



cityofnovi.org

CITY of NOVI CITY COUNCIL

Agenda Item O
May 3, 2010

SUBJECT: Approval of the Parks and Recreation facilities donation by Best Buy of West Oaks under the Naming Rights Agreement, subject to the following: (1) that the City waives the requirement for a written agreement given the Donor's time constraints; (2) that the donation be paid in full on or before May 22, 2010; (3) that the only consideration that the Donor receives for such donation is the placement of a sign on the Power Park "yellow" field for a 2-year period beginning on July 1, 2010 and ending on July 1, 2012, such sign to be provided by the City and placed as determined by the Director of Parks, Recreation & Cultural Services; and (4) that all terms and conditions of the Naming Rights Policy apply to the donation and sign.

SUBMITTING DEPARTMENT: Parks, Recreation & Cultural Services

CITY MANAGER APPROVAL: *Clay MP*

BACKGROUND INFORMATION:

In early 2005, City Council, the Parks, Recreation & Forestry Commission, the Parks Foundation, and City staff identified the opportunity to generate additional funds for the park system through the development of a naming rights program. On April 18, 2005, City Council approved a naming rights policy and conceptually agreed to have the Parks Foundation serve as the agent to market and negotiate the naming rights agreements. On September 26, 2005, City Council and the Parks Foundation completed an agreement enabling the Parks Foundation to pursue donors through the naming rights program.

The Parks Foundation Naming Rights Committee continues to identify prospects and present the benefits of becoming a donor through the naming rights program. Recently, one prospect has agreed to become a donor. Best Buy of West Oaks has agreed to donate \$10,000 over a two-year period, or \$5,000 per year, for the naming of the "yellow" softball field at Power Park to "Best Buy at West Oaks Field" for the term of the agreement. The entire amount will be donated to the Foundation at the store opening ceremony on May 12, 2010 at 9:45AM at their location of 43525 West Oaks Drive.

In accordance with the agreement between the City and the Foundation for the administration of the naming rights program, ten (10) percent of the annual donation will be placed in the Foundation Endowment Fund, and the cost of the sign will be deducted from the donation.

The following is a summary of the donation.

Item	Total
Donation	\$ 10,000
Signage	\$ 1,500
Foundation Endowment (10%)	\$ 1,000
Funds available for park improvements	\$ 7,500

The following items are attached:

- Parks and Recreation facilities donation acknowledgement and acceptance agreement. This document outlines the terms of the donation.
- An aerial view of the ball field.
- A copy of the Naming Rights Policy approved by City Council on April 18, 2005.

Both the Naming Rights Policy and the Naming Rights Agreement contemplate that there will be a written agreement between the City and the Donor. In this case, Best Buy has indicated that it would take a substantial amount of time to review and approve an agreement and that it prefers not to enter into a formal agreement. It would prefer to simply make the donation. The City Attorney's office has no objection to such a process if accomplished through the motion below.

RECOMMENDED ACTION: Approval of the Parks and Recreation facilities donation by Best Buy of West Oaks under the Naming Rights Agreement, subject to the following: (1) that the City waives the requirement for a written agreement given the Donor's time constraints; (2) that the donation be paid in full on or before May 22, 2010; (3) that the only consideration that the Donor receives for such donation is the placement of a sign on the Power Park "yellow" field for a 2-year period beginning on July 1, 2010 and ending on July 1, 2012, such sign to be provided by the City and placed as determined by the Director of Parks, Recreation & Cultural Services; and (4) that all terms and conditions of the Naming Rights Policy apply to the donation and sign.

	1	2	Y	N
Mayor Landry				
Mayor Pro Tem Gatt				
Council Member Crawford				
Council Member Fischer				

