SUBJECT: Approval of a resolution to vacate the existing sidewalk easement and pathway easement located at 41420 Nine Mile Road on property owned by Gjek & Maria Nuculaj to be replaced with a highway easement containing the existing sidewalk and pathway.

SUBMITTING DEPARTMENT: Department of Public Services, Engineering Division

BACKGROUND INFORMATION:

Engineering staff successfully secured a federal safety grant for the replacement of the existing traffic signal at the intersection of Nine Mile Road and Meadowbrook Road. This project includes the replacement of the signals as part of FAST-TRAC in a box span configuration. The new signals will include a left turn phase as well as pedestrian signals. The project will require the acquisition of an easement at the northwest corner of the intersection to install a new signal pole on a parcel owned by Gjek and Maria Nuculaj (see consideration of a highway easement for this parcel elsewhere on this agenda).

During the preliminary design phase of the project, staff identified two obsolete sidewalk/pathway easements on the parcel at the northwest corner of the intersection owned by the Nuculaj's. The recorded easements do not contain the location of the paths and are unlikely to be necessary in the future (see attached map showing the location of existing easements). The Highway Easement being considered elsewhere on this agenda would include the existing paths along Nine Mile and Meadowbrook, and also allows for the improvements related to the signal project.

As a courtesy to the property owner, staff recommends that the two unnecessary easements be vacated per the attached resolution. The easements to be vacated are Liber 17420 Page 684 (Pathway Easement) and Liber 17420 Page 687 (Sidewalk Easement), and are attached for reference. The attached resolution has been drafted by the City Attorney's office for consideration to vacate the existing easements.

RECOMMENDED ACTION: Approval of a resolution to vacate the existing sidewalk easement and pathway easement located at 41420 Nine Mile Road on property owned by Gjek & Maria Nuculaj to be replaced with a highway easement containing the existing sidewalk and pathway.
RESOLUTION OF THE CITY COUNCIL AUTHORIZING
TERMINATION OF SIDEWALK EASEMENT

RECITATIONS UNDERLYING THIS RESOLUTION:

The easement for constructing, maintaining and repairing a pedestrian/bicycle sidewalk granted to the City of Novi (the “City”) whose address is 45175 West Ten Mile Road, Novi, Michigan 48375, which easement is located in Section 26 of the City of Novi, as described on the attached and incorporated Exhibit A is the subject matter of this Resolution, and shall be referred to herein as the “Easement”.

The owners of the property upon which the Easement is located (the “Property”), Gjek and Maria Nuculaj, whose address is 41420 Nine Mile Road, Novi, MI 48375 (parcel 22-26-476-041), granted an easement dated April 11, 1997 for a public pedestrian/bicycle sidewalk along the Nine Mile Road frontage of the Property. Subsequently, a public sidewalk was constructed along the property’s Nine Mile Road frontage in a location outside of the existing easement. As such, the City has offered to terminate and vacate the existing easement which does not accurately describe the location of the existing public sidewalk. A public highway easement will, instead, be granted to the City by the owners over the existing sidewalk. Any costs associated with terminating the easement shall be the City’s expense.

The appropriate City Officials have investigated the need to maintain the Easement for the benefit of the City’s pedestrian/bicycle sidewalk system, for the benefit of the Property, and/or for the benefit of surrounding properties. The City Officials have determined it is not necessary to maintain the Easement in the location shown on Exhibit A and hereby agree to terminate it.

NOW, THEREFORE, IT IS RESOLVED AS FOLLOWS:

1. That the following Easement, located in Section 26 of the City, is recorded at Liber 17420, Pages 687-689, Oakland County Records, for constructing, maintaining and repairing a pedestrian/bicycle sidewalk, be terminated:

- The centerline of an five (5.00) foot wide sidewalk easement, the centerline described as part of the Southeast ½ if Section 26, T.1N, R.8E., City of Novi, Oakland County, Michigan, being more particularly described as beginning at a point distant N00°20'50"W, 56.51 feet and S88°47'10"W, 33.01 feet from the Southeast corner of said Section 26; thence S88°47'10"W, 200.02 feet to the Point of Ending.
2. This Resolution shall be recorded with the Oakland County Register of Deeds evidencing the termination called for herein.

AYES:
NAYES:
ABSTENTIONS:

Resolution declared adopted.

STATE OF MICHIGAN  )
COUNTY OF OAKLAND  )

I hereby certify that the foregoing is a true and correct copy of a Resolution adopted by the City Council of the City of Novi at the regular meeting held on December ______, 2011.

MARYANNE CORNELIUS, CITY CLERK

Drafted by:
Elizabeth Saarela
30903 Northwestern Highway
PO Box 3040
Farmington Hills, MI 48334

When recorded return to:
Maryanne Cornelius, Clerk
City of Novi
45175 W. Ten Mile Rd.
Novi, MI 48375
EXHIBIT A

SIDEWALK EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that Gjek Nuculaj, a married man and Maria Nuculaj, his wife, whose address is 22415 Meadowbrook Road, Novi, Michigan 48050 conveys to the City of Novi, a Michigan Municipal Corporation, whose address is 45175 West Ten Mile Road, Novi, Michigan 48050, an easement for constructing, maintaining and repairing a pedestrian/bicycle sidewalk in, over, upon and through the following described premises situated in the City of Novi, Oakland County, State of Michigan, to wit:

The centerline of a five (5.00) foot wide sidewalk easement the centerline described as part of the Southeast 1/4 of Section 26, T.1N., R.8E., City of Novi, Oakland County, Michigan, being more particularly described as beginning at a point distant N.00°00'00"W., 56.51 feet and S.88°47'10"W., 33.01 feet from the Southeast corner of said Section 26, thence S.88°47'10"W., 200.02 feet to the Point of Ending.

This easement shall be binding upon and inure to the benefit of the parties hereto, their heirs, representatives, successors, and assigns.

Dated this 11th day of APRIL, 1997.

Signed by:

Gjek Nuculaj
Maria Nuculaj

STATE OF MICHIGAN
COUNTY OF OAKLAND

The foregoing instrument was acknowledged before me this 11th day of APRIL, 1997, by Gjek Nuculaj and Maria Nuculaj, the wife.

Suzanne K. Rice
Notary Public
Oakland County, Michigan

Drafted by: JCK & Associates, Inc.
Gary E. Bowman
45650 Grandriver
Novi, MI 48374

Part of Tax Parcel No.: 22-26-476-041

Recording Fee: ____________________
Revenue Stamps: ____________________
AGREEMENT

The undersigned, Maria Nuculaj and Gjek Nuculaj owners in consideration of being granted permission from the City of Novi to erect Drive within easements over:

The centerline of a five (5.00) foot wide sidewalk easement the centerline described as part of the Southeast ¼ of Section 26, T.1N., R.BE., City of Novi, Oakland County, Michigan, being more particularly described as beginning at a point distant N.00°20'50"W., 55.51 feet and S.88°47'10"W., 33.01 feet from the Southeast corner of said Section 26, thence S.88°47'10"W., 200.02 feet to the Point of Ending.

Novi, Michigan, agree to indemnify and hold harmless the City of Novi, its agents and employees, arising out of performance of work by the City, its agents or employees within easement, including but not limited to claims of damage to said Drive.

Suzanne K. Russo
Witness

Gjek Nuculaj
Maria Nuculaj
N24285009716

Witness

Michelle Robinson
Gjek Nuculaj
N242280005502

CITY OF NOVI

KATHLEEN S. MCLALLEN
MAYOR

TONNI BARTHOLOMEW, CLERK

DATED: 6-12-97
LEGAL DESCRIPTION
PART OF THE SE 1/4 OF SECTION 26, T.1 N.R. 8 E., CITY OF NOVI.
OAKLAND COUNTY, MICHIGAN, BEING MORE PARTICULARLY DESCRIBED AS:
BEGINNING AT A POINT DISTANT S. 88°47'10" W., 233.03 FEET
AND N.00°20'50" W., 33.00 FEET FROM THE SE CORNER OF SAID
SECTION 26; THENCE N.00°20'50"W., 116.50 FEET; THENCE
N.89°30'10"W., 200.00 FEET; THENCE S.89°20'30"E., 313.47
FEET; THENCE S.89°47'10"W., 200.02 FEET TO THE POINT OF
BEGINNING. CONTAINING 22,997 SF OR 0.52 ACRES AND SUBJECT
TO ANY EASEMENTS OR RESTRICTIONS OF RECORD.

MARIA G. NUCULAJ
20488 BEACH DALY,
REDFORD, MICH 48140
(313) 982-1644

MICKALICH and ASSOCIATES, INC.
CIVIL ENGINEERING SURVEYING PLANNING
20 WEST ARLIN ST. PONTIAC, MICHIGAN 48342 PHONE (810) 253-0555 FAX (810) 253-0550 E-MAIL: MICKALICH@EAGLE.NET

DRAWN BY DER______ JOB No. 97019 DESCRIPTION
SIDEWALK EASEMENT
NUCULAJ RESIDENCE, CITY OF NOVI

DATE 4-11-97 SHEET NO.1 OF 1 SCALE 100
RESOLUTION OF THE CITY COUNCIL AUTHORIZING TERMINATION OF PATHWAY EASEMENT

RECITATIONS UNDERLYING THIS RESOLUTION:

The easement for constructing, maintaining and repairing a pedestrian/bicycle pathway granted to the City of Novi (the “City”) whose address is 45175 West Ten Mile Road, Novi, Michigan 48375, which easement is located in Section 26 of the City of Novi, as described on the attached and incorporated Exhibit A is the subject matter of this Resolution, and shall be referred to herein as the “Easement”.

The owners of the property upon which the Easement is located (the “Property”), Gjek and Maria Nuculaj, whose address is 41420 Nine Mile Road, Novi, MI 48375 (parcel 22-26-476-041), granted an easement dated April 4, 1997 for a public pedestrian/bicycle pathway along the Meadowbrook Road frontage of the Property. Subsequently, a public pathway was constructed along the property’s Meadowbrook Road frontage in a location outside of the existing easement. As such, the City has offered to terminate and vacate the existing easement which does not accurately describe the location of the existing public pathway. A public highway easement will, instead, be granted to the City by the owners over the existing pathway. Any costs associated with terminating the easement shall be the City’s expense.

The appropriate City Officials have investigated the need to maintain the Easement for the benefit of the City’s pedestrian/bicycle pathway system, for the benefit of the Property, and/or for the benefit of surrounding properties. The City Officials have determined it is not necessary to maintain the Easement in the location shown on Exhibit A and hereby agree to terminate it.

NOW, THEREFORE, IT IS RESOLVED AS FOLLOWS:

1. That the following Easement, located in Section 26 of the City, is recorded at Liber 17420, Pages 684-686, Oakland County Records, for constructing, maintaining and repairing a pedestrian/bicycle pathway, be terminated:

   - The centerline of an eight (8.00) foot wide pathway easement, the centerline described as part of the Southeast ¼ if Section 26, T.1N, R.8E., City of Novi, Oakland County, Michigan, being more particularly described as beginning at a point distant S88°47’10”W, 55.01 feet and N00°20’50”W, 33.00 feet from the Southeast corner of said Section 26; thence continuing N00°20’50”W, 113.81 feet to the Point of Ending.
2. This Resolution shall be recorded with the Oakland County Register of Deeds evidencing the termination called for herein.

AYES:
NAYES:
ABSTENTIONS:

Resolution declared adopted.

STATE OF MICHIGAN  )
COUNTY OF OAKLAND  )

) ss.

I hereby certify that the foregoing is a true and correct copy of a Resolution adopted by the City Council of the City of Novi at the regular meeting held on December ______, 2011.

