



**Regular City Council Meeting
7:00 p.m., Tuesday, February 20, 2018
City Council Chambers
23600 Liberty Street
Farmington, MI 48335**

FINAL

REGULAR MEETING MINUTES

A regular meeting of the Farmington City Council was held on February 20, 2018, 23600 Liberty Street, Farmington, MI. Notice of the meeting was posted in compliance with Public Act 267-1976. The meeting was called to order at 7:05 PM by Mayor Steve Schneemann.

1. ROLL CALL

Attendee Name	Title	Status	Arrived
Sara Bowman	Mayor Pro Tem	Absent	
William Galvin	Councilmember	Present	
Joe LaRussa	Councilmember	Present	
Steve Schneemann	Mayor	Present	
Maria Taylor	Councilmember	Present	

City Administration Present

Director Christiansen
Director Eudy
Director Demers
City Clerk Halberstadt
City Manager Murphy
City Attorney Schultz

2. PLEDGE OF ALLEGIANCE

Chadwick Richards, member of the Boy Scouts, led the Pledge of Allegiance.

3. PUBLIC COMMENT

Keith Ciaramitaro, Emergency Preparedness Commission, provided a tip of the month concerning senior citizens and those with special conditions.

Michael Ratz, 33620 Grand River Avenue, expressed concern regarding the pile up of snow on City sidewalks on Grand River as a result of the snow plows. He proposed the City take the responsibility of clearing the sidewalks on both sides of Grand River from Shiawassee to Farmington Roads. He would like direction on how to move this proposal forward.

4. APPROVAL OF ITEMS ON CONSENT AGENDA

- A. Accept minutes from City's boards and commissions: Planning Commission, Emergency Preparedness Committee, and Commission on Children, Youth and Family**
- B. Accept resignation of Jeanne Atkinson from the Commission on Aging**
- C. Farmington Monthly Payments Report, January 2018**
- D. Farmington Public Safety Monthly Report,**
- E. Farmington Quarterly Financial Report, 12-31-17**
- F. Farmington Quarterly Investment Report, 12-31-17**
- G. Farmington Quarterly Financial Report Court, 12-31-17**
- H. City Council Meeting Minutes**
 - Special – January 11, 2018**
 - Special – January 16, 2018**
 - Regular – January 16, 2018**
 - Special – January 29, 2018**
 - Special – February 5, 2018**
 - Regular – February 5, 2018**
- I. Special Event Request for Telangana Development Forum (TDF)**

Move to approve items on the Consent Agenda as amended, moving the January 11, 2018 minutes under New Business as Item 7E.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	LaRussa, Councilmember
SECONDER:	Taylor, Councilmember

5. APPROVAL OF REGULAR AGENDA

Move to approve the regular agenda as amended.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Taylor, Councilmember
SECONDER:	LaRussa, Councilmember

6. PRESENTATION/PUBLIC HEARINGS**A. MML presentation**

Present: Bill Anderson, Southeast Michigan Commission of Governments (SEMCOG)

Anderson provided a Power Point presentation on the fiscal challenges facing local governments as a result of State cutbacks on revenue sharing and the negative impact of the Headlee Act.

Galvin suggested term limits in the State legislature are working against fixing local government funding because fixes are not short term. He stated fixes require development of relationships over time which term limits do not afford. He commented that the Headlee Act needs to be amended, a monumental task that would require the vote of the people. He pointed out that the State needs to fix our roads, fix and maintain good water systems, and stop underfunding schools and pensions. He stated the Legislature and Governor needs to tell us where they are spending their money.

Responding to a question from Schneemann, Anderson stated the graphics he presented from the Michigan Municipal League are based on the latest data provided by the US Census Bureau. He advised new data would not be available for another two years.

B. 2018 Greater Farmington Area Founders Festival – Mary Martin, Chamber of Commerce

Present: Mary Martin, Executive Director; Julie Law, 360 Event Productions

Martin provided an overview of the 2018 Founders Festival that will include a Vintage Market Place and familiar Main Stage acts. They intend to shrink the footprint of the festival allowing more parking and greater access to local businesses.

Law spoke about specific events planned for Shiawassee Park including Farmington Fido Fest and the expansion of other activities as well.