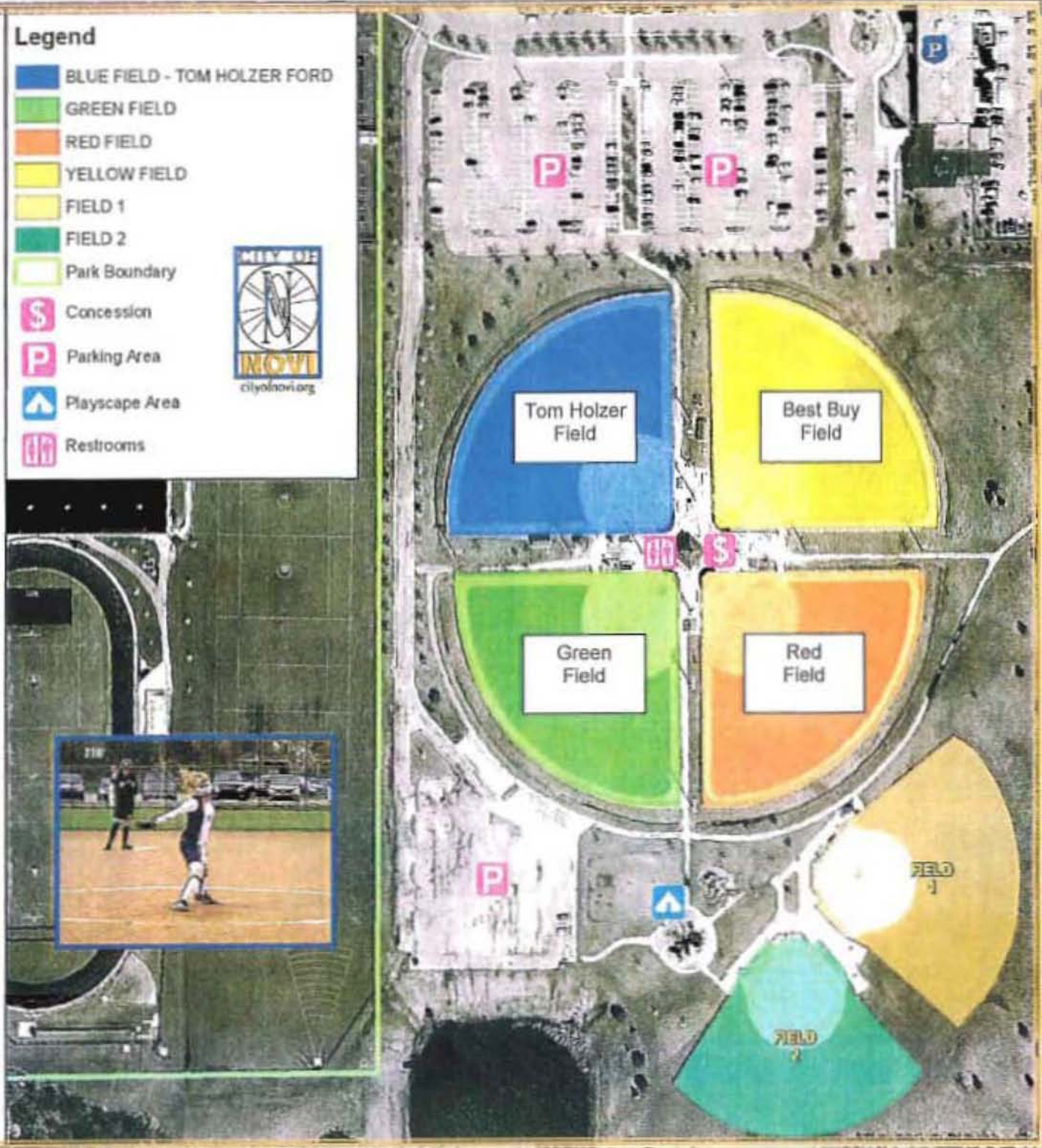
	1	2	Y	N
Council Member Margolis				
Council Member Mutch				
Council Member Staudt				



Ella Mae Power Park

Legend

- BLUE FIELD - TOM HOLZER FORD
- GREEN FIELD
- RED FIELD
- YELLOW FIELD
- FIELD 1
- FIELD 2
- Park Boundary
- Concession
- Parking Area
- Playscape Area
- Restrooms





September 21, 2005

CITY COUNCIL

Mayor
Lou Csordas

Mayor Pro Tem
David B. Landry

Kim Capello

Bob Gatt

Laura J. Lorenzo

Toni Nagy

Lynne Paul

City Manager
Richard Helwig

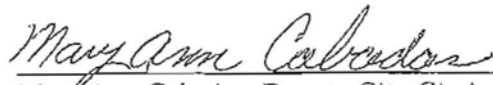
City Clerk
Maryanne Cornelius

To Whom It May Concern:

At a regular meeting of the City of Novi City Council, held on Monday, April 18, 2005 at 7:00 p.m., Council member Lorenzo moved and Council member Nagy seconded that the attached Parks & Recreation Facilities Naming Rights Policy be adopted. CARRIED

(See attached)

I, Mary Ann Cabadas, duly acting Deputy City Clerk for the City of Novi, do hereby certify that the attached is a true and complete copy of the Parks & Recreation Facilities Naming Rights Policy adopted by the Novi City Council at a regular meeting held on Monday, April 18, 2005, 7:30 p.m., the original of which is on file in the Novi City Clerk's Office.


