

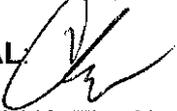
cityofnovi.org

CITY of NOVI CITY COUNCIL

Agenda Item 5
October 20, 2008

SUBJECT: Approve Agreement between the Novi Community School District and the City of Novi for exchange of properties, subject to review and final approval as to form by the City Manager and City Attorney upon final approval by the School District.

SUBMITTING DEPARTMENT: Parks, Recreation & Forestry

CITY MANAGER APPROVAL: 

BACKGROUND INFORMATION: The Novi Community School District and the City recognize that they share a common interest in serving the civic needs of Novi citizens. The City has identified a current need for additional recreation facilities and space for community events and programs. The School District also needs to be prepared for potential expansion of services and possibly the construction of a new school facility.

The City does not currently own sufficient land to develop additional recreation facilities. The City has determined that the currently vacant School District property, located at Eleven Mile Road and Beck Road, when combined with other land for which the City has secured a conditional right to purchase, would provide sufficient acreage for recreational facilities to be developed and meet citizens needs.

The City approached the School District to discuss the acquisition of the School property. Because the School District property was acquired with funds secured by bonded debt and approved by the City of Novi residents, the City proposed a property exchange instead of an outright purchase. The exchange includes:

- the School District transferring 68 acres of property located at Eleven Mile Road and Beck Road to the City
- the City transferring Wildlife Woods Park (located at Eleven Mile Road and Wixom Road) to the School District
- the School District and City executing a long term lease with the city for 1.77 acres of School property (located adjacent to the Fuerst Park) for use by the park.
- the City and School District amending the January 9, 2003 lease to include an additional 2 acres of property

The School District is retaining ownership of a 10 acre area of the School District property adjacent to Beck Road for potential future use for construction of an educational facility. However, the School District has no immediate planned use for this area. Therefore, the 10 acre area will be subject to a long-term lease for the City's use for parks and recreation purposes until the time the School District determines to construct a building on the site for school education purposes (the building must be permanent, must have a foundation, and must meet certain criteria to qualify as a substantial use by the school—i.e., not a storage building or the like).

The agreement to exchange the City owned Wildlife Woods Park property and the School District owned Eleven Mile Road and Beck Road property is contingent on the City securing financing, in amount determined by the City for initial development of the property, and for acquisition of additional property (Kaluzny Trust property), through the City's issuance of voter-obligated general obligation bonds. The City expects to adopt its resolution declaring its intent to hold an election to authorize the issuance of such bonds in November 2008, or thereafter, for an election in February 2009 or May 2009. In the event

the bond issue is not approved by voters at such election or bonds are not issued by July 30, 2009, the agreement as relates to the transfer of the two larger pieces (the City's Wildlife Woods property and the School's 11/Beck property) is null and void; the leases for the 1.77 Fuerst Park area property and the amendment for the 2.0-acre Power Park property will be executed before then and would remain in place.

The attached agreement outlines the property exchange, including the changes discussed at the October 16, 2008 School Board Meeting. These changes include:

- Changed the transaction regarding the **Fuerst Park property (1.77 acres) to a lease** by the school to the City, instead of a full transfer or conveyance (note that the transaction swapping that lease for an extension of the lease behind the school would still "close" first and not be subject to the bond approval, and if that passes will become an ownership exchange as part of a second closing).
- Revised the school's right to use the 10-acre reserved property by **taking out the limiting references** to "elementary school or other school-related educational building" and replaced it with a more general requirement that it be a school-related building, but with some limiting language -- permanent, minimum 10,000 square feet, foundation, non-combustible materials, etc.
- Added language regarding the **school's right to use any road the City builds** for access from Beck Road.
- Added language **allowing the school to use the transferred property for stormwater drainage.**
- Added language **allowing the school to share parking** on a parking lot constructed by the City for recreational building.
- Added some language about the City cooperating to the extent permitted by law with school **use/development of the Wildlife Woods property.**

RECOMMENDED ACTION: Approve Agreement between the Novi Community School District and the City of Novi for exchange of properties, subject to review and final approval as to form by the City Manager and City Attorney upon final approval by the School District.

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

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

STATE OF MICHIGAN
COUNTY OF OAKLAND
CITY OF NOVI

**AGREEMENT BETWEEN THE NOVI COMMUNITY SCHOOL DISTRICT AND THE
CITY OF NOVI REGARDING EXCHANGE OF PROPERTIES**

This Agreement regarding exchange of properties is made and entered into by and between the City of Novi ("City"), a Michigan municipal corporation, whose address is 45175 W. Ten Mile Road, Novi, MI 48375, and the Novi Community School District ("School District"), a constituent district of the Oakland Intermediate School District of the State of Michigan, whose address is 25345 Taft Road, Novi, MI 48374, for the exchange of certain properties located in the City of Novi according to the terms and subject to the conditions and contingencies set forth in this agreement.

1. PURPOSE AND INTENT.

The Properties

- A. The School District owns an approximately 73.88 acre parcel of land located on the southwest corner of Beck Road and Eleven Mile Road (*the School District Property*). The School District Property was purchased by the School District with funds from a voter-approved bond issue in or around 2001. The use of the School District Property was not specified or limited in connection with the bond issue, and it is currently vacant. Approximately 24.5 acres of the total area of the School District Property appears to be regulated wetlands. (See aerial photograph, Exhibit A.)
- B. The City owns an approximately 49.6 acre parcel of land located near the intersection of 11 Mile Road and Wixom Road (*the City Park Property*). The City Park Property is currently designated as parkland and is known as "Wildlife Woods Park." It has frontage on both Wixom Road and 11 Mile Road and is adjacent to the School District's Deerfield Elementary School and Novi Middle School. Approximately 10.8 acres of the City Park Property appears to be regulated wetlands. (See aerial photograph, Exhibit B.)

Both the land containing Deerfield Elementary School and Novi Middle School and the City Park Property were acquired in a 1997 real estate purchase transaction involving (among others) the former owner of both properties, Delta Trucking Company. That 1997 agreement contemplated that the City and School District lands would be treated as part of the Harvest Lake RUD Development (now known as the Island Lake RUD Development). The Harvest Lake/Island Lake RUD Agreement between the City and the developer of Harvest Lake/Island Lake includes an "Area Plan" that shows the Wildlife Woods Park as a "City park" and the School District's land as an elementary school, middle school, and ancillary

uses. There is no specific limitation in the Harvest Lake/Island Lake RUD Agreement with regard to development of the City's portion of the land acquired in 1997. The 1997 Agreement specifically states that "no such application, authorization, or approval shall impose any liability or obligation . . . on the owner of the City park property to develop the City park property in any manner whatsoever." The Harvest Lake/Island Lake RUD Agreement between the City and Harvest Lake/Island Lake in turn states only that "the City of Novi and the Novi Community School District shall each be solely responsible for submitting site plans for their respective portions of the overall property, to the extent required by law." (Both the 1997 Agreement and the Harvest Lake/Island Lake RUD Agreement are on file at the Novi City Clerk's office.)

The City's Wildlife Woods property also includes an approximately 2.6-acre area of land on which there is an operating oil and gas well. This area of the Wildlife Woods Park is not part of the City Park Property for purposes of this Agreement, is not a subject of this Agreement, and is to be retained in its entirety by the City of Novi.

- C. The City also owns a 14.72 acre parcel of property that is part of the Civic Center/Power Park complex and that it currently leases to the School District pursuant to a long-term lease entered into between the City and the School District effective January 9, 2003 (*the Leased Property*). The term of the lease is 50 years, with the potential for two extensions of 50 years each. The School is currently limited in its use of the Leased Property to recreational purposes, and is not permitted to build any structures or improvements other than recreational facilities for the shared use of the School District and the City. (See aerial photograph, Exhibit C.)
- D. Finally, the City and the School District both own property located on the southeast corner of 10 Mile Road and Taft Road in the area of what is commonly referred to as the Fuerst Park (*the Fuerst Park Area School District Property and the Fuerst Park Area City Property*). The approximately 6.5-acre Fuerst Park Area City Property fronts on both 10 Mile Road and Taft Road and is irregularly-shaped. The approximately 1.77-acre Fuerst Park Area School District Property fronts only on Taft, and is adjacent to an existing entrance drive to the school to Novi High School. The City has plans to improve its portion of the Fuerst Park Area land with a passive park/gathering area. (See aerial photograph, Exhibit D.)

The Transaction/Property Exchange

- E. The School District and the City recognize that they share a common interest in serving the civic needs of the citizens of Novi. The City has identified a current and immediate need for additional facilities for recreation and community gathering purposes and for providing services and activities for Novi residents of all ages. The School District also needs to be prepared for the potential expansion of various programs and possibly for the construction of a new school or other multi-purpose building.

The City has determined that it is in the interest of the residents of the City to establish a "Signature Park" to serve various recreational needs of City residents. As envisioned by the City, the proposed park could include elements such as a multi-purpose

gymnasium/recreational building, an outdoor amphitheater or band shell, a theater/auditorium building, and various outdoor recreation facilities (e.g., sports fields). Other outdoor uses of the City park property would include accommodations for outdoor festivals, art shows, concerts, and the like.

- F. The City does not currently own sufficient contiguous land to accomplish the creation of a Signature Park. The City has determined that the currently-vacant School District Property, when combined with certain other land for which the City has secured a conditional right to purchase, would constitute sufficient acreage for the City to undertake the anticipated Signature Park improvements over a period of years.
- G. The City approached the School District to discuss acquisition of the currently vacant School District Property. Because School District Property was acquired by the School District with funds secured by bonded debt approved by the voters within the School District, all of whom are City of Novi residents, the City proposed a *property exchange* involving the properties referenced in A thru D, above instead of an outright purchase. The City expects and intends to issue voter-approved bonds as a means to finance the planned improvements for the Signature Park and also to fund the acquisition of property in the area of the School District Property. Except as otherwise provided, the transfer of the properties described herein is subject to that voter approval and the issuance of the bonds.
- H. The School District and the City have mutually agreed upon the terms and conditions of a property exchange as follows: (1) the School District transferring approximately 68.33 acres of the School District Property to the City; (2) the City transferring the City Park Property and the Leased Property to the School District; and (3) the School District executing a long-term lease with the City for 1.77 acres of the Fuerst Park Area School District Property to the City (see aerial photograph, Exhibit E); and (4) the City and School District amending the existing January 9, 2003, Lease to include an additional approximately 2.0 acres of property (the *Added Leased Property*), as shown on Exhibit C, such Added Leased Property to be transferred to the School District in the event the Leased Property is transferred to the School District. It is the parties' intent that the lease of the Fuerst Park School District Property to the City and the amendment of the January 9, 2003, Lease to include the Added Leased Property is not subject to the voter approval and issuance of the bonds.
- I. The approximately 63.88-acre area to be transferred to the City (the *School Transfer Property*) is shown on the attached Exhibit F. The School District is retaining ownership of the 10-acre area of the School District Property adjacent to Beck Road (*the Reserved Use Property, as shown on Exhibit F*) for potential future use for construction of an elementary school building or an adult/community education building. However, the School District has no immediate planned use for the Reserved Use Property. Therefore, as a condition to the School District's transfer of the School District Property to the City, the Reserved Use Property shall be subject to a long-term lease in favor of the City, for full and unfettered use by the City for parks and recreational uses of its sole choosing, including the right to build any form of recreational facilities, buildings, or other structures for any City purpose, until the time the School District determines to, and in fact does, construct a building on the property to be occupied for school-related purposes.

- J. Accordingly, the generally-stated intent and purpose of the School District and the City in entering into this Agreement include the following, without limitation:
- i. Conveyance by the School District to the City of the 62.88-acre School Transfer Property, subject to a long-term lease for use rights to the 10-acre Reserved Use Property, for future City uses;
 - ii. Conveyance by the City to the School District of the 49.6-acre City Park Property;
 - iii. Conveyance by the City to the School District of the 14.7-acre Leased Property;
 - iv. Execution of a long-term lease by the School District and the City for a 1.77-acre area of land from the Fuerst Park Area School District Property, for the purpose of “squaring off” the City’s property at the corner of 10 Mile and Taft Roads;
 - v. Amendment to January 9, 2003, Lease to include the Added Leased Property.
 - vi. Establishment of certain contingent rights and obligations of the parties in connection with the future use of the properties for the purposes stated herein; and
 - vii. Establishment of the conditions under which the property exchange will occur, including contingencies for the securing of voter approval by the City for the issuance of bonds to finance the intended improvements to the School District Property and for the conducting of due diligence by the City and the School District, including the City’s removal of the Wildlife Woods property (the City Park Property), the Leased Property, and the Added Leased Property from the City’s Master Plan for Land Use.