Discussion followed regarding the coordination of private security with Farmington Public Safety.

Responding to Taylor, Martin provided a preliminary list of vendors including the addition of vintage campers.

Martin advised the Chamber has committed to the Festival for the next three years.

Responding to Schneemann, Martin stated Swing dancing will continue on the Thursday night of the festival. She stated other activities for the younger crowd will include Battle of the Bands, STEAM activities, and robotics. She noted they are moving teen events to Shiawassee Park.

Martin discussed parking solutions including a shuttle from Farmington High School and Freedom Gateway Church.

7. NEW BUSINESS

A. Consideration to Adopt Resolution Approving the 2018 Founders Festival

Move to adopt a resolution approving the 2018 Founders Festival which includes approval of event locations, authorizing road closures, a permit for fireworks and applications for temporary liquor licenses. [SEE ATTACHED RESOLUTION].

RESULT:	APPROVED [UNANIMOUS]
MOVER:	LaRussa, Councilmember
SECONDER:	Taylor, Councilmember

B. Consideration to Approve Intergovernmental Agreement Between City and DDA

Murphy discussed the proposed agreement with the Downtown Development Authority to manage the two properties recently purchased by the City.

Galvin stated he would like to see the DDA consider placing the revenue from property management into a dedicated fund rather than the general fund.

Move to approve an Intergovernmental Agreement with the Downtown Development Authority to manage properties at 33107 Thomas Street and 33104 Grand River Avenue. [SEE ATTACHED AGREEMENT].

RESULT:	APPROVED [UNANIMOUS]
MOVER:	LaRussa, Councilmember
SECONDER:	Galvin, Councilmember
ROLL CALL:	Galvin, LaRussa, Schneemann, Taylor

C. Consideration to Approve SLC Meter to Install 325 Water Meters

Eudy discussed the reasons for employing SLC Meter to install the 325 meters, as well as funding sources for the installations.

Responding to LaRussa, Eudy discussed reasons that would prevent all of the meters from being installed.

Move to approve an arrangement with SLC Meter, Pontiac, Michigan, to install 325 water meters at a cost of \$64.00 per meter; total amount not to exceed \$20,800.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Taylor, Councilmember
SECONDER:	LaRussa, Councilmember
ROLL CALL:	LaRussa, Schneemann, Taylor, Galvin

D. Consideration to Approve Agreement for the Loan of Three Public Art Pieces from the City of Novi

Murphy advised the Novi City Council approved an agreement with the City of Farmington to loan three pieces of artwork for display in downtown Farmington.

Galvin recognized the efforts of Mayor Schneemann in bringing the artwork of David Barr to Farmington. He noted Mayor Schneemann was a student of Mr. Barr.

Responding to Taylor, Schneemann stated the final locations for the art has not yet been determined.

Schneemann clarified the names of the three pieces of art: Avenue, Temple and Shift. He stated David Barr was a dear friend of his and a mentor for many years. He is excited to be able to bring this art to the downtown. He stated this is a great example of how communities can work together.

Responding to Schneemann, Attorney Schultz stated an extension beyond the two years that is provided in the agreement could happen with an agreement from both communities.

Schneemann expressed hope that this agreement sets a precedent for future opportunities to share art with other communities.

Move to approve an agreement with the City of Novi for the loan of three pieces of art from the David Barr collection as presented. [SEE ATTACHED AGREEMENT].

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Galvin, Councilmember
SECONDER:	LaRussa, Councilmember
ROLL CALL:	Schneemann, Taylor, Galvin, LaRussa

E. Consideration to Approve the January 11, 2018 Council Meeting Minutes

LaRussa requested that the 5-year forecast presented at the January 11th meeting be included as an attachment to the minutes.

Galvin stated he would not support adding the 5-year forecast to the minutes for the same reason it was not done last year. He noted that there was no action taken on the forecast, rather it was provided as a basis for general dialogue. He stated we do not publish information until it is actually approved by Council. He commented that if the City put out versions of a document before it is actually approved, the public would be confused about which one is the real one.

Galvin noted that in the case of the budget, it is a moving target every day. He stated the 5-year forecast was based on the Treasurer's best judgement. It is not based on what will actually happen. What will actually happen will be the budget the Council approves in

April. He stated it is not a financial best practice to publish hypothetical information that will be perceived as factual. It would also not be typical for a public body to publish information that has not been approved.