Mary Ann Cabadas, Deputy City Clerk

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"Enhancing Novi's quality of life"



City of Novi

PARKS & RECREATION FACILITIES NAMING RIGHTS POLICY

REASON FOR POLICY

This document describes the policies and general procedures governing the purchase of naming rights to City parks and recreation facilities. These guidelines are developed to support, coordinate and manage the process to ensure consistency and uniformity in naming structures and spaces.

STATEMENT OF POLICY

Approval of the naming of Novi parks and recreation facilities is vested with the Novi City Council. The administration of this policy is the responsibility of the City Manager or his/her designee.

The purchase of naming rights as a means to raise non-tax revenue are to be coordinated through the Novi Parks Foundation by written agreement and forwarded to the Parks, Recreation and Forestry Director. The Director shall submit such agreements with a recommendation to the City Manager. The City Manager will forward naming rights agreements with a recommendation to the City Council.

At no time should promises or commitments regarding naming rights be made in advance of final approval by the City Council. Written agreements must be signed by the donor(s) and shall outline any terms or conditions regarding naming rights prior to submittal.

DEFINITION

Naming Rights: An individual, family, private business or corporation may purchase the right to name a fixed asset. The naming right is sold for cash or other revenue support for a specified time period.

Facilities: Buildings including the interior and exterior spaces, sports fields, open spaces, parks, playgrounds, shelters, sport courts, trails, park benches, water fountains, flowerbeds, sports equipment, brick pavers and decorative walls.

Exclusions: Categories of facilities eligible for naming rights may be added or excluded from this list by City Council.

REGULATIONS REGARDING NAMING RIGHTS OF PARKS AND FACILITIES

1. In granting naming rights, due regard shall be taken of the need to maintain an appropriate balance between commercial considerations and the City's stewardship role for the public parks and recreation facilities.
2. The naming rights shall be for a specified fixed term to be negotiated on a case-by-case basis.
3. The plan for display of the names of individual(s)/corporation being recommended, be it on an interior plaque or by incorporation of exterior signage, shall be included in the proposal submitted to City Council, and will comply with the City of Novi Sign Ordinance.
4. When a company changes its name, the naming rights may be changed to reflect the new name by mutual agreement. The cost to change the name of the sign will be the responsibility of the company.
5. The proposed name / naming rights purchaser must support the image and values of The City of Novi and the community. In general, the following industries and products are not eligible for naming rights – religious and political organizations; or companies whose business is substantially derived from the sale of alcohol, tobacco, firearms, pornography, gambling or lewd and lascivious behavior.
6. The City of Novi shall not relinquish to the purchaser any aspect of their right to manage and control the facility being named.
7. Proceeds received from the naming rights sale are to be used for the Novi Parks, Recreation and Forestry Department in the following manner: a) Capital improvements to the Park, Recreation and Forestry system, b) Funding of programs and services, c) A portion of the proceeds may be placed in an endowment fund with the interest utilized to offset maintenance and replacement costs.
8. The sale must not result in additional cost to The City of Novi.
9. Naming rights may be renewed by mutual agreement with the purchaser and City Council.
10. Termination Rights: The purchaser of naming rights may revoke the naming rights at any time with the understanding that no refund or reduction of their financial commitment will occur.
 - TERMINATION BY THE CITY OF NOVI - The City reserves the right to terminate naming rights where continuation of the relationship would bring the City into disrepute.

IMPLEMENTATION PROCEDURES

An initial list of the proposed naming opportunities will be developed by the Parks, Recreation and Forestry Director. The Director will submit the list to the City Manager. The City Manager will submit the list, with a recommendation to the City Council for action. The initial list of proposed naming opportunities is to include a description of the space, amenity, or facility proposed for naming as well as sample signage concepts. This list may be amended by City Council at any time.