2. EXCHANGE OF PROPERTY RIGHTS: CONSIDERATION. At the Closings described in Paragraph 7, the School District and City agree to execute, deliver, and exchange the following as consideration for the consummation of this transaction, which exchange of consideration is understood by the parties to be of substantially equivalent values, subject to the parties’ satisfaction and/or waiver of the Contingencies (as defined below) and the terms of this Agreement and the generally stated purposes and intent of the parties in entering into this transaction:

- (a) The School District shall convey to the City fee simple marketable title to the portions of the School Transfer Property described as part of the attached Exhibit G by execution and delivery of a Warranty Deed in substantially the same form and containing substantially the same terms, reservations, and provisions as the Warranty Deed attached hereto as Exhibit G. Such conveyance shall also grant to the City (1) the right to use the Reserved Use Property (10 acres) for City purposes in accordance with the terms and conditions of Paragraph 8 below, including the execution of a long-term lease for the use thereof; and (2) access rights to portions of the Reserved Use Property, including access to internal roads and utilities (if any), in accordance with the terms and conditions of Paragraph 8 below.
- (b) The City shall convey to the School District fee simple marketable title to portions of the City Park Property, the Leased Property, and the Added Leased Property, described as part of the attached Exhibit H by execution and delivery of a Warranty Deed in substantially the same form and containing substantially the same terms, reservations and provisions as the Warranty Deed attached hereto as Exhibit H, which

shall include reference to the existing oil and gas lease rights on adjacent City-owned property and a right of entry to access such City-owned property as well as an acknowledgement that the current lease between the City and the School District shall cease and be of no further force and effect.

- (c) The School District and the City shall enter into a long-term lease the Fuerst Park Area School District Property described on the attached Exhibit I in substantially the same form and containing substantially the same terms and provisions as attached hereto as Exhibit I, contemporaneous with and as part of a Closing involving the amendment of the January 9, 2003 Lease to include the Added Lease Property.
- (d) Pending transfer of the Added Leased Property to the School District, the City shall execute an amendment to the January 9, 2003 Lease to include the Added Lease Property, substantially in the same form and containing substantially the same terms and provisions as attached hereto as Exhibit J, contemporaneous with and as part of a Closing involving the School District's transfer of the Fuerst Park Area School District Property.

3. CONTINGENCIES. Consummation of this Agreement at the Closings is subject to all of the following contingencies being first satisfied and/or waived:

(a) Title Contingency No. 1.

- (i) The School District agrees to furnish, at its expense and within 20 days of the effective date hereof, a Commitment for Title Insurance bearing a certification date subsequent to the date of this Agreement as to the properties described in Exhibits G and I, showing marketable and insurable title to such properties in the School District. Such Commitment shall be for an owner's policy of title insurance in favor of the City as to such properties and the rights, easements, and deeds therein to be conveyed and granted to the City under this Agreement, which policy is to be issued at the Closing by a title insurance company licensed to do business as a title insurance company in, and with offices in, the State of Michigan insuring marketable title in the amount of \$1,000,000, without standard exceptions. Such Commitment shall be updated and re-certified to the date of Closing and contain an undertaking of the title company to insure over the "gap" period existing between the date of such original Commitment and the Closing of this transaction.

For purposes of this Agreement, marketable title shall mean fee simple title free and clear of any and all liens and encumbrances whatsoever, excepting only encumbrances of record and listed as policy contingencies that the City elects to accept at or before Closing, including building and use restrictions of record, so long as same do not in any way or manner preclude, hinder, or limit the City's proposed use of the School District Property for any permitted purpose, including as a Signature Park, easements of record, and zoning ordinances; provided, however, that the City, at its sole option, may elect to

accept title in whatever condition it may be in, notwithstanding that such condition would not meet the above definition of “marketable title” and, in such event, marketable title shall mean the condition of title which the City has elected to accept.

- (ii) If any unpermitted matters of title are disclosed by the Commitment, at any time, the School District shall have the right to undertake reasonable efforts to cure them prior to Closing. If the School District is unable to cure all unpermitted exceptions to the City’s satisfaction prior to Closing, below, this Agreement shall terminate, and neither party shall have any further obligation to the other under this Agreement. In the alternative, City may, but is not in any way obligated to, elect to accept such title to the properties as the School District is able to provide, without a reduction or modification of the consideration given to the School District under this Agreement.

(b) Title Contingency No. 2.

- (i) City agrees to furnish, at its expense and within 20 days of the effective date hereof, a Commitment for Title Insurance bearing a certification date subsequent to the date of this Agreement as to the properties described in Exhibit H, showing that City owns marketable and insurable title to such property. Such Commitment shall be for an owner’s policy of title insurance in favor of the School District as to the City’s Parcel to be issued at the Closing by a title insurance company licensed to do business as a title insurance company in, and with offices in, the State of Michigan insuring marketable title in the amount of \$1,000,000, without standard exceptions. Such Commitment shall be updated and re-certified to the date of Closing and contain an undertaking of the title company to insure over the “gap” period existing between the date of such original Commitment and the Closing of this transaction.

For purposes of this Agreement, marketable title shall mean fee simple title free and clear of any and all liens and encumbrances whatsoever, excepting only encumbrances of record and listed as policy contingencies that the School District elects to accept at or before Closing, including building and use restrictions of record, easements of record and zoning ordinances; provided, however, that the School District, at its sole option, may elect to accept title in whatever condition it may be in, notwithstanding that such condition would not meet the above definition of “marketable title” and, in such event, marketable title shall mean the condition of title which the School District has elected to accept.

- (ii) If any unpermitted matters of title are disclosed by the Commitment, at any time City shall have the right to undertake reasonable efforts to cure them prior to Closing. If City is unable to cure all unpermitted exceptions to the School District’s satisfaction prior to Closing, this Agreement shall terminate,

and neither party shall have any further obligation to the other. In the alternative, School District may, but is not in any way obligated to, elect to accept such title to the property as City is able to provide, without reduction or modification of the consideration given to City under this Agreement.

(c) Bond Issuance Contingency.

Except as otherwise provided in Paragraph 7 as to the Fuerst Park Area School District Property and the lease amendment for the Added Leased Property, this Agreement is contingent on the City securing financing, in an amount determined by the City in its sole discretion, for its initial proposed improvements to the property for establishment of a Signature Park (as determined by the City in its sole discretion) and for acquisition of certain additional properties in the area of the School District Property, through the City's issuance of voter-obligated general obligation bonds pursuant to Act 279, Public Acts of Michigan, 1909, as amended, and any and all other relevant municipal finance laws. The City expects and intends to adopt its resolution declaring its intent to hold an appropriate election to authorize the issuance of such bonds in November, 2008 or thereafter, for an election on February 3 or May 5, 2009. In the event the bond issue is not approved by the voters at such election, this Agreement shall become null and void and of no further effect. In the event the issuance of the bond is approved by the voters at such election, but bonds are not issued by July 30, 2009, this Agreement shall become null and void and of no further force and effect. Notwithstanding anything in the foregoing to the contrary, this contingency does not apply to Closing A as described in Paragraph 7 relating to the Fuerst Park Area School District Property and the lease amendment for the Added Leased Property.

(d) Environmental Contingency.

The parties' obligations under this Agreement shall be contingent upon satisfactory inspections and testing of the Properties for environmental contamination by a qualified person, at each party's sole option and expense for the property being acquired, within sixty (60) days after the effective date of this Agreement. If the inspection or testing shows any environmental contamination, or if the environmental inspection requires or recommends a Phase II or Base Line Investigation/Report, the party acquiring the subject property shall have the option to terminate this Agreement by written notice to the other party within fourteen (14) days after expiration of the sixty (60) day inspection period. Nothing contained herein, however, shall be construed to mean the acquiring party is indemnifying or otherwise holding the conveying party harmless from third-party actions or suits in regard to environmental contamination of the Property or any other matter. When used herein, the term "Property" shall include all aspects of the Property, such as, but not limited to any structures on the Property and the soil and groundwater beneath the Property.

(e) Survey Contingency.

The parties' obligations under this Agreement shall be contingent upon their obtaining a satisfactory survey within sixty (60) days after the effective date of this Agreement for all of the Properties, the cost of which survey is to be borne equally by the parties. The survey shall be prepared by a mutually-chosen registered land surveyor, licensed in the State of Michigan, certified to and satisfactory to the parties and the Title Company, conforming to such current ALTA ASCM minimum standards and "Table A" options as the party shall desire, and showing the dimensions and area of all of the Properties; the location, dimensions and recording information (if applicable) of all existing improvements, roads, easements, means of access to public streets, encroachments, driveways, and all other physical conditions affecting the title and use of the Property including access thereto. If either party, in that party's sole discretion, is not satisfied with the results of the survey, the party shall so notify the other party in writing within fourteen (14) days after the expiration of the sixty (60) day survey period. If no written objection is made by any party within the stated period, this survey contingency shall be deemed to be waived and the parties shall proceed to closing subject to the remaining terms of this Agreement and the parties shall be deemed to have accepted the Property in an "AS IS" condition.

(f) Land Use Contingency

The City Park Property, the Leased Property, and the Added Leased Property are currently designated in the City's Master Plan for Future land Use as parkland. The City shall as soon as practicable after the effective date of the Agreement formally request its Parks Commission to conduct a public hearing to determine whether such designation should be removed in order to allow the conveyance of the City Park Property, the Leased Property, and the Added Leased Property to the School District. The City shall also formally request its Planning Commission to hold a public hearing to determine whether such designation should be removed in order to allow the conveyance of the City Park Property, the Leased Property, and the Added Leased Property to the School District.

The City Park Property is also currently included in the Area Plan of the Harvest Lake/Island Lake RUD, designated as a City Park, and is the subject of a 1997 Purchase Agreement contemplating such inclusion and designation. The City shall take whatever action is necessary, if any, to confirm or ensure that such inclusion and designation does adversely affect, limit, or otherwise impair the School District's use of the City Park Property in any way.

The School District acknowledges that the City has not performed any title search with regard to the School District Property. The School District shall cooperate with the City with regard to addressing, removing, or satisfying any limitations or restrictions on the School District Property that would hinder, restrict, or prohibit the City's use of the School District Property for any permitted use, including the Signature Park use described herein.

Notwithstanding anything in the foregoing to the contrary, this contingency does not apply to Closing A as described in Paragraph 7 relating to the Fuerst Park Area School District Property and the lease amendment for the Added Leased Property.

4. REPRESENTATIONS AND WARRANTIES. The School District and the City both represent and warrant to each other as follows:

- To the best of its knowledge, there is no pending litigation affecting all or any part of the Property, or its interest therein.
- There are no options, rights of first refusal, licenses, rental agreements, leases or other rights of occupancy outstanding in respect of the Property.
- To the best of its knowledge, there are no uncorrected violations of any building codes and regulations, health codes or zoning ordinances, or county, state or federal laws or regulations, affecting the Property or the use or enjoyment thereof.
- To the best of its knowledge, there are no undisclosed or latent defects affecting the Property and the improvements thereon.
- To the best of its knowledge, and except as disclosed elsewhere in this Agreement, there are no covenants, restrictions, agreements, or easements, either above the surface, at grade or subsurface, other than utility easements of record, which would affect or interfere with the acquiring party's use and enjoyment of the Property, as determined by Purchaser.
- To the best of its knowledge there are no underground storage tanks or hazardous or toxic substances existing on, under, above or upon the Property as defined in any federal, state or local law, regulation, rule, statute or directive, nor is there any asbestos or urea formaldehyde foam insulation installed in or upon the Property.
- There are no real estate broker or agent commissions, fees and other charges involved in or attributable to this transaction and conveyance other than those disclosed in this Agreement. acquiring party shall not be responsible for any such brokerage or agent fees, commissions, or other such charges, and it shall indemnify, defend and hold acquiring party free and harmless from the claims of any broker(s), representative(s), employee(s), agent(s) or other intermediary(ies) claiming to have represented it, or otherwise to be entitled to compensation, in connection with this Agreement or in connection with the sale of the Property.

