

RECREATION, LIBRARIES & AUTHORITIES COMMITTEE

12-0284R

RESOLUTION AUTHORIZING APPLICATION FOR AND ACCEPTANCE OF A \$7,000 SPRITE SPARK PARKS WITH CUB FOODS GRANT FROM THE NATIONAL RECREATION & PARK ASSOCIATION ON BEHALF OF COCA-COLA COMPANY FOR IMPROVEMENTS TO THE BASKETBALL COURTS AT THE CITY'S CENTRAL HILLSIDE PARK.

CITY PROPOSAL:

RESOLVED, that the proper city officials are authorized to apply for and accept a grant from the National Recreation & Park Association on behalf of Coca-Cola Company in the amount of \$7,000.00 and to execute a memorandum of understanding, substantially the same as that on file in the office of the city clerk as Public Document No. _____, for the purpose of refurbishing the basketball courts at the city's Central Hillside park, funds to be deposited in Fund 205-130-1220-4270 (Parks Fund, Community Resources, Capital, Other Grants).

Approved:



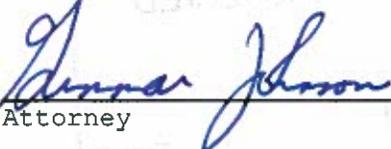
Department Director

Approved for presentation to council:



Chief Administrative Officer

Approved as to form:



Attorney

Approved:



Auditor

PARKS KB:slw 5/30/2012

STATEMENT OF PURPOSE: This resolution authorizes the application and acceptance by the proper city officials of a grant from the National Recreation & Park Association on behalf of Coca-Cola Company to refurbish the basketball courts at the city's Central Hillside park. The Central Hillside park was awarded the grant based on consumer online voting for their favorite local public park. Duluth's Central Hillside park came in second among five Minnesota parks in the contest to receive the grant.

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (MOU) effective May 22, 2012 is made between the **National Recreation and Park Association**, a Virginia-based not-for-profit 501(c)3 with a mailing address of 22377 Belmont Ridge Road, Ashburn, Virginia, 20148-4501, (hereinafter referred to as **NRPA**) and the City of Duluth, a municipal corporation on behalf of its Parks and Recreation division, a provider of public park and recreation services located in Duluth, Minnesota (hereinafter referred to as **Agency**).

1. Purpose

The purpose of this MOU is to confirm approval of the terms governing the acceptance and use of funds made available to qualifying park and recreation agencies for the refurbishment of basketball courts located in public parks through the Sprite Spark Parks program.

In collaboration with The Coca-Cola Company, NRPA is managing the 2012 Sprite Spark Parks program, including this promotion with the Cub Foods grocery retailer. As a potential winner of this promotion, Agency is required to accept the terms contained within the attached **Official Rules**. Execution of this MOU within the required 30-day timeframe confirms acceptance of these terms. Funding will not be distributed from NRPA without the execution of this MOU.

2. Project Funding

- A. Upon successful execution of the MOU and confirmation as a 2nd Prize Winner of this Sprite Spark Parks promotion, NRPA will send Agency a check in the amount of **\$7,000**. These funds will be distributed via check from NRPA within 30 days of execution of this MOU. No matching funds are required.
- B. These funds must be used to construct, refresh and/or refurbish basketball court(s) located in **Central Hillside Park**. NRPA shall be provided advance notice of the project(s) chosen by Agency for completion with this funding. The project(s) must be completed by December 31, 2012.
- C. Agency shall coordinate with The Coca-Cola Company to host a press/community event acknowledging the basketball court refurbishment, if requested.

3. Term

This MOU shall become effective on the date above and shall continue until December 31, 2012.

4. Acceptance

Execution of this MOU confirms Agency acceptance of the **Official Rules** governing this promotion.

These parties have caused this MOU to be signed by their duly authorized representatives as of the effective date set forth above.

CITY OF DULUTH, a Minnesota municipal corporation

NATIONAL RECREATION AND PARK ASSOCIATION.

By: _____
Its Mayor

By _____
Its _____

Attest:

Date: _____

By: _____
City Clerk
Date:

Countersigned:

City Auditor

Approved as to form:

City Attorney

Sprite Spark Parks with Cub® Promotion Official Rules

SUMMARY: The Sprite Spark Parks with Cub® Promotion (the "Promotion") offers consumers the opportunity to directly affect the community by voting for their favorite local public park from the list below, to receive a grant from The Coca-Cola Company to construct, refresh and/or refurbish basketball courts located in the park. Consumers can vote for a park by visiting <http://www.spritesparkparks.com/cub>, registering and voting for a park during the Promotion Period, defined below (each a "Vote"). The total number of Votes received by each park will determine which parks receive grants, as described below. **Note: Voters will not receive any award or prize for voting for any Park.**

1. Eligibility:

a) Consumer/Voter Eligibility: Only legal residents of Minnesota who are at least 18 years or older at the time of participation are eligible to vote for a park from among those listed below, limit of one vote per person per day.

b) Park Eligibility: Only public parks on the list of five (5) that have been pre-determined by Sponsor in its sole discretion and located here: www.spritesparkparks.com/cub (each a "Park") and listed below are eligible.