The City Council will authorize, by contractual agreement, the Novi Parks Foundation to seek, negotiate and secure the purchase of naming rights to parks and recreation facilities identified by City Council.

The Novi Parks Foundation will develop and implement a marketing strategy to secure the purchase of naming rights for the identified park and recreation facilities. The Foundation will identify potential purchasers, solicit sales and negotiate any proposed agreements and forward the agreement to the Parks, Recreation and Forestry Director. The Director will submit the agreement with a recommendation to the City Manager, and will also forward the recommendation of the Parks, Recreation and Forestry Commission. The City Manager will submit the agreement with a recommendation to the City Council for action.

Following City Council approval, the purchaser will contribute the funds to the Novi Parks Foundation. The Novi Parks Foundation will utilize the proceeds in accordance with the priorities set forth by City Council for A) Capital improvements to the Parks, Recreation and Forestry system, B) Funding of programs and services, C) A portion of the proceeds may be placed in an endowment fund with the interest utilized to offset maintenance and replacement costs.

STATE OF MICHIGAN
COUNTY OF OAKLAND
CITY OF NOVI

AGREEMENT BETWEEN
THE CITY OF NOVI AND THE NOVI PARKS FOUNDATION
REGARDING ADMINISTRATION OF THE CITY'S PARKS AND RECREATION
FACILITIES "NAMING RIGHTS" PROGRAM

THIS AGREEMENT is made by and between the CITY OF NOVI, MICHIGAN, a Michigan municipal corporation located at 45175 West 10 Mile Road, Novi, Michigan 48375 (hereinafter the "City"), and the NOVI PARKS FOUNDATION, a Michigan non-profit corporation, located in Novi, Michigan (hereinafter the "Foundation").

The City is a home rule city that owns real estate, buildings, and other recreational facilities and operates a number of recreational and athletic programs from those facilities. The City desires to permanently preserve, protect, maintain, improve, and enhance the City's parkland and recreational facilities, and its citizens' recreational opportunities, in accordance with the goals and objectives described in its adopted Community Recreation Plan.

The Foundation is a private, non-profit entity, duly organized under the laws of the State of Michigan and established as a charitable organization under Section 501c(3) of the Internal Revenue Code, whose sole purpose is to raise funds and undertake other activities to support the City's parks and recreational facilities. The private nature of the Foundation enables it to undertake different and complementary activities on behalf of City parks and recreation resources, and makes it a rich source of additional expertise and energy that the City desires to utilize.

The City has adopted a Parks and Recreation "Naming Rights Policy" as a means to raise additional funds for use in connection with its parkland and recreational facilities. Both the City and the Foundation believe that the Foundation can assist in the administration of that policy by virtue of its separate expertise and resources. The Foundation is willing to assist the City in connection with its naming rights program as a part of the Foundation's overall function as a fundraising and caretaking body on behalf of City parks and recreation facilities.

NOW THEREFORE, in consideration of the foregoing, the City and the Foundation agree as follows:

1. **Foundation Representations.** The Foundation represents and acknowledges the following with regard to its establishment, purpose, and operations:

- a. That the Foundation was established to support and promote the parkland improvement and recreational facilities within the City, and that its activities are fully compatible with the City's interests and goals as expressed in the City's Community Recreation Plan.
- b. That the Foundation's primary activity involves securing, managing, investing, and using private funds and support solely for the benefit of the City's parkland and recreational facilities.
- c. That the Foundation has in place appropriate fiscal and auditing procedures that are compatible with its public accounting obligations.
- d. That the Foundation is organized and operates as a private legal entity, charitable in nature, separate and distinct from the City, and that the Foundation will, during the life of this Agreement, maintain its current status as a tax-exempt charitable organization under state and federal laws to ensure that donations, gifts, and bequests received on behalf of the City's parkland and recreational facilities will qualify as tax-deductible, charitable contributions for the donor.
- e. That the Foundation will supply to the City on request copies of all of its incorporating and enabling documents, including the Articles of Incorporation and Bylaws of the Foundation and any amendments thereto, and that the Foundation's incorporating and enabling documents currently include, and will maintain for the life of this Agreement, language substantially similar to the following:
 - i. *Articles of Incorporation.* The Articles shall provide that, in the event of its dissolution, the Foundation's assets and records will be distributed to the City of Novi, provided that the City remains a qualified organization under relevant federal and state income tax laws to which tax-deductible donations, gifts, or bequests can be made;
 - ii. *Bylaws.* The Bylaws shall provide that two (2) board members be appointed by the Novi Parks, Recreation & Forestry Commission from the Commission members and that the Director of the City's Parks, Recreation & Forestry Department shall be an ex-officio member of the Foundation.