MARYANNE CORNELIUS, CITY CLERK

Drafted by:

Elizabeth Saarela
30903 Northwestern Highway
PO Box 3040
Farmington Hills, MI 48334

When recorded return to:

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

KNOW ALL MEN BY THESE PRESENTS, that Gjek Nuculaj, a married man and Maria Nuculaj, his wife, whose address is 22415 Meadowbrook Road, Novi, Michigan 48050 conveys to the City of Novi, a Michigan Municipal Corporation, whose address is 45175 West Ten Mile Road, Novi, Michigan 48050, an easement for constructing, maintaining and repairing a pedestrian/bicycle pathway in, over, upon and through the following described premises situated in the City of Novi, Oakland County, State of Michigan, to wit:

For the sum of $1.00.

As further consideration for the granting of this easement, the City of Novi shall indemnify and save harmless, the Grantor, from and against any and all detriments, damages, losses, claims, suits, costs, or other expenses which the Grantor may suffer, sustain, or be subject to caused either wholly or in part, directly or indirectly, by reason of the use of the above premises pursuant to the rights granted herein.

This instrument shall be binding upon and insure to the benefit of the parties hereto, their heirs, representatives, successors, and assigns.

Dated this 4th day of April, 1997.

Signed by:

Gjek Nuculaj
Maria Nuculaj

WITNESSES:

Katarina Nibaj
Sasa Dobrovac

STATE OF MICHIGAN
COUNTY OF OAKLAND

The foregoing instrument was acknowledged before me this 4th day of April, 1997, by GJERG NUCULAJ AND MARJA NUCULAJ, his wife.

Notary Public
Oakland County, Michigan
Commission Expires: 11/11/97

Drafted by and return to:
Gary E. Bowman
JCK & Associates, Inc.
45659 Grand River
Novi, MI 48374

Part of Tax Parcel No.: 22-26-476-041

Recording Fee: 
Revenue Stamps: 

OK - KB
LEGAL DESCRIPTION

PART OF THE SE 1/4 OF SECTION 26, T.I N.R. B.E., CITY OF NOVI
OAKLAND COUNTY, MICHIGAN, BEING MORE PARTICULARLY DESCRIBED AS
BEGINNING AT A POINT DISTANT S. 88°47'10" W., 233.03 FEET
AND N.00°20'50" W., 33.00 FEET FROM THE SE CORNER OF SAID
SECTION 26; THENCE N.00°20'50"W., 116.50 FEET; THENCE
S.88°39'10"W., 200.00 FEET; THENCE S.00°20'50"E., 113.47
FEET; THENCE S.88°47'10"W., 200.02 FEET TO THE POINT OF
BEGINNING, CONTAINING 22,997 SF OR 0.52 ACRES AND SUBJECT
TO ANY EASEMENTS OR RESTRICTIONS OF RECORD.
AGREEMENT

The undersigned, Maria Nuculaj and Gjek Nuculaj owners in consideration of being granted permission from the City of Novi to erect Drive within easements over:

The centerline of a eight (8.00) foot wide pathway easement the centerline described as part of the Southeast 1/4 of Section 26, T.1N., R.8E., City of Novi, Oakland County, Michigan, being more particularly described as beginning at a point distant S.88°47'10"W., 55.01 feet and N.00°20'50"W., 33.00 feet from the Southeast corner of said Section 26; thence continuing N.00°20'50"W., 113.91 feet to the Point of Ending.

Novi, Michigan, agree to indemnify and hold harmless the City of Novi, its agents and employees, arising out of performance of work by the City, its agents or employees within easement, including but not limited to claims of damage to said Drive.

Witness

Gjek Nuculaj

Maria Nuculaj

Witness

Suzanne K. Rice

Glena Rice

CITY OF NOVI

Kathleen S. McAlleen

TONNI BARTHOLOMEW, CLERK

BARBARA HOMES

Mayor

DAMIAH CALABRIA

CITY OF NOVI

DAMIAH CALABRIA

DATED: April 4, 1997