

cityofnovi.org

# CITY of NOVI CITY COUNCIL

**Agenda Item 5**  
**April 18, 2011**

**SUBJECT:** Acceptance of a highway easement from DB Development for the vacant property at the northwest corner of Nine Mile Road and Haggerty Road in conjunction with the Nine Mile Pathway project as a donation by the property owner (parcel 50-22-25-400-027).

**SUBMITTING DEPARTMENT:** Department of Public Services, Engineering Division *RTH BTC*

**CITY MANAGER APPROVAL:** *[Signature]*

**BACKGROUND INFORMATION:**

DB Development has offered to donate a 60-foot wide Highway Easement along the Nine Mile Road frontage of the undeveloped property at the corner Nine Mile Road and Haggerty Road. DB Development originally provided a Sidewalk Easement for the specific needs of the proposed Nine Mile Pathway project, Meadowbrook to Haggerty. Following further discussions DB offered to donate a larger Highway Easement after understanding that the larger easement would allow for a pathway design with an alignment that better accommodates future development on the property.

Previously, the City provided DB Development with a good faith offer for the original sidewalk easement, as required by the grant, however, DB agreed to donate the easement for the pathway project.

**RECOMMENDED ACTION:** Acceptance of a highway easement from DB Development for the vacant property at the northwest corner of Nine Mile Road and Haggerty Road in conjunction with the Nine Mile Pathway project as a donation by the property owner (parcel 50-22-25-400-027).

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

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

April 11, 2011

30903 Northwestern Highway  
P.O. Box 3040  
Farmington Hills, MI 48333-  
3040  
Tel: 248-851-9500  
Fax: 248-851-2158  
www.secretswardle.com

Elizabeth M. Kudla  
Direct: 248-539-2846  
bkudla@secretswardle.com

Mr. Ben Croy, Civil Engineer  
Engineering Division  
City of Novi  
26300 Delwal Drive  
Novi, Michigan 48375

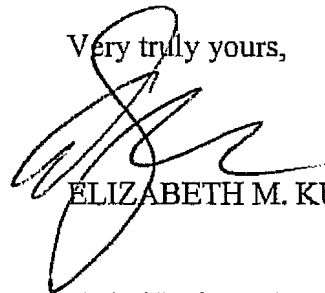
**RE: Nine Mile Pathway Project**  
***DB Development, LLC – Highway Easement***  
**Our File No. 55124 NOV**

Dear Mr. Croy:

We have received and reviewed the proposed Highway Easement executed by DB Development in connection with the Nine Mile Pathway Project. We note that there is a mortgage on the property in favor of First National Bank in Howell. We recommend acceptance of the Highway Easement as executed. However, prior to the City recording the Highway Easement, the enclosed "Consent" page should be signed by the mortgage lender and attached to the Highway Easement.

If you have any questions regarding the above, please do not hesitate to call.

Very truly yours,



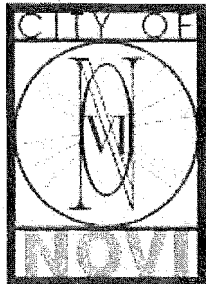
ELIZABETH M. KUDLA

EMK

Enclosure

cc: Maryanne Cornelius, City Clerk (w/Enclosure)  
Rob Hayes, City Engineer (w/Enclosure)  
Thomas R. Schultz, Esquire (w/Enclosure)

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cityofnovi.org

## MEMORANDUM

**TO:** ROB HAYES, P.E.; DIRECTOR OF PUBLIC SERVICES  
**FROM:** BRIAN COBURN, P.E.; ENGINEERING MANAGER *BIC*  
**SUBJECT:** NINE MILE PATHWAY EASEMENTS UPDATE  
**DATE:** MARCH 29, 2011

*3-30-11  
To: Mayor & City  
Council Member  
FYI*

The Nine Mile Road Pathway project would include the construction of a 10-foot wide pathway along the north side of Nine Mile Road between Meadowbrook Road and Haggerty Road using federal grant funds to cover 60% of the construction cost. Since our last memo on March 2, 2011, DPS Engineering staff member Ben Croy has been working diligently with the property owners on Nine Mile Road to secure permanent and temporary easements to facilitate construction of the project. After several phone conversations and meetings with many of the property owners, we are pleased to report that all but one of the easements required for the project have now been acquired. *||\**

The remaining easement is for Pavilion Apartments and contact has been initiated with the property owner. Based on the size and value of the easement from Pavilion, federal guidelines require an appraisal of the easement. The appraisal of the property will be complete by mid-April. If an agreement cannot be reached at that time, the City Attorney will proceed with filing a complaint to acquire the easement through eminent domain.

The property owner for the vacant parcel at the northwest corner of Nine Mile Road and Haggerty Road, DB Development, has offered the temporary and permanent easements as a donation and is working with Ben Croy to provide an additional easement for a 60-wide highway easement reflecting the master planned right-of-way for Nine Mile Road. *\**

The design is nearing completion and the project will be ready for construction this fall once the final easement has been acquired from Pavilion Apartments.

cc: Clay Pearson, City Manager  
Victor Cardenas, Assistant City Manager  
Ben Croy, P.E.; Civil Engineer

**HIGHWAY EASEMENT**

KNOW ALL PERSONS that DB Development LLC ("Grantor"), whose address is 1281 Old US 23, Brighton, MI 48114, for and in consideration of One (\$1.00) Dollars, paid to Grantor by the City of Novi, a Michigan Municipal Corporation, ("Grantee"), whose address is 45175 West Ten Mile Road, Novi, Michigan 48375, does hereby grant to the Grantee, a permanent easement for all public highway purposes ("Highway Easement") and to construct, operate, maintain, repair, and/or replace roadways, utilities, sidewalk, and other infrastructure improvements in, over, under, upon, and through a portion of the following described premises ("Property") situated in the City of Novi, County of Oakland, State of Michigan as such Highway Easement is more particularly described, drawn and depicted on the attached Exhibit A.