LaRussa commented that his request is predicated on the degree to which conclusions were drawn from the deliberation that was had in the meeting. For example, there was a notation in the minutes that all of the cost cutting measures including pay cuts made over the last ten years have not impacted the downward trend of the budget. So there is a clear statement being made about a downward trend. He stated having visibility of the magnitude and direction of that trend goes hand-in-hand with making a statement to that effect. He also noted a statement in the minutes about the need for civic engagement to address the deficit problem. If Council perceives there is a problem, it is equally important that we publish the information from which that conclusion has been drawn.

Schneemann stated he supports openness and transparency in government. He stated for the record, the 5-year forecast was presented in an open meeting and the press had the opportunity to attend and report on what was presented. That said, he would normally agree with Galvin's perspective on this matter. However, to LaRussa's point, he has publicly talked about that document. He noted the financial unsustainability of the City is not solely predicated upon that report. There is a lot of other data that goes into his financial concerns for the City and what he shared at his State of the Cities address. He expressed support for adding the 5-year forecast as an attachment to the minutes because he had publicly referenced it.

Move to approve the January 11, 2018 meeting minutes as amended, adding the 5-Year Forecast as presented by Treasurer Weber as an attachment to the minutes.

RESULT:	APPROVED
MOVER:	LaRussa, Councilmember
SECONDER:	Taylor, Councilmember
AYES:	Schneemann, Taylor, LaRussa
NAYS:	Galvin

8. DEPARTMENT COMMENT

Eudy thanked Public Safety for their assistance in snow plowing. He cautioned residents not to drive through deep water during heavy rains.

Demers expressed the importance of registering for Nixle in order to receive emergency alerts. He advised his department issued 40 citations and impounded 12 vehicles during a recent snow emergency, in large part due to a lack of public awareness of the emergency. He will be presenting his annual report in the near future, noting the numbers look good. He stated his department continues to work hard on accreditation through the Michigan Law Enforcement Association.

Christiansen provided an update on status of the Maxfield Training Center Project. He stated the developer, AC Acquisitions, has presented revised plans and is in discussion with the Schools regarding an adjustment to his purchase agreement. He is looking to come back to the Planning Commission in April with revised plans.

Murphy noted an upcoming joint meeting scheduled for February 28th at the Longacre House.

9. CITY COUNCIL COMMENTS

LaRussa thanked Mary Martin and her team for undertaking the Founders Festival. He asked about the possibility of charging for parking during City events. He suggested picking a lot or two to test the feasibility of charging a fee.

Taylor expressed support for attaching all documents to the special meeting minutes, where it is practical. She stated this would give the public and press the opportunity to understand the background that goes into City Council discussions. She will be holding her first City Council office hours on Friday, February 23rd from 7-9pm at Brown Dog.

Galvin announced that at the January meeting of the Eight Mile Boulevard Association he was elected Treasurer for the coming year.

10. ADJOURNMENT

Move to adjourn the meeting.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Taylor, Councilmember
SECONDER:	Galvin, Councilmember

The meeting adjourned at 8:47 p.m.

Steve Schneemann, Mayor

Susan K. Halberstadt, City Clerk

Approval Date: March 19, 2018

RESOLUTION XX-XXX

A RESOLUTION OF THE FARMINGTON CITY COUNCIL APPROVING THE GREATER FARMINGTON AREA CHAMBE OF COMMERCE'S FOUNDERS FESTIVAL FOR 2018 WHICH INCLUDES DATES, TIMES, LOCATIONS, AUTHORIZATION TO APPLY FOR A TEMPORARY LIQUOR LICENSE

WHEREAS, the Greater Farmington Area Chamber of Commerce (GFACC) has prepared for the 2018 Founders Festival; and

WHEREAS, the GFACC presented the Festival plan to the Farmington City Council; and

WHEREAS, the proposed event will require authorization from the City Council to close roads and parking lots for certain events and to authorize GFACC to apply for a temporary liquor license.