The foregoing representations and warranties shall survive the Closings of this transaction.

5. LEGAL DESCRIPTIONS. The acreage references in this Agreement are close approximations. The School District and City shall jointly prepare all final legal descriptions of the several land areas shown and highlighted on the aerial photographs attached hereto. Once the legal descriptions have been finalized and agreed to by all parties, they shall be attached to the intended documents as contemplated under Paragraph 2, above, and the documents attached hereto as Exhibits, and then the final documents to be executed at the Closings shall be distributed among all parties with the agreed upon exhibits attached for final agreement at the Closings. Following the Closings, the parties agree to cooperate in executing and recording amendments that are necessary for purposes of replacing those legal descriptions using plans/maps with metes and bounds legal descriptions of such depicted areas, or that become necessary for purposes of correcting mutual

mistakes and errors in the legal descriptions, if any such mistakes or errors are discovered at or after the Closings.

6. POSSESSION. Possession will be delivered at the respective Closings. The Warranty Deeds and easements and other documents shall be delivered at the respective Closings. In taking possession of the Properties, the School District and City shall have all rights that would accrue to them as if fee title absolute were transferred at that time. Each party shall assign, transfer, and give over unto the other party at Closing all easements, leases, licenses, and similar property rights that relate to the use, ownership, possession, or control of the Property.

7. CLOSING. There shall be two separate Closings to consummate this transaction.

Closing A shall result in the execution of the long-term lease of the Fuerst Park Area School District Property to the City and the amendment of the January 9, 2003, Lease to include the Added Leased Property. The Bond Issuance Contingency and the Land Use Contingency shall not apply to this Closing.

Closing B shall result in the transfer and conveyance of the Fuerst Park Area School District Property and the approximately 63.88-acre School Transfer Property to the City, with a long-term lease interest in the remaining 10-acre Reserved Use Property, by the School District to the City, and of the City Park Property, the Leased Property, and the Added Leased Property to the School District. Closing B shall not occur unless Closing A has occurred. Closing A shall be complete upon occurrence, regardless of whether Closing B occurs.

The Closings shall take place at the office of the Title Company and the parties shall arrange for a Title Company representative with authority to up-date and mark-up the commitments for title insurance as required under this Agreement to be present at the closing. If title to all Properties described in Paragraph 2 can be conveyed in the condition required under this Agreement, and all terms and Contingencies of this Agreement have been satisfied or waived, each Closing shall take place on a date and time as is mutually agreeable to the parties to close; provided, however, that the Closing shall occur not later than thirty (30) days from the date on which the City notifies the School District in writing for each Closing that all of the terms and contingencies of this Agreement have been satisfied or waived as to the respective transactions. The Title Company shall provide a complete package of the documents to be executed at the closing to both parties and their attorneys within 48 hours of the closing. At each respective Closing, the parties agree to the following for the purpose of consummating this transaction:

- (a) Each party shall deliver to the other evidence satisfactory to establish their authority to enter into and consummate this transaction.
- (b) Each party shall order the Policy of Owner's Title Insurance required hereunder, and pay all premiums payable with respect to the Owner's Policy of Title Insurance.
- (c) Each party shall pay for all transfer taxes, sales taxes, ordinance-imposed fees or assessments, fees attributable to any parcel split/combine which may have been

assessed, and fees and charges of its own representatives, agents or contractor, for the Property acquired.

- (d) Both parties shall execute, acknowledge and deliver such other instruments, documents and undertakings (in customary form reasonably acceptable to the School district and the City) as shall be reasonably necessary in order to fully consummate this Agreement and to bring into effect its intent and purpose.
- (e) All taxes and assessments that have become a lien upon the land as of the date of Closing (if any) shall be paid by the conveying party, except that: (a) all current property taxes shall be prorated and adjusted between the parties as of the date of Closing on a due-date basis, without regard to lien date, as if paid prospectively (e.g., taxes due July 1 will be treated as if paid for the period July 1 through the following June 30, and taxes due December 1 shall be treated as if paid for the period December 1 through the following November 30); and (b) the acquiring party shall be responsible for the payment of all property taxes falling due after the date of Closing without regard to lien date. The conveying party shall pay the cost of all utilities and service charges through and including the date of Closing.

8. RIGHTS OF USE—RESERVED USE PROPERTY. The City represents and acknowledges its intention to develop the School District Property upon acquisition and thereafter over time into a Signature Park, with various different recreational activities, both indoor and outdoor. Although this is the City's present intention, nothing in this agreement or the proposed conveyance shall obligate the City to develop the property in any manner. The School District acknowledges that the City's intention include the potentially extensive use of the Reserved Use Property for parks and recreational facilities and activities of an unspecified nature and that, as the City's plans for the Signature Park are undertaken and finalized, such use could include sports fields, a parking or ingress/egress area, actual recreational buildings, or other similar uses.

The parties shall therefore enter into a long-term lease agreement, generally in the form of and containing the terms set forth in the attached Exhibit K, under which the City shall be granted possession and control of the Reserved Use Property, without the payment of rent or other consideration except as set forth herein, for its sole and unfettered use for parks and recreation purposes, including the right to construct, at its sole cost and expense, sports field improvements, buildings, or other structure or improvements of any kind or nature; provided, however, that upon notification that the School District has undertaken all necessary steps to commence construction of a building that will be used and occupied for school-related purposes, the City shall vacate the Reserved Use Property within six (6) months. The School District may only invoke this right to require the City to vacate the Reserved Use Property for the improvement of a permanent building (i.e., not a sports field or parking area or similar non-building use) of sufficient size and design as to require a foundation and non-combustible construction, and generally to fall within an educational or administrative use group for building code purposes. The building must be no less than 10,000 square feet in area and intended to be occupied by persons on behalf of the School District as a principal use—i.e., not a storage shed or garage or outbuilding. Such vacation shall include the removal of all improvements to the extent required by the School District, including any above-ground building or other structural improvements.

The lease shall also provide that, upon vacation of the Reserved Use Property by the City and the construction of building and other improvements by the School District, the School District shall provide an access easement across the Reserved Use Property in favor of the City of sufficient area and width and in a reasonable location so as to allow access to the remainder of the School District Property.

9. RIGHTS OF USE—TRANSFERRED CITY PARK PROPERTY AND LEASED PROPERTY. The School District acknowledges and agrees that it does not have a particular use planned for either the City Park Property, the Leased Property, or the Added Leased Property. Some parts of such properties are currently improved with sports fields (e.g., baseball fields, soccer fields, and the like). In the event the School District determines to improve either the City Park Property, the Leased Property, or the Added Leased Property, the City agrees to conduct the appropriate reviews for site plan (if necessary), wetland delineation and wetland permit determinations, and woodland review and woodland permit determinations on an expedited basis, and to the extent permitted by law to reasonably cooperate with the School District in its efforts to secure appropriate and authorized development with such areas. The City and its designees shall retain the right to enter upon the City Park Property for the purpose of accessing the existing oil and gas well located adjacent to the City Park Property.

With regard to the School Transfer Property, the School District shall have, without compensation, a right of ingress, egress, and access to and use of any road connecting to, or establishing access from, Beck Road that the City builds on the School Transfer Property in order to provide access to the Signature Park improvements (e.g., as shown on Exhibit F for illustrative purposes), and the City agrees to execute an appropriate easement or license reflecting such rights upon mutually agreeable terms and conditions.

To the extent that construction of building improvements and related parking and other improvements on the Reserved Use Property require the construction of drainage system(s), the City agrees to grant easements on, over, and through the School Transfer Property, upon reasonable terms and to the degree required, to the School District, without requirement of compensation. All storm water and drainage improvements and facilities shall be designed, constructed, provided, and maintained, and all applicable fees for use of the regional drainage facilities shall be paid, at the sole cost and expense of the School District; provided that, to the degree that maintenance is customarily provided in like and similar circumstances by the City, the City shall provide such maintenance on the same terms for the facilities on the City-owned property in question, and an appropriate maintenance agreement shall be executed as part of a site plan approval process.

The lease referred to in Paragraph 8 above shall also provide that, upon vacation of the Reserved Use Property by the City and the construction of building and other improvements by the School District, the City shall provide a cross access and shared parking easement for automobiles and other motor vehicles for use by any parking areas or lots constructed by the City on the School Transfer Property in connection with the proposed recreational facility as conceptually depicted on Exhibit F, upon mutually agreeable terms and conditions.

10. TIME IS OF THE ESSENCE. At all times under this agreement where certain time constraints are set forth, the parties have agreed that TIME IS OF THE ESSENCE and that no extensions of said time limits are expected or agreed to unless specifically agreed to in writing.

11. DEFAULT. In the event of material default by the City under this Agreement, the School District may, at its option, elect to enforce the terms hereof or rescind and terminate this Agreement. In the event of a default by the School District, the City may, at its option, elect to enforce the terms hereof or rescind and terminate this Agreement.

12. CHOICE OF LAW. This Agreement shall be governed by and construed in accordance with the laws of the State of Michigan that are applicable to Agreements made and to be performed in that State. Should any court action be commenced at any time involving or concerning this Agreement, the parties hereto consent and agree to jurisdiction and venue being in the State of Michigan Circuit Court in Oakland County. In the event any provision of this Agreement or any addendum to this Agreement contains provisions that are contrary to existing law in the State of Michigan or negate any legal right of a party to this Agreement under the laws of said state, such provision shall be severed from this Agreement and shall be of no force or effect, but shall not otherwise invalidate the remainder of this Agreement. The Agreement of the parties in this paragraph shall survive the Closings of this transaction.

13. LEGAL DOCUMENT; INTERPRETATION. This is a legal and binding document, and both the School District and the City acknowledge that they have been advised to consult an attorney to protect their interests in this transaction. Where the transaction involves financial and tax consequences, the parties acknowledge that they have been advised to seek the advice of their accountant or financial adviser. No provision in this Agreement is to be interpreted for or against any party because that party or that party's legal representative drafted the provision. This paragraph shall survive the closing of this transaction.

14. ALL AGREEMENTS IN WRITING. The School District and the City agree that this Agreement (and written and signed addenda, if any) cannot be modified, altered or otherwise amended without a writing being duly signed or initialed, as the case may be, by both School District and the City.

15. NOTICES. All notices and demands required or permitted under this agreement shall be in writing and shall be served personally or by postage prepaid United States first class, certified (return receipt requested), or registered mail, addressed to the party at the address indicated on page 1 hereof or to such other place as may be designed by notice given in accordance with this section. It is agreed to by the parties that offers, acceptances and notices required hereunder may, but are not required to, be delivered by facsimile (fax) copy to the parties or their agents provided a hard copy (originally signed copy) is mailed or delivered in a timely manner. If faxed, the date and time of the receipt of the fax shall be the date and time of said offer, acceptance or notice. If not faxed, notice shall be deemed to have been given on the earlier of (a) the date of personal delivery, (b) the date when received, or (c) one (1) day after mailing if mailed in the State of Michigan. This paragraph shall survive the closing of this transaction.

16. **GRAMMAR AND HEADINGS.** Whenever words herein are used in the masculine, they shall be read in the feminine or neuter whenever they would so apply and vice versa, and words in this Agreement that are singular shall be read as plural whenever the latter would so apply and vice versa. The headings contained herein are for the convenience of the parties and are not to be used in construing the provisions of this Agreement.

17. **ENTIRE AGREEMENT.** School District and the City agree that this Agreement contains the entire agreement between them and that there are no agreements, representations, statements or understandings that have been relied upon by them that are not stated in this Agreement.

18. **BINDING EFFECT.** The covenants, representations and agreements herein shall run with the land and are binding upon and inure to the benefit of the parties hereto, their respective heirs, representatives, successors and assigns, and shall survive the Closing where indicated.

19. **EXPIRATION.** It is contemplated, but not required, that this Agreement will be signed by the City first. In such event, School District shall have seven (7) business days from the date of the City's signature to accept and deliver a countersigned original of this Agreement to City; otherwise this Agreement shall constitute an expired offer to purchase.