	Park Name	City	State
1	Evergreen Park	Brooklyn Center	MN
2	West Palmer Park	Brooklyn Center	MN
3	Central Hillside Park	Duluth	MN
4	Robin Hood Park	Maplewood	MN
5	Sibley Park	Minneapolis	MN

Employees and non-employee workers of The Coca-Cola Company, Coca-Cola bottlers, SUPERVALU INC., National Recreation and Park Association, ePrize, LLC, and their respective parents, subsidiaries, affiliates, and agents, and any agencies or other companies involved in the development or execution of the Promotion or production or distribution of Promotion materials, as well as the immediate family (spouse, parents, siblings, and children) and household members of each such person are not eligible to vote. The Promotion is subject to all applicable federal, state and local laws and regulations and is void outside the listed states and where prohibited by law.

2. Sponsor: The Promotion is sponsored by Coca-Cola North America, a division of The Coca-Cola Company, One Coca-Cola Plaza, Atlanta, GA 30313. **Administrator:** ePrize, LLC, One ePrize Drive, Pleasant Ridge, MI 48069.

3. Agreement to Official Rules: Participation in this Promotion constitutes each participant's full and unconditional agreement to these Official Rules and Sponsor's and Administrator's decisions, which are final and binding in all matters related to this Promotion. Grant distribution is contingent upon participating consumers and Park representatives fulfilling all requirements set forth herein.

4. Timing: The Promotion begins on April 15, 2012 at 12:00 a.m. Eastern Time ("ET") and ends on May 5, 2012 at 11:59 p.m. ET (the "Promotion Period"). For purposes of this Promotion, a day begins at 12:00 a.m. ET and ends at 11:59 p.m. ET on the same calendar day. Administrator's computer is the official time-keeping device for the Promotion.

5. How to Vote in the Promotion: During the Promotion Period, visit <http://www.spritesparkparks.com/cub> and follow the links and instructions to navigate to complete and submit the registration form. P.O. Boxes are not permitted. Then, follow the links and instructions to vote for the Park that you want to win a grant. Limit: 1 Vote per person per day. Note: Voters will not receive any award or prize for voting for any Park.

6. Winning Park Determination: At the end of the Promotion Period, Sponsor will calculate the total number of Votes accumulated for each Park on the list of 5. The 2 Parks with the most Votes will be deemed the potential winners. The Park with the highest number of votes will be the potential First Prize winner and the next highest vote recipient will be the potential Second Prize winner. In case of a tie between two or more Parks, Sponsor will compare the number of unique voters who voted for each of the tied Parks and the one with the highest number of unique voters will be the winner of the tie. Sponsor or Administrator will notify the Park representative (individually or collectively a "Representative") from the potentially-winning First Prize Park by email, mail or phone on or around May 6, 2012. Representatives from the other potentially-winning Parks will be notified after the First Prize Park is confirmed. Each Representative will be required to complete and return a Memorandum of Understanding to Sponsor/Administrator within 30 business days or forfeit the grant. If any potential winning Park forfeits, cannot be reached or is disqualified for any reason, Sponsor reserves the right to contact a runner-up Park, in its sole discretion. Otherwise, the grant will remain un-awarded. Sponsor reserves the right, in its sole discretion, to select an alternate winner for a grant should the voting or any other portion of the Contest appear to have been tampered with or manipulated in any way.

7. Winning Park Requirements: Signing the Memorandum of Understanding and acceptance of any grant shall constitute and signify the Representative's agreement and consent, on behalf of the Park, that Sponsor and its designees may use the Representative's and/or the Park's name, city, state, photo, and/or grant information in connection with the Contest for promotional, advertising or other purposes, worldwide, in any and all media now known or hereafter devised, including the Internet, without limitation and without further payment, notification, permission or other consideration, except where prohibited by law. Each Representative will indemnify Sponsor, Released Parties (as defined in Section 9, below) and any licensee of Sponsor against all claims, damages, liabilities, and expenses (including reasonable counsel fees and legal expenses) arising out of any breach of these terms, except where prohibited by law. Parks will be contacted about the details of grant fulfillment as quickly as possible after all winning Parks are confirmed at the end of Contest.

8. Grants:

1 FIRST PRIZE GRANT: \$7,000 that must be used to construct, refresh and/or refurbish basketball courts located in the Park. Actual Retail Value ("ARV") of each grant: \$7,000.

1 SECOND PRIZE GRANT: \$7,000 that must be used to construct, refresh and/or refurbish basketball courts located in the Park. ARV \$7,000.