NOW, THEREFORE BE IT RESOLVED that the Farmington City Council hereby approves the GFACC's request to hold the 2018 Founders Festival with the following conditions:

1. **Days:** Thursday, July 19 – Sunday July 22
2. **Hours of Operation:**
 - a. Shiawassee Park and Downtown Farmington
Friday 10am – 10pm
Saturday 10am – 10pm
Sunday 12pm – 5pm
 - b. Beer Tent/Main Stage Area
Thursday 5pm – 11pm
Friday 12pm – 11pm
Saturday 12pm – 11pm
Sunday 12pm – 5pm
3. **Locations: Beginning July 18 through July 22**
 - a. Closure of Farmington Road from Grand River south to north of Castle Dental driveway for vendors.
 - b. Downtown Center Parking Lot for Main Stage and vendors;
 - c. State Street between Farmington Road and entrance to the Library;

- d. Downtown sidewalks for local merchant sales; and
- e. Shiawassee Park, Memorial Park, Farmington City Hall

4. Temporary Liquor Licenses: Authorize the Greater Farmington Area Chamber of Commerce to apply for a temporary liquor licenses July 19 through July 22 for the Main Tent in the Downtown Farmington Center lot including Farmington Road, and Shiawassee Park.

5. Other Authorizations:

- a. Authorize the Department of Public Safety to apply for the permit necessary to close Grand River Avenue from 8am through 1pm on Saturday, July 21 for conducting Founders Festival Parade activities and the 5K Color Run.
- b. Hold the State of Michigan Department of Transportation harmless for liability, which may result in the closing of Grand River and authorize City departments to provide the services required for the Founders Festival.
- c. Hold the Road Commission for Oakland County harmless for liability, which may result in the closing of Farmington Road and activities within the road.
- d. Allow Department of Public Works to coordinate with the City of Farmington Hills regarding banner placement over Grand River (21 day placement).
- e. Approve usage of fire hydrants or water sources in Shiawassee Park for usage pertaining to Ultimate Air Dogs.

RESULT: APPROVED [UNANIMOUS]

MOVER:

SECONDER:

AYES:

ABSENT:

I, Susan K. Halberstadt, duly authorized City Clerk for the City of Farmington do hereby certify that the foregoing is a true and correct copy of a motion adopted by the Farmington City Council at a regular meeting held on Tuesday, February 20, 2018, in the City of Farmington, Oakland County, Michigan.

Susan K. Halberstadt, City Clerk

RESOLUTION XX-XXX

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SECONDER:

AYES:

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Susan K. Halberstadt, City Clerk

INTERGOVERNMENTAL AGREEMENT
FOR MANAGEMENT OF PROPERTIES

BETWEEN

CITY OF FARMINGTON
AND
FARMINGTON DOWNTOWN DEVELOPMENT AUTHORITY

This Agreement (“Agreement”) is entered into as of the date of the last signature below and is between the City of Farmington (“City”), whose address is 23600 Liberty Street, Farmington, MI 48335, and the Farmington Downtown Development Authority (“DDA”) whose address is 23600 Liberty, Farmington, MI, 48335, for the purpose of providing property management services to the City.

RECITALS

WHEREAS, the City of Farmington has purchased properties located at 33107 Thomas Street and 33104 Grand River Avenue, within the DDA downtown area (the “Properties”); and

WHEREAS, both Properties are improved with buildings, one of which is divided into two levels, with the lower level currently being partially leased and occupied for business purposes and the upper level most recently rented out for single-family residential use, and the other of which was most recently rented out for single-family residential use; and

WHEREAS, the City purchased the Properties in an area where a pass-through from Grand River Avenue to Thomas Street is contemplated sometime in the future; however, the City currently has no plans to demolish the structures or to construct such a pass-through; and

WHEREAS, in order to defray the cost of holding such properties pending a determination of future use or development, the City is interested in leasing or continuing to lease both Properties; and

WHEREAS, the DDA is uniquely suited to provide, or oversee, property management services with regard to the two Properties, and is willing to do so upon certain terms and conditions.

NOW, THEREFORE THE FOLLOWING TERMS ARE HEREBY AGREED UPON BY THE FARMINGTON CITY COUNCIL AND THE FARMINGTON DOWNTOWN DEVELOPMENT AUTHORITY BOARD OF DIRECTORS.