20. **COUNTERPARTS.** The Agreement may be executed in any number of counterparts, none of which need be executed by all the parties hereto, each of which shall be deemed an original, and all of which when taken together shall constitute one in the same instrument. Each Exhibit attached hereto shall be a part of this Agreement, as if the content thereof was fully set forth in the body of the Agreement.

21. **DATE OF EXECUTION.** The date of execution of this agreement shall be the date on which the last person to sign this document (in its final form) shall have signed the document. In the event the parties fail to insert the date of execution beneath their signatures below, then the date of execution shall be the date on which School District representatives actually signed the document. **IT IS THEREFORE VERY IMPORTANT FOR EACH PERSON SIGNING THIS DOCUMENT TO PLACE THE DATE OF SIGNING IN THE SPACE PROVIDED BELOW THEIR SIGNATURE.**

ACCORDINGLY, the School District and the City have executed this Agreement as of the date written below.

“SCHOOL DISTRICT”

“CITY”

NOVI COMMUNITY SCHOOL DISTRICT,
Acting by and through its Board of Education,

CITY OF NOVI, a Michigan
municipal corporation

By: _____
Its: President
Dated: _____

By: David B. Landry, Its Mayor
Dated: _____

By: _____
Its: Secretary
Dated: _____

By: Maryanne Cornelius, Its Clerk
Dated: _____

1145075

EXHIBIT A

Aerial photograph of 73.88-acre School District Property.

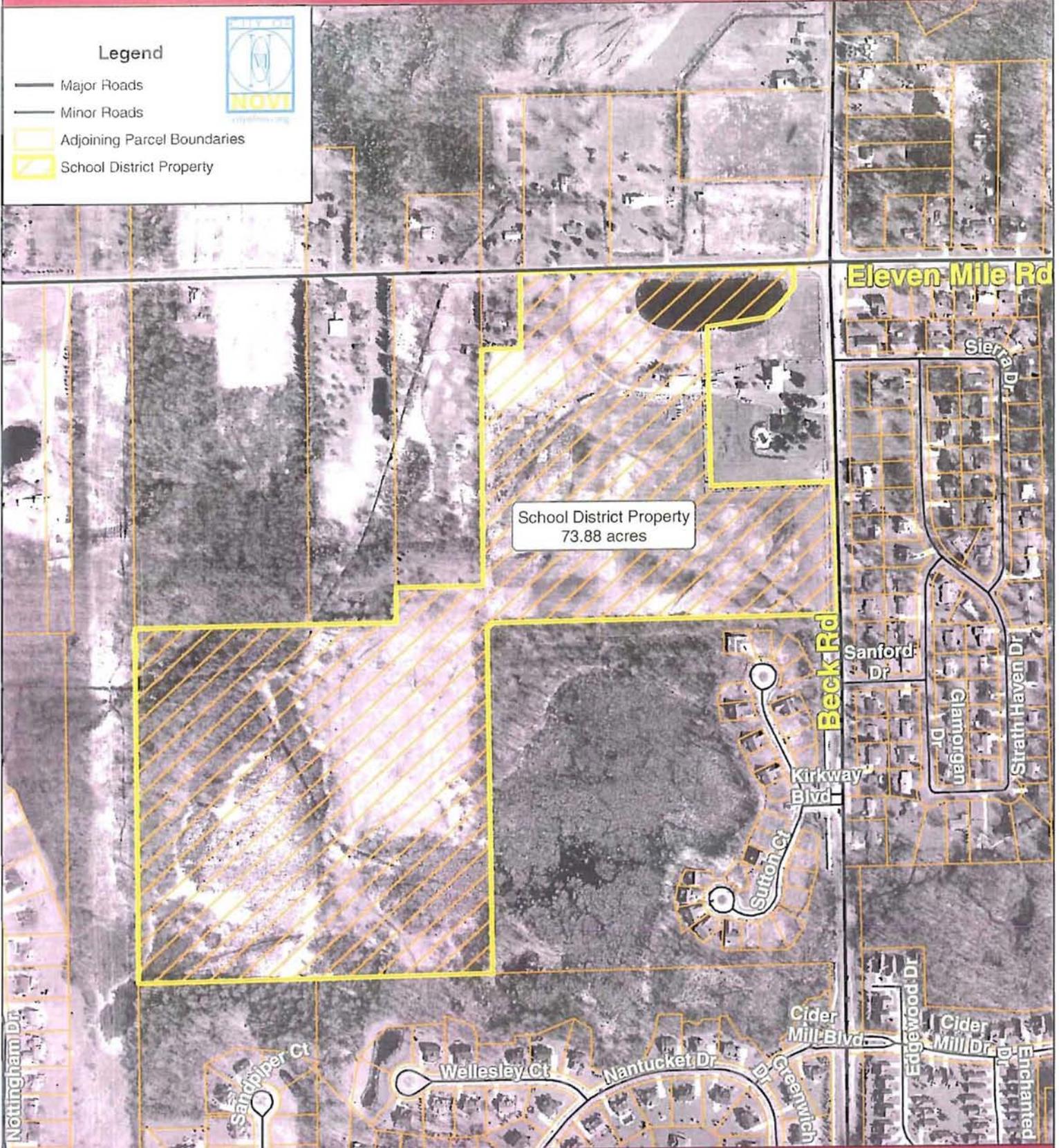
Agreement Between the Novi Community School District and the City of Novi Regarding Exchange of Properties

Exhibit A

Legend



- Major Roads
- Minor Roads
- Adjoining Parcel Boundaries
- School District Property



School District Property
73.88 acres

CITY OF NOVI

GEOGRAPHIC INFORMATION SERVICES
45175 W. TEN MILE ROAD
NOVI, MI 48375-3024
(248) 347-3279
MAP AUTHOR: CHRIS BLOUGH,
CITY GIS MANAGER



0 250 500 1,000

FEET

1 INCH = 500 FEET

MAP PRINT DATE: 10/20/2008

MAP INTERPRETATION NOTICE

Map information depicted is not intended to replace or substitute for any official or primary source. This map was intended to meet National Map Accuracy Standards and use the most recent, accurate sources available to the people of the City of Novi. Boundary measurements and area calculations are approximate and should not be construed as survey measurements performed by a licensed Michigan Surveyor as defined in Michigan Public Act 132 of 1970 as amended. Please contact the City GIS Manager to confirm source and accuracy information related to this map.

EXHIBIT B

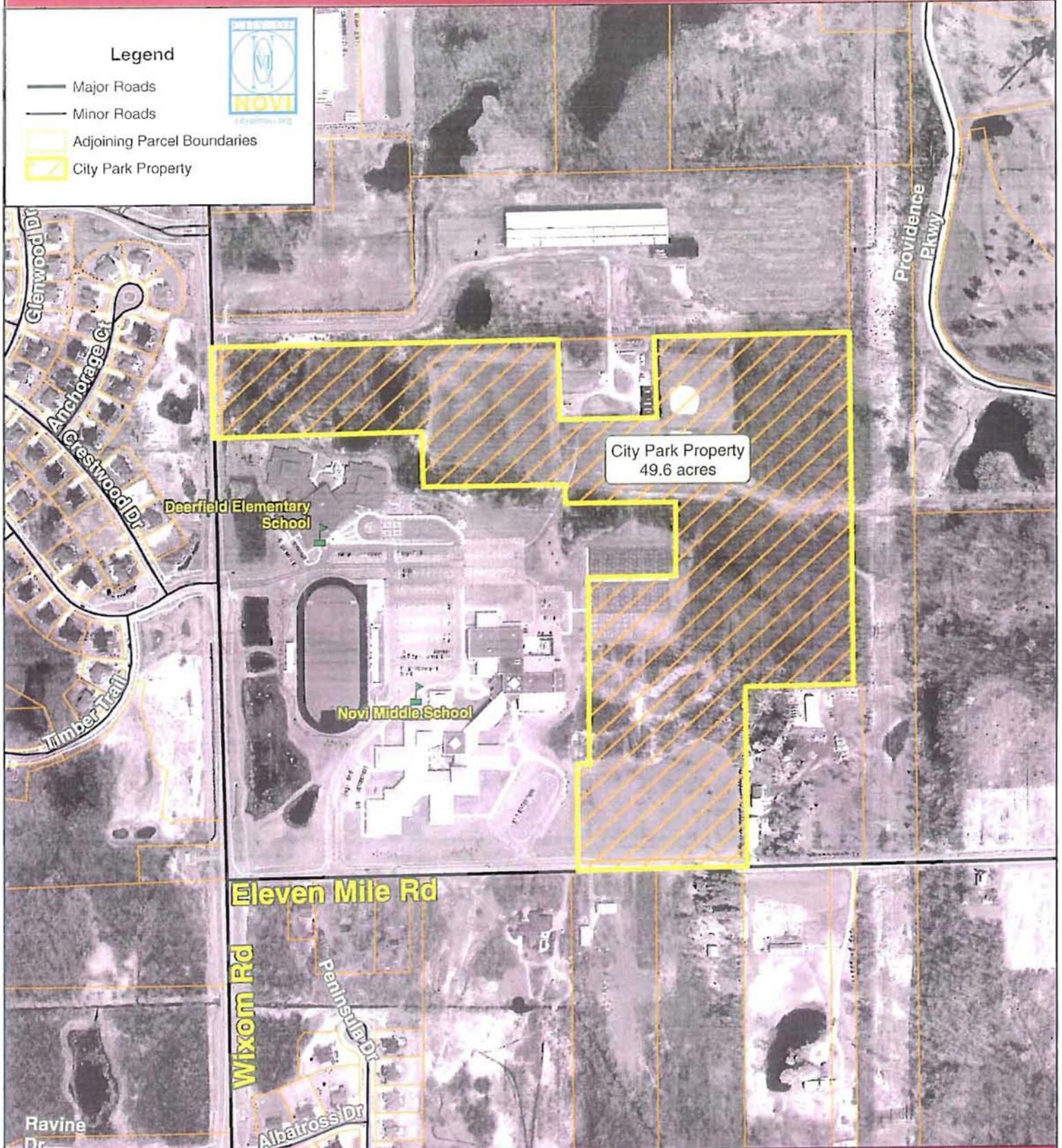
Aerial photograph of 49.6-acre parcel of City Park Property (Wildlife Woods).

Agreement Between the Novi Community School District and the City of Novi Regarding Exchange of Properties

Exhibit B

Legend

-  Major Roads
-  Minor Roads
-  Adjoining Parcel Boundaries
-  City Park Property



City Park Property
49.6 acres

CITY OF NOVI

GEOGRAPHIC INFORMATION SERVICES
45175 W. TEN MILE ROAD
NOVI, MI 48375-3024
(248) 347-3279
MAP AUTHOR: CHRIS BLOUGH,
CITY GIS MANAGER



