
**LEVANDER,
GILLEN &
MILLER, P.A.**

ATTORNEYS AT LAW

TIMOTHY J. KUNTZ
DANIEL J. BEESON
KENNETH J. ROHLF
STEPHEN H. FOCHLER
JAY P. KARLOVICH
ANGELA M. LUTZ AMANN
KORINE L. LAND
DONALD L. HOEFT
BRIDGET McCAULEY NASON
TONA T. DOVE
AARON S. PRICE
DAVID L. SIENKO
CASSANDRA C. WOLFGAM

MEMO

TO: Sunfish Lake Mayor and Councilmembers
FROM: Timothy J. Kuntz, City Attorney
DATE: August 29, 2018
RE: Public Hearing regarding Vacation of Public Street Right-of-Way and Public Way for Portion of Wood Duck Pass Adjoining Lots 8 and 9, Thirty Oaks
September 4, 2018 Council Meeting; Agenda Item 5(a)

Section 1. Background. The owner of the property located at 8 Wood Duck Pass (legally described as Lot 8, Thirty Oaks Addition) has requested that the City consider the vacation of public street right-of-way and public way for a portion of Wood Duck Pass that adjoins Lots 8 and 9, Thirty Oaks Addition so that the owner of Lot 8 can relocate a failed septic system. A sketch depicting the vacation of the public street right-of-way and public way is attached to this memo for reference.

A Notice of Hearing on the vacation was published in the South-West Review, posted at three locations in the city and mailed to affected landowners in accordance with Minnesota Statutes. The public hearing for the vacation is scheduled for September 4, 2018.

Section 2. Public Hearing. At the public hearing on September 4th, the Council will hear all persons interested in the vacation and all persons interested will be afforded an opportunity to present their views and objections to the granting of the vacation. The Council will then determine whether the vacation of the public street right-of-way and public way for a portion of Wood Duck Pass that adjoins Lots 8 and 9, Thirty Oaks Addition is in the public interest.

A condition of approval of the vacation is that the following events occur and the correlating documents are signed:

- Owner of Lot 8, Thirty Oaks Addition executes a Release, Waiver of Claims and Covenant Not To Sue relating to the vacation of the public street right-

of-way and public way for a portion of Wood Duck Pass that adjoins Lots 8 and 9, Thirty Oaks Addition

- Owner of Lot 9, Thirty Oaks Addition executes a Release, Waiver of Claims and Covenant Not To Sue relating to the vacation of the public street right-of-way and public way for a portion of Wood Duck Pass that adjoins Lots 8 and 9, Thirty Oaks Addition
- Owner of Lot 8, Thirty Oaks Addition conveys by Quit Claim Deed to the owner of Lot 9, Thirty Oaks Addition the vacated portion of Wood Duck Pass that accrues to Lot 9, Thirty Oaks Addition
- Owner of Lot 9, Thirty Oaks Addition conveys by Quit Claim Deed to the owner of Lot 8, Thirty Oaks Addition the vacated portion of Wood Duck Pass that accrues to Lot 8, Thirty Oaks Addition

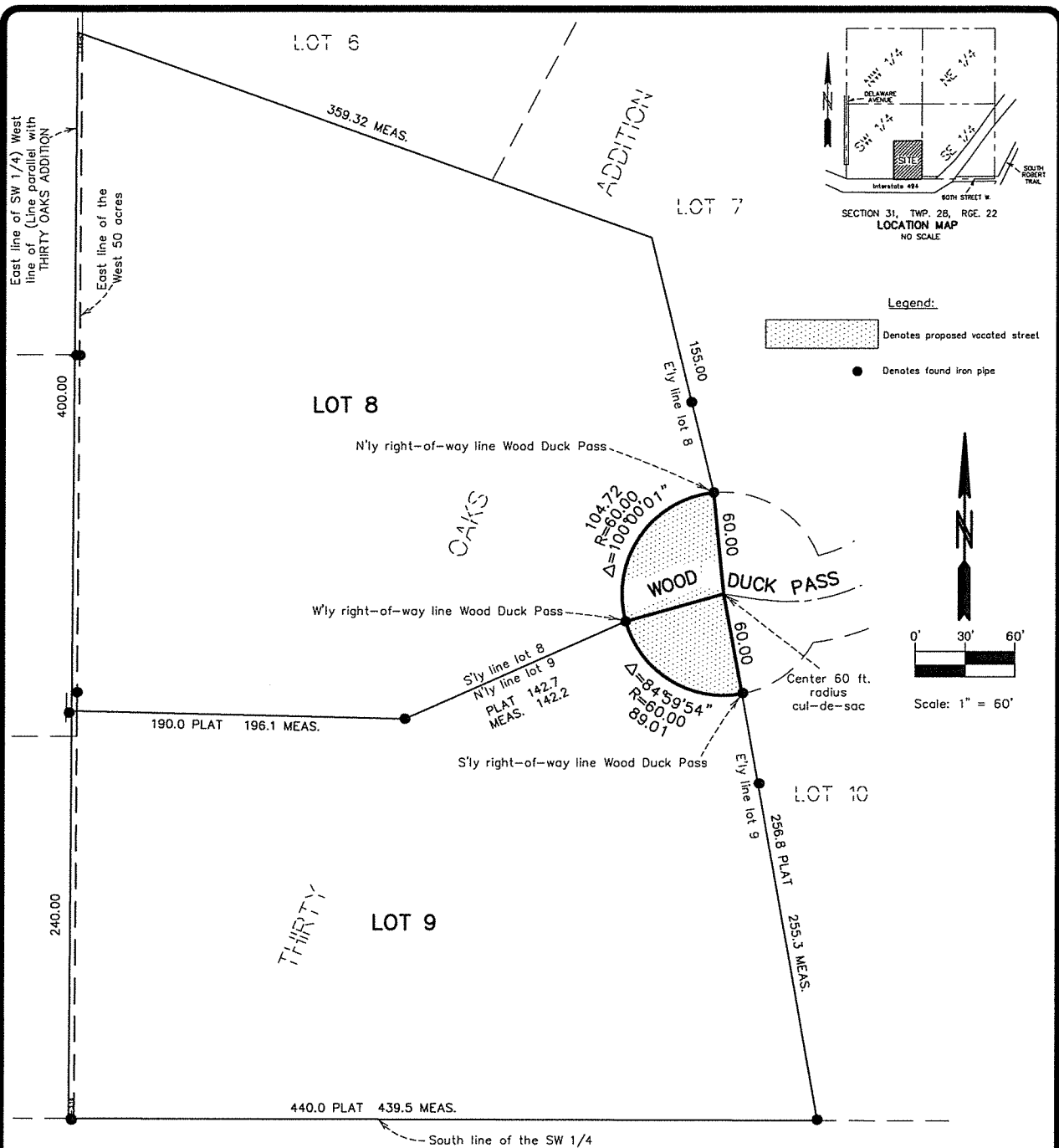
Copies of the four documents listed above are attached to this memo for reference.