1. **Scope of Work**

The DDA shall generally be responsible for managing the Properties, and as compensation for such service shall be entitled to keep the rents received from any leasing of the buildings, subject to the limitations and obligations set forth herein.

More specifically, the DDA shall be responsible for:

- Evaluating, recommending, and overseeing all maintenance and repairs of the properties, including, but not limited to, the condition of the structures, utility, yard, driveway, sidewalk, and other related improvements.
- Making all reasonable efforts to obtain and keep desirable tenants for the property, including preparing adequate advertising and rental listings, and preparing and reviewing leases.
- Collecting rents and other income from tenants and others, and keeping appropriate accounting records relating to same.
- Preparing, evaluating, and recommending to the City contracts for utility services and property management services, if required.
- Paying all rental related expenditures including property management fees, property taxes, insurance, maintenance, and utilities.
- Making all capital expenditures and costs in connection with the properties to make them habitable, and keep them in reasonable condition for leasing. This includes paying for any and all required repairs.

The City shall remain the fee title owner of the Properties, and be responsible for reviewing and approving all agreements related to the properties.

2. **Term of the Agreement** – The agreement shall be for a two-year period beginning January 31, 2018 and terminating January 31, 2020.
3. **Renewal** – The parties may renew the agreement in one-year intervals after the initial two-year period.
4. **Termination** - Either party may terminate the agreement with or without cause by providing the other party with notice its intent at least four months (120 days) prior to the termination date, or by providing four months' (120 days') notice during the course of the agreement.
5. **Compensation** – The DDA shall, in exchange for the services and responsibilities set forth herein, be entitled to keep and retain all rents received from the leasing of the buildings on the Properties, subject only to the requirement to pay the City an annual fee of \$4,500, payable from such rents, annually on January 31; provided, however, that the amount of the fee shall not exceed the annual rents actually received.

6. **Assignments** - The DDA's obligations under this Agreement may not be assigned except with the written approval of the City.
7. **Notices** - Notices under this Agreement shall be to the Farmington City Clerk and the Farmington DDA President.
8. **Amendments** - Amendments of this Agreement shall be in writing, approved by concurrent resolutions of the Farmington City Council and DDA Board of Directors, and be signed by authorized representatives of the Parties.
9. **Severability** - If a court of competent jurisdiction finds a term, or condition, of this Agreement to be illegal or invalid, then the term, or condition, shall be deemed severed from this Agreement. All other terms, conditions, and provisions of this Agreement shall remain in full force.
10. **Applicable Law** - This Agreement is made and entered into in the State of Michigan and shall in all respects be interpreted, enforced and governed under the laws of the State of Michigan. The language of all parts of this Agreement is intended to and, in all cases, shall be construed as a whole, according to its fair meaning, and not construed strictly for or against any Party. As used in this Agreement, the singular or plural number, possessive or non-possessive, shall be deemed to include the other whenever the context so suggests or requires.
11. **No Waiver** - Absent an express written waiver, the failure of any party to pursue any right granted under this Agreement shall not be deemed a waiver of that right regarding any existing or subsequent breach or default under this Agreement. No failure or delay on the part of any Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall a single or partial exercise of any right, power or privilege preclude any other or further exercise of any other right, power or privilege.
12. **Compliance with Laws** - Each Party shall comply with all federal, state, and local statutes, ordinances, regulations, administrative rules, and requirements applicable to its activities performed under this Agreement.
13. **Entire Agreement** - This Agreement contains the entire agreement of the parties with respect to the subject matter of this Agreement, and supersedes all prior negotiations, agreements and understandings with respect thereto.
14. **Filing** - As provided in MCL 124.510, this Agreement and any amendments of it shall be filed with the Oakland County Clerk and Michigan Secretary of State before taking effect.

IN WITNESS WHEREOF, and pursuant to the concurrent resolutions adopted by City of Farmington Hills City Council and the City of Farmington City Council, approving and

authorizing the signing of this Agreement, the undersigned officials have signed this Agreement on the dates indicated next to their signatures.

