



Howard Park Legacy Project Agreement

Robert and Tess Cassady
Community Room No. 1

Thank you for being a critical piece of the second vision for South Bend's first park.

Naming Rights Agreement

This Naming Rights Agreement (“Agreement”), is made and entered into by and between Robert and Tess Cassady (hereinafter, “The Cassady’s”), and the City of South Bend, Indiana, Department of Venues Parks & Arts, by and through its Board of Park Commissioners (hereinafter the “City”), (each a “Party” and collectively, the “Parties”).

RECITALS

WHEREAS, the City owns community rooms located at Howard Park, 301 S. St. Louis Blvd., South Bend, Indiana 46617 (the “Community Room”); and

WHEREAS, the Parties desire to enter into a naming rights agreement pursuant to which the City will grant the Cassady’s temporary exclusive naming rights for one of the City’s community rooms in return for certain benefits set forth below.

NOW THEREFORE, in consideration of the following mutual promises, and all other good and valuable consideration, the receipt and adequacy of which are acknowledged, the Parties agree as follows:

AGREEMENT

1. **Term.** The Initial term of this Agreement shall be for fifteen (15) years, commencing on November 29, 2019 and ending on November 29, 2034, unless otherwise terminated earlier in accordance with the terms and conditions contained herein. The Parties by mutual written agreement may extend the term of this Agreement.
2. **Naming Rights Fee.** In consideration of the naming rights and ancillary benefits granted by the City hereunder, the Cassady’s agree to pay a naming rights fee in the amount of thirty thousand (“\$30,000”) dollars, in a single payment upon or prior to the signature date of this Agreement.
3. **Use of Payments.** The payment shall be used exclusively for Howard Park , and specifically the naming rights of one of the community rooms.
4. **Acknowledgment.** In consideration for the payment of the consideration and ancillary benefits granted hereunder, the City agrees to acknowledge the Cassady’s naming rights during the term of this Agreement by naming the Howard Park community room #1 via a personalized plaque to be affixed inside of the community room, as well as the name of the donor memorial (Farmer) on the outside of the room. Subject to the terms of this Agreement, the Cassady’s naming rights will continue for the fifteen (15) year term of this Agreement. At the end of the term of this agreement, the Cassady’s will have the first right of refusal to renew their commitment to the community room.

5. **Modification of Naming.** If during the term of this Agreement, and following receipt of full payment from the Cassady's, the City permanently closes the community room to the public, changes the use of the community room to something other than a community room, or the community room is severely damaged and not resotored prior to the expiration of this Agreement, then the naming rights under this Agreement will cease. In such event, the Parties may mutually agree to provide the Cassady's with naming rights for another available and equivalent Howard Park or City park facility, at no additional charge, for the remainder of the Agreement term.
6. **Mutual Indemnification and Hold Harmless.** The Parties mutually agree to indemnify, defend and hold the other harmless from and against any and all third party claims for loss, liability, damage, or expense, including attorney fees, to the extent arising out of or in connection with this Agreement. However, neither Party shall be indemnified hereunder for any loss, liability, damage, or expense resulting from its sole negligence or willful misconduct.
7. **Promotion.** During the term of this Agreement, the City, in consideration of the naming rights and benefits conferred hereunder, shall have the right, without charge, to photograph, use the names, likenesses, and images of the personalized plaque to be affixed inside the Community Room, as well as use of Cassidy's name and/or images, in photographic, audiovisual, digital or any other form of media (the "Media Materials") and to use, reproduce, distribute, exhibit, and publish the Media Materials in any manner, and in whole or in part, in City brochures, website postings, informational and marketing materials, and reports and publications.
8. **Ownership.** The Cassady's acknowledge that the City retains all right, title and interest in the Community Room.
9. **Assignment.** This Agreement and the rights and benefits hereunder may not be assigned by either Party without the prior written consent of the other Party, which consent shall be in the sole and absolute discretion of the non-assigning Party.
10. **Termination of Naming.** In addition to any rights and remedies available at law, the City may terminate this Agreement and all rights and benefits of the Cassady's hereunder, including termination of naming rights and affixation of the personalized plaque upon the occurrence of the following:
 - a. In the event the Cassady's fail to make the full payment due under this Agreement; and such default is not cured within ten ("10") business days following the date of written notice of default by the City; or
 - b. In the City's reasonable opinion, at any time during the term of this Agreement, the Cassady's (or the subject of the donation) have developed or acquired a negative connotation for any reason such that the reputation of Howard Park and/or the City is or might be at risk.

As of the effective date of termination, the City shall have no further obligation or liability to the Cassady's and shall not be required to return any portion of the Naming Rights Payment already received; and the City may immediately cease to use or display of plaque. The City may in its sole and absolute discretion determine an alternative recognition for the portion of the payment already received.

The Cassady's may elect to terminate this Agreement for convenience by providing the City with ten (10) business days advance written notice. In the event of the Cassady's termination for convenience, the Cassady's agree to reimburse the City for the cost to remove the display plaque.

11. **Notices.** Any notice required or permitted to be given hereunder shall be deemed to be delivered, whether or not actually received, when deposited in the United States Postal Service, postage prepaid, registered or certified mail, return receipt requested, addressed to a Party, at the addresses set forth below:

Robert & Tess Cassady
1105 E. Wayne St.
South Bend, IN 46615
Attn: _____

City of South Bend, Indiana
Venues Parks & Arts Department
301 S. St. Louis Blvd
South Bend, IN 46617
Attn: _____

12. **Counterparts.** This Agreement may be executed in two or more counterparts, which together shall constitute one and the same agreement among the parties.
13. **Entire Agreement.** This Agreement constitutes the entire agreement of the Parties with regard to the matters referenced herein, and supersedes all prior oral and written agreements, if any, of the Parties in respect hereto. This Agreement may not be modified or amended except by written agreement executed by both Parties hereto. The captions inserted in this Agreement are for convenience only and in no way define, limit, or otherwise describe the scope or intent of this Agreement, or any provision hereof, or in any way affect the interpretation of this Agreement.
14. **Governing Law and Venue.** This Agreement will be governed by and construed in accordance with the laws of the State of Indiana and the City of South Bend, without regard to any conflict of law. Any legal proceeding brought in connection with disputes relating to or arising out of this Agreement shall be filed and heard in the courts of St. Joseph County, Indiana.

(Signatures Appear on the Following Page)

IN WITNESS WHEREOF, this Agreement is executed by the Parties as of the day and year indicated above.

CITY OF SOUTH BEND, INDIANA
BOARD OF PARK COMMISSIONERS

ROBERT CASSADY
TESS CASSADY

Mark Neal, President

Signature

Consuella Hopkins, Vice President

Printed Name

Aimee Buccellato, Member

Signature

Dan Farrell, Member

Printed Name

ATTEST: _____
Eva Ennis, Clerk

Date

Date: _____
August 26, 2019