Section 3. Council Action. At the September 4th Council meeting, the Council will consider the attached *RESOLUTION RELATING TO VACATION OF PUBLIC STREET RIGHT-OF-WAY AND PUBLIC WAY FOR A PORTION OF WOOD DUCK PASS THAT ADJOINS LOTS 8 AND 9, THIRTY OAKS ADDITION, DAKOTA COUNTY, MINNESOTA.*

If approved by the Council, the City Clerk will execute the attached Notice of Completion of Vacation, which will be recorded with the Dakota County Recorder to evidence the vacation by the City.

Attachments:

- Sketch depicting location of vacation
- Resolution Relating to Vacation of Public Street Right-of-Way and Public Way for a Portion of Wood Duck Pass that Adjoins Lots 8 and 9, Thirty Oaks Addition
- Notice of Completion of Vacation relating to Vacation of Public Street Right-of-Way and Public Way for a Portion of Wood Duck Pass that Adjoins Lots 8 and 9, Thirty Oaks Addition
- Release, Waiver of Claims and Covenant Not To Sue relating to the vacation of the public street right-of-way and public way for a portion of Wood Duck Pass that adjoins Lots 8 and 9, Thirty Oaks Addition (to be signed by Lot 8 Owner)
- Release, Waiver of Claims and Covenant Not To Sue relating to the vacation of the public street right-of-way and public way for a portion of Wood Duck Pass that adjoins Lots 8 and 9, Thirty Oaks Addition (to be signed by Lot 9 Owner)
- Quit Claim Deed to the owner of Lot 9, Thirty Oaks Addition the vacated portion of Wood Duck Pass that accrues to Lot 9, Thirty Oaks Addition
- Quit Claim Deed to the owner of Lot 8, Thirty Oaks Addition the vacated portion of Wood Duck Pass that accrues to Lot 8, Thirty Oaks Addition



Proposed Legal Description for street vacation:
A portion of the cul-de-sac Wood Duck Pass adjacent to Lot 8, THIRTY OAKS ADDITION, Dakota County, Minnesota, described as follows:

All that part of said Wood Duck Pass as delineated and dedicated on said THIRTY OAKS ADDITION lying northerly of a line and its extensions, said line beginning at the center of the 60 foot radius cul-de-sac said Wood Duck Pass thence westerly to the intersection of the southerly line said Lot 8 with the westerly right of way of said 60 foot radius cul-de-sac.

and

lying westerly of a line and its extensions, last said line beginning at the center of said 60 foot radius cul-de-sac thence northerly to the intersection of the easterly line of said Lot 8 with the northerly right of way line of said 60 foot radius cul-de-sac.

Proposed Legal Description for street vacation:
A portion of the cul-de-sac Wood Duck Pass adjacent to Lot 9, THIRTY OAKS ADDITION, Dakota County, Minnesota, described as follows:

All that part of said Wood Duck Pass as delineated and dedicated on said THIRTY OAKS ADDITION lying southerly of a line and its extensions, said line beginning at the center of the 60 foot radius cul-de-sac said Wood Duck Pass thence westerly to the intersection of the northerly line said Lot 9 with the westerly right of way of said 60 foot radius cul-de-sac.

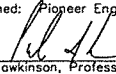
and

lying westerly of a line and its extensions, last said line beginning at the center of said 60 foot radius cul-de-sac thence southerly to the intersection of the easterly line of said Lot 9 with the southerly right of way line of said 60 foot radius cul-de-sac.

* This sketch does not purport to show the existence or nonexistence of any encroachments from or onto the hereon described land, easements of record or unrecorded easements which affect said land or any improvements to said land.

We hereby certify to David Korus that this survey, plan or report was prepared by me or under my direct supervision, and that I am a duly licensed Land Surveyor under the laws of the State of Minnesota, dated 07/27/18.

Signed: Pioneer Engineering, P.A.

BY: 
Peter J. Hawkinson, Professional Land Surveyor
Minnesota License No. 42299 email-phawkinson@pioneereng.com

Sheet
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PIONEERengineering
CIVIL ENGINEERS LAND PLANNERS LAND SURVEYORS LANDSCAPE ARCHITECTS
2422 Enterprise Drive
Mendota Heights, MN 55120
(651) 681-1914
Fax: 681-9488
www.pioneereng.com

Cad File: 118103000
STREET
VACATION
EXHIBIT.dwg
Folder #: 8160
Drawn by: MTW

Description Sketch for:
David Korus

**CITY OF SUNFISH LAKE
DAKOTA COUNTY, MINNESOTA**

RESOLUTION NO. 18-_____

**RESOLUTION RELATING TO VACATION OF PUBLIC STREET RIGHT-OF-WAY
AND PUBLIC WAY FOR A PORTION OF WOOD DUCK PASS THAT ADJOINS LOTS
8 AND 9, THIRTY OAKS ADDITION, DAKOTA COUNTY, MINNESOTA**

WHEREAS, pursuant to Minnesota Statutes, Section 462.358, Subd. 7 and Minnesota Statutes, Section 412.851, the City Council of the City of Sunfish Lake desires, on its own motion, to vacate the following public street right-of-way and public way for a portion of Wood Duck Pass that adjoins Lots 8 and 9, Thirty Oaks Addition, City of Sunfish Lake, Dakota County, Minnesota, to wit:

See attached Exhibit A.

WHEREAS, a notice of hearing on said motion to vacate has been duly published, posted and mailed in accordance with the applicable Minnesota Statutes; and

WHEREAS, a public hearing before the City Council of Sunfish Lake was held on said motion to vacate on September 4, 2018, at St. Anne's Episcopal Church located at Highway 110 and Charlton Road (2035 Charlton Road), Sunfish Lake, Minnesota; and

WHEREAS, the City Council of Sunfish Lake then proceeded to hear all persons interested in said vacation and all persons interested were afforded an opportunity to present their views and objections to the granting of said vacation; and

WHEREAS, the City Council of Sunfish Lake has determined that the vacation of said public street right-of-way and public way for a portion of Wood Duck Pass that adjoins Lots 8 and 9, Thirty Oaks Addition would be in the public interest.

**NOW THEREFORE BE IT RESOLVED BY THE CITY OF SUNFISH LAKE,
MINNESOTA:**

1. That the public street right-of-way and public way for a portion of Wood Duck Pass that adjoins Lots 8 and 9, Thirty Oaks Addition described on Exhibit A attached hereto is hereby vacated pursuant to Minn. Stat. § 412.851.

2. The Notice of Completion of Vacation relating to the vacation shall not be recorded until the following events have occurred and the correlating documents have been signed:
 - Owner of Lot 8, Thirty Oaks Addition executes a Release, Waiver of Claims and Covenant Not To Sue relating to the vacation of the public street right-of-way and public way for a portion of Wood Duck Pass that adjoins Lots 8 and 9, Thirty Oaks Addition
 - Owner of Lot 9, Thirty Oaks Addition executes a Release, Waiver of Claims and Covenant Not To Sue relating to the vacation of the public street right-of-way and public way for a portion of Wood Duck Pass that adjoins Lots 8 and 9, Thirty Oaks Addition
 - Owner of Lot 8, Thirty Oaks Addition conveys by Quit Claim Deed to the owner of Lot 9, Thirty Oaks Addition the vacated portion of Wood Duck Pass that accrues to Lot 9, Thirty Oaks Addition
 - Owner of Lot 9, Thirty Oaks Addition conveys by Quit Claim Deed to the owner of Lot 8, Thirty Oaks Addition the vacated portion of Wood Duck Pass that accrues to Lot 8, Thirty Oaks Addition
3. The City shall record the documents listed above with the Dakota County Recorder together with the Notice of Completion of Vacation.
4. Nothing contained in Resolution No. 18-____ or in the Notice of Completion of Vacation shall be deemed to vacate any public street right-of-way and public way that is subsequently granted to the City of Sunfish Lake by the owners of the affected properties and that are recorded subsequent to the recording of this Notice of Completion of Vacation.