[Signatures on next page]

CITY OF FARMINGTON

Dated: _____

By: _____
Mayor, Steven Schneemann

Dated: _____

By: _____
Clerk, Susan K. Halberstadt

FARMINGTON DDA

Dated: _____

By: _____
President,

Dated: _____

By: _____
Secretary,

AGREEMENT FOR LOAN AND TEMPORARY DISPLAY OF ARTWORK
BETWEEN THE CITY OF NOVI, MI
AND THE
CITY OF FARMINGTON, MI

THIS AGREEMENT FOR LOAN AND TEMPORARY DISPLAY OF ARTWORK ("AGREEMENT") is made and entered into this ____ day of _____, 2018, by and between the CITY OF FARMINGTON (the "FARMINGTON"), whose address is 23600 Liberty Street, Farmington, MI 48335, and the CITY OF NOVI, (the "NOVI"), whose address is 45175 Ten Mile Road, Novi, MI 48375.

WITNESSETH:

WHEREAS, NOVI is the sole owner of the ARTWORK, which consists of three sculptures described more fully in **Exhibit A** attached hereto and made a part hereof (the "ARTWORK"); and

WHEREAS, FARMINGTON wishes to display the ARTWORK temporarily at locations to be determined by FARMINGTON within the City of Farmington (the "SITE"); and

WHEREAS, NOVI wishes to temporarily loan the ARTWORK to FARMINGTON for display at the SITE.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, parties agree as follows:

1. RECITALS

- 1.1 The foregoing recitals are incorporated into and made a part of this AGREEMENT and the parties acknowledge and agree that such recitals are true and correct.

2. SCOPE AND TERM

- 2.1 This AGREEMENT shall commence upon the date first above written and shall terminate one year after the ARTWORK has been placed at the SITE.
- 2.2 NOVI hereby agrees to loan the ARTWORK to FARMINGTON for temporary display at the SITE for a period of twelve (12) months from the date of installation ("Display Period"), pursuant to the following schedule unless altered by written AGREEMENT of the parties:
- 2.2.1 The ARTWORK shall be made available to FARMINGTON at the location of the ARTWORK at Villa Barr by April 1, 2018.
- 2.2.2 Removal from the current location at Villa Barr and installment at the SITE shall begin no later than April 15, 2018.
- 2.2.3 The ARTWORK shall be removed by FARMINGTON from the SITE and returned to Villa Barr (or such other location to be determined by NOVI) by

May 1, 2019; provided, however, that this Agreement and term shall be automatically extended an additional twelve (12) months, to May 1, 2020, unless one of the parties gives notice of objection to such extension by March 1, 2019.

3. FARMINGTON'S RESPONSIBILITIES

- 3.1 FARMINGTON, using FARMINGTON'S own or hired personnel and equipment is fully responsible for the costs and handling involved in the removal of the ARTWORK from Villa Barr and its transportation to the SITE, and for its removal from the SITE and return to Villa Barr.
- 3.2 FARMINGTON hereby agrees to the installation and removal dates set forth above and that installation will occur during regular business hours unless specifically agreed to in writing by NOVI. In addition, FARMINGTON shall be responsible for the oversight of the installation and removal of the ARTWORK, which shall be done in a good, workmanlike, and professional manner.
- 3.3 FARMINGTON shall provide to NOVI Certificates of Insurance evidencing the required insurance set forth in Section 7.
- 3.4 FARMINGTON will solely determine the specific location for the exhibition of the ARTWORK on the SITE. The ARTWORK (sculptures) may be displayed together or may be displayed separately, at FARMINGTON's discretion.
- 3.5 FARMINGTON will prepare the SITE for installation in accordance with the information provided by NOVI pursuant to Section 4.2 below.
- 3.6 FARMINGTON will provide and install an identification plaque next to the ARTWORK, prepared and designed by FARMINGTON, containing a credit to the Artist.
- 3.7 FARMINGTON will maintain the ARTWORK to the extent possible in accordance with the recommended cleaning, care, and maintenance instructions provided by NOVI pursuant to Section 4.2 below. In the event the ARTWORK is in need of repair or restoration, FARMINGTON shall notify NOVI in writing and NOVI shall have the right of first refusal to make or supervise such repairs or restorations. Such right must be exercised by responding to FARMINGTON within ten (10) days from the date of such notice indicating that NOVI wishes to make or supervise the repairs or restorations. In the event NOVI does not respond within the time set forth in this Section, FARMINGTON may cause such repairs or restorations to be effectuated in its sole discretion, or it may request that the ARTWORK be removed and terminate this AGREEMENT.
- 3.8 FARMINGTON will not intentionally alter, modify, or change the ARTWORK.