0 250 500 1,000
FEET

1 INCH = 500 FEET

MAP PRINT DATE: 10/20/2008

MAP INTERPRETATION NOTICE

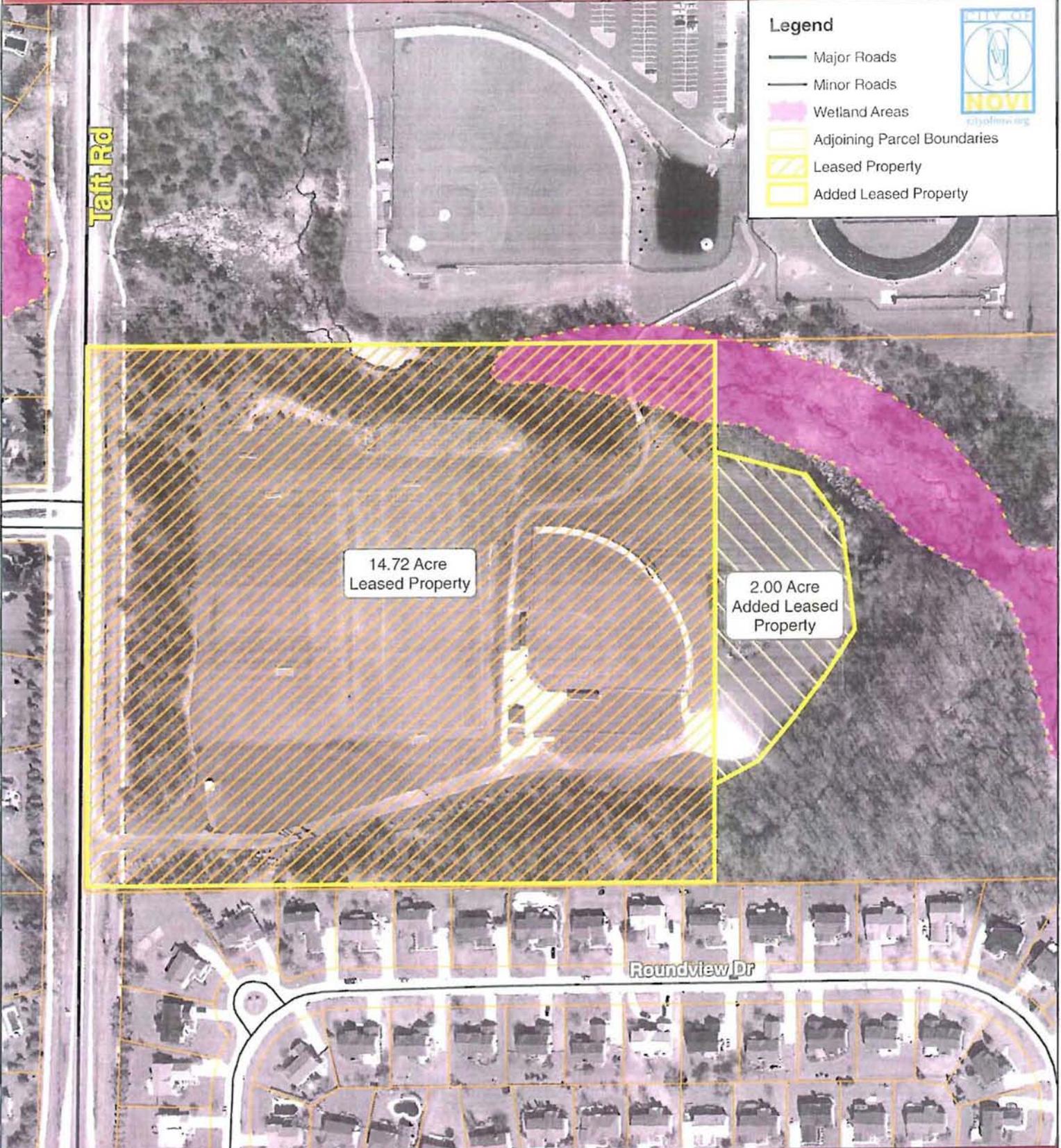
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EXHIBIT C

Aerial photograph of the 14.72-acre Leased Property at the Civic Center/Power Park Complex.

Agreement Between the Novi Community School District and the City of Novi Regarding Exchange of Properties

Exhibit C



Legend

- Major Roads
- Minor Roads
- Welland Areas
- Adjoining Parcel Boundaries
- Leased Property
- Added Leased Property



14.72 Acre
Leased Property

2.00 Acre
Added Leased
Property

CITY OF NOVI

GEOGRAPHIC INFORMATION SERVICES
45175 W. TEN MILE ROAD
NOVI, MI 48375-3024
(248) 347-3279
MAP AUTHOR: CHRIS BLOUGH,
CITY GIS MANAGER



1 INCH = 200 FEET MAP PRINT DATE: 10/20/2008

MAP INTERPRETATION NOTICE

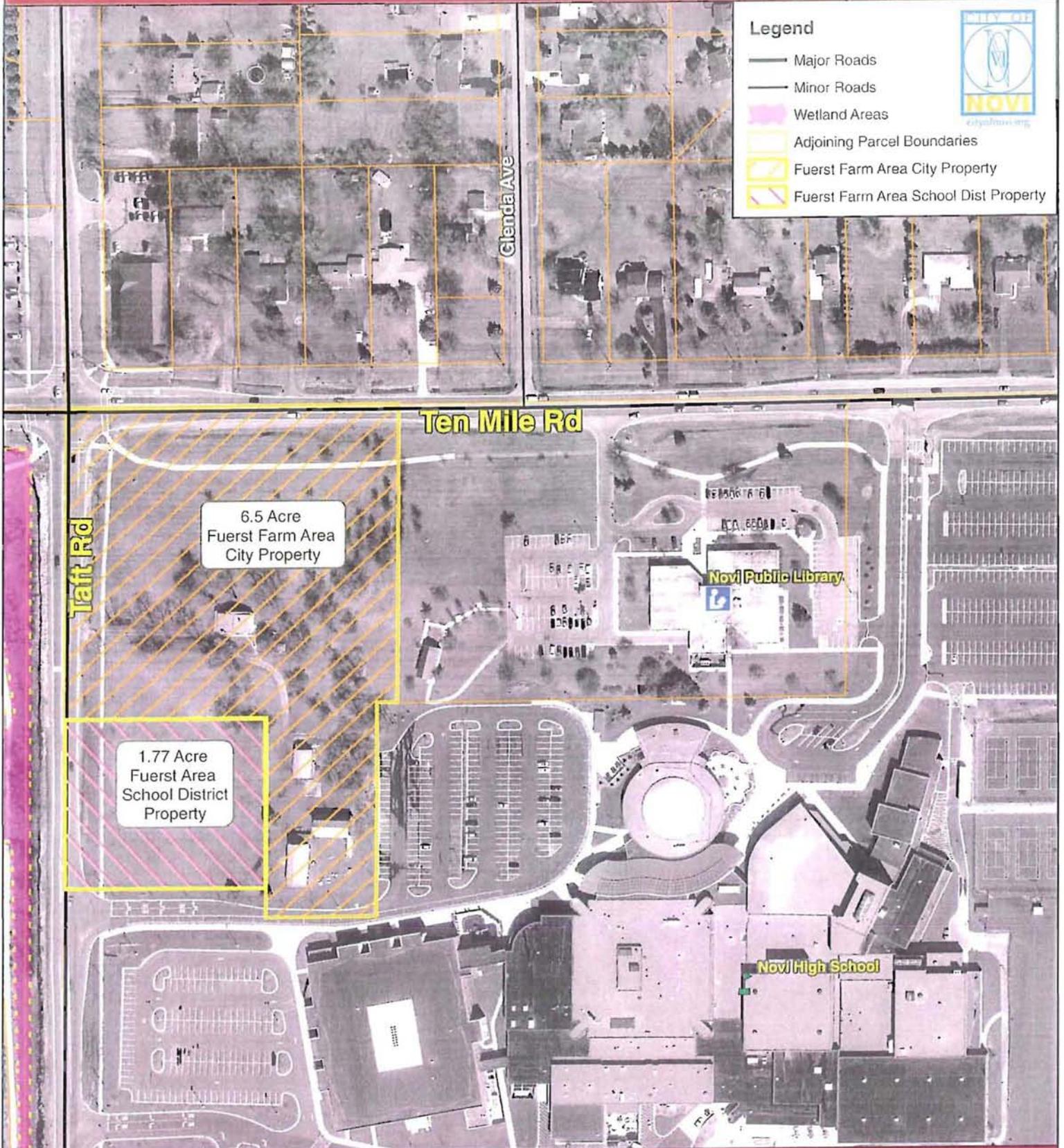
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EXHIBIT D

Aerial photograph of the Fuerst Park Area School District and City properties.

Agreement Between the Novi Community School District and the City of Novi Regarding Exchange of Properties

Exhibit D



Legend

- Major Roads
- Minor Roads
- Wetland Areas
- Adjoining Parcel Boundaries
- Fuerst Farm Area City Property
- Fuerst Farm Area School Dist Property



CITY OF NOVI

GEOGRAPHIC INFORMATION SERVICES
 45175 W. TEN MILE ROAD
 NOVI, MI 48375-3024
 (248) 347-3279
 MAP AUTHOR: CHRIS BLOUGH,
 CITY GIS MANAGER



1 INCH = 200 FEET

MAP PRINT DATE: 10/20/2008

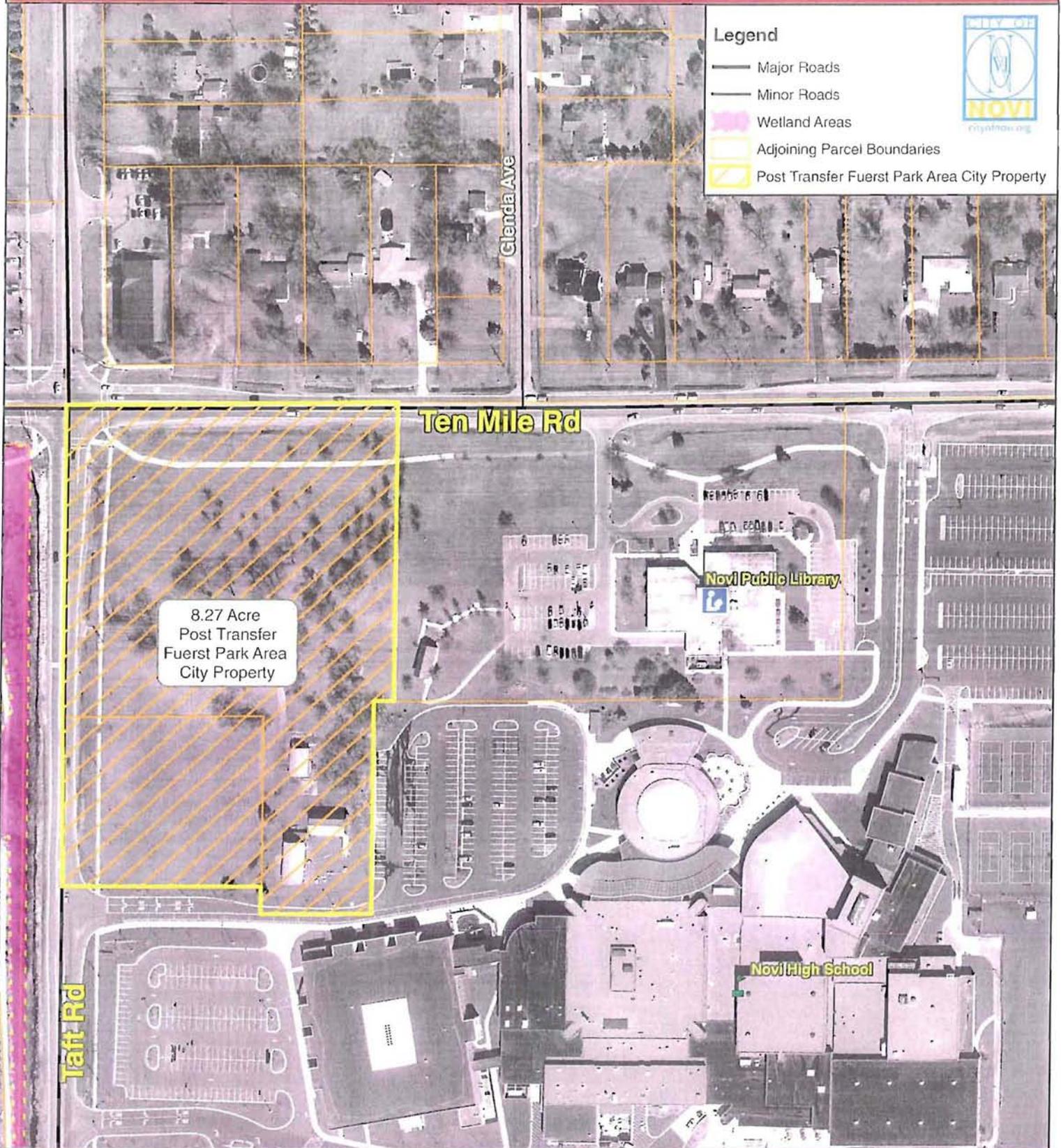
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EXHIBIT E

Proposed "squaring off" of City Fuerst Park Area parcel.

Agreement Between the Novi Community School District and the City of Novi Regarding Exchange of Properties Exhibit E



Legend

- Major Roads
- Minor Roads
- Wetland Areas
- Adjoining Parcel Boundaries
- Post Transfer Fuerst Park Area City Property



8.27 Acre
Post Transfer
Fuerst Park Area
City Property

CITY OF NOVI
GEOGRAPHIC INFORMATION SERVICES
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CITY GIS MANAGER



0 100 200 400
FEET

1 INCH = 200 FEET MAP PRINT DATE: 10/20/2006

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EXHIBIT F

Aerial photographs showing the School Transfer Property and the 10-acre Reserved Use Property (with conceptual buildings/road improvements only also shown).