Adopted by the City Council of Sunfish Lake this 4th day of September, 2018.

Dan O'Leary, Mayor

ATTEST:

Catherine Iago, City Clerk

EXHIBIT A
LEGAL DESCRIPTION OF
PUBLIC STREET RIGHT-OF-WAY AND PUBLIC WAY FOR A PORTION OF WOOD
DUCK PASS TO BE VACATED

A portion of the cul-de-sac Wood Duck Pass adjacent to Lot 8, THIRTY OAKS ADDITION, Dakota County, Minnesota, described as follows:

All that part of said Wood Duck Pass as delineated and dedicated on said THIRTY OAKS ADDITION lying northerly of a line and its extensions, said line beginning at the center of the 60 foot radius cul-de-sac said Wood Duck Pass thence westerly to the intersection of the southerly line said Lot 8 with the westerly right of way of said 60 foot radius cul-de-sac.

and

lying westerly of a line and its extensions, last said line beginning at the center of said 60 foot radius cul-de-sac thence northerly to the intersection of the easterly line of said Lot 8 with the northerly right of way line of said 60 foot radius cul-de-sac.

TOGETHER WITH

A portion of the cul-de-sac Wood Duck Pass adjacent to Lot 9, THIRTY OAKS ADDITION, Dakota County, Minnesota, described as follows:

All that part of said Wood Duck Pass as delineated and dedicated on said THIRTY OAKS ADDITION lying southerly of a line and its extensions, said line beginning at the center of the 60 foot radius cul-de-sac said Wood Duck Pass thence westerly to the intersection of the northerly line said Lot 9 with the westerly right of way of said 60 foot radius cul-de-sac.

and

lying westerly of a line and its extensions, last said line beginning at the center of said 60 foot radius cul-de-sac thence southerly to the intersection of the easterly line of said Lot 9 with the southerly right of way line of said 60 foot radius cul-de-sac.

**CITY OF SUNFISH LAKE
DAKOTA COUNTY, MINNESOTA**

**NOTICE OF COMPLETION OF VACATION RELATING TO VACATION OF PUBLIC
STREET RIGHT-OF-WAY AND PUBLIC WAY FOR A PORTION OF WOOD DUCK
PASS THAT ADJOINS LOTS 8 AND 9, THIRTY OAKS ADDITION,
DAKOTA COUNTY, MINNESOTA**

TO WHOM IT MAY CONCERN:

PLEASE TAKE NOTICE:

1. Pursuant to Minnesota Statutes, Section 462.358, Subd. 7 and Minnesota Statutes, Section 412.851, the City Council of the City of Sunfish Lake desires, on its own motion, to vacate the following public street right-of-way and public way for a portion of Wood Duck Pass that adjoins Lots 8 and 9, Thirty Oaks Addition, City of Sunfish Lake, Dakota County, Minnesota, to wit:

See attached Exhibit A.

2. The public hearing on said motion to vacate was preceded by two (2) weeks published and posted Notice in accordance with Minnesota Statutes, Section 412.851. Notice of the public hearing was mailed to each property owner affected by the proposed vacation at least ten (10) days before the hearing in accordance with Minnesota Statutes, Section 412.851.
3. A public hearing was held on said motion to vacate on September 4, 2018, in the City Council Chambers at St. Anne's Episcopal Church located at Highway 110 and Charlton Road (2035 Charlton Road) in Sunfish Lake, Minnesota. At the public hearing, all interested persons were afforded an opportunity to present their views and objections to the granting of said motion to vacate.
4. That on September 4, 2018, the City Council of Sunfish Lake pursuant to Minnesota Statutes, Section 412.851 did duly adopt Resolution No. 18-____ by a 4/5th's vote and did thereby vacate the following described public street right-of-way and public way for a

portion of Wood Duck Pass that adjoins Lots 8 and 9, Thirty Oaks Addition, City of Sunfish Lake, County of Dakota, State of Minnesota, to wit:

See attached Exhibit A.

That the vacation of the above-described public street right-of-way and public way for a portion of Wood Duck Pass that adjoins Lots 8 and 9, Thirty Oaks Addition was completed by the adoption of the aforesaid resolution.

5. Upon information and belief, the undersigned states that the vacation of the afore-described public street right-of-way and public way for a portion of Wood Duck Pass that adjoins Lots 8 and 9, Thirty Oaks Addition does affect the following described properties in the City of Sunfish Lake, Dakota County, Minnesota:

- Lot 8, Thirty Oaks Addition, Dakota County, Minnesota;
- Lot 9, Thirty Oaks Addition, Dakota County, Minnesota.

6. Nothing contained in Resolution No. 18-____ or in this Notice of Completion of Vacation shall be deemed to vacate any public street right-of-way and public way that is subsequently granted to the City of Sunfish Lake by the owners of the affected properties described in paragraph 5 above and that are recorded subsequent to the recording of this Notice of Completion of Vacation.

IN WITNESS WHEREOF, the City Clerk of the City of Sunfish Lake has executed this Notice of Completion of Vacation pursuant to Minnesota Statutes Section 412.851.

CITY OF SUNFISH LAKE

By: _____
Catherine Iago, City Clerk

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

On this 4th day of September, 2018, before me a Notary Public within and for said County, personally appeared Catherine Iago, City Clerk of the City of Sunfish Lake, to me known to be the person described in and who executed the foregoing instrument and acknowledged that she executed the same as her free act and deed.

Notary Public

EXHIBIT A
LEGAL DESCRIPTION OF
PUBLIC STREET RIGHT-OF-WAY AND PUBLIC WAY FOR A PORTION OF WOOD
DUCK PASS TO BE VACATED

A portion of the cul-de-sac Wood Duck Pass adjacent to Lot 8, THIRTY OAKS ADDITION, Dakota County, Minnesota, described as follows:

All that part of said Wood Duck Pass as delineated and dedicated on said THIRTY OAKS ADDITION lying northerly of a line and its extensions, said line beginning at the center of the 60 foot radius cul-de-sac said Wood Duck Pass thence westerly to the intersection of the southerly line said Lot 8 with the westerly right of way of said 60 foot radius cul-de-sac.

and

lying westerly of a line and its extensions, last said line beginning at the center of said 60 foot radius cul-de-sac thence northerly to the intersection of the easterly line of said Lot 8 with the northerly right of way line of said 60 foot radius cul-de-sac.

