

CITY of NOVI CITY COUNCIL

Agenda Item H
June 21, 2010

SUBJECT: Approval of Form of Agreement, Closing Documents, and Forms of Deeds for 2007 Michigan Natural Resources Trust Fund (MNRTF) Grant, TF 07-017, for Approximately 16.2 Acres of Land Between 9 and 10 Mile Roads, West of Wixom (Novi Core Habitat Reserve) and Authorization to Proceed with Closing.

SUBMITTING DEPARTMENT: 

CITY MANAGER APPROVAL: 

BACKGROUND INFORMATION:

The City applied for a grant from the MNRTF in 2007 to acquire vacant wooded wetland property from Heritage Shoppes, LLC. The initial grant application was based upon a projected value to the property of \$485,000. With additional acquisition costs, the amount of the total grant initially was \$525,500. The project agreement for the grant calls for the state to pay 54% of the total project cost, or \$281,300, with the City to pay the remaining 46% or \$239,200 as the "local match."

After securing two different appraisals, the MNRTF accepted an appraisal for the property in the substantially reduced amount of \$120,000. The MNRTF has agreed to go forward with the grant at the reduced appraised value. It has authorized the City to close the project on the basis of the reduced appraisal. The attached agreements and closing documents continue the 54%/46% split. They also reflect the City's decision to contribute some funds towards the project.

The initial project resolution passed by the City Council, for the greater acquisition cost, required the seller of the property, Heritage Shoppes, to provide all of the local match requirements by way of donation of some of the value of the property (a waiver of just compensation in the acquisition). With the reduced cost of the property, the City Council authorized expending up to \$30,000 toward the acquisition. The idea was that the City and Heritage Shoppes would essentially split the local match amount.

The attached documents include a formal waiver by Heritage Shoppes of \$30,000 of land value, which is being applied toward the City's local match. The City's financial contribution at closing will be approximately \$26,000.

The closing is proposed for June 22, 2010. Closing is required by June 30, 2010. The documents are under review by the State, so the motion below is an approval subject to final review and revision by the City Attorney and City Administration, in the event there are minor changes required.

RECOMMENDED ACTION:

Approval of Form of Agreement, Closing Documents, and Forms of Deeds for 2007 Michigan Natural Resources Trust Fund (MNRTF) Grant, TF 07-017, for Approximately 16.2 Acres of land between 9 and 10 Mile Roads, West of Wixom (Novi Core Habitat Reserve) and Authorization to Proceed with Closing, subject to final review and revision by the City Attorney and City Administration following review by the State of Michigan.