Agreement Between the Novi Community School District and the City of Novi Regarding Exchange of Properties Exhibit F



CITY OF NOVI

GEOGRAPHIC INFORMATION SERVICES
45175 W. TEN MILE ROAD
NOVI, MI 48375-3024
(248) 347-3279
MAP AUTHOR: CHRIS BLOUGH,
CITY GIS MANAGER



1 INCH = 400 FEET

MAP PRINT DATE: 10/20/2008

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EXHIBIT G

Form of Warranty Deed for School Transfer Property.

EXHIBIT H

Form of Warranty Deed for City Park Property.

EXHIBIT I

Form of Warranty Deed for Fuerst Park Area School District Property (1.77 acres).

EXHIBIT J

Amendment to January 9, 2003 lease agreement to include the Added Leased Property.

EXHIBIT K

Lease Agreement form for Reserved Use Property.

STATE OF MICHIGAN
COUNTY OF OAKLAND
CITY OF NOVI

**AGREEMENT BETWEEN THE NOVI COMMUNITY SCHOOL DISTRICT AND THE
CITY OF NOVI REGARDING EXCHANGE OF PROPERTIES**

This Agreement regarding exchange of properties is made and entered into by and between the City of Novi ("City"), a Michigan municipal corporation, whose address is 45175 W. Ten Mile Road, Novi, MI 48375, and the Novi Community School District ("School District"), a constituent district of the Oakland Intermediate School District of the State of Michigan, whose address is 25345 Taft Road, Novi, MI 48374, for the exchange of certain properties located in the City of Novi according to the terms and subject to the conditions and contingencies set forth in this agreement.

1. PURPOSE AND INTENT.

The Properties

- A. The School District owns an approximately 73.88 acre parcel of land located on the southwest corner of Beck Road and Eleven Mile Road (*the School District Property*). The School District Property was purchased by the School District with funds from a voter-approved bond issue in or around 2001. The use of the School District Property was not specified or limited in connection with the bond issue, and it is currently vacant. Approximately 24.5 acres of the total area of the School District Property appears to be regulated wetlands. (See aerial photograph, Exhibit A.)

- B. The City owns an approximately 49.6 acre parcel of land located near the intersection of 11 Mile Road and Wixom Road (*the City Park Property*). The City Park Property is currently designated as parkland and is known as "Wildlife Woods Park." It has frontage on both Wixom Road and 11 Mile Road and is adjacent to the School District's Deerfield Elementary School and Novi Middle School. Approximately 10.8 acres of the City Park Property appears to be regulated wetlands. (See aerial photograph, Exhibit B.)

Both the land containing Deerfield Elementary School and Novi Middle School and the City Park Property were acquired in a 1997 real estate purchase transaction involving (among others) the former owner of both properties, Delta Trucking Company. That 1997 agreement contemplated that the City and School District lands would be treated as part of the Harvest Lake RUD Development (now known as the Island Lake RUD Development). The Harvest Lake/Island Lake RUD Agreement between the City and the developer of Harvest Lake/Island Lake includes an "Area Plan" that shows the Wildlife Woods Park as a "City park" and the School District's land as an elementary school, middle school, and ancillary

uses. There is no specific limitation in the Harvest Lake/Island Lake RUD Agreement with regard to development of the City's portion of the land acquired in 1997. The 1997 Agreement specifically states that "no such application, authorization, or approval shall impose any liability or obligation . . . on the owner of the City park property to develop the City park property in any manner whatsoever." The Harvest Lake/Island Lake RUD Agreement between the City and Harvest Lake/Island Lake in turn states only that "the City of Novi and the Novi Community School District shall each be solely responsible for submitting site plans for their respective portions of the overall property, to the extent required by law." (Both the 1997 Agreement and the Harvest Lake/Island Lake RUD Agreement are on file at the Novi City Clerk's office.)

The City's Wildlife Woods property also includes an approximately 2.6-acre area of land on which there is an operating oil and gas well. This area of the Wildlife Woods Park is not part of the City Park Property for purposes of this Agreement, is not a subject of this Agreement, and is to be retained in its entirety by the City of Novi.

- C. The City also owns a 14.72 acre parcel of property that is part of the Civic Center/Power Park complex and that it currently leases to the School District pursuant to a long-term lease entered into between the City and the School District effective January 9, 2003 (*the Leased Property*). The term of the lease is 50 years, with the potential for two extensions of 50 years each. The School is currently limited in its use of the Leased Property to recreational purposes, and is not permitted to build any structures or improvements other than recreational facilities for the shared use of the School District and the City. (See aerial photograph, Exhibit C.)
- D. Finally, the City and the School District both own property located on the southeast corner of 10 Mile Road and Taft Road in the area of what is commonly referred to as the Fuerst Park (*the Fuerst Park Area School District Property and the Fuerst Park Area City Property*). The approximately 6.5-acre Fuerst Park Area City Property fronts on both 10 Mile Road and Taft Road and is irregularly-shaped. The approximately 1.77-acre Fuerst Park Area School District Property fronts only on Taft, and is adjacent to an existing entrance drive to the school to Novi High School. The City has plans to improve its portion of the Fuerst Park Area land with a passive park/gathering area. (See aerial photograph, Exhibit D.)

The Transaction/Property Exchange

- E. The School District and the City recognize that they share a common interest in serving the civic needs of the citizens of Novi. The City has identified a current and immediate need for additional facilities for recreation and community gathering purposes and for providing services and activities for Novi residents of all ages. The School District also needs to be prepared for the potential expansion of various programs and possibly for the construction of a new school or other multi-purpose building.

The City has determined that it is in the interest of the residents of the City to establish a "Signature Park" to serve various recreational needs of City residents. As envisioned by the City, the proposed park could include elements such as a multi-purpose

gymnasium/recreational building, an outdoor amphitheater or band shell, a theater/auditorium building, and various outdoor recreation facilities (e.g., sports fields). Other outdoor uses of the City park property would include accommodations for outdoor festivals, art shows, concerts, and the like.

- F. The City does not currently own sufficient contiguous land to accomplish the creation of a Signature Park. The City has determined that the currently-vacant School District Property, when combined with certain other land for which the City has secured a conditional right to purchase, would constitute sufficient acreage for the City to undertake the anticipated Signature Park improvements over a period of years.
- G. The City approached the School District to discuss acquisition of the currently vacant School District Property. Because School District Property was acquired by the School District with funds secured by bonded debt approved by the voters within the School District, all of whom are City of Novi residents, the City proposed a *property exchange* involving the properties referenced in A thru D, above instead of an outright purchase. The City expects and intends to issue voter-approved bonds as a means to finance the planned improvements for the Signature Park and also to fund the acquisition of property in the area of the School District Property. Except as otherwise provided, the transfer of the properties described herein is subject to that voter approval and the issuance of the bonds.
- H. The School District and the City have mutually agreed upon the terms and conditions of a property exchange as follows: (1) the School District transferring approximately 68.33 acres of the School District Property to the City; (2) the City transferring the City Park Property and the Leased Property to the School District; and (3) the School District ~~transferring~~ executing a long-term lease with the City for 1.77 acres of the Fuerst Park Area School District Property to the City (see aerial photograph, Exhibit E); and (4) the City and School District amending the existing January 9, 2003, Lease to include an additional approximately 2.0 acres of property (the *Added Leased Property*), as shown on Exhibit C, such Added Leased Property to be transferred to the School District in the event the Leased Property is transferred to the School District. It is the parties' intent that the ~~transfer-lease~~ of the Fuerst Park School District Property to the City and the amendment of the January 9, 2003, Lease to include the Added Leased Property is not subject to the voter approval and issuance of the bonds.
- I. The approximately 63.88-acre area to be transferred to the City (the *School Transfer Property*) is shown on the attached Exhibit F. The School District is retaining ownership of the -10-acre area of the School District Property adjacent to Beck Road (*the Reserved Use Property, as shown on Exhibit F*) for potential future use for construction of an elementary school building or an adult/community education building. However, the School District has no immediate planned use for the Reserved Use Property. Therefore, as a condition to the School District's transfer of the School District Property to the City, the Reserved Use Property shall be subject to a long-term lease in favor of the City, for full and unfettered use by the City for parks and recreational uses of its sole choosing, including the right to build any form of recreational facilities, buildings, or other structures for any City purpose, until

the time the School District determines to, and in fact does, construct a building on the property to be occupied for an elementary school or other school-related purposes.

J. Accordingly, the generally-stated intent and purpose of the School District and the City in entering into this Agreement include the following, without limitation:

- i. Conveyance by the School District to the City of the 62.88-acre School Transfer Property, subject to a long-term lease for use rights to the 10-acre Reserved Use Property, for future City uses;
- ii. Conveyance by the City to the School District of the 49.6-acre City Park Property;
- iii. Conveyance by the City to the School District of the 14.7-acre Leased Property;
- iv. ~~Conveyance~~ Execution of a long-term lease by the School District ~~to~~ and the City of ~~its~~ for a 1.77-acre area of land from the Fuerst Park Area School District Property, for the purpose of "squaring off" the City's property at the corner of 10 Mile and Taft Roads;
- v. Amendment to January 9, 2003, Lease to include the Added Leased Property.
- vi. Establishment of certain contingent rights and obligations of the parties in connection with the future use of the properties for the purposes stated herein; and
- vii. Establishment of the conditions under which the property exchange will occur, including contingencies for the securing of voter approval by the City for the issuance of bonds to finance the intended improvements to the School District Property and for the conducting of due diligence by the City and the School District, including the City's removal of the Wildlife Woods property (the City Park Property), the Leased Property, and the Added Leased Property from the City's Master Plan for Land Use.

2. EXCHANGE OF PROPERTY RIGHTS: CONSIDERATION. At the Closings described in Paragraph 7, the School District and City agree to execute, deliver, and exchange the following as consideration for the consummation of this transaction, which exchange of consideration is understood by the parties to be of substantially equivalent values, subject to the parties' satisfaction and/or waiver of the Contingencies (as defined below) and the terms of this Agreement and the generally stated purposes and intent of the parties in entering into this transaction:

- (a) The School District shall convey to the City fee simple marketable title to the portions of the School Transfer Property described as part of the attached Exhibit G by execution and delivery of a Warranty Deed in substantially the same form and containing substantially the same terms, reservations, and provisions as the Warranty Deed attached hereto as Exhibit G. Such conveyance shall also grant to the City (1) the right to use the Reserved Use Property (10 acres) for City purposes in accordance with the terms and conditions of Paragraph 8 below, including the execution of a long-term lease for the use thereof; and (2) access rights to portions of the Reserved Use Property, including access to internal roads and utilities (if any), in accordance with the terms and conditions of Paragraph 8 below.
- (b) The City shall convey to the School District fee simple marketable title to portions of the City Park Property, the Leased Property, and the Added Leased Property,

described as part of the attached Exhibit H by execution and delivery of a Warranty Deed in substantially the same form and containing substantially the same terms, reservations and provisions as the Warranty Deed attached hereto as Exhibit H, which shall include reference to the existing oil and gas lease rights on adjacent City-owned property and a right of entry to access such City-owned property as well as an acknowledgement that the current lease between the City and the School District shall cease and be of no further force and effect.

- (c) The School District ~~and the City shall convey to the City~~enter into a long-term lease the Fuerst Park Area School District Property described on the attached Exhibit I in substantially the same form and containing substantially the same terms and provisions as attached hereto as Exhibit I, contemporaneous with and as part of a Closing involving the amendment of the January 9, 2003 Lease to include the Added Lease Property.
- (d) Pending transfer of the Added Leased Property to the School District, the City shall execute an amendment to the January 9, 2003 Lease to include the Added Lease Property, substantially in the same form and containing substantially the same terms and provisions as attached hereto as Exhibit J, contemporaneous with and as part of a Closing involving the School District's transfer of the Fuerst Park Area School District Property.