TOGETHER WITH

A portion of the cul-de-sac Wood Duck Pass adjacent to Lot 9, THIRTY OAKS ADDITION, Dakota County, Minnesota, described as follows:

All that part of said Wood Duck Pass as delineated and dedicated on said THIRTY OAKS ADDITION lying southerly of a line and its extensions, said line beginning at the center of the 60 foot radius cul-de-sac said Wood Duck Pass thence westerly to the intersection of the northerly line said Lot 9 with the westerly right of way of said 60 foot radius cul-de-sac.

and

lying westerly of a line and its extensions, last said line beginning at the center of said 60 foot radius cul-de-sac thence southerly to the intersection of the easterly line of said Lot 9 with the southerly right of way line of said 60 foot radius cul-de-sac.

RELEASE, WAIVER OF CLAIMS AND COVENANT NOT TO SUE

This RELEASE, WAIVER OF CLAIMS AND COVENANT NOT TO SUE (Agreement) is made this ____ day of _____, 2018, by and between David Michael Korus and Aanya Korus, husband and wife, hereinafter referred to as "Landowner" and the City of Sunfish Lake, a Minnesota municipal corporation, hereinafter referred to as the "City." In consideration of the covenants, agreements, representations and recitals hereafter provided, the parties agree:

ARTICLE 1 **DEFINITIONS**

1.1 Terms. For purposes of this Agreement, unless elsewhere specifically defined herein, the following terms shall have the following meanings.

1.2 City. "City" means City of Inver Grove Heights, a Minnesota municipal corporation.

1.3 Landowner. "Landowner" means David Michael Korus and Aanya Korus, husband and wife, and their successors and assigns.

1.4 Subject Lot. "Subject Lot" means the real property located in the City of Inver Grove Heights, County of Dakota, State of Minnesota legally described on the attached **Exhibit A**.

1.5 Street ROW. "Street ROW" means that certain public dedicated street right-of-way and public way that adjoins Lot 8 and Lot 9, Thirty Oaks Addition, Dakota County, Minnesota legally described and depicted on **Exhibit B**.

1.6 Vacation. "Vacation" means the vacation of certain public dedicated street right-of-way and public way for a portion of Wood Duck Pass that adjoins Lots 8 and 9, Thirty Oaks Addition, Dakota County, Minnesota.

The Vacation is being processed by the City according to Minnesota Statutes § 412.851, by which a resolution ordering the Vacation must pass by a four-fifths vote of all the members of the City Council.

ARTICLE 2

RECITALS

Recital No. 1. Landowner owns fee title to the Subject Lot.

Recital No. 2. The Street ROW being vacated by the City adjoins the Subject Lot.

Recital No. 3. Landowner has requested that the City vacate the Street ROW so that Landowner can relocate the septic system for the Subject Lot within the Street ROW.

Recital No. 4. Once the City vacates the Street ROW, that portion of the Street ROW that adjoins the Subject Lot will transfer to and become a part of the Subject Lot and will be owned by Landowner.

Recital No. 5. The Vacation of the Street ROW will eliminate use by the public of those portions of the dedicated street right-of-way and public way that adjoins Lots 8 and 9, Thirty Oaks Addition as described on Exhibit A.

Recital No. 6. Landowner understands and acknowledges that the Vacation will eliminate use by the public of those portions of the dedicated street right-of-way and public way that adjoins Lots 8 and 9, Thirty Oaks Addition as described on Exhibit A.

Recital No. 7. Landowner is knowingly and voluntarily entering into this Agreement and desires to Waive, Release and Covenant not to sue the City as provided in this Agreement.

ARTICLE 3

LANDOWNER COVENANTS

3.1 Release. Landowner, for themselves and their successors and assigns hereby forever release the City from all liability and claims, demands, causes of action or proceedings relating in any manner whatsoever to compensation, interest, costs, engineering, appraisal or attorney's fees, based upon theories of condemnation, takings, inverse condemnation, negligence or trespass or any other theories of law resulting from, related to, or caused by the Vacation of the Street ROW.

3.2 Waiver. Landowner, for themselves and their successors and assigns hereby forever waive all liability and claims, demands, causes of action or proceedings against the City relating in any manner whatsoever to compensation, interest, costs, engineering, appraisal or attorney's fees, based upon theories of condemnation, takings, inverse condemnation, negligence or trespass or any other theories of law resulting from, related to, or caused by the Vacation of the Street ROW.

3.3 Covenant Not To Sue. Landowner, for themselves and their successors and assigns hereby covenant not to sue the City for any claim for damages relating in any manner whatsoever to compensation, interest, costs, engineering, appraisal or attorney's fees, based upon theories of

condemnation, takings, inverse condemnation, or trespass resulting from, related to, or caused by the Vacation of the Street ROW.

ARTICLE 4

CITY COVENANTS

4.1 City Covenants. Subject to City Council approval of the Vacation, the City will record this Agreement against the Subject Lot with the Dakota County Recorder. The City will also record a Notice of Completion of Vacation or release document memorializing the Vacation of the Street ROW by the City.

ARTICLE 5

MISCELLANEOUS

5.1 Binding Agreement. The parties mutually recognize and agree that all terms and conditions of this Agreement shall run with the Subject Lot and shall be binding upon the parties and the successors and assigns of the parties.

5.2 Governing Law. This Agreement shall be governed by and construed in accord with the laws of the State of Minnesota.

5.3 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

5.4 Headings. The subject headings of the sections this Agreement are included for purposes of convenience only and shall not affect the construction of interpretation of any of its provisions.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, Landowner and the City have executed this Agreement on the date first set forth above.

LANDOWNER:

David Michael Korus

Aanya Korus

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

The foregoing instrument was acknowledged before me on this _____ day of _____, 2018, by David Michael Korus and Aanya Korus, husband and wife.

Notary Public

CITY OF SUNFISH LAKE:

By: _____
Dan O'Leary, Mayor

Attest:

Catherine Iago, City Clerk

(CITY SEAL)

STATE OF MINNESOTA)
)
COUNTY OF DAKOTA) ss.

On this ____ day of _____, 2018, before me a Notary Public within and for said County, personally appeared Dan O'Leary and Catherine Iago to me personally known, who being each by me duly sworn, each did say that they are respectively the Mayor and City Clerk of the City of Sunfish Lake, the municipality named in the foregoing instrument, and that the seal affixed to said instrument was signed and sealed on behalf of said municipality by authority of its City Council and said Mayor and City Clerk acknowledged said instrument to be the free act and deed of said municipality.

Notary Public

THIS INSTRUMENT DRAFTED BY:

Timothy J. Kuntz
LeVander, Gillen, & Miller, P.A.
633 South Concord Street
Suite 400
South St. Paul, MN 55075
(651) 451-1831

**AFTER RECORDING PLEASE
RETURN TO:**

Timothy J. Kuntz
LeVander, Gillen & Miller, P.A.
633 South Concord Street
Suite 400
South St. Paul, MN 55075
(651) 451-1831

EXHIBIT A
LEGAL DESCRIPTION OF SUBJECT LOT

Real property located in the City of Inver Grove Heights, County of Dakota, State of Minnesota as follows:

Lot Eight (8), Thirty Oaks Addition, together with a non-exclusive easement for travel across Acorn Drive as platted in said subdivision and on file in the office of the Register of Deeds, Dakota County, Minnesota.