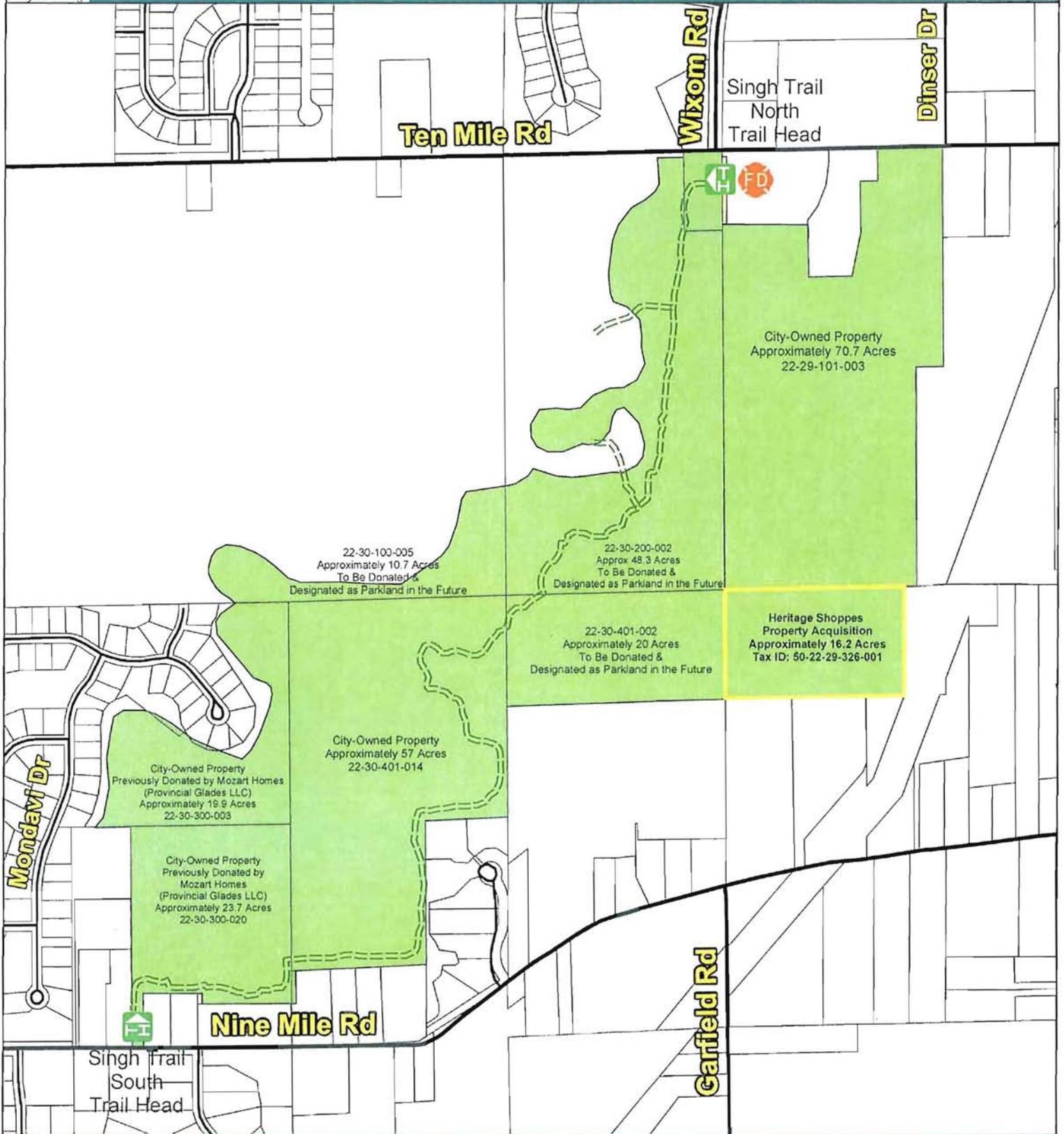
	1	2	Y	N
Mayor Landry				
Mayor Pro Tem Gatt				
Council Member Crawford				
Council Member Fischer				

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



Acquisition of the Heritage Shoppes Property Plat/Parcel Ownership Map Reference

Michigan Natural Resources Trust Fund Grant Application
City of Novi Parks, Recreation, and Forestry Department



CITY OF NOVI

DEPARTMENT OF PARKS, RECREATION & FORESTRY
 NOVI CITY HALL/CIVIC CENTER
 45175 W. TEN MILE ROAD
 NOVI, MI 48375-3024
 (248) 347-0400
 CITYOFNOVI.ORG
 MAP AUTHOR: CHRISTOPHER BLOUGH,
 GIS MANAGER



0 400 800 1,600
 FEET

1 INCH = 800 FEET

MAP PRINT DATE: 6/18/2010

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.



STATEMENT OF JUST COMPENSATION

Required By Act 451, P.A. 1994, as amended, and Act 227 of 1972. Submission is required for payment/reimbursement.

This document is used for land acquisition grants under the Michigan Natural Resources Trust Fund (MNRTF). A separate *Statement of Just Compensation* form is required for each seller. Upon completion of the *Statement of Just Compensation* form by the local government and the landowner(s), signature by the local unit of government's representative and all landowners (or their legal representative) is required.