NOTE: The participant/voter will not receive any award or prize of any kind for supporting any Park in this Promotion.

Each grant will be in the form of a check that must be used for the purpose stated above. All grants will be administered via the National Recreation and Park Association. Restrictions, terms and conditions of grants apply. Park representatives must accept grants within 30 business days of notification or forfeit the grants. **Grants must be used before December 31, 2012.** Grants are non-transferable and no substitution will be made except as determined by the Sponsor in its sole discretion. Parks, and/or their municipalities are responsible for all taxes and fees associated with grant receipt and/or use, if any are applicable. Limit: 1 grant per Park.

9. Release: Subject to local law, by participating in this Promotion, each participant and by receipt of any grant by the applicable Park, each Representative agrees to release and hold harmless The Coca-Cola Company, Coca-Cola bottlers, SUPERVALU INC., National Recreation and Park Association, ePrize, LLC, and their respective parents, subsidiaries, affiliates, and agents, and any agencies or other companies involved in the development or execution of the Promotion or production or distribution of Promotion materials, and each of their respective parent companies and each such company's officers, directors, employees and agents (collectively, the "Released Parties") from and against any claim or cause of action, including, but not limited to, personal injury, death, or damage to or loss of property, arising out of participation in the Promotion or receipt or use or misuse of any grant.

10. General Conditions: If for any reason, the Promotion is not capable of running as planned by reason of infection by virus, bugs, worms, tampering, unauthorized intervention, fraud, technical failures, or any other causes which, in the sole opinion of the Sponsor, may corrupt or affect the administration, operation, security, fairness, integrity or proper conduct of this Promotion, Sponsor reserves the right, in its sole discretion, to cancel, terminate, modify or suspend the Promotion, and select the winning Parks, from the eligible Parks that were involved in the Promotion prior to the action taken or in other such manner as deemed fair and appropriate by Sponsor. Sponsor, in its sole discretion, reserves the right to disqualify any individual, participant or Representative it finds to be tampering with the voting process or the operation of the Promotion or to be acting in violation of the Official Rules of this or any other promotion or in an unsportsmanlike or disruptive manner and to void all associated Votes, and/or the Park's participation, in Sponsor's discretion. Any attempt by any person to deliberately undermine the legitimate operation of the Promotion may be a violation of criminal and civil law, and, should such an attempt be made, Sponsor reserves the right to seek damages and other remedies (including attorneys' fees) from any such person to the fullest extent permitted by law. Sponsor's failure to enforce any term of these Official Rules shall not constitute a waiver of that provision.

11. Limitations of Liability: Released Parties are not responsible for: (1) any incorrect or inaccurate information, whether caused by participant, printing, typographical or other errors or by any of the equipment or programming associated with or utilized in the Promotion; (2) technical failures of any kind, including, but not limited to malfunctions, interruptions, or disconnections in phone lines, cellular networks, or network hardware or software; (3) unauthorized human intervention in any part of the voting process, or the Promotion; (4) printing, typographical, technical, computer, network or human error which may occur in the administration of the Promotion, the uploading, the processing or tabulation of Votes, the announcement of the grants or in any Promotion-related materials; (5) late, lost, undeliverable, damaged or stolen mail; or (6) any injury or damage to persons or property which may be caused, directly or indirectly, in whole or in part, from participant's participation in the Promotion or receipt or use or misuse of any grant (including any travel/activity related

thereto). Released Parties are not responsible for misdirected or undeliverable Votes or for any technical problems, malfunctions of computer systems, cellular networks, servers, providers, hardware/software, lost or unavailable network connections or failed, incomplete, garbled or delayed computer transmission or any combination thereof.

12. Disputes: Except where prohibited, each participant agrees that: (1) any and all disputes, claims and causes of action arising out of or connected with this Promotion or any grant awarded shall be resolved individually, without resort to any form of class action, and exclusively by the United States District Court for the Eastern District of Michigan (Southern Division) or the appropriate Michigan State Court located in Oakland County, Michigan; (2) any and all claims, judgments and awards shall be limited to actual out-of-pocket costs incurred, including costs associated with entering this Promotion, but in no event attorneys' fees; and (3) under no circumstances will participant be permitted to obtain awards for, and each participant hereby waives all rights to claim, indirect, punitive, incidental and consequential damages and any other damages, other than for actual out-of-pocket expenses, and any and all rights to have damages multiplied or otherwise increased. All issues and questions concerning the construction, validity, interpretation and enforceability of these Official Rules, or the rights and obligations of each participant, Representative, Park, and Sponsor in connection with the Promotion, shall be governed by, and construed in accordance with, the laws of the State of Michigan without giving effect to any choice of law or conflict of law rules (whether of the State of Michigan or any other jurisdiction), which would cause the application of the laws of any jurisdiction other than the State of Michigan.

CUB is a trademark owned by SUPERVALU INC. or its subsidiaries.