EXHIBIT B
LEGAL DESCRIPTION AND DEPICTION OF VACATION OF STREET ROW

A portion of the cul-de-sac Wood Duck Pass adjacent to Lot 8, THIRTY OAKS ADDITION, Dakota County, Minnesota, described as follows:

All that part of said Wood Duck Pass as delineated and dedicated on said THIRTY OAKS ADDITION lying northerly of a line and its extensions, said line beginning at the center of the 60 foot radius cul-de-sac said Wood Duck Pass thence westerly to the intersection of the southerly line said Lot 8 with the westerly right of way of said 60 foot radius cul-de-sac.

and

lying westerly of a line and its extensions, last said line beginning at the center of said 60 foot radius cul-de-sac thence northerly to the intersection of the easterly line of said Lot 8 with the northerly right of way line of said 60 foot radius cul-de-sac.

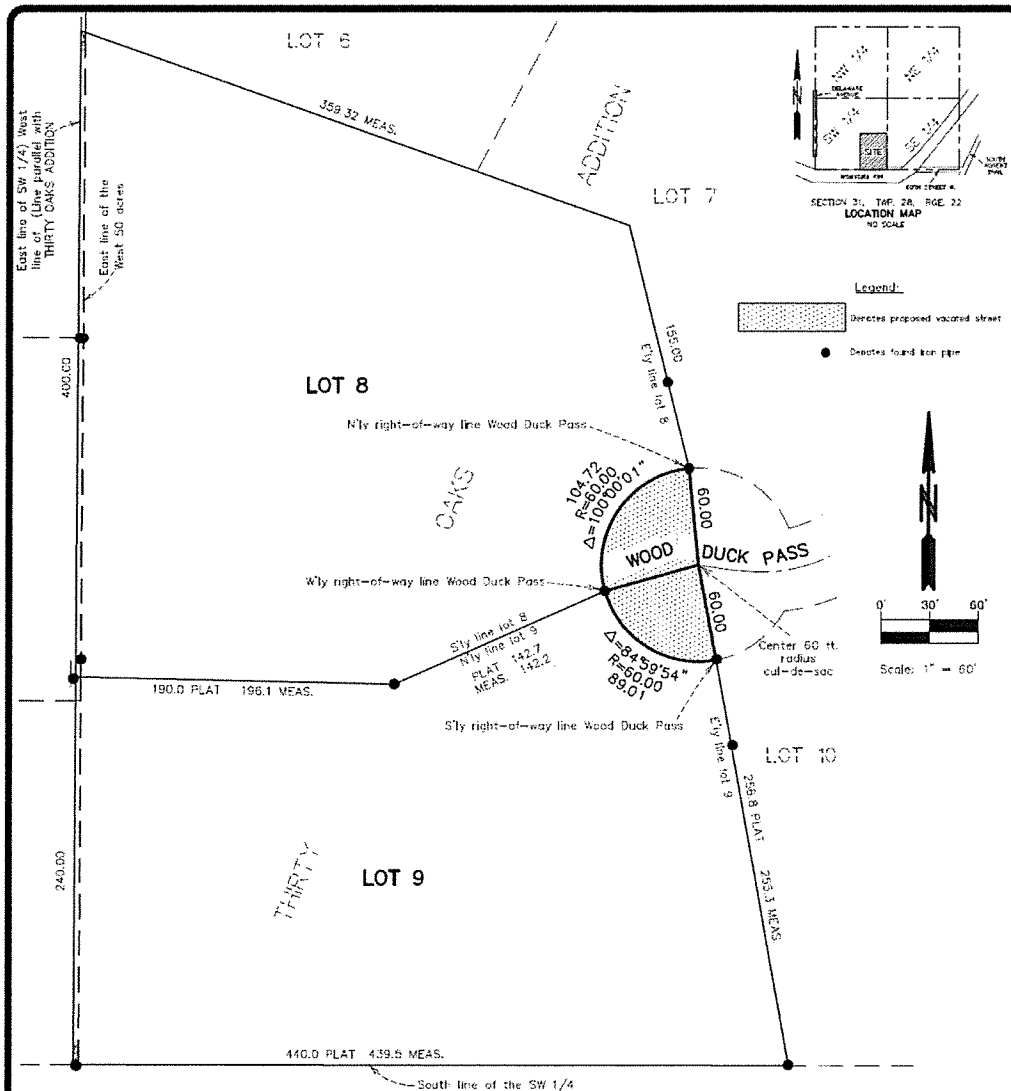
TOGETHER WITH

A portion of the cul-de-sac Wood Duck Pass adjacent to Lot 9, THIRTY OAKS ADDITION, Dakota County, Minnesota, described as follows:

All that part of said Wood Duck Pass as delineated and dedicated on said THIRTY OAKS ADDITION lying southerly of a line and its extensions, said line beginning at the center of the 60 foot radius cul-de-sac said Wood Duck Pass thence westerly to the intersection of the northerly line said Lot 9 with the westerly right of way of said 60 foot radius cul-de-sac.

and

lying westerly of a line and its extensions, last said line beginning at the center of said 60 foot radius cul-de-sac thence southerly to the intersection of the easterly line of said Lot 9 with the southerly right of way line of said 60 foot radius cul-de-sac.



Proposed Legal Description for street vacation:
A portion of the cul-de-sac Wood Duck Pass adjacent to Lot 8, THIRTY OAKS ADDITION, Dakota County, Minnesota, described as follows:

All that part of said Wood Duck Pass as delineated and dedicated on said THIRTY OAKS ADDITION lying northerly of a line and its extensions, said line beginning at the center of the 60 foot radius cul-de-sac said Wood Duck Pass thence westerly to the intersection of the southerly line said Lot 8 with the westerly right of way of said 60 foot radius cul-de-sac.

and

lying westerly of a line and its extensions, last said line beginning at the center of said 60 foot radius cul-de-sac thence northerly to the intersection of the easterly line of said Lot 8 with the northerly right of way line of said 60 foot radius cul-de-sac.

Proposed Legal Description for street vacation:
A portion of the cul-de-sac Wood Duck Pass adjacent to Lot 9, THIRTY OAKS ADDITION, Dakota County, Minnesota, described as follows:

All that part of said Wood Duck Pass as delineated and dedicated on said THIRTY OAKS ADDITION lying southerly of a line and its extensions, said line beginning at the center of the 60 foot radius cul-de-sac said Wood Duck Pass thence westerly to the intersection of the northerly line said Lot 9 with the westerly right of way of said 60 foot radius cul-de-sac.

and

lying westerly of a line and its extensions, last said line beginning at the center of said 60 foot radius cul-de-sac thence southerly to the intersection of the easterly line of said Lot 9 with the southerly right of way line of said 60 foot radius cul-de-sac.

• This sketch does not purport to show the existence or nonexistence of any encroachments from or onto the herein described land, easements of record or unrecorded easements which affect said land or any improvements to said land.