2. **Fiduciary Relationship.** For purposes of this Agreement, the parties agree that the Foundation acts as a fiduciary for the City. The City requires and adheres to the highest ethical standards of conduct for its officials, employees, and agents as public officials and representatives. Both the City and the Foundation therefore acknowledge the necessity of maintaining the highest levels of accountability and stewardship as to their respective rights and obligations.

The parties jointly agree to share all relevant information and documents relating to the Foundation's activities as relates to this Agreement; to develop appropriate reporting processes with respect to the Foundation's activities hereunder; and to institute and carry out compliance and auditing procedures that will insure that donated funds that are subject to this Agreement are accounted for, that expenditures are made in accordance with the donors' wishes, and that reports are made to donors on the use of such funds. At a minimum, the Foundation shall report to the City on its activities and financial status and operations on a quarterly basis.

3. Foundation Administration of Naming Rights Policy.

- a. The Foundation agrees to promote, organize, and implement the Naming Rights Policy adopted by the City, and agrees specifically to undertake the following activities in that regard:
 - i. Actively solicit, through marketing and other direct efforts, the donation of funds or other gifts or bequests by private individuals or entities for the general purposes and specific facilities set forth in the Naming Rights Policy, in the course of which efforts it may use the City's name and logo in its representations to the public and potential donors;
 - ii. Use its best efforts to secure donations, gifts, or bequests and to manage same for the general purposes and specific facilities set forth in the Naming Rights Policy;
 - iii. Refrain from seeking donations, gifts, or bequests to the Foundation's own general or special funds (e.g., endowment funds) in a manner that intentionally undermines the goals and objectives of the City as expressed in its Naming Rights Policy; and
- b. In pursuing these activities, the Foundation shall represent to potential donors that, in exchange for a donation, gift, or bequest described in the City's Naming Rights Policy the City will, upon appropriate City approval in accordance with the Policy, grant the naming right that corresponds with the donation, gift, or bequest and will undertake all necessary action to carry out the donor's intentions and to comply with all terms and conditions made part of the accepted donation.
- c. The Foundation shall advise prospective donors for naming rights of the following:
 - i. That the Foundation is a separate legal and tax entity organized for the purposes of encouraging voluntary, private gifts, trusts, and bequests for the benefit of the City parkland and recreational facilities;
 - ii. That the responsibility for governance of the Foundation, including investment of gifts and endowments, resides in the Foundation's Board;

- iii. That any restrictive terms and conditions a donor attaches to any donation for or on behalf of City of Novi parkland and recreational facilities are subject to City approval;
 - iv. That City acceptance of any proposed donation is required, in accordance with the terms of this Agreement and the City's Naming Rights Policy, along with an agreement between the City and the donor regarding the donation, gift, or bequest.
- d. All donations, gifts, or bequests secured by the Foundation shall be made to and in the name of the Foundation. *However*, should a donation or bequest in connection with the Naming Rights Policy be proposed directly to the City with the representation that the donor or contributor does not wish or intend the involvement of the Foundation, nothing in this Agreement shall preclude the City from honoring that request and intention, in which case none of the terms of this Agreement shall apply.
- e. Donations under the City's Naming Rights Policy are generally contemplated to be either in the form of an endowment or a cash payment. The following terms and conditions shall govern the disposition of funds received by donation in either category:
- i. *Specific Endowment.* An endowment is the donation of a sum of money, the principal of which remains undisturbed, with the interest on such principal being distributed and utilized for the purpose of the endowment on a periodic (typically annual) basis. An endowment under the City's Naming Rights Policy made through the Foundation shall remain in the name of the Foundation for the life of this Agreement. The interest or return on the principal of the endowment shall be distributed to the City in accordance with subparagraph 3.e.ii immediately below relating to cash payments.
 - ii. *Cash Payment.* Donations made in cash or the equivalent shall be made in the name of the Foundation, and shall be held by the Foundation in trust for the City in an account dedicated to naming rights donations ("the naming rights account") and subject to the restrictions described in subparagraph (g) below. The City acknowledges that where donations or bequests are made for a specific purpose or with specific conditions, such purpose shall be honored and such conditions complied with, if accepted by the City at the time of its acceptance of the donation or bequest.
- (a) **Deduction for Foundation Costs/Expenses and for Foundation Capital Improvement Endowment Fund.** The Foundation shall be entitled to deduct an amount not to exceed ten (10%) percent from each donation, gift, or bequest, to be placed in the Foundation's Capital Improvement Endowment Fund (which shall be a separate

