prior to initiation of construction.
6. No Rights to Property: Nothing within this Agreement shall be construed as conveying any right(s), without limitation, to the Park property to the College.
7. Park Improvements Maintenance: The College agrees to maintain the Improvements, which shall be done at the discretion of the College. The City shall be responsible for maintenance of the remainder of the Park, which will be done at the discretion of the City.

8. Utilities: The City agrees to pay all reasonable monthly utilities charges for the Park. If the City determines that the utilities charges become unreasonable, the Parties shall negotiate a substitute arrangement in lieu of this provision.
9. Deliverables: The College shall provide an annual report to the City on the status of Improvements, including all costs and design documents for completed Improvements.
10. Temporary Suspension: The College acknowledges that this Agreement and the rights granted hereunder are subordinate to the necessity of the City to serve its residents in the event of acts of god or other emergencies; and, in such an event, the College agrees to surrender, immediately upon demand, the use of the Park to the City for the purpose of managing such events for the pendency of such events. Determination of such events shall be made by the Chief of Police of the Flint Police Department.
11. Indemnity and Hold Harmless:

To the fullest extent permitted by law, the College agrees to defend, pay on behalf of, indemnify, and hold harmless the City and its elected and appointed officials, employees and volunteers, and others working on behalf of the City, against any and all claims, demands, suits, or losses, including all costs connected therewith, and for any damages which may be asserted, claimed, or recovered against or from the City and its elected and appointed officials, employees, volunteers, or others working on behalf of the City, for any reason including but not limited to personal injury, including bodily injury or death; and/or property damage, including loss of use thereof, which may arise out of the College's acts, omissions, faults, and/or negligence, or that of any of the College's employees, agents, and representatives in connection with the performance of this Agreement.

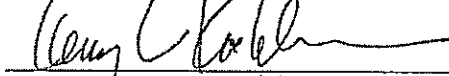
To the fullest extent permitted by law, the City agrees to defend, pay on behalf of, indemnify, and hold harmless the College and its elected and appointed officials, employees and volunteers, and others working on behalf of the College, against any and all claims, demands, suits, or losses, including all costs connected therewith, and for any damages which may be asserted, claimed, or recovered against or from the College and its elected and appointed officials, employees, volunteers, or others working on behalf of the College, for any reason including but not limited to personal injury, including bodily injury or death; and/or property damage, including loss of use thereof, which may arise out of the City's acts, omissions, faults, and/or negligence, or that of any of the City's employees, agents, and representatives in connection with the performance of this Agreement.

12. Term and Termination: This Agreement shall be for a term of ten (10) years. Thereafter, two subsequent ten (10) year extensions shall automatically renew, absent one hundred eighty (180) days advance written notice of extension cancellation by either party. Alternatively, either party may terminate this Agreement with one (1) year advanced written notice.

13. Costs: Except as otherwise set forth herein, neither party shall be entitled to any further payment hereunder.
14. No Assignment or Subletting: The College shall not assign or sublease this Agreement or any part thereof without written approval from the City.
15. General Terms and Conditions: This Agreement represents the entire agreement between the Parties with respect to the subject matter hereto, and supersedes all prior agreements, conversations, and understandings with respect hereto. Any amendment to this Agreement shall be in writing and signed by the Parties. Failure of the City to require performance of any provision herein shall not affect the City's right to require performance of any provision thereafter, nor shall such a waiver constitute a waiver of any subsequent breach of this Agreement. If any provision of this Agreement is found to be invalid or unenforceable, the remainder of the Agreement shall remain in full force and effect as though the invalid or unenforceable provision had never been included. This Agreement is valid and enforceable with electronic or facsimile signatures, and may be executed in multiple counterparts, all of which together shall form one agreement.

WHEREFORE, the Parties have executed this Agreement by affixing their signatures below:

MOTT COMMUNITY COLLEGE:

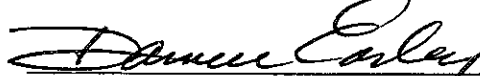


By: LARRY L. KOEHLER

Its: EXEC. DIRECTOR, PHYSICAL PLANT

Date: 8/27/2014

CITY OF FLINT:

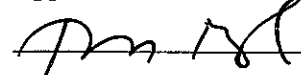


By: Darnell Earley, ICMA-CM, MPA

Its: Emergency Manager

Date: 9-10-14

Approved as to Form:



By: Peter M. Bade

Its: Chief Legal Officer