We hereby certify to David Korus that this survey, plan or report was prepared by me or under my direct supervision, and that I am a duly licensed Land Surveyor under the laws of the State of Minnesota, dated 07/27/15.

Signed: Pioneer Engineering, P.A.

BY: Peter J. Haskin, Professional Land Surveyor
Minnesota License No. 42299 email: phaskin@pioneereng.com

Sheet
1 of 1

PIONEERengineering
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Mendota Heights, MN 55120
Fax: (651) 491-8888
www.pioneereng.com

Cad File: 118103060
STREET
VACATION
EXHIBIT.dwg
Folder #: 8160
Drawn by: MTW

Description Sketch for:
David Korus

RELEASE, WAIVER OF CLAIMS AND COVENANT NOT TO SUE

This RELEASE, WAIVER OF CLAIMS AND COVENANT NOT TO SUE (Agreement) is made this ____ day of _____, 2018, by and between Barbara J. Telander and Traci L. Telander, as Trustees of the Marital GST Non-Exempt Trust under Article 9 of the Bruce N. Telander Trust u/a dated September 10, 1986, as amended and restated, hereinafter referred to as "Landowner" and the City of Sunfish Lake, a Minnesota municipal corporation, hereinafter referred to as the "City." In consideration of the covenants, agreements, representations and recitals hereafter provided, the parties agree:

ARTICLE 1 **DEFINITIONS**

1.1 Terms. For purposes of this Agreement, unless elsewhere specifically defined herein, the following terms shall have the following meanings.

1.2 City. "City" means City of Inver Grove Heights, a Minnesota municipal corporation.

1.3 Landowner. "Landowner" means Barbara J. Telander and Traci L. Telander, as Trustees of the Marital GST Non-Exempt Trust under Article 9 of the Bruce N. Telander Trust u/a dated September 10, 1986, as amended and restated, and the successors and assigns of said Trustees.

1.4 Subject Lot. "Subject Lot" means the real property located in the City of Inver Grove Heights, County of Dakota, State of Minnesota legally described on the attached **Exhibit A**.

1.5 Street ROW. "Street ROW" means that certain public dedicated street right-of-way and public way that adjoins Lot 8 and Lot 9, Thirty Oaks Addition, Dakota County, Minnesota legally described and depicted on **Exhibit B**.

1.6 Vacation. "Vacation" means the vacation of certain public dedicated street right-of-way and public way for a portion of Wood Duck Pass that adjoins Lots 8 and 9, Thirty Oaks Addition, Dakota County, Minnesota.

The Vacation is being processed by the City according to Minnesota Statutes § 412.851, by which a resolution ordering the Vacation must pass by a four-fifths vote of all the members of the City Council.

ARTICLE 2

RECITALS

Recital No. 1. Landowner owns fee title to the Subject Lot.

Recital No. 2. The Street ROW being vacated by the City adjoins the Subject Lot.

Recital No. 3. Landowner has requested that the City vacate the Street ROW so that Landowner can relocate the septic system for the Subject Lot within the Street ROW.

Recital No. 4. Once the City vacates the Street ROW, that portion of the Street ROW that adjoins the Subject Lot will transfer to and become a part of the Subject Lot and will be owned by Landowner.

Recital No. 5. The Vacation of the Street ROW will eliminate use by the public of those portions of the dedicated street right-of-way and public way that adjoins Lots 8 and 9, Thirty Oaks Addition as described on Exhibit A.

Recital No. 6. Landowner understands and acknowledges that the Vacation will eliminate use by the public of those portions of the dedicated street right-of-way and public way that adjoins Lots 8 and 9, Thirty Oaks Addition as described on Exhibit A.

Recital No. 7. Landowner is knowingly and voluntarily entering into this Agreement and desires to Waive, Release and Covenant not to sue the City as provided in this Agreement.

ARTICLE 3

LANDOWNER COVENANTS

3.1 Release. Landowner, for themselves and their successors and assigns hereby forever release the City from all liability and claims, demands, causes of action or proceedings relating in any manner whatsoever to compensation, interest, costs, engineering, appraisal or attorney's fees, based upon theories of condemnation, takings, inverse condemnation, negligence or trespass or any other theories of law resulting from, related to, or caused by the Vacation of the Street ROW.

3.2 Waiver. Landowner, for themselves and their successors and assigns hereby forever waive all liability and claims, demands, causes of action or proceedings against the City relating in any manner whatsoever to compensation, interest, costs, engineering, appraisal or attorney's fees, based upon theories of condemnation, takings, inverse condemnation, negligence or trespass or any other theories of law resulting from, related to, or caused by the Vacation of the Street ROW.

3.3 Covenant Not To Sue. Landowner, for themselves and their successors and assigns hereby covenant not to sue the City for any claim for damages relating in any manner whatsoever to compensation, interest, costs, engineering, appraisal or attorney's fees, based upon theories of

condemnation, takings, inverse condemnation, or trespass resulting from, related to, or caused by the Vacation of the Street ROW.

ARTICLE 4

CITY COVENANTS

4.1 City Covenants. Subject to City Council approval of the Vacation, the City will record this Agreement against the Subject Lot with the Dakota County Recorder. The City will also record a Notice of Completion of Vacation or release document memorializing the Vacation of the Street ROW by the City.

ARTICLE 5

MISCELLANEOUS

5.1 Binding Agreement. The parties mutually recognize and agree that all terms and conditions of this Agreement shall run with the Subject Lot and shall be binding upon the parties and the successors and assigns of the parties.

5.2 Governing Law. This Agreement shall be governed by and construed in accord with the laws of the State of Minnesota.

5.3 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

5.4 Headings. The subject headings of the sections this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions.

[Remainder of Page Intentionally Left Blank]

TRUSTEE:

STATE OF _____)
)
COUNTY OF _____) SS.

(Stamp)

My commission expires: _____
(month/day/year)

CITY OF SUNFISH LAKE:

By: _____
Dan O'Leary, Mayor

Attest:

Catherine Iago, City Clerk

(CITY SEAL)

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

On this ____ day of _____, 2018, before me a Notary Public within and for said County, personally appeared Dan O'Leary and Catherine Iago to me personally known, who being each by me duly sworn, each did say that they are respectively the Mayor and City Clerk of the City of Sunfish Lake, the municipality named in the foregoing instrument, and that the seal affixed to said instrument was signed and sealed on behalf of said municipality by authority of its City Council and said Mayor and City Clerk acknowledged said instrument to be the free act and deed of said municipality.

Notary Public

THIS INSTRUMENT DRAFTED BY:

Timothy J. Kuntz
LeVander, Gillen, & Miller, P.A.
633 South Concord Street
Suite 400
South St. Paul, MN 55075
(651) 451-1831

**AFTER RECORDING PLEASE
RETURN TO:**

Timothy J. Kuntz
LeVander, Gillen & Miller, P.A.
633 South Concord Street
Suite 400
South St. Paul, MN 55075
(651) 451-1831

EXHIBIT A
LEGAL DESCRIPTION OF SUBJECT LOT

Real property located in the City of Inver Grove Heights, County of Dakota, State of Minnesota as follows:

Lot Nine (9), Thirty Oaks Addition, Dakota County, Minnesota.

EXHIBIT B
LEGAL DESCRIPTION AND DEPICTION OF VACATION OF STREET ROW

A portion of the cul-de-sac Wood Duck Pass adjacent to Lot 8, THIRTY OAKS ADDITION, Dakota County, Minnesota, described as follows:

All that part of said Wood Duck Pass as delineated and dedicated on said THIRTY OAKS ADDITION lying northerly of a line and its extensions, said line beginning at the center of the 60 foot radius cul-de-sac said Wood Duck Pass thence westerly to the intersection of the southerly line said Lot 8 with the westerly right of way of said 60 foot radius cul-de-sac.

and

lying westerly of a line and its extensions, last said line beginning at the center of said 60 foot radius cul-de-sac thence northerly to the intersection of the easterly line of said Lot 8 with the northerly right of way line of said 60 foot radius cul-de-sac.

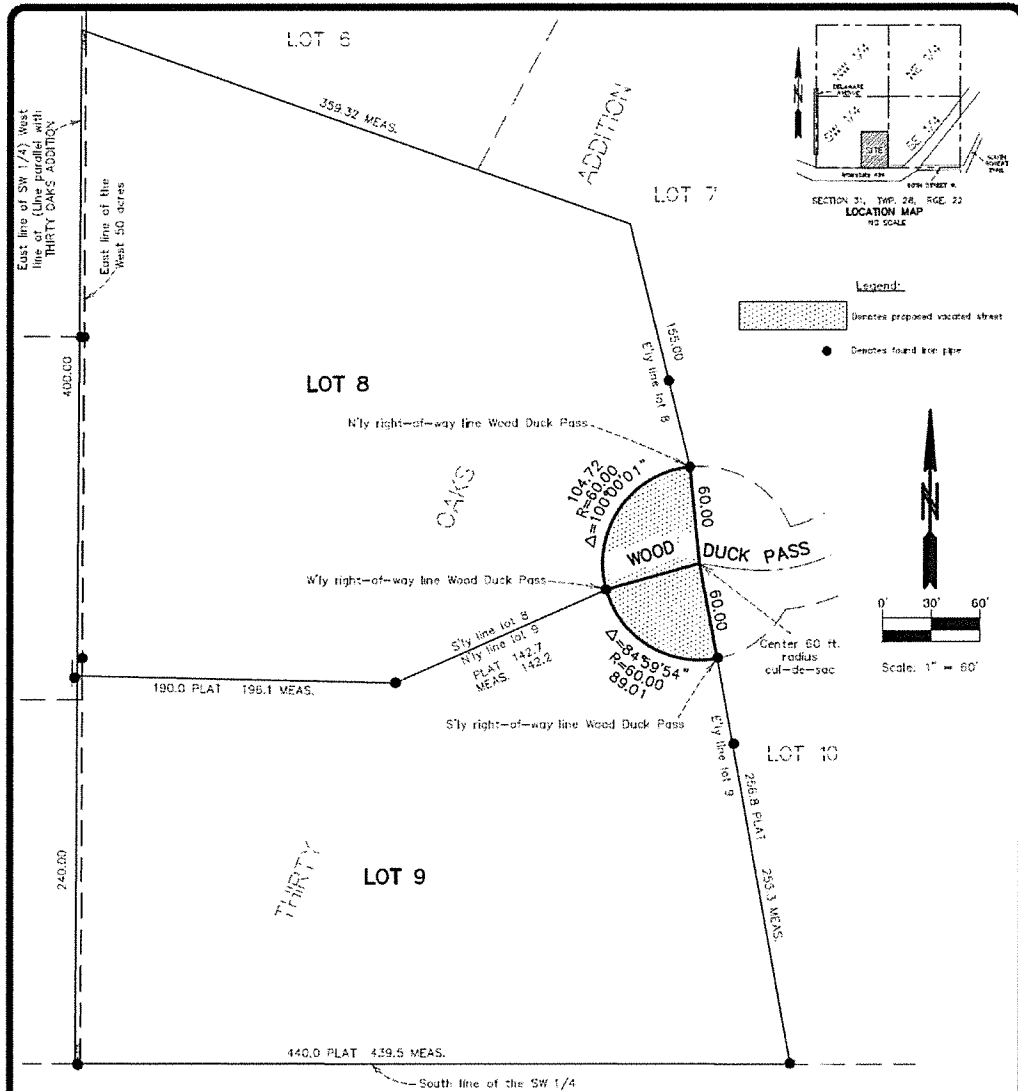
TOGETHER WITH

A portion of the cul-de-sac Wood Duck Pass adjacent to Lot 9, THIRTY OAKS ADDITION, Dakota County, Minnesota, described as follows:

All that part of said Wood Duck Pass as delineated and dedicated on said THIRTY OAKS ADDITION lying southerly of a line and its extensions, said line beginning at the center of the 60 foot radius cul-de-sac said Wood Duck Pass thence westerly to the intersection of the northerly line said Lot 9 with the westerly right of way of said 60 foot radius cul-de-sac.

and

lying westerly of a line and its extensions, last said line beginning at the center of said 60 foot radius cul-de-sac thence southerly to the intersection of the easterly line of said Lot 9 with the southerly right of way line of said 60 foot radius cul-de-sac.



Proposed Legal Description for street vacation:
A portion of the cul-de-sac Wood Duck Pass adjacent to Lot 8, THIRTY OAKS ADDITION, Dakota County, Minnesota, described as follows:

All that part of said Wood Duck Pass as delineated and dedicated on said THIRTY OAKS ADDITION lying northerly of a line and its extensions, said line beginning at the center of the 60 foot radius cul-de-sac said Wood Duck Pass thence westerly to the intersection of the southerly line said Lot 8 with the westerly right of way of said 60 foot radius cul-de-sac.

and

lying westerly of a line and its extensions, last said line beginning at the center of said 60 foot radius cul-de-sac thence northerly to the intersection of the easterly line of said Lot 8 with the northerly right of way line of said 60 foot radius cul-de-sac.

Proposed Legal Description for street vacation:
A portion of the cul-de-sac Wood Duck Pass adjacent to Lot 9, THIRTY OAKS ADDITION, Dakota County, Minnesota, described as follows:

All that part of said Wood Duck Pass as delineated and dedicated on said THIRTY OAKS ADDITION lying southerly of a line and its extensions, said line beginning at the center of the 60 foot radius cul-de-sac said Wood Duck Pass thence westerly to the intersection of the northerly line said Lot 9 with the westerly right of way of said 60 foot radius cul-de-sac.

and

lying westerly of a line and its extensions, last said line beginning at the center of said 60 foot radius cul-de-sac thence southerly to the intersection of the easterly line of said Lot 9 with the southerly right of way line of said 60 foot radius cul-de-sac.

• This sketch does not purport to show the existence or nonexistence of any encroachments from or onto the herein described land, easements of record or unrecorded easements which affect said land, or any improvements to said land.

We hereby certify to David Korus that this survey, plan or report was prepared by me or under my direct supervision, and that I am a duly licensed Land Surveyor under the laws of the State of Minnesota, dated 07/27/18.