fund or account from the naming rights account) and used, at the discretion of the Foundation, for the sole purpose of contributing to the various capital improvements to the City of Novi's parks and recreation facilities. The Foundation shall also be reimbursed for its actual administrative costs and expenses reasonably incurred in conducting its activities and carrying out its responsibilities in connection with this Agreement. The Foundation shall deduct such costs and expenses as incurred from the naming rights account.

(b) **Distribution to City.** All remaining amounts from any donation, gift, or bequest following the deduction described in paragraph 3.e.ii(a) above (which amount shall be not less than ninety [90%] percent of such donation, gift, or bequest) shall be placed in the separate naming rights account to be used for capital improvements to Novi parks and recreation facilities as determined by the City Council. The City shall make an annual request for distribution in connection with the adoption of its budget, which request shall describe the intended use(s) of the funds. The funds shall be distributed by the Foundation to the City in mutually agreeable amounts, which shall in any event be not less than fifty (50%) percent of the funds then existing in the naming rights account, and which shall be used by the City in accordance with the priorities set forth by the City Council in the budget.

iii. *Other Donations.* Disbursement of other forms of donations (e.g., charitable trusts, planned giving, etc.) under the City's Naming Rights Policy shall be determined on a case-by-case basis, the intent of the parties being to provide full disbursement to the City, net of the deduction to the Foundation for the Foundation Capital Improvement Endowment Fund as described in sub-section 3.e.ii(a).

f. Consistent with the City's Naming Rights Policy, naming rights shall be decided on a case-by-case basis, and in accordance with a written agreement to be executed between the City and the donor. All donations pursuant to the City's Naming Rights Policy are subject to review and approval by the City Council.

The Foundation shall report all offered donations of \$5,000 and above to the City Parks and Recreation Director on a timely basis.

g. In consideration of the potential for endowment or other long-term donations for parks and recreation purposes to be held in the name of the Foundation, and the potentially substantial marketing and administrative fees that the Foundation will obtain by virtue of this Agreement, and further in light of its fiduciary responsibilities to the City, the Foundation agrees as follows with regard to its investment procedures.

- i. The Foundation's investments shall be managed in accordance with prudent and sound practices such that the donation, gift, and bequest assets are protected and enhanced and that a reasonable rate of return on such assets is achieved. All investments of particular assets must be consistent with the terms of the donation.
- ii. Income from investments shall be administered in accordance with Foundation policies, which shall be in accordance with all applicable laws and regulations governing charitable non-profit organizations.
- iii. The Foundation will maintain its books in accordance with generally accepted accounting principals and shall operate within the standards provided for charitable non-profit entities in the Internal Revenue Code. It shall submit to an annual audit by a firm of certified public accountants, and copies of its audited financial statement shall be made available to the City upon request.
- iv. The Foundation shall provide the City's Finance Director a copy of all documents filed with the Internal Revenue Service on an annual basis, including any Form 990.

4. **Indemnification.** To the extent permitted by law, the Foundation shall indemnify and hold harmless the City, its officers, agents, and employees, from and against all claims, damages, and losses arising out of or resulting from the actions of Foundation employees, officers or agents, acting within the scope of its actions. To the extent permitted by law, the City shall indemnify and hold harmless the Foundation, its Directors, officers, and agents, from any and all claims, damages, and losses arising out of or resulting from the action of the City, their agents and employees, acting within the scope of its action.

5. **Fidelity Bond and Insurance.** The Foundation shall insure that officers and staff members are bonded in an amount of not less than \$100,000, or 50% of the market value of the assets of the funds in the Foundation, whichever is greater. The premiums payable on such bonds shall be payable from the funds of the Foundation. Further, the Foundation shall obtain and maintain general liability and directors' and officers' liability insurance in a reasonable and appropriate amount as determined by the Foundation Board and approved by the City of Novi. The Foundation shall annually provide the City documentation of its compliance with this Section.