Commonly known as: Tax Parcel No.: 50-22-25-400-027

**SEE HIGHWAY EASEMENT ACQUISITION SKETCH AND LEGAL DESCRIPTION, ATTACHED AS EXHIBIT "A,"**

This Highway Easement includes, but is not limited to, the consent of the Grantor, within the Highway Easement area, to the removal of any trees, shrubs, and/or vegetation, to grading, to the occupancy of the Property by public utilities, and to other matters which, in the sole discretion of the Grantee, may be necessary in connection with all public highway purposes and the construction, operation, maintenance, repair, and/or replacement of roadways, utilities, and other infrastructure improvements in, over, under, upon, and through the Highway Easement. Grantor waives further notice of such actions.

The premises so disturbed by reason of the exercise of any of the foregoing powers shall be restored at Grantee's sole cost and expense to substantially the condition that existing prior to construction by the Grantee, its agents, employees or contractors.

This Highway Easement runs with the land and shall bind the Grantor and the Grantor's heirs, representatives, successors, and assigns. This Highway Easement contains the entire understanding of the Grantor and the Grantee, and there are no other verbal promises between the Grantor and the Grantee except as shown herein.

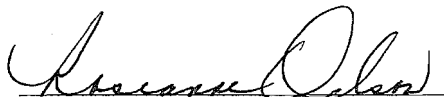
IN WITNESS WHEREOF, the undersigned hereunto affixed their signatures this 30<sup>th</sup> day of March, A.D. 2011.

GRANTOR

BY:   
Donald Baruzzini

STATE OF MICHIGAN )  
                                  ) SS.  
COUNTY OF Livingston)

The foregoing consent to easement was acknowledged before me this 30<sup>th</sup> day of March, 2011 by Donald Baruzzini, the OWNER of DB Development, a MICHIGAN LLC.

  
Notary Public

**ROSEANNE OLSON**  
Notary Public, State of Michigan  
County of Livingston  
My Commission Expires March 31, 2012  
Acting in the County of

**ROSEANNE OLSON**  
Notary Public, State of Michigan  
County of Livingston  
My Commission Expires March 31, 2012  
Acting in the County of LIVINGSTON

Livingston County, MI  
My Commission Expires: 3/31/2012

Parcel No.

Drafted by:  
Elizabeth M. Kudla, Esq.  
30903 Northwestern Highway  
Farmington Hills, MI 48334

When recorded return to:

Maryanne Cornelius, Clerk  
City of Novi  
45175 W. Ten Mile Rd.  
Novi, MI 48375

RECORDING FEE \_\_\_\_\_ REVENUE STAMPS \_\_\_\_\_



# HIGHWAY EASEMENT ACQUISITION DESCRIPTION

Exhibit "A"

## PARCEL DESCRIPTION (50-22-25-400-027):

(PER OAKLAND COUNTY TAX ROLLS)

A parcel of land situated in the SE ¼ of Section 25, Town 1 North, Range 8 East, City of Novi, Oakland County, Michigan, described as follows:

Beginning at the SE corner of said Section 25; thence S 89°18'00" W 308.10 feet; thence N 00°08'46" W 330.00 feet; thence N 89°18'00" E 307.23 feet; thence S 00°17'49" E 329.99 feet to the point of Beginning.

Contains 101,525 square feet or 2.331 acres of land. Subject to all easements and restrictions of record, if any.

## HIGHWAY EASEMENT DESCRIPTION

A 60 foot highway easement being situated in the SE ¼ of Section 25, Town 1 North, Range 8 East, City of Novi, Oakland County, Michigan, described as follows:

Commencing at the SE corner of said Section 25; thence S 89°18'00" W 52.00 feet to the Point of Beginning; thence continuing S 89°18'00" W 256.10 feet; thence N 00°08'46" W 60.00 feet; thence N 89°18'00" E 255.94 feet; thence S 00°17'49" E 60.00 feet to the Point of Beginning.

Contains 15,360 square feet or 0.353 acres of land (GROSS), 4,351 square feet or 0.100 acres of land (NET). Subject to all easements and restrictions of record, if any.

## TEMPORARY GRADING EASEMENT DESCRIPTION

A 15 foot wide temporary grading easement being situated in the SE ¼ of Section 25, Town 1 North, Range 8 East, City of Novi, Oakland County, Michigan, described as follows:

The North 15 feet of the South 75 feet of the West 255.94 feet of the above described parent parcel.

Contains 3,839 square feet or 0.088 acres of land. Subject to all easements and restrictions of record, if any.

REVISED 03-08-11

## HIGHWAY EASEMENT ACQUISITION

PART OF THE SE 1/4 OF SEC. 25  
T. 1 N., R. 8 E., CITY OF NOVI, OAKLAND COUNTY  
TAX ID NO.: 50-22-25-400-027



34000 Plymouth Road | Livonia, MI 48150  
p (734) 522-6711 | f (734) 522-6427

Advancing Communities

CLIENT:

CITY OF NOVI

DATE: 01-19-11  
DRAWN BY: SH  
DWG: 25-400-027

SHEET  
2 OF 2

JOB NO.  
0163-10-0130