



cityofnovi.org

CITY of NOVI CITY COUNCIL

Agenda Item G February 2, 2009

SUBJECT: Approval of First Amendment to Agreement for Acquisition of Property (Kaluzny Trust), Relating to a 20-acre Parcel of Property near Eleven Mile and Beck Roads.

SUBMITTING DEPARTMENT: City Attorney/City Manager

CITY MANAGER APPROVAL 

BACKGROUND INFORMATION:

The City entered into an agreement with the Virginia Kaluzny Trust for the purchase of a 20-acre parcel of property near Eleven Mile and Beck Roads, effective September 4, 2008. The agreement includes a 120 day "due diligence" period in which the City was permitted to undertake title review, environmental inspections, and the like. Following expiration of the 120 day due diligence period, the City has under the agreement additional time periods (which vary depending on what they relate to) in order to satisfy other "preconditions to closing." The longest of these is 210 days.

Title work secured by the City disclosed some oil and gas interests on the property, which the City has been working with the interest holders to address. As part of the discussion, the Kaluzny Trust has agreed to extend the due diligence period by 30 days (to make it a total of 150 days). This will be helpful to the City in terms of the decision to go forward with closing on the purchase.

Under the agreement, the closing must occur within 30 days after the expiration of the last date for satisfying the pre-conditions to closing. That makes the "outside" closing date under the current agreement on or about August 30, 2009 (120 days, plus 210 days, plus 30 days, or 360 days from the effective date).

The attached First Amendment to Agreement for Acquisition of Real Property adding an additional 30 days would make the closing date on or about September 29, 2009. This would be beneficial to the City, as would the additional 30 days of due diligence inquiry.

RECOMMENDED ACTION: Approval of First Amendment to Agreement for Acquisition of Property (Kaluzny Trust), Relating to a 20-acre Parcel of Property near Eleven Mile and Beck Roads.

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

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

FIRST AMENDMENT TO
AGREEMENT FOR
ACQUISITION OF PROPERTY

AMENDMENT made this ____ day of February, 2009, by and between the City of Novi, whose address is 45175 W. Ten Mile Road, Novi, MI 48375, (Purchaser), and Eugene S. Zembrzusi, Successor Trustee of the Virginia Kaluzny Trust, U/AD 03-09-89, of 2842 Shadywood Drive, Troy, MI 48098, c/o Thompson-Brown Realtors, whose address is, 30180 Orchard Lake Road, Farmington Hills, Michigan 48334, (Seller).

RECITALS:

WHEREAS, the Purchaser and Seller have entered into an Agreement for Acquisition of Real Property (the Agreement), dated September 4, 2008, a copy of which is attached hereto and made a part hereof; and

WHEREAS, the parties have agreed to extend certain terms and/or dates set forth in the Agreement for mutual convenience.

NOW, THEREFORE, IN CONSIDERATION of the foregoing, the parties agree as follows:

- A. That Paragraph 9, Due Diligence, of the Agreement is hereby amended to extend the initially stated period of one hundred twenty (120) days for due diligence to one hundred fifty (150) days.
- B. That Paragraph 10, Preconditions to Purchaser's Obligation to Close Hereunder, of the Agreement, and more specifically subparagraph (h) thereof, shall be amended to change the reference to "120-day due diligence period" to "150-day due diligence period." The parties agree that the intent and purpose of this amendment is to delay by 30 days the date upon which the days under paragraph 10 begin to run.
- C. The parties agree that Paragraph 28, Notification of Acceptance, of the Agreement has been satisfied and that the Agreement was timely accepted and signed by the parties.
- D. Except as otherwise set forth herein, the Agreement remains unchanged.

PURCHASER

By: David B. Landry
Its: Mayor

By: Maryanne Cornelius

Its: Clerk
Dated: February ____, 2009

**OWNER
(SELLER)**

By: _____
Its: _____

Dated: February ____, 2009