6. **Compliance Reviews.** The City may conduct periodic (at least one per year) compliance reviews of the use of donated funds, to ensure that the disposition of donated funds has complied with the terms and conditions of the Naming Rights Policy and this Agreement. The Foundation agrees to provide the City with all records and information reasonably necessary to conduct the review and to cooperate with the City in the completion of the review. A written report of the results of such compliance review shall be provided to the Foundation. Because private funds are raised to support public projects, the Foundation will permit authorized City officials or their designees to inspect all Foundation books and records upon reasonable notice.

7. **Notice of Non-compliance – Opportunity to Cure.** In the event of non-compliance with any provision of this Agreement, the City shall notify the Foundation in writing of the event or practice the City believes does not comply with this Agreement. The Foundation shall, within fifteen (15) business days from receipt of the notice of non-compliance, either correct the non-compliance or show cause to the City that the Foundation is in compliance. In the event the Foundation fails to comply within this time period, the City, may, at its option, terminate this Agreement and its relationship with the Foundation for cause.

8. **Duration and Termination.** This Agreement shall become effective upon final approval, indicated by signatures of both parties, and shall continue in effect for a period of three (3) years or until terminated by either party for any reason, with or without cause. Either party may terminate the Agreement by giving written notice to the other of termination, specifying the effective date, at least thirty (30) days before the effective date. Termination for cause may be immediate.

In the event of termination by the City with cause, or termination by the Foundation without cause, during the initial three-year term of the Agreement, all assets of any kind, including any specific endowment or trust and any cash or other funds or amounts secured by the Foundation in connection with this Agreement and the City's Naming Rights Policy shall be forthwith distributed to, and become the property of, the City. In the event of termination by the City without cause, or by the Foundation with cause, during the initial three-year term of the Agreement, the Foundation may elect to retain any funds or amounts then existing in the Capital Improvement Endowment Fund as described in Section 3.e.ii(a) and the separate naming rights account described in Section 3.e.ii above. For purposes of this Section, "cause" shall mean any failure to comply with the terms and conditions of this Agreement.

Following the expiration of the initial three (3) year term, the Agreement shall be automatically extended on an annual basis (i.e., for another successive one (1) year period) unless either party gives notice to the other, in accordance with the notice provisions above) that the Agreement will terminate at the end of that current period. Termination in such case shall not be treated as termination without cause by the party giving the notice, and upon such notice by either party the Foundation shall forthwith distribute to the City all cash or other funds or amounts contained, at the time of the notice, in the separate naming rights account described in Section 3.e.ii above, but not those funds then existing in the Capital Improvement Endowment Fund described in Section 3.e.ii(a).

9. **Entire Agreement and Amendment.** This Agreement represents the parties' entire agreement with respect to the matters specified herein, and may be amended only by an amendment signed by authorized representatives of the parties.

10. **Delay.** Neither delay nor failure by either party to exercise any right under this agreement, or the partial or incomplete exercise of any such rights shall constitute a waiver of that or any other right, unless provided expressly herein.

11. **Cumulative Remedies.** Except as otherwise expressly stated in this Agreement, the rights and remedies of the parties are cumulative, and the exercise by any party of one or more of such rights or remedies shall not preclude the exercise by it, at the same time or different times, of any other rights or remedies for the same default or any other default by any other party.

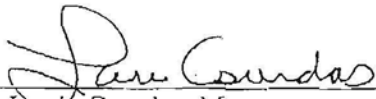
12. **No Third-party Beneficiaries.** In no event shall the provisions of this Agreement be deemed to inure to the benefit of or be enforceable by any third party.

13. **Governing Law and Venue.** It is understood that this Agreement shall be governed by and construed under and in accordance with the laws of the State of Michigan. Venue for any actions arising under this Agreement shall be Oakland County, Michigan.

14. **Severability.** Any provision of the Agreement that is found to be prohibited or unenforceable shall be ineffective only to the extent of such prohibition or unenforceability without invalidating the remaining provisions thereof.

This Agreement is hereby executed by the duly authorized representatives of the parties as of the 26th day of September, 2005.

CITY OF NOVI, MICHIGAN


By: Louis Csordas, Mayor

NOVI PARKS FOUNDATION


By: Charles Staab, President

740957