SECTION A: PROJECT DESCRIPTION (to be completed by the local government)

MNRTF Project Number: TF 07-017	MNRTF Project Title: Novi Core Habitat Reserve Property Acquisition
Grantee (local government pursuing the acquisition): City of Novi	Name of Grantee's Representative: Randy Auler, CPRP
Project Description/Purpose of the acquisition: Acquisition for parkland of wooded/wetland area	
Acreage to be acquired: 16.2 acres +/-	County of the real property: Oakland
Owners of the real property based on title records: a. Heritage Shoppes, LLC b. _____ c. _____	

SECTION B: LEGAL DESCRIPTION (to be completed by the local government)

A legal description for the real property must be attached to this *Statement of Just Compensation* form and reviewed by the landowner(s) and local unit of government before the *Statement of Just Compensation* form is signed.

SECTION C: JUST COMPENSATION (to be completed by the local government)

Just compensation takes into consideration the location of the property, its highest and best use, and current land sales of similar properties. An increase or decrease in the market evaluation caused by the public improvement or the project for which the property is to be acquired, or by the likelihood that the property would be acquired for such improvement or project, other than that due to the physical deterioration of the property within the reasonable control of the owner, has been disregarded in making the determination of just compensation.

1. Just Compensation, which is the Michigan Department of Natural Resources & Environment-Approved Fair Market Value, has been identified as: \$ 120,000.00		
2. Just Compensation <u>includes</u> amounts for the land, improvements, severance, if any, and other elements, as follows:		
Land and Improvements:	\$ 120,000.00	<input type="checkbox"/> Amount includes buildings, structures or other improvements
Less Damage to the Remainder:	\$ N/A	
Less/Plus Other:	\$ N/A	
Total:	\$ 120,000.00	Must be amount shown in Section C (1) above

SECTION D: FEE SIMPLE TITLE (to be completed by the local government)

ONE OF THE FOLLOWING BOXES MUST BE CHECKED:

Acquisition will be of fee simple title free of all liens, encumbrances, and restrictions and with no interests reserved by the landowner.
OR

Acquisition is subject to the following easements or restrictions or interests or rights to be reserved by the landowner.*
Describe below:
Detroit Edison Power Line Permit, Liber 3636, Page 65, Oakland
County Records

* **IMPORTANT** – All easements, restrictions, and reservations of interests by the landowner must have prior approval by the DNRE. If this box is checked, the local unit of government should not proceed with the acquisition without written approval from the DNRE.

STATEMENT OF JUST COMPENSATION (Continued)

SECTION E: OCCUPANTS (to be completed by the landowner)

The following persons are occupying the property as separate households or are conducting business activities:

1. Name of Occupant	2. Name of Occupant	3. Name of Occupant
Address of Occupant	Address of Occupant	Address of Occupant
City State ZIP code	City State ZIP code	City State ZIP code
TYPE OF OCCUPANCY: <input type="checkbox"/> Household <input type="checkbox"/> Lease <input type="checkbox"/> Business <input type="checkbox"/> Rental	TYPE OF OCCUPANCY: <input type="checkbox"/> Household <input type="checkbox"/> Lease <input type="checkbox"/> Business <input type="checkbox"/> Rental	TYPE OF OCCUPANCY: <input type="checkbox"/> Household <input type="checkbox"/> Lease <input type="checkbox"/> Business <input type="checkbox"/> Rental

SECTION F: GRANTEE CERTIFICATION (to be completed by the local government)

- In compliance with Section 301 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, just compensation has been identified for the real property identified above.
- The Just Compensation amount is based upon a DNRE-approved appraisal prepared for the local government and is not less than the appraiser's opinion of fair market value that he/she determined after a personal inspection of the property.
- The landowners were given the opportunity to accompany the appraiser.
- The local unit government is prepared to commence with negotiations for the purchase of this property.
- The local government will ensure all occupants of the property are made aware of the potential relocation benefits.
- The local government will pay all incidental costs associated with the acquisition, unless the landowner(s) waives this requirement in writing.
- This is NOT an offer to purchase.