4. SELLER'S RESPONSIBILITIES

- 4.1 A conditional report on the ARTWORK, which shall include the condition of the ARTWORK and other details regarding installation as may be reasonably warranted.
- 4.2 A description of all parts and materials utilized in the ARTWORK and the recommended care, cleaning, and maintenance instructions.

5. DISPLAY OF ARTWORK, BARRIER AND SIGNAGE

- 5.1 DISPLAY OF ARTWORK: During the DISPLAY PERIOD, FARMINGTON shall make the ARTWORK available for viewing at the SITE by the public. FARMINGTON shall not charge any admission fee or similar fee as a condition of viewing the ARTWORK.
- 5.2 BARRIER AND SIGNAGE: FARMINGTON may install a physical barrier as FARMINGTON, in its sole discretion, deems appropriate in an attempt to prevent unauthorized persons from touching or damaging the ARTWORK; provided, however, that FARMINGTON does not represent, warrant, or guarantee that unauthorized touching or damage of the ARTWORK will not occur. Additionally, FARMINGTON may post signage as FARMINGTON, in its sole discretion, determines to be appropriate, including signage indicating that touching or damaging the ARTWORK is prohibited.

6. RISK OF LOSS

- 6.1 FARMINGTON shall bear all risk of loss or damage to the ARTWORK including, but not limited to, theft, vandalism, or any other act by a third party, and damage caused by acts of god, war, or natural conditions/disasters including, but not limited to, floods, hurricanes, tornadoes, lightning, and any loss occurring during the storage, display transportation, delivery, installation, and removal of the ARTWORK, regardless of where such loss occurs, including all responsibility and risk for any deterioration or weathering caused to the ARTWORK.

7. INSURANCE

- 7.1 REQUIRED INSURANCE: FARMINGTON shall maintain the following insurance policies for the entire term of this AGREEMENT at its sole cost and expense:
 - 7.1.1 Worker's Compensation and Employer's Liability Insurance: Statutory Worker's Compensation Insurance and Employer's Liability Insurance with limits of no less than \$300,000 per occurrence.
 - 7.1.2 General Liability Insurance: General Liability Insurance, with limits of not less than \$500,000 for per occurrence, Combined Single Limit for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations. FARMINGTON shall obtain and provide NOVI proof of such insurance prior to transportation of the ARTWORK to the SITE.

8. INDEMNIFICATION AND NOTICE

- 8.1 FARMINGTON hereby agrees to assume liability for and indemnify, hold harmless, and defend NOVI, its elected officials, officers, employees, agents, and attorneys of, from, and against all liability and expense, including reasonable attorneys' fees, in connection with any and all claims, demands, damages, actions, causes of action, and suits in equity of whatever kind or nature, including claims for personal injury, property damage, infringement of any kind, equitable relief, or loss of use, arising out of the execution, performance, nonperformance, or enforcement of this AGREEMENT, excluding only the sole negligence of NOVI, its commissioners, mayor, officers, employees, agents, and attorneys.
- 8.2 Each party shall immediately notify the other of any written claim regarding any matter resulting from or relating to the party's obligations under this AGREEMENT. Each party shall cooperate with the other in the defense or investigation of any such claim arising out of or relating to the performance of this AGREEMENT.
- 8.3 Nothing contained herein shall be construed as a waiver of any immunity from or limitation of liability to which FARMINGTON or NOVI may be entitled pursuant to the doctrine of governmental immunity.

9. WARRANTES OF TITLE, QUALITY, AND CONDITION

- 9.1 NOVI represents and warrants that:
 - 9.1.1 The ARTWORK is solely owned by NOVI and is free and clear of any liens from any source whatsoever;
 - 9.1.2 The ARTWORK will not require care or maintenance in excess of those described in the maintenance recommendations submitted to FARMINGTON.
 - 9.1.3 The routine cleaning, care, and maintenance instructions provided to FARMINGTON will maintain the ARTWORK within an acceptable standard for public display and that foreseeable exposure to the elements and general wear and tear will cause the ARTWORK to experience only minor repairable damages and will not cause the ARTWORK to fall below an acceptable standard for public display and the ARTWORK will not experience irreparable conditions including mold, rust, fracturing, staining, chipping, tearing, abrading, and peeling.

