



AGENDA

Greenwood City Council Special Meeting

3 p.m., Wednesday, May 30, 2018
20225 Cottagewood Road, Deephaven, MN 55331

In accordance with open meeting laws, members of the public are welcome to attend this meeting.

- 3:00 PM 1. CALL TO ORDER | ROLL CALL | APPROVE MEETING AGENDA
- 3:00 PM 2. CONSIDER: Vacation and Rededication of Drainage Easement at 4900 Meadville Street
- 3:30 PM 3. ADJOURNMENT



Special Meeting

Agenda Date: 05-30-18

Prepared by Dale Cooney

Agenda Item: Consider Vacation and Rededication of Drainage Easement at 4900 Meadville Street

Summary: Applicants are in the process of selling their property and during the title search they discovered that there is an existing public drainage easement on the property. They would like to vacate the easement in advance of the sale of the property. The location of the easement is problematic since it runs through the footprint of the existing house.

The easement was created in 1977, and is legally described as “*Public drainage easement over and across the westerly 10 feet of Lot 1, Meadville Park, Hennepin County, Minnesota.*” Subsequently, Lot 1 was combined with other properties into current configuration at 4900 Meadville and the easement now runs through the middle of the larger property. (See attached images.) The existing house on the property was built in 1998 and the easement begins at approximately the western edge of the carriage driveway, through the house, and to the lake.

Public Process: Vacation of a public easement, even if entirely contained within a private property, is the same for the vacation of public streets or other public grounds. There are two methods for commencing a vacation: (1) Council on its own motion may start the vacation process. However, a resolution for a vacation in this case must be passed by a four-fifths vote the council. (2) A majority of the owners of land abutting the area to be vacated may also initiate a vacation by petition. In this case, the property owner has petitioned the city and the easement is entirely contained within the property and adjacent only to public right of way and public waters.

The city must conduct a public hearing to solicit public input on a proposed vacation prior to granting a vacation. Notice of the hearing must be published in the city’s legal newspaper mailed to each property owner affected by the proposed vacation. Minnesota statutes establish that the city council may vacate public grounds only upon a finding that the vacation is “in the interest of the public.” Vacations must be approved by city council resolution. Petitions for vacation are not subject to the 60-day rule.

The notice for the public hearing was published in the city's official newspapers and was mailed to neighboring properties.

At the 05-02-18 meeting, the council decided to continue the decision regarding vacating the drainage easement and directed the city engineer and city attorney to draft an agreement to relocate the drainage easement along the western border of the property for consideration at a special meeting. Attached is a resolution for the city council's consideration. Also attached are related documents.

Key Dates:

Vacation Petition Received:	April 16, 2018
Notice of Public Hearing Published:	April 18 and 25, 2018
City Council Public Hearing:	May 2, 2018
City Council Special Meeting:	May 30, 2018

Council Action: Council action is required. Below are suggested motions.

1. I move the city council adopts resolution 11-18 **approving** the vacation of the public drainage easement over and across the westerly 10 feet of Lot 1, Meadville Park, Hennepin County, Minnesota.
2. I move the city council **denies** the request to vacate the public drainage easement over and across the westerly 10 feet of Lot 1, Meadville Park, Hennepin County, Minnesota for the following reason(s): _____.

Dale Cooney

From: Nancy Warner <nwarner@walser.com>
Sent: Monday, April 16, 2018 11:48 AM
To: dalec@mediacombb.net
Cc: Nancy Lenzen; bob@youngwalser.net; Nancy
Subject: Easement vacation

Good morning,

I'm writing to request that the easement be vacated on the property at 4900 Meadville. Bob Walser and I are the owners of the property and will cover the costs associated with vacating the easement.

Thank you,
Nancy Warner

Nancy Warner

Foundation Director
Walser Foundation
7700 France. Ave. South, Suite 410N
Edina, MN 55435

Office: 952-345-4058

Cell: 612-599-7151

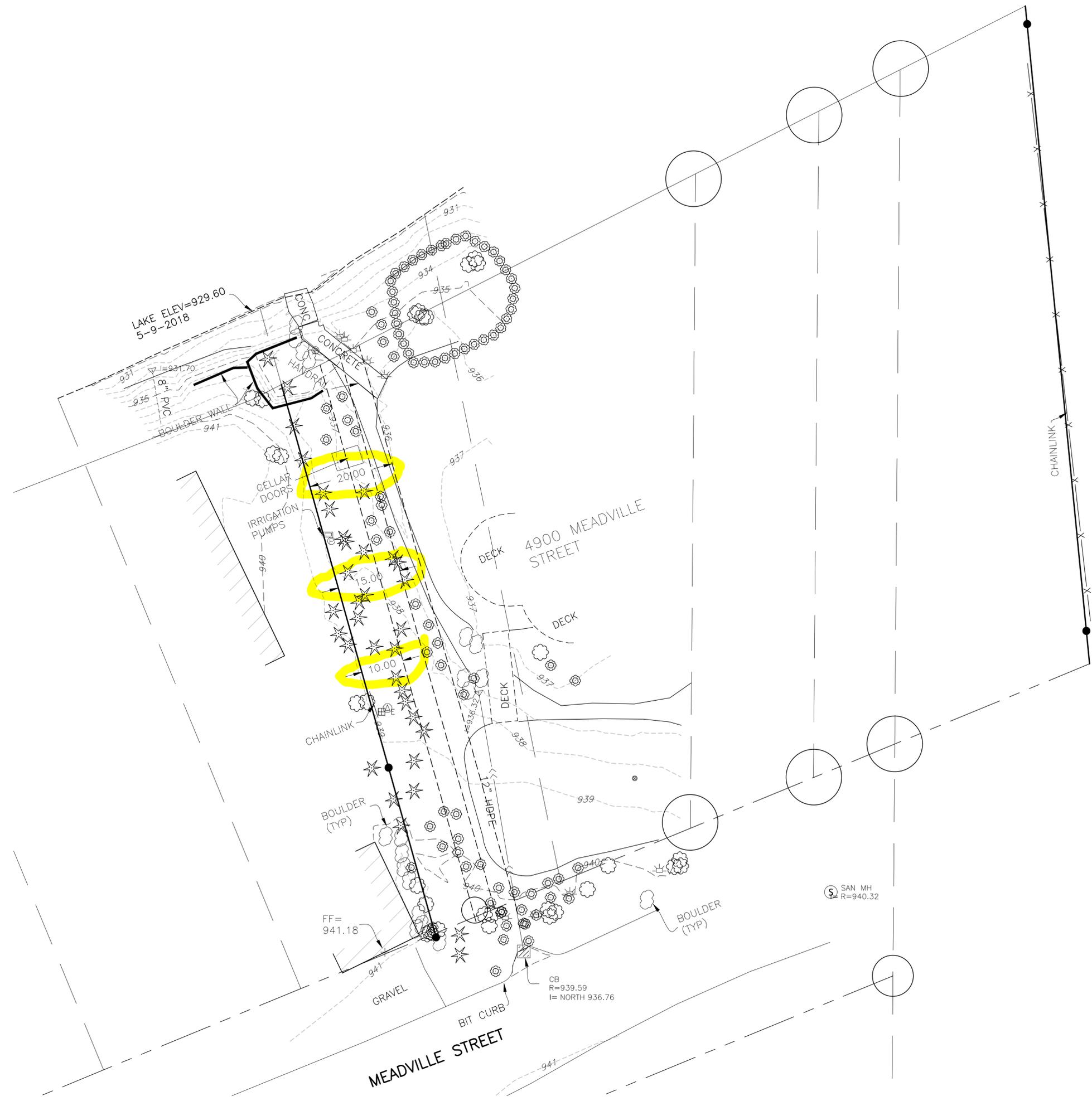
Fax: 952-238-1271

nwarner@walser.com | www.walser.com



Walser Automotive Group Confidentiality Notice:

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LAKE ELEV=929.60
5-9-2018

8" PVC
I=931.70

BOULDER WALL
941

CELLAR DOORS
IRRIGATION PUMPS

20.00

5.00

10.00

CHAINLINK

BOULDER (TYP)

FF=941.18

GRAVEL

BIT CURB

MEADVILLE STREET

DECK 4900 MEADVILLE STREET

DECK

DECK

2" HDPE

CB
R=939.59
I=NORTH 936.76

BOULDER (TYP)

SAN MH
R=940.32

CHAINLINK

**MINUTES OF ACTION
OF
THE BOARD OF DIRECTORS OF
NWW INVESTMENTS, LLC**

**RESOLUTION APPROVING PETITION TO THE CITY
OF GREENWOOD, MINNESOTA FOR THE VACATION OF A PUBLIC
DRAINAGE EASEMENT**

WHEREAS, NWW INVESTMENTS, LLC is co-owner with RNW ASSOCIATES, LLC of real property commonly known as 4900 Meadville Street, Greenwood, Minnesota (hereinafter "the Property"); and

WHEREAS, the property is burdened by a Public Drainage Easement over and across a portion of same, created by Quit Claim Deed of Robert John Walser in favor of the City of Greenwood, a Municipal Corporation dated June 24, 1977 and filed of record in the Office of the Hennepin County Recorder as Document 4300278 (hereinafter "the Easement"); and

WHEREAS, the Easement bisects improvements upon the property and cloud on the title; and

WHEREAS, it is in the best interest of the company to request of the City of Greenwood, Minnesota, the vacation of the Easement;

NOW, THEREFORE, BE IT RESOLVED, by the Board of Directors of NWW INVESTMENTS, LLC that its Manager, Nancy Warner, acting on behalf of the Company, petition the City of Greenwood, Minnesota for the vacation of the Easement.

FURTHER RESOLVED, that the Manager, Nancy Warner, take all actions and sign all documents necessary to effectuate the intent of this Resolution.

**RESOLUTION APPROVING GRANT OF A DRAINAGE AND UTILITY
EASEMENT TO THE CITY
OF GREENWOOD, MINNESOTA**

WHEREAS, NWW INVESTMENTS, LLC is co-owner with RNW ASSOCIATES, LLC of real property commonly known as 4900 Meadville Street, Greenwood, Minnesota (hereinafter "the Property"); and

WHEREAS, the property is burdened by a Public Drainage Easement over and across a portion of same, created by Quit Claim Deed of Robert W. Walser in favor of the City of Greenwood, a Municipal Corporation dated June 24, 1977 and filed of record in the Office of the Hennepin County Recorder as Document 4300278 (hereinafter "the easement"); and

WHEREAS, the Easement bisects existing improvements upon the property and cloud on the title; and

WHEREAS, the company has requested of the City of Greenwood, Minnesota, the vacation of the Easement; and

WHEREAS, the City of Greenwood, Minnesota, as a condition precedent to the vacation of the Easement, requires the company, together with property co-owner RNW Associates, LLC, to dedicate a new, alternate, public drainage easement over and across the Property, in favor of the city in form as set forth in attached Exhibit "A" (hereinafter "the new drainage easement"); and

WHEREAS, the new drainage easement bisects the property at a location that does not conflict with existing structures and improvements upon the Property; and

WHEREAS, the terms of the new drainage easement (Exhibit "A") have been reviewed and found to be reasonable and acceptable to the company as stated; and

WHEREAS, it is in the best interest of the company to agree to the grant of the new drainage easement to the City of Greenwood, Minnesota as stated in Exhibit "A".

NOW, THEREFORE, BE IT RESOLVED, by the Board of Directors of NWW INVESTMENTS, LLC that its Manager, Nancy Warner, acting on behalf of the Company, execute the new drainage easement in favor of the City of Greenwood, Minnesota.

FURTHER RESOLVED, that the Manager, Nancy Warner, take all action and sign all documents necessary to effectuate the intent of this Resolution and otherwise cooperate with the city of Greenwood, Minnesota hereon.

Adopted by the Board of Directors of NWW INVESTMENTS, LLC this ____ day of _____, 2018.

By _____
Nancy Warner
Sole Director/Governor of the Company

EXHIBIT A

[The space above is reserved for recording data]

DRAINAGE AND UTILITIES EASEMENT AGREEMENT

THIS DRAINAGE AND UTILITIES EASEMENT AGREEMENT (the "Agreement") is entered into this ____ day of _____, 2018, by and among The City of Greenwood, Minnesota, a public body corporate and politic under the laws of the State of Minnesota (hereinafter "City" or "Grantee"), and NWW INVESTMENTS, LLC, A Minnesota limited liability company, 2305 Oliver Avenue South, Minneapolis, MN 55405, owner of an undivided one-half (1/2) interest in and to the property described in attached Exhibit "A", and RNW ASSOCIATES, LLC, a Minnesota limited liability company, 2308 Fremont Avenue South, Minneapolis, MN 55405, owner of an undivided one-half (1/2) interest in and to the property described in attached Exhibit "A", (hereinafter the "Owners" or "Grantors"). The City and the Grantor(s) shall be referred to herein each as a "party" and collectively as the "Parties".

RECITALS:

1. The City holds a public right of way interest in the public street commonly known and dedicated as Meadville Street, in Meadville Park, Hennepin County, Minnesota (the "City Property").

2. The Grantors are the fee owners of property commonly known as 4900 Meadville Street, Greenwood, Minnesota 55331, legally described in Exhibit A attached hereto and made a party hereof (the "Grantor's Property").
3. The Grantor's Property is subject to a natural flowage of water emanating from property lying to the east, south and west, which flows over and across the Grantor's property to the waters of Lake Minnetonka, (hereinafter "the Lake"). The legal description of the flowage/drainage is set forth on attached Exhibit "B" (hereinafter the "Grantor's Easement Area").
4. The City and the Grantors wish by this Agreement to establish a permanent drainage and utility easement over and across the Grantor's property coincident with the flowage/drainage described above over the property described in attached Exhibit "B".

AGREEMENTS:

NOW, THEREFORE, in consideration of the foregoing Recitals, which are incorporated herein and adopted as if set forth hereat in full, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Consideration. The Grantors hereby acknowledge receipt of One Dollar (\$1.00) and other good and valuable consideration to them in hand paid by the City as and for the Agreements herein.
2. Grant of Easement from the Grantors to the City. The Grantors hereby grant to the City, its successors and assigns, a continuing easement to enter on, over, and across the Grantor's Easement Area, legally described in Exhibit B, for the purposes of construction, maintenance, repair, and

reconstruction of any drainage and any utility improvements, adequate to drain, manage and direct storm water and snow melt across the Grantors' Easement Area, and for placement of drainage and utility easement related signage, and such other public utilities (both existing and future municipal utility needs as the City may determine necessary from time to time), and other public purposes as the City may from time to time determine necessary in the interests of public health, safety or welfare ("City Easement"). The City Easement is a permanent easement for the benefit of the City and general public.

3. Prohibition Against Unreasonable Interference and Obstructions. Each Party's use of the Grantor's Easement Area shall not unreasonably interfere with the other Party's use of the Grantor's Easement Area. Except as permitted hereunder, no fence, obstruction, structure, improvement or other barrier shall be erected, permitted or maintained within or across the City Easement Area, which would prevent or obstruct the flow of water over, across or through same of said Easement or which would interfere with construction, installation, repair and maintenance, or restoration of City Easement, including the improvements thereto, now or in the future. The foregoing shall not prohibit the temporary erection of barricades in the Grantor's Easement Area by the City, which are reasonably necessary for security, and/or safety purposes in connection with the construction, reconstruction, repair, maintenance, or operation of the drainage and utility improvements, or other improvements in and about the Grantor's Easement Area. The foregoing shall not prohibit the placement by the Grantors of movable personal property in the Grantor's Easement Area on a temporary basis in conjunction with the use and enjoyment of the Grantor's property, all of which property Grantors agree to remove within three days on written demand from the City, if same is deemed an obstruction to flowage or repair and/or maintenance.