Grantee's Representative Signature

Date

SECTION G: LANDOWNER(S) CERTIFICATION (to be completed by the landowner)

- I was offered the opportunity to accompany the appraiser over the subject land.
- I have received a copy of this *Statement of Just Compensation* form, fully reviewed it, and have been advised of my rights under P.L. 91-646.
- By signing of this statement, I acknowledge that I have completed Sections E and G. My signature acknowledges receipt of the completed *Statement of Just Compensation* form and places me under no obligation.

LANDOWNER(S) SIGNATURES:

I or my representative DID DID NOT accompany the appraiser. (ONE OF THESE BOXES MUST BE CHECKED)

a) Landowner or Owner's Legal Representative Signature

Date

I or my representative DID DID NOT accompany the appraiser. (ONE OF THESE BOXES MUST BE CHECKED)

b) Landowner or Owner's Legal Representative Signature

Date

I or my representative DID DID NOT accompany the appraiser. (ONE OF THESE BOXES MUST BE CHECKED)

c) Landowner or Owner's Legal Representative Signature

Date

This completed and signed document must be submitted with the Reimbursement Package to:

Grants Management
Michigan Department of Natural Resources and Environment
PO Box 30425
Lansing MI 48909-7925



OFFER TO PURCHASE (WITH LAND DONATION)/WAIVER OF JUST COMPENSATION

Required By Act 451, P.A. 1994, as amended, and Act 227 of 1972. Submission required for payment/reimbursement.

This document is to be used for land acquisition grants under the Michigan Natural Resources Trust Fund (MNRTF) when the acquisition includes donation of land value. A separate *Offer to Purchase (with Land Donation)/Waiver of Just Compensation* form is required for each seller. Upon completion of the document by the Local Government/Buyer and the Landowner/Seller(s), signature by the local government and all of the landowners (or their legal representative) is required.

SECTION A: PROJECT DESCRIPTION (to be completed by the local government)

MNRTF Project Number: TF 07-017	MNRTF Project Title: Novi Core Habitat Reserve Property Acquisition
------------------------------------	--

SECTION B: Buyer Information (The Buyer is the MNRTF grantee/local government pursuing the acquisition)

Name of Local Government/Buyer: City of Novi	Name of Local Government/Buyer's Representative: Randy Auler CPRP
---	--

Address of Local Government/Buyer: 45175 W. Ten Mile Road	City: Novi	State: MI	ZIP: 48375
--	---------------	--------------	---------------

SECTION C: Landowner/Seller(s) Information (Owners of the real property based on title records)

1. Name of Landowner/Seller	2. Name of Landowner/Seller	3. Name of Landowner/Seller
Heritage Shoppes, LLC		
Address of Landowner/Seller 29201 Telegraph Road, #450	Address of Landowner/Seller	Address of Landowner/Seller
City: Southfield State: MI ZIP: 48034	City State ZIP	City State ZIP

SECTION D: Legal Description (to be completed by the local government)

A legal description for the real property must be attached to this document and reviewed by the landowner(s) and local unit of government before the document is signed.

SECTION E: Just Compensation (to be completed by the local government)

Just Compensation, which is the Michigan Department of Natural Resources & Environment-approved fair market value, has been identified as: \$ 120,000.00

SECTION F: Offer To Purchase Price (to be completed by the local government)

An Offer to Purchase has been made in the amount of (DNRE-approved fair market value or higher): \$120,000.00

SECTION G: Cash Compensation And Value Of Land Donation (to be completed by the landowner)

1. The landowner has voluntarily agreed to accept Cash Compensation in the amount of:	\$ 90,000.00
2. The difference between the Just Compensation/Offer to Purchase Amount and the Cash Compensation Amount is: (This represents a donation of land value from the Landowner/Seller(s) to the Local Government/Buyer)	\$ 30,000.00

SECTION H: LOCAL GOVERNMENT/BUYER CERTIFICATION

By signing this document, the Local Government/Buyer certifies the following:

- The Local Government/Buyer as listed in Section B offers to purchase the property described under Section D for the purchase price listed in Section F and to pay the incidental closing costs, unless waived by the Landowner/Seller(s).
- Cash compensation in the amount listed in Section G will be provided at the time of closing. The difference in the Just Compensation/Offer to Purchase price and the Cash Compensation amount as listed in Section G represents a donation of land value.
- The value of the land donation may be used by the local government to meet all or a portion of their match obligations for the MNRTF grant, with prior approval from the Michigan Department of Natural Resources & Environment and the MNRTF Board. Approved land donation will, at the time of closing, be a credit to the Local Government/Buyer and a debit to the Landowner/Seller(s).

Local Government's Representative Signature: _____ Date: _____

SECTION I: LANDOWNER/SELLER(S) CERTIFICATION (to be completed by the landowner/seller)

By signing this document, the Landowner/Seller(s) certifies the following:

1. I have been informed of all of my rights and benefits under the Uniform Relocation Assistance and Real Properties Acquisition Policies Act of 1970 (P.L. 91-646).
2. I have been provided with a Statement of Just Compensation.
3. Of my own choice, I have elected to accept the Cash Compensation Amount listed in Section G.1., which is less than the Just Compensation/Offer to Purchase price, as based on the DNRE-approved fair market value. The difference represents a donation of land value to the Local Government/Buyer. I understand that the value of the land donation may be used by the local government to meet their match obligations for a MNRTF grant with prior approval of the DNRE.
4. I accept this Offer to Purchase and the Cash Compensation Amount.
5. The reason(s) I am accepting cash compensation in an amount less than the Just Compensation/Offer to Purchase is:

A donation toward parkland and wooded/wetland preservation.

a) _____ Date _____
Landowner/Seller or Landowner's/Seller's Legal Representative Signature

b) _____ Date _____
Landowner/Seller or Landowner's/Seller's Legal Representative Signature

c) _____ Date _____
Landowner/Seller or Landowner's/Seller's Legal Representative Signature

This completed and signed document must be submitted with the Reimbursement Package to:

Grants Management
Michigan Department of Natural Resources and Environment
PO Box 30425
Lansing MI 48909-7925



SELLER'S WAIVER OF REIMBURSEMENT OF INCIDENTAL EXPENSES

Required By Act 451, P.A. 1994, as amended, and Act 227 of 1972. Submission required for payment/reimbursement.

This document is to be used for land acquisition grants under the Michigan Natural Resources Trust Fund (MNRTF). A separate document is required for each seller. Upon completion of the document by the local government and the landowner(s), signature by all landowners (or their legal representative) is required.

SECTION A: PROJECT DESCRIPTION (to be completed by the local government)

MNRTF Project Number: TF 07-017	MNRTF Project Title: Novi Core Habitat Reserve Acquisition
Grantee (local government pursuing the acquisition): City of Novi	

SECTION B: SCHEDULE FF INCIDENTAL EXPENSES (to be completed by the local government)

The landowner (seller) is eligible to receive reimbursement from the local government (buyer) for the following incidental expense:

Item	Amount
Recording Fees	\$ 17.00
Transfer Tax	\$ 1032.00
Title Insurance	\$ 782.15
Appraisal	\$ 4,500.00
Prorated Taxes	\$ 142.11
Closing fees (excluding attorney fees)	\$ 500.00
	\$
Total ELIGIBLE Incidental Expenses	\$ 6,973.26

SECTION C: WAIVED INCIDENTAL EXPENSES (to be completed by the landowner)

Of the incidental expenses listed under Section B, the landowner has agreed to:

- Waive all incidental expenses; OR
- Waive the following incidental expenses:

Item	Amount
Appraisal	\$ 4,500.00
	\$
	\$
	\$
	\$
	\$
Total WAIVED Incidental Expenses	\$ 4,500.00

SECTION D: LANDOWNER/SELLER(S) CERTIFICATION (to be completed by the landowner/seller)

By signing this document, I certify that of my own choice, I have elected to waive reimbursement for the incidental expenses listed under Section C, for the following reasons:

LANDOWNER(S) SIGNATURE:

- a) _____ Date _____
Landowner/Seller or Landowner's/Seller's Legal Representative Signature
- b) _____ Date _____
Landowner/Seller or Landowner's/Seller's Legal Representative Signature
- c) _____ Date _____
Landowner/Seller or Landowner's/Seller's Legal Representative Signature

This completed and signed document must be submitted with the Reimbursement Package to:

Grants Management
Michigan Department of Natural Resources and Environment
PO Box 30425
Lansing MI 48909-7925



CLOSING STATEMENT

Required By Act 451, P.A. 1994, as amended, and Act 227 of 1972. Submission is required for payment/reimbursement.

This document is to be used for land acquisition grants under the Michigan Natural Resources Trust Fund (MNRTF). A separate document is required for each seller. Upon completion of the document by the local government and the landowner(s), signature by the local unit of government's representative and all landowners (or their legal representative) is required. An alternative to this document may be used if it contains the same information.

PROJECT DESCRIPTION

MNRTF Project Number: TF 07-017	MNRTF Project Title: Novi Core Habitat Reserve Acquisition
Grantee (local government pursuing the acquisition): City of Novi	Name of Grantee's Representative:
Owner(s) of the real property based on title records: a. <u>Heritage Shoppes, LLC</u> b. _____ c. _____	

BUYER'S STATEMENT

CHARGES (Debits)	
Description	Amount
Purchase Price	\$ 120,000.00
Title Insurance	\$ 782.15
Prorated Summer Taxes*	\$ 19.68
Prorated Winter Taxes*	\$ 122.43
Recording Fees	\$ 17.00
Revenue Stamps	\$ 1,032.00
Closing Fee (excluding attorney fees)	\$ 500.00
TOTAL CHARGES	\$ 122,473.26
CREDITS	
Option	\$
Miscellaneous (Including Land Donation)	\$ 30,000.00
	\$
	\$
TOTAL CREDITS	\$ 30,000.00
BALANCE DUE COMPUTATION	
TOTAL CHARGES	\$ 122,473.26
LESS TOTAL CREDITS	\$ 30,000.00
BALANCE DUE	\$ 92,473.26

*Taxes paid that are allocable to a period subsequent to vesting of title in the buyer or effective date of possession by the buyer, whichever is earlier.
I/We consider the foregoing to be correct accounting and hereby acknowledge that I/we have received a copy of this closing statement.

SELLER'S STATEMENT

CHARGES (Debits)	
Description	Amount
Title Insurance	\$ -0-
Revenue Stamps	\$ -0-
Prorated Summer Taxes	\$ -0-
Prorated Winter Taxes	\$ -0-
Recording Fees	\$ -0-
Miscellaneous (including Land Donation)	\$ 30,000.00
	\$
TOTAL CHARGES	\$ 30,000.00
CREDITS	
Purchase Price	\$ 120,000.00
Prorated Summer Taxes	\$ 19.68
Prorated Winter Taxes	\$ 122.43
Miscellaneous	\$
TOTAL CREDITS	\$ 120,142.11
NET DUE COMPUTATION	
TOTAL CREDITS	\$ 120,142.11
LESS TOTAL CHARGES	\$ 30,000.00
NET DUE	\$ 90,142.11

I/We consider the foregoing to be correct accounting and hereby acknowledge that I/we have received a copy of this closing statement.

_____	_____
Landowner/Seller or Legal Representative Signature	Date
_____	_____
Landowner/Seller or Legal Representative Signature	Date
_____	_____
Landowner/Seller or Legal Representative Signature	Date

Buyer's Representative Signature Date

This completed and signed document must be submitted with the Reimbursement Package to:

Grants Management
Michigan Department of Natural Resources & Environment
PO Box 30425
Lansing MI 48909-7925

WARRANTY DEED

The Grantors, **Heritage Shoppes, LLC**, whose address is 29201 Telegraph Road, Southfield, MI 48034,

Convey and Warrant to the City of Novi, a Michigan municipal corporation, whose address is 45175 W. Ten Mile Road, Novi, Michigan, 48375, being the Grantee,

The following described premises situated in the City of Novi, County of Oakland and State of Michigan:

See attached legal description, which is incorporated herein by this reference,

For the consideration of \$120,000.