3. CONTINGENCIES. Consummation of this Agreement at the Closings is subject to all of the following contingencies being first satisfied and/or waived:

- (a) Title Contingency No. 1.
 - (i) The School District agrees to furnish, at its expense and within 20 days of the effective date hereof, a Commitment for Title Insurance bearing a certification date subsequent to the date of this Agreement as to the properties described in Exhibits G and I, showing marketable and insurable title to such properties in the School District. Such Commitment shall be for an owner's policy of title insurance in favor of the City as to such properties and the rights, easements, and deeds therein to be conveyed and granted to the City under this Agreement, which policy is to be issued at the Closing by a title insurance company licensed to do business as a title insurance company in, and with offices in, the State of Michigan insuring marketable title in the amount of \$1,000,000, without standard exceptions. Such Commitment shall be updated and re-certified to the date of Closing and contain an undertaking of the title company to insure over the "gap" period existing between the date of such original Commitment and the Closing of this transaction.

For purposes of this Agreement, marketable title shall mean fee simple title free and clear of any and all liens and encumbrances whatsoever, excepting only encumbrances of record and listed as policy contingencies that the City elects to accept at or before Closing, including building and use restrictions of

record, so long as same do not in any way or manner preclude, hinder, or limit the City's proposed use of the School District Property for any permitted purpose, including as a Signature Park, easements of record, and zoning ordinances; provided, however, that the City, at its sole option, may elect to accept title in whatever condition it may be in, notwithstanding that such condition would not meet the above definition of "marketable title" and, in such event, marketable title shall mean the condition of title which the City has elected to accept.

- (ii) If any unpermitted matters of title are disclosed by the Commitment, at any time, the School District shall have the right to undertake reasonable efforts to cure them prior to Closing. If the School District is unable to cure all unpermitted exceptions to the City's satisfaction prior to Closing, below, this Agreement shall terminate, and neither party shall have any further obligation to the other under this Agreement. In the alternative, City may, but is not in any way obligated to, elect to accept such title to the properties as the School District is able to provide, without a reduction or modification of the consideration given to the School District under this Agreement.

(b) Title Contingency No. 2.

- (i) City agrees to furnish, at its expense and within 20 days of the effective date hereof, a Commitment for Title Insurance bearing a certification date subsequent to the date of this Agreement as to the properties described in Exhibit H, showing that City owns marketable and insurable title to such property. Such Commitment shall be for an owner's policy of title insurance in favor of the School District as to the City's Parcel to be issued at the Closing by a title insurance company licensed to do business as a title insurance company in, and with offices in, the State of Michigan insuring marketable title in the amount of \$1,000,000, without standard exceptions. Such Commitment shall be updated and re-certified to the date of Closing and contain an undertaking of the title company to insure over the "gap" period existing between the date of such original Commitment and the Closing of this transaction.

For purposes of this Agreement, marketable title shall mean fee simple title free and clear of any and all liens and encumbrances whatsoever, excepting only encumbrances of record and listed as policy contingencies that the School District elects to accept at or before Closing, including building and use restrictions of record, easements of record and zoning ordinances; provided, however, that the School District, at its sole option, may elect to accept title in whatever condition it may be in, notwithstanding that such condition would not meet the above definition of "marketable title" and, in such event, marketable title shall mean the condition of title which the School District has elected to accept.

(ii) If any unpermitted matters of title are disclosed by the Commitment, at any time City shall have the right to undertake reasonable efforts to cure them prior to Closing. If City is unable to cure all unpermitted exceptions to the School District's satisfaction prior to Closing, this Agreement shall terminate, and neither party shall have any further obligation to the other. In the alternative, School District may, but is not in any way obligated to, elect to accept such title to the property as City is able to provide, without reduction or modification of the consideration given to City under this Agreement.

(c) Bond Issuance Contingency.

Except as otherwise provided in Paragraph 7 as to the Fuerst Park Area School District Property and the lease amendment for the Added Leased Property, this Agreement is contingent on the City securing financing, in an amount determined by the City in its sole discretion, for its initial proposed improvements to the property for establishment of a Signature Park (as determined by the City in its sole discretion) and for acquisition of certain additional properties in the area of the School District Property, through the City's issuance of voter-obligated general obligation bonds pursuant to Act 279, Public Acts of Michigan, 1909, as amended, and any and all other relevant municipal finance laws. The City expects and intends to adopt its resolution declaring its intent to hold an appropriate election to authorize the issuance of such bonds in November, 2008 or thereafter, for an election on February 3 or May 5, 2009. In the event the bond issue is not approved by the voters at such election, this Agreement shall become null and void and of no further effect. In the event the issuance of the bond is approved by the voters at such election, but bonds are not issued by July 30, 2009, this Agreement shall become null and void and of no further force and effect. Notwithstanding anything in the foregoing to the contrary, this contingency does not apply to Closing A as described in Paragraph 7 relating to the Fuerst Park Area School District Property and the lease amendment for the Added Leased Property.

(d) Environmental Contingency.

The parties' obligations under this Agreement shall be contingent upon satisfactory inspections and testing of the Properties for environmental contamination by a qualified person, at each party's sole option and expense for the property being acquired, within sixty (60) days after the effective date of this Agreement. If the inspection or testing shows any environmental contamination, or if the environmental inspection requires or recommends a Phase II or Base Line Investigation/Report, the party acquiring the subject property shall have the option to terminate this Agreement by written notice to the other party within fourteen (14) days after expiration of the sixty (60) day inspection period. Nothing contained herein, however, shall be construed to mean the acquiring party is indemnifying or otherwise holding the conveying party harmless from third-party actions or suits in regard to environmental contamination of the Property or any other matter. When used herein, the term

“Property” shall include all aspects of the Property, such as, but not limited to any structures on the Property and the soil and groundwater beneath the Property.

(e) Survey Contingency.

The parties’ obligations under this Agreement shall be contingent upon their obtaining a satisfactory survey within sixty (60) days after the effective date of this Agreement for all of the Properties, the cost of which survey is to be borne equally by the parties. The survey shall be prepared by a mutually-chosen registered land surveyor, licensed in the State of Michigan, certified to and satisfactory to the parties and the Title Company, conforming to such current ALTA ASCM minimum standards and “Table A” options as the party shall desire, and showing the dimensions and area of all of the Properties; the location, dimensions and recording information (if applicable) of all existing improvements, roads, easements, means of access to public streets, encroachments, driveways, and all other physical conditions affecting the title and use of the Property including access thereto. If either party, in that party’s sole discretion, is not satisfied with the results of the survey, the party shall so notify the other party in writing within fourteen (14) days after the expiration of the sixty (60) day survey period. If no written objection is made by any party within the stated period, this survey contingency shall be deemed to be waived and the parties shall proceed to closing subject to the remaining terms of this Agreement and the parties shall be deemed to have accepted the Property in an “AS IS” condition.

(f) Land Use Contingency

The City Park Property, the Leased Property, and the Added Leased Property are currently designated in the City’s Master Plan for Future land Use as parkland. The City shall as soon as practicable after the effective date of the Agreement formally request its Parks Commission to conduct a public hearing to determine whether such designation should be removed in order to allow the conveyance of the City Park Property, the Leased Property, and the Added Leased Property to the School District. The City shall also formally request its Planning Commission to hold a public hearing to determine whether such designation should be removed in order to allow the conveyance of the City Park Property, the Leased Property, and the Added Leased Property to the School District.

The City Park Property is also currently included in the Area Plan of the Harvest Lake/Island Lake RUD, designated as a City Park, and is the subject of a 1997 Purchase Agreement contemplating such inclusion and designation. The City shall take whatever action is necessary, if any, to confirm or ensure that such inclusion and designation does adversely affect, limit, or otherwise impair the School District’s use of the City Park Property in any way.

The School District acknowledges that the City has not performed any title search with regard to the School District Property. The School District shall cooperate with

the City with regard to addressing, removing, or satisfying any limitations or restrictions on the School District Property that would hinder, restrict, or prohibit the City's use of the School District Property for any permitted use, including the Signature Park use described herein.

Notwithstanding anything in the foregoing to the contrary, this contingency does not apply to Closing A as described in Paragraph 7 relating to the Fuerst Park Area School District Property and the lease amendment for the Added Leased Property.

4. REPRESENTATIONS AND WARRANTIES. The School District and the City both represent and warrant to each other as follows:

- To the best of its knowledge, there is no pending litigation affecting all or any part of the Property, or its interest therein.
- There are no options, rights of first refusal, licenses, rental agreements, leases or other rights of occupancy outstanding in respect of the Property.
- To the best of its knowledge, there are no uncorrected violations of any building codes and regulations, health codes or zoning ordinances, or county, state or federal laws or regulations, affecting the Property or the use or enjoyment thereof.
- To the best of its knowledge, there are no undisclosed or latent defects affecting the Property and the improvements thereon.
- To the best of its knowledge, and except as disclosed elsewhere in this Agreement, there are no covenants, restrictions, agreements, or easements, either above the surface, at grade or subsurface, other than utility easements of record, which would affect or interfere with the acquiring party's use and enjoyment of the Property, as determined by Purchaser.
- To the best of its knowledge there are no underground storage tanks or hazardous or toxic substances existing on, under, above or upon the Property as defined in any federal, state or local law, regulation, rule, statute or directive, nor is there any asbestos or urea formaldehyde foam insulation installed in or upon the Property.
- There are no real estate broker or agent commissions, fees and other charges involved in or attributable to this transaction and conveyance other than those disclosed in this Agreement. acquiring party shall not be responsible for any such brokerage or agent fees, commissions, or other such charges, and it shall indemnify, defend and hold acquiring party free and harmless from the claims of any broker(s), representative(s), employee(s), agent(s) or other intermediary(ies) claiming to have represented it, or otherwise to be entitled to compensation, in connection with this Agreement or in connection with the sale of the Property.

The foregoing representations and warranties shall survive the Closings of this transaction.

5. LEGAL DESCRIPTIONS. The acreage references in this Agreement are close approximations. The School District and City shall jointly prepare all final legal descriptions of the several land areas shown and highlighted on the aerial photographs attached hereto. Once the legal descriptions have been finalized and agreed to by all parties, they shall be attached to the intended documents as contemplated under Paragraph 2, above, and the documents attached hereto as

Exhibits, and then the final documents to be executed at the Closings shall be distributed among all parties with the agreed upon exhibits attached for final agreement at the Closings. Following the Closings, the parties agree to cooperate in executing and recording amendments that are necessary for purposes of replacing those legal descriptions using plans/maps with metes and bounds legal descriptions of such depicted areas, or that become necessary for purposes of correcting mutual mistakes and errors in the legal descriptions, if any such mistakes or errors are discovered at or after the Closings.

6. POSSESSION. Possession will be delivered at the respective Closings. The Warranty Deeds and easements and other documents shall be delivered at the respective Closings. In taking possession of the Properties, the School District and City shall have all rights that would accrue to them as if fee title absolute were transferred at that time. Each party shall assign, transfer, and give over unto the other party at Closing all easements, leases, licenses, and similar property rights that relate to the use, ownership, possession, or control of the Property.

7. CLOSING. There shall be two separate Closings to consummate this transaction.

Closing A shall result in the ~~transfer of~~ execution of the long-term lease of the Fuerst Park Area School District Property to the City and the amendment of the January 9, 2003, Lease to include the Added Leased Property. The Bond Issuance Contingency and the HLand Use Contingency shall not apply to this Closing.

Closing B shall result in the transfer and conveyance of the Fuerst Park Area School District Property and the approximately 63.88-acre School Transfer Property to the City, with a long-term lease interest in the remaining 10-acre Reserved Use Property, by the School District to the City, and of the City Park Property, the Leased Property, and the Added Leased Property to the School District. Closing B shall not occur unless Closing A has occurred. Closing A shall be complete upon occurrence, regardless of whether Closing B occurs.