10. TITLE AND COPYRIGHT

- 10.1 TITLE AND COPYRIGHT: FARMINGTON recognizes and agrees that the title to the ARTWORK shall remain with NOVI, its successors or assigns. At no time shall title pass to FARMINGTON as a result of this AGREEMENT. The ARTWORK shall remain the sole property of NOVI, its successors or assigns, including, but not limited to, copyrights under the Copyright Act of 1976, 17 USC § 101, *et*

seq.; as amended, or any and all rights provided for by the Visual Artists' Rights Act of 1990 (Section 106A of the United States Copyright Act) as amended.

10.2 REPRODUCTION RIGHTS:

10.2.1 NOVI grants to FARMINGTON and its assigns an irrevocable license to make two-dimensional reproductions of the ARTWORK for non-commercial purposes, including, but not limited to, reproduction used in brochures, media publicity, and exhibition catalogues or other similar publications.

10.2.2 All reproductions by FARMINGTON shall contain a credit to the ARTIST (David Barr).

10.2.3 FARMINGTON is not responsible for any third-party infringement of NOVI'S copyright or ownership and is not responsible for protecting the intellectual property rights of NOVI.

11. **DEFAULT AND TERMINATION**

11.1 TERMINATION:

11.1.1 *Without cause.* Either party may terminate this AGREEMENT without cause upon thirty (30) days' written notice to the other party. FARMINGTON shall remove the ARTWORK immediately upon receipt of such notice from NOVI and deliver the ARTWORK to Villa Barr or such other location as is specified by NOVI.

11.1.2 *For cause.* If either party to this AGREEMENT shall willfully or negligently fail to perform its obligations under this AGREEMENT, or otherwise violate any of the covenants, terms, AGREEMENTS, or stipulations of AGREEMENT, the other party shall thereupon have the right to terminate this AGREEMENT by giving written notice to the defaulting party of its intent to terminate, specifying the grounds for termination. The defaulting party shall have thirty (30) days from the date of the notice to cure the default. If it is not cured by that time, this AGREEMENT shall terminate and the ARTWORK shall be returned by FARMINGTON to Villa Barr or such other location as is specified by NOVI.

12. **MISCELLANEOUS**

12.1 ENTIRE AGREEMENT: This AGREEMENT contains the entire AGREEMENT and understanding between the parties hereto, and there are no other AGREEMENTS and understandings, oral or written, regarding the ARTWORK that are not included herein. No alteration, change, or modification of the terms of the AGREEMENT shall be valid unless made in writing and signed by both parties hereto.

12.2 HEADINGS: The headings contained in this AGREEMENT are provided for convenience only and shall not be construed to constrict or expand the obligations and/or covenants set forth therein.

12.3 NOTICES: Any notices regarding this AGREEMENT given by either party to the other must be in writing and shall be deemed to have been given, delivered or made, as the cause may be upon mailing via U.S. mail in a properly sealed and postage prepaid envelope addressed to the following:

If to FARMINGTON:
David Murphy, City Manager
Susan Halberstadt, City Clerk
City of Farmington
23600 Liberty Street
Farmington, MI 48335

If to NOVI:
Pete Auger, City Manager
Cortney Hanson, City Clerk
City of Novi
45175 Ten Mile Road
Novi, MI 48375

12.4 AUTHORIZATION: Both parties represent and warrant that they are authorized to enter into this AGREEMENT and that the individuals executing this AGREEMENT have full power and authority to bind their respective parties to the terms hereof.

12.5 CONSTRUCTION OF AGREEMENT: This AGREEMENT is a result of mutual drafting and review and shall not be construed more strictly against either party.

12.6 SEVERABILITY: If any one or more of the provisions of this AGREEMENT, or any exhibits attached hereto, are held to be invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed separate, distinct, and independent provision and shall not affect the validity of the remaining provisions hereof.

IN WITNESS THEREOF, the parties hereto have caused this AGREEMENT to be executed on the date first above written.

CITY OF FARMINGTON

By:
Its:

CITY OF NOVI

By:
Its: