



## CITY of NOVI CITY COUNCIL

Agenda Item J  
August 27, 2012

**SUBJECT:** Approval of a revised Agreement of Sale and Offer to Purchase Easements over Real Property in the amount of \$2,750 for a permanent pathway easement and a temporary grading permit on the Ban property (parcel 50-22-16-451-033) for the purpose of constructing a pedestrian safety path on the west side of Taft Road between Grand River Avenue and Eleven Mile.

**SUBMITTING DEPARTMENT:** Department of Public Services, Engineering Division *BS*

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

EXPENDITURE REQUIRED	\$2,750
AMOUNT BUDGETED	\$108,600 (FY12-13 Engineering and Construction)
LINE ITEM NUMBER	204-204.00-974.427 (Taft Road Segment)

### BACKGROUND INFORMATION:

The 2012 Pathway Gap Program includes two path segments on Taft Road between Grand River and Eleven Mile, and one segment on Meadowbrook between Grand River and Cherry Hill (see attached location map). Four permanent easements and four temporary easements were identified to facilitate the construction and maintenance of these pathways. This is the fourth and final easement required.

DPS Engineering staff has worked with Janet Ban, owner of property at 26201 Taft Road, to acquire a sidewalk easement and temporary grading permit that is required to construct the proposed Taft Road pathway. Staff initially asked for a donation of the easements, but the property owner indicated willingness to grant the City the easements in return for the value of the easements, which was calculated to be \$1,050 following federal guidelines; however, some complications had arisen involving other interests in the property, requiring the property owner to consult with an attorney. The issues have now been resolved, and this revised offer of \$2,750 includes the legal expenses the property had incurred (\$803 for the value of the permanent sidewalk easement, \$247 for the temporary grading permit, \$200 fee for the mortgage company, and \$1,500 in legal expenses).

The original offer for this easement in the amount of \$1,050 (\$803 and \$247) was approved at the March 12, 2012 City Council meeting. Attached is the revised Agreement of Sale and Offer to Purchase Easements over Real Property resolution. Additional information is provided in the attached letter from Beth Saarela, dated July 30, 2012.

**RECOMMENDED ACTION:** Approval of a revised Agreement of Sale and Offer to Purchase Easements over Real Property in the amount of \$2,750 for a permanent pathway easement and a temporary grading permit on the Ban property (parcel 50-22-16-451-033) for the purpose of constructing a pedestrian safety path on the west side of Taft Road between Grand River Avenue and Eleven Mile.

	1	2	Y	N
Mayor Gatt				
Mayor Pro Tem Staudt				
Council Member Casey				
Council Member Fischer				

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

### SIDEWALK EASEMENT

NOW ALL MEN BY THESE PRESENTS, that Janet K. Ban, a single woman, whose address is 26201 Taft Road, Novi, Michigan, for and in consideration of Two Thousand Five Hundred and Three (\$2,503.00) Dollars, receipt and sufficiency of which is hereby acknowledged, hereby grants and conveys to the City of Novi, a Michigan Municipal Corporation, whose address is 45175 West Ten Mile Road, Novi, Michigan 48375, a permanent easement for a public non-motorized pathway over across and through property located in Section 16, T.1N., R.8E., City of Novi, Oakland County, State of Michigan, more particularly described as follows:

Parcel No. 50-22-16-451-033

{See attached and incorporated Exhibit A}

The permanent easement for the public walkway is more particularly described as follows:

{See attached and incorporated Exhibit A}

Grantee may enter upon sufficient land adjacent to said easement for the purpose of exercising the rights and privileges granted herein.

Grantee may, construct, install, repair, replace, improve, modify and maintain a non-motorized sidewalk in the easement area as shown in the attached and incorporated Exhibit A.

Construction activities required for the construction of an 8-foot wide non-motorized pathway, may also include, but is not limited to the addition of landscaping in accordance with approved plans.

Grantor agrees not to build or to convey to others permission to build any permanent structures on, over, across, in, through, or under the above-described easement, except that, subject to Grantee's approval as part of an approved site plan, the Grantor may construct and/or install surface improvements to the property, including paved driveways, parking and/or walkways; landscaping; utilities and/or similar improvements, which improvements do not interfere with use, operation, maintenance, repair and replacement of the sidewalk in the easement areas shown on the attached and incorporated Exhibit A.