Signed: Pioneer Engineering, P.A.

BY: Peter J. Hawkison, Professional Land Surveyor
Minnesota License No. 42299 email: phawkison@pioneereng.com

Sheet
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of
1

PIONEERengineering
CIVIL ENGINEERS LAND PLANNERS LAND SURVEYORS LANDSCAPE ARCHITECTS
2422 Enterprise Drive
Mendota Heights, MN 55120
(651) 681-1914
Fax: 651-9488
www.pioneereng.com

Cad File: 118103000
STREET
VACATION
EXHIBIT.dwg
Folder #: 8160
Drawn by: MTW

Description Sketch for:
David Korus

(Top 3 inches reserved for recording data)

QUIT CLAIM DEED

Individual to Individual

eCRV number: _____

DEED TAX DUE: \$1.65

DATE: **September** ____, 2018

FOR VALUABLE CONSIDERATION, David Michael Korus and Aanya Korus, husband and wife ("**Grantor**"), hereby convey and quitclaim to Barbara J. Telander and Traci L. Telander, as Trustees of the Marital GST Non-Exempt Trust under Article 9 of the Bruce N. Telander Trust u/a dated September 10, 1986, as amended and restated ("**Grantee**"), real property in Dakota County, Minnesota, legally described as follows:

See Exhibit A attached hereto and incorporated herein.

*total consideration for this transfer is less than \$500.00.

Check here if all or part of the described real property is Registered (Torrens) ☐

together with all hereditaments and appurtenances belonging thereto.

Check applicable box:

- ☒ The Seller certifies that the Seller does not know of any wells on the described real property.
- ☐ A well disclosure certificate accompanies this document or has been electronically filed. (If electronically filed, insert WDC number: [...].)
- ☐ I am familiar with the property described in this instrument and I certify that the status and number of wells on the described real property have not changed since the last previously filed well disclosure certificate.

Grantor

David Michael Korus

Aanya Korus

State of Minnesota, County of Dakota

This instrument was acknowledged before me on September ____, 2018, by David Michael Korus and Aanya Korus, husband and wife.

(Stamp)

(signature of notarial officer)

Title (and Rank): Notary Public

My commission expires: _____
(month/day/year)

THIS INSTRUMENT WAS DRAFTED BY:
Timothy J. Kuntz
LeVander, Gillen & Miller, P.A.
633 South Concord Street, Suite 400
South St. Paul, MN 55075
(651) 451-1831
Atty ID: 58993

TAX STATEMENTS FOR THE REAL PROPERTY DESCRIBED IN THIS
INSTRUMENT SHOULD BE SENT TO:
Barbara J. Telander and Traci L. Telander
7347 Crannell Drive
Boulder, CO 80303

EXHIBIT A
LEGAL DESCRIPTION

A portion of the cul-de-sac Wood Duck Pass adjacent to Lot 9, THIRTY OAKS ADDITION, Dakota County, Minnesota, described as follows:

All that part of said Wood Duck Pass as delineated and dedicated on said THIRTY OAKS ADDITION lying southerly of a line and its extensions, said line beginning at the center of the 60 foot radius cul-de-sac said Wood Duck Pass thence westerly to the intersection of the northerly line said Lot 9 with the westerly right of way of said 60 foot radius cul-de-sac.

and

lying westerly of a line and its extensions, last said line beginning at the center of said 60 foot radius cul-de-sac thence southerly to the intersection of the easterly line of said Lot 9 with the southerly right of way line of said 60 foot radius cul-de-sac.

(Top 3 inches reserved for recording data)

QUIT CLAIM DEED
Individual to Individual

eCRV number: _____

DEED TAX DUE: \$1.65

DATE: **September** ____, 2018

FOR VALUABLE CONSIDERATION, Barbara J. Telander and Traci L. Telander, as Trustees of the Marital GST Non-Exempt Trust under Article 9 of the Bruce N. Telander Trust u/a dated September 10, 1986, as amended and restated ("**Grantor**") hereby conveys and quitclaims to David Michael Korus ("**Grantee**"), real property in Dakota County, Minnesota, legally described as follows:

See Exhibit A attached hereto and incorporated herein.

*total consideration for this transfer is less than \$500.00.

Check here if all or part of the described real property is Registered (Torrens) ☐

together with all hereditaments and appurtenances belonging thereto.

Check applicable box:

- ☒ The Seller certifies that the Seller does not know of any wells on the described real property.
- ☐ A well disclosure certificate accompanies this document or has been electronically filed. (If electronically filed, insert WDC number: [...].)
- ☐ I am familiar with the property described in this instrument and I certify that the status and number of wells on the described real property have not changed since the last previously filed well disclosure certificate.

GRANTOR:

Barbara J. Telander, as Trustee of the Marital GST
Non-Exempt Trust under Article 9 of the Bruce N. Telander
Trust u/a dated September 10, 1986, as amended and restated

State of _____, County of _____

This instrument was acknowledged before me on _____, 2018, by Barbara J. Telander, Trustee of the Marital GST Non-Exempt Trust under Article 9 of the Bruce N. Telander Trust u/a dated September 10, 1986, as amended and restated.

(Stamp)

(signature of notarial officer)

Title (and Rank): Notary Public

My commission expires: _____
(month/day/year)

GRANTOR:

Traci L. Telander, as Trustee of the Marital GST
Non-Exempt Trust under Article 9 of the Bruce N. Telander
Trust u/a dated September 10, 1986, as amended and restated

State of _____, County of _____

This instrument was acknowledged before me on _____, 2018, by Traci L. Telander, Trustee of the Marital GST Non-Exempt Trust under Article 9 of the Bruce N. Telander Trust u/a dated September 10, 1986, as amended and restated.

(Stamp)

(signature of notarial officer)

Title (and Rank): Notary Public

My commission expires: _____
(month/day/year)

THIS INSTRUMENT WAS DRAFTED BY:
Timothy J. Kuntz
LeVander, Gillen & Miller, P.A.
633 South Concord Street, Suite 400
South St. Paul, MN 55075
(651) 451-1831
Atty ID: 58993

TAX STATEMENTS FOR THE REAL PROPERTY DESCRIBED IN THIS
INSTRUMENT SHOULD BE SENT TO:
David Korus and Aanya Korus
8 Wood Duck Pass
Sunfish Lake, MN 55077

EXHIBIT A
LEGAL DESCRIPTION

A portion of the cul-de-sac Wood Duck Pass adjacent to Lot 8, THIRTY OAKS ADDITION, Dakota County, Minnesota, described as follows:

All that part of said Wood Duck Pass as delineated and dedicated on said THIRTY OAKS ADDITION lying northerly of a line and its extensions, said line beginning at the center of the 60 foot radius cul-de-sac said Wood Duck Pass thence westerly to the intersection of the southerly line said Lot 8 with the westerly right of way of said 60 foot radius cul-de-sac.

and

lying westerly of a line and its extensions, last said line beginning at the center of said 60 foot radius cul-de-sac thence northerly to the intersection of the easterly line of said Lot 8 with the northerly right of way line of said 60 foot radius cul-de-sac.