The Closings shall take place at the office of the Title Company and the parties shall arrange for a Title Company representative with authority to up-date and mark-up the commitments for title insurance as required under this Agreement to be present at the closing. If title to all Properties described in Paragraph 2 can be conveyed in the condition required under this Agreement, and all terms and Contingencies of this Agreement have been satisfied or waived, each Closing shall take place on a date and time as is mutually agreeable to the parties to close; provided, however, that the Closing shall occur not later than thirty (30) days from the date on which the City notifies the School District in writing for each Closing that all of the terms and contingencies of this Agreement have been satisfied or waived as to the respective transactions. The Title Company shall provide a complete package of the documents to be executed at the closing to both parties and their attorneys within 48 hours of the closing. At each respective Closing, the parties agree to the following for the purpose of consummating this transaction:

- (a) Each party shall deliver to the other evidence satisfactory to establish their authority to enter into and consummate this transaction.

- (b) Each party shall order the Policy of Owner's Title Insurance required hereunder, and pay all premiums payable with respect to the Owner's Policy of Title Insurance.
- (c) Each party shall pay for all transfer taxes, sales taxes, ordinance-imposed fees or assessments, fees attributable to any parcel split/combine which may have been assessed, and fees and charges of its own representatives, agents or contractor, for the Property acquired.
- (d) Both parties shall execute, acknowledge and deliver such other instruments, documents and undertakings (in customary form reasonably acceptable to the School district and the City) as shall be reasonably necessary in order to fully consummate this Agreement and to bring into effect its intent and purpose.
- (e) All taxes and assessments that have become a lien upon the land as of the date of Closing (if any) shall be paid by the conveying party, except that: (a) all current property taxes shall be prorated and adjusted between the parties as of the date of Closing on a due-date basis, without regard to lien date, as if paid prospectively (e.g., taxes due July 1 will be treated as if paid for the period July 1 through the following June 30, and taxes due December 1 shall be treated as if paid for the period December 1 through the following November 30); and (b) the acquiring party shall be responsible for the payment of all property taxes falling due after the date of Closing without regard to lien date. The conveying party shall pay the cost of all utilities and service charges through and including the date of Closing.

8. RIGHTS OF USE—RESERVED USE PROPERTY. The City represents and acknowledges its intention to develop the School District Property upon acquisition and thereafter over time into a Signature Park, with various different recreational activities, both indoor and outdoor. Although this is the City's present intention, nothing in this agreement or the proposed conveyance shall obligate the City to develop the property in any manner. The School District acknowledges that the City's intention include the potentially extensive use of the Reserved Use Property for parks and recreational facilities and activities of an unspecified nature and that, as the City's plans for the Signature Park are undertaken and finalized, such use could include sports fields, a parking or ingress/egress area, actual recreational buildings, or other similar uses.

The parties shall therefore enter into a long-term lease agreement, generally in the form of and containing the terms set forth in the attached Exhibit K, under which the City shall be granted possession and control of the Reserved Use Property, without the payment of rent or other consideration except as set forth herein, for its sole and unfettered use for parks and recreation purposes, including the right to construct, at its sole cost and expense, sports field improvements, buildings, or other structure or improvements of any kind or nature; provided, however, that upon notification that the School District has undertaken all necessary steps to commence construction of an elementary school building or other a building that will be used and occupied for school-related educational building purposes, (i.e., a building improvement and not a sports field or parking area or similar non-building use), the City shall vacate the Reserved Use Property Premises within six (6) months. The School District may only invoke this right to require the City to vacate the Reserved Use Property for the improvement of a permanent building (i.e., not a sports field or parking area or

similar non-building use) of sufficient size and design as to require a foundation and non-combustible construction, and generally to fall within an educational or administrative use group for building code purposes. The building must be no less than 10,000 square feet in area and intended to be occupied by persons on behalf of the School District as a principal use—i.e., not a storage shed or garage or outbuilding. Such vacation shall include the removal of all improvements to the extent required by the School District, including any above-ground building or other structural improvements.

The lease shall also provide that, upon vacation of the Reserved Use Property by the City and the construction of building and other improvements by the School District, the School District shall provide ~~and ingress and egress access~~ easement across the Reserved Use Property in favor of the City of sufficient area and width and in a reasonable location so as to allow access to the remainder of the School District Property. ~~The lease shall further provide that if the City builds a road or other access improvement from Beck Road on the School Transfer Property in order to provide access to the Signature Park improvements (e.g., as shown on Exhibit F for illustrative purposes), the School District shall have access to such road or other access improvement.~~

9. RIGHTS OF USE—TRANSFERRED CITY PARK PROPERTY AND LEASED PROPERTY. The School District acknowledges and agrees that it does not have a particular use planned for either the City Park Property, the Leased Property, or the Added Leased Property. Some parts of such properties are currently improved with sports fields (e.g., baseball fields, soccer fields, and the like). In the event the School District determines to improve either the City Park Property, the Leased Property, or the Added Leased Property, the City agrees to conduct the appropriate reviews for site plan (if necessary), wetland delineation and wetland permit determinations, and woodland review and woodland permit determinations on an expedited basis, and to the extent permitted by law to reasonably cooperate with the School District in its efforts to secure appropriate and authorized development with such areas. The City and its designees shall retain the right to enter upon the City Park Property for the purpose of accessing the existing oil and gas well located adjacent to the City Park Property.

With regard to the School Transfer Property, the School District shall have, without compensation, a right of ingress, egress, and access to and use of any road connecting to, or establishing access from, Beck Road that the City builds on the School Transfer Property in order to provide access to the Signature Park improvements (e.g., as shown on Exhibit F for illustrative purposes), and the City agrees to execute an appropriate easement or license reflecting such rights upon mutually agreeable terms and conditions.

To the extent that construction of building improvements and related parking and other improvements on the Reserved Use Property require the construction of drainage system(s), the City agrees to grant easements on, over, and through the School Transfer Property, upon reasonable terms and to the degree required, to the School District, without requirement of compensation. All storm water and drainage improvements and facilities shall be designed, constructed, provided, and maintained, and all applicable fees for use of the regional drainage facilities shall be paid, at the sole cost and expense of the School District; provided that, to the degree that maintenance is customarily provided in like and similar circumstances by the City, the City shall provide such maintenance on

the same terms for the facilities on the City-owned property in question, and an appropriate maintenance agreement shall be executed as part of a site plan approval process.

The lease referred to in Paragraph 8 above shall also provide that, upon vacation of the Reserved Use Property by the City and the construction of building and other improvements by the School District, the City shall provide a cross access and shared parking easement for automobiles and other motor vehicles for use by any parking areas or lots constructed by the City on the School Transfer Property in connection with the proposed recreational facility as conceptually depicted on Exhibit F, upon mutually agreeable terms and conditions.

10. TIME IS OF THE ESSENCE. At all times under this agreement where certain time constraints are set forth, the parties have agreed that TIME IS OF THE ESSENCE and that no extensions of said time limits are expected or agreed to unless specifically agreed to in writing.

11. DEFAULT. In the event of material default by the City under this Agreement, the School District may, at its option, elect to enforce the terms hereof or rescind and terminate this Agreement. In the event of a default by the School District, the City may, at its option, elect to enforce the terms hereof or rescind and terminate this Agreement.

12. CHOICE OF LAW. This Agreement shall be governed by and construed in accordance with the laws of the State of Michigan that are applicable to Agreements made and to be performed in that State. Should any court action be commenced at any time involving or concerning this Agreement, the parties hereto consent and agree to jurisdiction and venue being in the State of Michigan Circuit Court in Oakland County. In the event any provision of this Agreement or any addendum to this Agreement contains provisions that are contrary to existing law in the State of Michigan or negate any legal right of a party to this Agreement under the laws of said state, such provision shall be severed from this Agreement and shall be of no force or effect, but shall not otherwise invalidate the remainder of this Agreement. The Agreement of the parties in this paragraph shall survive the Closings of this transaction.

13. LEGAL DOCUMENT; INTERPRETATION. This is a legal and binding document, and both the School District and the City acknowledge that they have been advised to consult an attorney to protect their interests in this transaction. Where the transaction involves financial and tax consequences, the parties acknowledge that they have been advised to seek the advice of their accountant or financial adviser. No provision in this Agreement is to be interpreted for or against any party because that party or that party's legal representative drafted the provision. This paragraph shall survive the closing of this transaction.

14. ALL AGREEMENTS IN WRITING. The School District and the City agree that this Agreement (and written and signed addenda, if any) cannot be modified, altered or otherwise amended without a writing being duly signed or initialed, as the case may be, by both School District and the City.

15. NOTICES. All notices and demands required or permitted under this agreement shall be in writing and shall be served personally or by postage prepaid United States first class, certified (return receipt requested), or registered mail, addressed to the party at the address indicated on page

1 hereof or to such other place as may be designed by notice given in accordance with this section. It is agreed to by the parties that offers, acceptances and notices required hereunder may, but are not required to, be delivered by facsimile (fax) copy to the parties or their agents provided a hard copy (originally signed copy) is mailed or delivered in a timely manner. If faxed, the date and time of the receipt of the fax shall be the date and time of said offer, acceptance or notice. If not faxed, notice shall be deemed to have been given on the earlier of (a) the date of personal delivery, (b) the date when received, or (c) one (1) day after mailing if mailed in the State of Michigan. This paragraph shall survive the closing of this transaction.

16. GRAMMAR AND HEADINGS. Whenever words herein are used in the masculine, they shall be read in the feminine or neuter whenever they would so apply and vice versa, and words in this Agreement that are singular shall be read as plural whenever the latter would so apply and vice versa. The headings contained herein are for the convenience of the parties and are not to be used in construing the provisions of this Agreement.

17. ENTIRE AGREEMENT. School District and the City agree that this Agreement contains the entire agreement between them and that there are no agreements, representations, statements or understandings that have been relied upon by them that are not stated in this Agreement.

18. BINDING EFFECT. The covenants, representations and agreements herein shall run with the land and are binding upon and inure to the benefit of the parties hereto, their respective heirs, representatives, successors and assigns, and shall survive the Closing where indicated.

19. EXPIRATION. It is contemplated, but not required, that this Agreement will be signed by the City first. In such event, School District shall have seven (7) business days from the date of the City's signature to accept and deliver a countersigned original of this Agreement to City; otherwise this Agreement shall constitute an expired offer to purchase.

20. COUNTERPARTS. The Agreement may be executed in any number of counterparts; none of which need be executed by all the parties hereto, each of which shall be deemed an original, and all of which when taken together shall constitute one in the same instrument. Each Exhibit attached hereto shall be a part of this Agreement, as if the content thereof was fully set forth in the body of the Agreement.

21. DATE OF EXECUTION. The date of execution of this agreement shall be the date on which the last person to sign this document (in its final form) shall have signed the document. In the event the parties fail to insert the date of execution beneath their signatures below, then the date of execution shall be the date on which School District representatives actually signed the document. **IT IS THEREFORE VERY IMPORTANT FOR EACH PERSON SIGNING THIS DOCUMENT TO PLACE THE DATE OF SIGNING IN THE SPACE PROVIDED BELOW THEIR SIGNATURE.**

ACCORDINGLY, the School District and the City have executed this Agreement as of the date written below.

“SCHOOL DISTRICT”

“CITY”

NOVI COMMUNITY SCHOOL DISTRICT,
Acting by and through its Board of Education,

CITY OF NOVI, a Michigan
municipal corporation

By: _____
Its: President
Dated: _____

By: David B. Landry, Its Mayor
Dated: _____

By: _____
Its: Secretary
Dated: _____

By: Maryanne Cornelius, Its Clerk
Dated: _____

1144974

EXHIBIT A

Aerial photograph of 73.88-acre School District Property.

EXHIBIT B

Aerial photograph of 49.6-acre parcel of City Park Property (Wildlife Woods).

EXHIBIT C

Aerial photograph of the 14.72-acre Leased Property at the Civic Center/Power Park Complex.

EXHIBIT D

Aerial photograph of the Fuerst Park Area School District and City properties.

EXHIBIT E

Proposed “squaring off” of City Fuerst Park Area parcel.

EXHIBIT F

Aerial photographs showing the School Transfer Property and the 10-acre Reserved Use Property (with conceptual buildings/road improvements only also shown).

EXHIBIT G

Form of Warranty Deed for School Transfer Property.

EXHIBIT H

Form of Warranty Deed for City Park Property.

EXHIBIT I

Form of Warranty Deed for Fuerst Park Area School District Property (1.77 acres).

EXHIBIT J

Amendment to January 9, 2003 lease agreement to include the Added Leased Property.

EXHIBIT K

Lease Agreement form for Reserved Use Property.