All portions of the Premises damaged or disturbed by Grantee's exercise of temporary easement rights, shall be reasonably restored by Grantee to the condition that existed prior to the damage or disturbance.

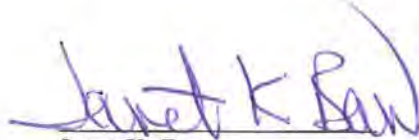
This instrument shall run with the land first described above and shall be binding upon and inure to the benefit of the Grantor, Grantee, and their respective heirs, representatives, successors and assigns.

This easement shall allow public non-motorized traffic and shall permit maintenance, repair and replacement of the paving in the easement area.

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

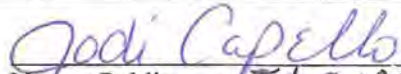
Dated this 22nd day of May, 2012.

GRANTOR

  
Janet K. Ban

STATE OF MICHIGAN     )  
  ) SS  
COUNTY OF OAKLAND    )

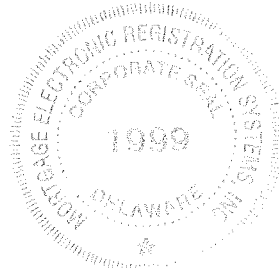
The foregoing instrument was acknowledged before me this 22<sup>nd</sup> day of May, 2012, by  
Janet                    K.                    Ban,                    a                    single                    woman.

  
Notary Public     Jodi Capello  
Oakland County, Michigan  
My Commission Expires: 8-29-14

Consent

As the holder of a mortgagee interest in and to the property referenced in the Sidewalk Easement, attached hereto, whereby Janet K. Ban conveys said easement to the City of Novi, the undersigned hereby evidences its consent to the grant, conveyance, existence and recordation of said easement, which easement is hereby acknowledged and agreed to be superior to the interest of the undersigned and shall bind the undersigned and the heirs, successors and assigns of the undersigned.

IN WITNESS WHEREOF the undersigned has caused its signature to be placed on the 10 day of MAY, 2012.



Mortgage Electronic Registration Systems, Inc. ("MERS")

By: Rachel Ragsdale  
Rachel Ragsdale Its: ASSISTANT SECRETARY

STATE OF Iowa )  
 ) SS.  
COUNTY OF Black Hawk

The foregoing Consent to Easement was acknowledged before me this 10 day of May of 2012, by Rachel Ragsdale the ASSISTANT SECRETARY of Mortgage Electronic Registration Systems, Inc. ("MERS"), on its behalf.

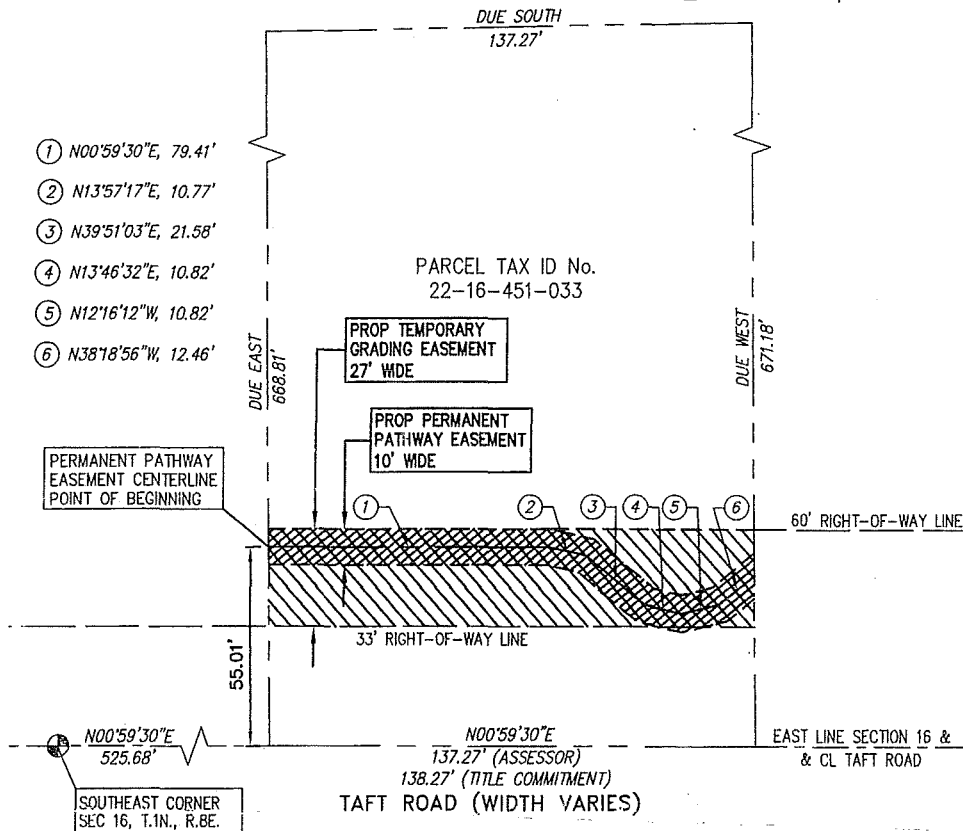


G. Hintz  
Notary Public G. Hintz  
Black Hawk County, IA  
My commission expires: 7-11-2012

Drafted by:  
Benjamin Croy, PE  
City of Novi  
45175 W Ten Mile Road  
Novi, MI 48375

When recorded return to:  
City of Novi  
City Clerk  
45175 W. Ten Mile Road.  
Novi, MI 48375

# EASEMENT



NOTE:  
 THE PARCEL DESCRIPTION ABOVE WAS OBTAINED FROM SEAVER TITLE AGENCY, LLC. THE EASEMENT DESCRIPTION IS WRITTEN BASED UPON THE FURNISHED DESCRIPTION OF THIS OVERALL PARCEL. SDA HAS NOT PERFORMED A BOUNDARY SURVEY OF THIS PARCEL AND THE PARCEL DESCRIPTION DOES NOT NECESSARILY REFLECT FIELD-MEASURED VALUES.

FURNISHED LEGAL DESCRIPTION OF PARCEL  
 SEAVER TITLE AGENCY, LLC  
 COMMITMENT NO. 63-11184649-BLM  
 DATED: SEPTEMBER 8, 2011

PART OF THE SOUTHEAST ¼ OF THE SOUTHEAST ¼ OF SECTION 16, TOWN 1 NORTH, RANGE 8 EAST, NOVI TOWNSHIP (NOW CITY OF NOVI), MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT DISTANT NORTH 00 DEGREES 59 MINUTES 30 SECONDS EAST 525.68 FEET FROM THE SOUTHEAST SECTION CORNER; THENCE NORTH 00 DEGREES 59 MINUTES 30 SECONDS EAST 138.27 FEET (137.27 FEET ASSESSING RECORDS); THENCE WEST 671.18 FEET; THENCE SOUTH 137.27 FEET; THENCE EAST 668.81 FEET TO THE POINT OF THE BEGINNING.

PARCEL IDENTIFICATION NO. 22-16-451-033

**PERMANENT EASEMENT**

THE EASEMENT SHALL BE A PERMANENT EASEMENT FOR CONSTRUCTION, INSTALLATION, REPAIR, MAINTENANCE AND REPLACEMENT OF PUBLIC PATHWAY DESCRIBED AS A 10 FOOT WIDE EASEMENT, THE SIDELINES OF SAID EASEMENT BEING PARALLEL AND LOCATED 5 FEET ON BOTH SIDES OF THE FOLLOWING DESCRIBED CENTERLINE:

COMMENCING AT THE SOUTHEAST CORNER OF THE ABOVE DESCRIBED PARCEL, SAID CORNER BEING ON THE EAST LINE OF SECTION 16 AND CENTERLINE OF TAFT ROAD; THENCE DUE WEST 55.01 FEET ALONG THE SOUTH LINE OF THE ABOVE DESCRIBED PARCEL TO THE POINT OF BEGINNING; THENCE NORTH 00 DEGREES 59 MINUTES 30 SECONDS EAST 79.41 FEET; THENCE NORTH 13 DEGREES 57 MINUTES 17 SECONDS EAST 10.77 FEET; THENCE NORTH 39 DEGREES 51 MINUTES 03 SECONDS EAST 21.58 FEET; THENCE NORTH 13 DEGREES 46 MINUTES 32 SECONDS EAST 10.82 FEET; THENCE NORTH 12 DEGREES 16 MINUTES 12 SECONDS WEST 10.82 FEET; THENCE NORTH 38 DEGREES 18 MINUTES 56 SECONDS WEST 12.46 FEET TO THE POINT OF ENDING ON THE NORTH LINE OF THE ABOVE DESCRIBED PARCEL 1,460 SQ. FT.

**TEMPORARY EASEMENT**

ALSO, THE TEMPORARY GRADING EASEMENT FOR THE INSTALLATION OF THE PUBLIC PATHWAY DESCRIBED AS: THE WESTERLY 27 FEET OF THE EASTERLY 60 FEET OF THE ABOVE DESCRIBED PARCEL.

*Pt. 22-16-451-033*

Spalding DeDecker Associates, Inc.



**SPALDING DeDECKER ASSOCIATES, INC.**

ENGINEERS SURVEYORS  
 905 SOUTH BLVD. EAST  
 ROCHESTER HILLS, MI 48307  
 PH: (248) 844-5400 FAX: (248) 844-5404  
 www.spaldingdedecker.com

DRAWN: T. LINDOW	DATE: 01-26-12
CHECKED: J. VAN TIFLIN	DATE: 01-30-12
MANAGER: J. VAN TIFLIN	SCALE: 1" = 40'
JOB No. NV11-004	SHEET: 1 OF 1
SECTION 16 TOWN 1 NORTH RANGE 8 EAST	
CITY OF NOVI OAKLAND COUNTY, MI	

TEMPORARY GRADING PERMIT

In consideration of \$247.00, I, JAN BAN, the owner of the property as  
(print name)

described as 26201 Taft Road, Novi, Michigan (Parcel No. 50-22-16-451-033) grant the City of Novi and its contractor (or subcontractors) permission to access, move men and equipment on and through, the right to store materials and excavated earth, remove vegetation and alter the underlying land in, over, upon and through the property described above in the particular areas shown in Exhibit A, attached.

The work will include:

Grading and related construction activities required for the construction of a 8-foot wide non-motorized pathway, including but not limited to the modification of landscaping in accordance with the approved plans. All work is contained in the set of construction plans entitled "2012 Pathway Gap Program" by Spalding DeDecker Associates.

All portions of the Premises damaged or disturbed by Novi's exercise of temporary easement rights, shall be reasonably restored by Novi to the condition that existed prior to the damage or disturbance;

I understand this only grants permission to the Contractor to perform work directly relating to the listed project and upon completion of required grading operations the property will be fully restored.

Janet K. Ban  
Owner (signature)

AUGUST 2012  
Date

26444 TAFT RD  
Contact Mailing Address

NOVI MI 48375  
City, State, Zip

248 380 5122  
Phone Number KIM CAPELLO

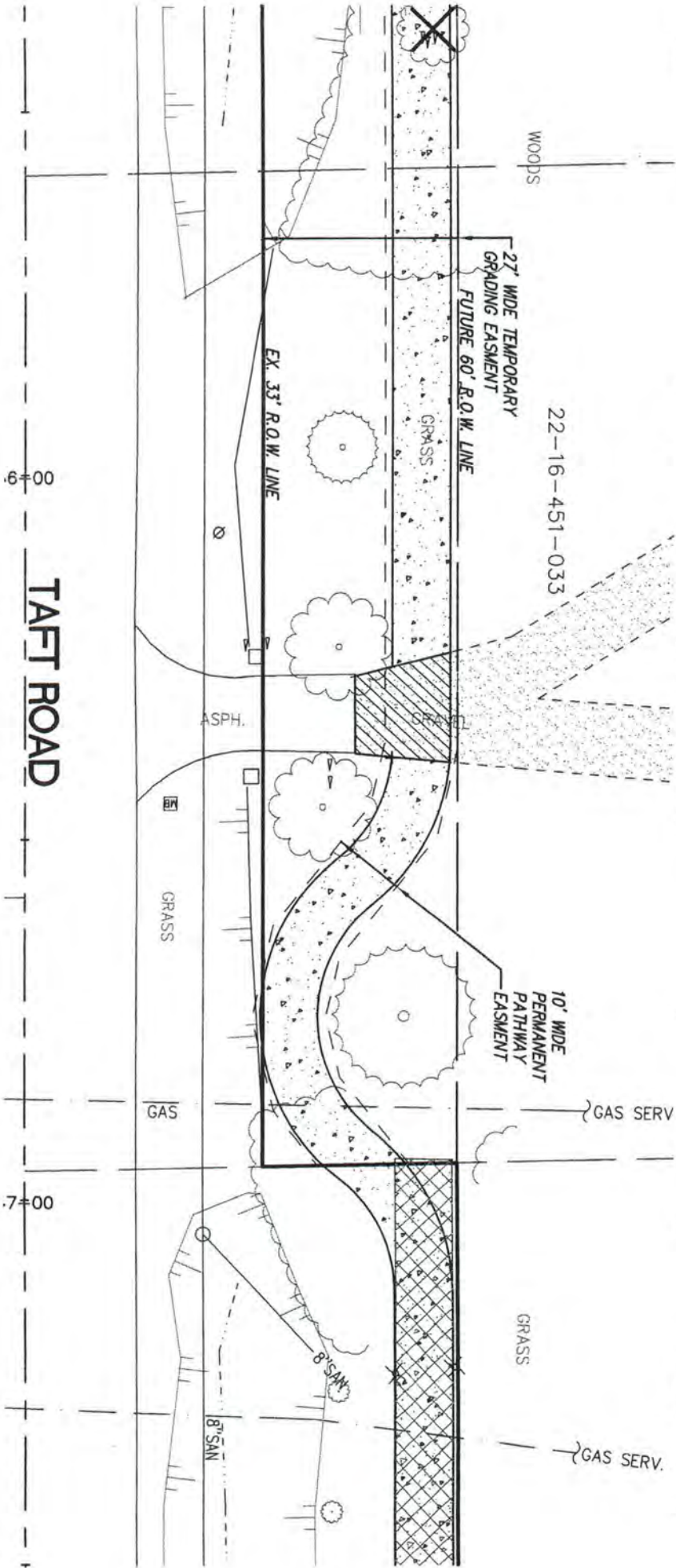
248 380 5175  
Fax Number

STATE OF MICHIGAN )  
) SS  
COUNTY OF OAKLAND )

The foregoing instrument was acknowledged before me this 15<sup>th</sup> day of AUGUST, 2012, by  
JAN BAN

Jodi Capello  
Notary Public JODI A. CAPELLO  
OAKLAND County, Michigan  
My Commission Expires: 8-29-2014

Drafted by:  
Benjamin Croy, PE  
City of Novi  
45175 W Ten Mile Road  
Novi, MI 48375



- 65+38.8' 7" DECIDUOUS TREE (10 FT CROWN), 56.7'
- 65+39.8' BOULDER, 55.3'
- 65+39.9' BOULDER, 57'
- 65+40.4' BOULDER, 55.9'

**EXHIBIT 'A'**

SCALE: 1" = 20'



- 65+88' BOULDER 60.2'
- 65+96.2' 6" CONIFEROUS TREE (10 FT CROWN), 44'
- 66+07.8' UT POLE (2 LINES), 26.8'
- 66+23.5' 18" DECIDUOUS TREE (15 FT CROWN), 43.6'
- 66+22.8' BOULDER 33.6'
- 66+23.1' BOULDER 30.6'
- 66+24.8' CL 2'x2' STONE PILLAR 32'
- 66+39.7' BOULDER, 42.3'
- 66+41.4' CL 2' X2' STONE PILLAR, 31.3'
- 66+42.1' BOULDER, 42.4'
- 66+45.1' MAILBOX, 20.2'
- 66+45.7' 20" DECIDUOUS TREE (15 FT CROWN), 41.3'
- 66+74.9' 13" CONIFEROUS TREE (20 FT CROWN), 52.6'
- 67+04.7' SAN MH (STR 11), 24.7'  
RIM=940.85  
8" P.V.C. @ 933.05 AT AZ. 315'  
8" P.V.C. @ 928.45 TO NORTH  
8" P.V.C. @ 928.55 TO SOUTH
- 67+23.1' SPRINKLER HEAD, 59.5'
- 67+24' SPRINKLER HEAD, 51.4'
- 67+26.4' 3" DECIDUOUS TREE (3 FT CROWN), 43.5'
- 67+42.9' 3" DECIDUOUS TREE (3 FT CROWN), 42.5'

6+00

7+00

**TAFT ROAD**

WOODS

27' WIDE TEMPORARY GRADING EASEMENT

FUTURE 60' R.O.W. LINE

22-16-451-033

EX. 33' R.O.W. LINE

GRASS

ASPH.

GRASS

10' WIDE PERMANENT PATHWAY EASEMENT

GAS

GAS SERV.

GRASS

GAS SERV.

8" SAN

8" SAN





JOHNSON ROSATI SCHULTZ JOPPICH PC

34405 W. Twelve Mile Road, Suite 200 ~ Farmington Hills, Michigan 48331-5627

Phone: 248.489.4100 | Fax: 248.489.1726

Elizabeth Kudla Saarela  
esaarela@jrsjlaw.com

www.johnsonrosati.com

July 30, 2012

Benjamin Croy, Civil Engineer  
City of Novi  
Public Services  
Field Services Complex  
26300 Lee BeGole Drive  
Novi, MI 48375

Re: **2012 Pathway Gap Program**  
**Permanent Sidewalk Easement and Temporary Grading Permit**  
***Parcel 50-22-16-451-033 – Janet Ban Property***

Dear Mr. Croy:

We have received and reviewed the revised permanent Sidewalk Easement for property along Taft Road in Section 16 of the City owned by Janet Ban. City Council previously authorized the amount of \$1,050 for just compensation for the permanent Sidewalk Easement and Temporary Grading Permit. Because the title commitment for the property showed a few issues requiring the property owner to retain counsel to clear title, the property owner has incurred certain legal expenses in granting the easements and has requested reimbursement in that regard. Title has been successfully cleared with respect to an outstanding interest in a Trust, as well as a lender consent that has been provided by the first mortgagee on the property.

As previously discussed, the lender holding the second mortgage has refused to provide its consent to the easement without the City initiating a condemnation suit in the Circuit Court. However, we believe there is very little risk in the second lender foreclosing the mortgage on the property and the City losing its interest in the easement.

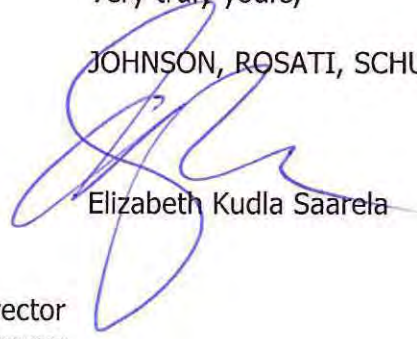
Because the title issues needed to be addressed in order to provide the City with clear title to the easement, we recommend that the City pay the increased just compensation to the property owner in order to avoid cost associated with appraisals and litigation in the event that the City were required to file suit to obtain the easement. The total just compensation requested by the property owner is \$2,503.

Please feel free to contact me with any questions or concerns in regard to this matter.

July 30, 2012  
Page 2

Very truly yours,

JOHNSON, ROSATI, SCHULTZ & JOPPICH, P.C.



Elizabeth Kudla Saarela

EKS

C: Maryanne Cornelius, Clerk  
Rob Hayes, Public Services Director  
Brian Coburn, Engineering Manager  
Thomas R. Schultz, Esq.

# 2012 Pathway Gap Program Taft Road Segment Location Map



Map Author: Croy  
Date: 2/29/12  
Project: 2012 Pathway Gap Program  
Version #: v1.1



1 inch = 225 feet



**City of Novi**  
Engineering Division  
Department of Public Services  
26300 Delwal Drive  
Novi, MI 48375  
cityofnovi.org

**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.