Subject to easements and restrictions of record.

Public Act 591 of 1997 requires the following: this property may be located within the vicinity of farmland or a farm operation. Generally accepted agricultural and management practices which may generate noise, dust, odors and other associated conditions may be used and are protected by the Michigan Right to Farm Act,

The Grantors grant the Grantee the right to make all division(s) under Section 108 of the Land Division Act, Act No. 288 of the Public Acts of 1967, as amended.

The lands included in this deed were acquired by the City of Novi with funding assistance from the Michigan Natural Resources Trust Fund pursuant to project agreement TF07-017 between the Michigan Department of Natural Resources and the City of Novi in the County of Oakland, executed by the City on December 15, 2008. The project agreement describes certain requirements to ensure the long-term conservation of the property and its use for public outdoor recreation. The City of Novi is placing this notice on record as confirmation of its obligations as set forth in the project agreement, including the requirement that the consent of the Michigan Department of Natural Resources and the Michigan Natural Resources Trust Fund Board of Trustees is required prior to the conveyance of any rights or interest in the property to another entity, or for the use of the property for purposes other than conservation or public outdoor recreation.

Dated this ____ day of June, 2010.

[signatures/acknowledgments on next page]

Signed in the presence of:

Signed by: Heritage Shoppes, LLC,
a Michigan limited liability company

, Managing Member

STATE OF MICHIGAN)
) SS.
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me on this ____ day of June, 2009, by _____, the duly-authorized Managing Member of Heritage Shoppes, LLC, a Michigan Limited Liability Company.

, Notary Public

Oakland County, MI
Acting in Oakland County, MI
My Commission Expires:

When Recorded Return To: Grantee	Send Subsequent Tax Bills To: Grantee	Drafted By: Thomas R. Schultz, Esq. Secret Wardle, PC 30903 Northwestern Highway, P.O. Box 3040 Farmington Hills, MI 48333-3040
-------------------------------------	--	--

Tax Parcel No. 22-29-326-001

Recording Fee _____ Transfer Tax _____

LEGAL DESCRIPTION

WARRANTY DEED (Mineral Royalty Interest)

The Grantor, **City of Novi**, a Michigan municipal corporation, whose address is 45175 West Ten Mile Road, Novi, Michigan 48375

conveys and warrants to the **STATE OF MICHIGAN**

whose street number and post office address is **Post Office Box 30448, Lansing, Michigan 48909-7948**

the following described premises situated in the **City of Novi, County of Oakland and State of Michigan**

See attached legal description, incorporated herein by this reference.

SUBJECT TO easements and building and use restrictions of record:

GRANTOR CONVEYS a perpetual nonparticipating royalty equal to 1/6 of the gross proceeds of sale of all oil and/or gas and other minerals produced and saved in any combination from the minerals rights described in **Exhibit A**. This conveyed royalty shall be determined and paid pursuant to the terms specified in **Exhibit B**.

The terms of this conveyance shall extend to the heirs, executors, administrators, successors, and assigns of the parties hereto.

Tax ID No. 22-29-326-001

For and in consideration of One Dollar (\$1.00) and no other consideration.

This instrument is exempt from County transfer tax pursuant to MCL 207.505(h) and from State transfer tax pursuant to MCL 207.526(h(i)).

Dated this _____ day of June, 2010.

[Signatures on Next Page]

EXHIBIT "A" OF THE MINERAL INTEREST

Attached to and made a part of that Warranty Deed (covering Minerals) dated June ____, 2010 from the City of Novi as grantor to the State of Michigan as grantee.

Description of the lands covered (legal description) and the attached boundary map:

[SEE ATTACHED]

containing 16.2 mineral acres or less.

The royalty interest pertains to the following existing mineral lease(s) that transferred to the grantor with acquisition of the mineral rights:

None.