4. Construction of Drainage and Utility Improvements. The City has determined no drainage and utility improvements are presently needed over and across the Grantor's Easement Area, but reserves the right to construct improvements in the Grantor's Easement Area to maintain the functionality of the drainage and utility easement, including but not limited to the flow of water over and across the City Easement.
5. Maintenance of Drainage and Utility Improvements. The Grantee agrees to keep City Easement in a safe, clean and good state of repair and condition, reasonably free of personal property, debris, and accumulations of leaves, or other obstructions which may impact or obstruct the free flow of storm water or snow melt to be managed by the City's improvements made within the Grantor's Easement Area.
6. Payment of Costs of Construction and Maintenance. The future costs of construction and maintenance of the drainage and utility improvements, and related improvements, if any, made within the Grantor's Easement Area shall be paid by the City, except for activities listed in 5 above.
7. Notice of Construction and Maintenance Activities. The City shall provide reasonable advance notice in writing to the Grantors, except in the event of an emergency, in which case notice shall be given as soon as reasonably practical, of any construction, inspection, maintenance, repair, alteration, replacement, or reconstruction activities it plans to conduct in the Grantor Easement Area that will temporarily impair use of the Grantor's Easement Area. Upon 48 hours of delivery of notice, City may act.
8. [Reserved]

9. Amendment and Termination. This Agreement may not be amended or terminated, except by an instrument in writing, signed by the Parties, and duly recorded in the real estate records of Hennepin County, Minnesota, and any such attempted amendment or termination without all such signatures shall be of no force or effect, provided, that in the event of exigent circumstances, the City may terminate this Agreement for cause in the interest of the public health, safety or welfare, including public travel, and/or public utilities.

10. Notices. Notices or demands required or permitted given hereunder shall be given by certified mail, return receipt requested, addressed as follows:

If to the Grantor: NWW INVESTMENTS, LLC
2305 Oliver Avenue South
Minneapolis, MN 55405
Attention: Nancy Warner

-and-

RNW ASSOCIATES, LLC
2308 Fremont Avenue South
Minneapolis, MN 55405
Attention: Robert Y. Walser

If to the City: City of Greenwood
20225 Cottagewood Road
Deephaven, MN 55331
Attention: City Clerk

Or such other address as specified in writing by the Parties to one another.

11. Easement Runs With and Benefits Land. The easement granted in this Agreement shall be perpetual and shall run with the land and shall

bind the Parties hereto and their successors and assigns as owners of the Properties.

12. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which together shall constitute one single instrument.
13. Entirety. This Agreement states in full the entirety of the Agreement of the parties and there are no other understandings, or other written or oral agreements.
14. Captions. The captions or paragraphs of this Agreement are for convenience only and are not intended to affect the interpretation or construction of the provisions herein contained.
15. Singular and Plural. Whenever required by the context of this Agreement, the singular shall include the plural, and vice versa, and the masculine shall include the feminine and neuter genders, and vice versa.
16. Severability. If any term, provision or condition contained in this Agreement shall to any extent be invalid or unenforceable, the remainder of this Agreement or the application of such term, provision or condition to persons or circumstances other than those in respect of which it is invalid or unenforceable, shall not be affected thereby and each term, provision or condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
17. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

GRANTORS:

NWW INVESTMENTS, LLC

by _____
Nancy Warner
Its Chief Manager, President
And Secretary

RNW ASSOCIATES, LLC

by _____
Robert Y. Walser
Its Chief Manager, President
And Secretary

STATE OF MINNESOTA)
)SS.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2018, by Nancy Warner as Chief Manager, President, and as Secretary of NWW Investments, LLC. on behalf of the company.

(Seal)

Notary Public

STATE OF MINNESOTA)
)SS.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2018, by Robert Y. Walser as Chief Manager, President, and Secretary of RNW Associates, LLC. on behalf of the company.

(Seal)

Notary Public

GRANTEE:
CITY OF GREENWOOD, MINNESOTA

By _____
Debra J. Kind,
Mayor of City of Greenwood,
Minnesota

By _____
Dana Young, City Clerk of
City of Greenwood, Minnesota

STATE OF MINNESOTA)
)SS.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2018, by Debra J. Kind, the Mayor and Dana Young, the Clerk of the City of Greenwood, a public body corporate and politic under the laws of the State of Minnesota, on behalf of the public body.

(Seal)

Notary Public

THIS INSTRUMENT DRAFTED BY:
Kelly Law Offices
7975 Stone Creek Drive, Suite 120
Chanhassen, Minnesota 55317

EXHIBIT "A"

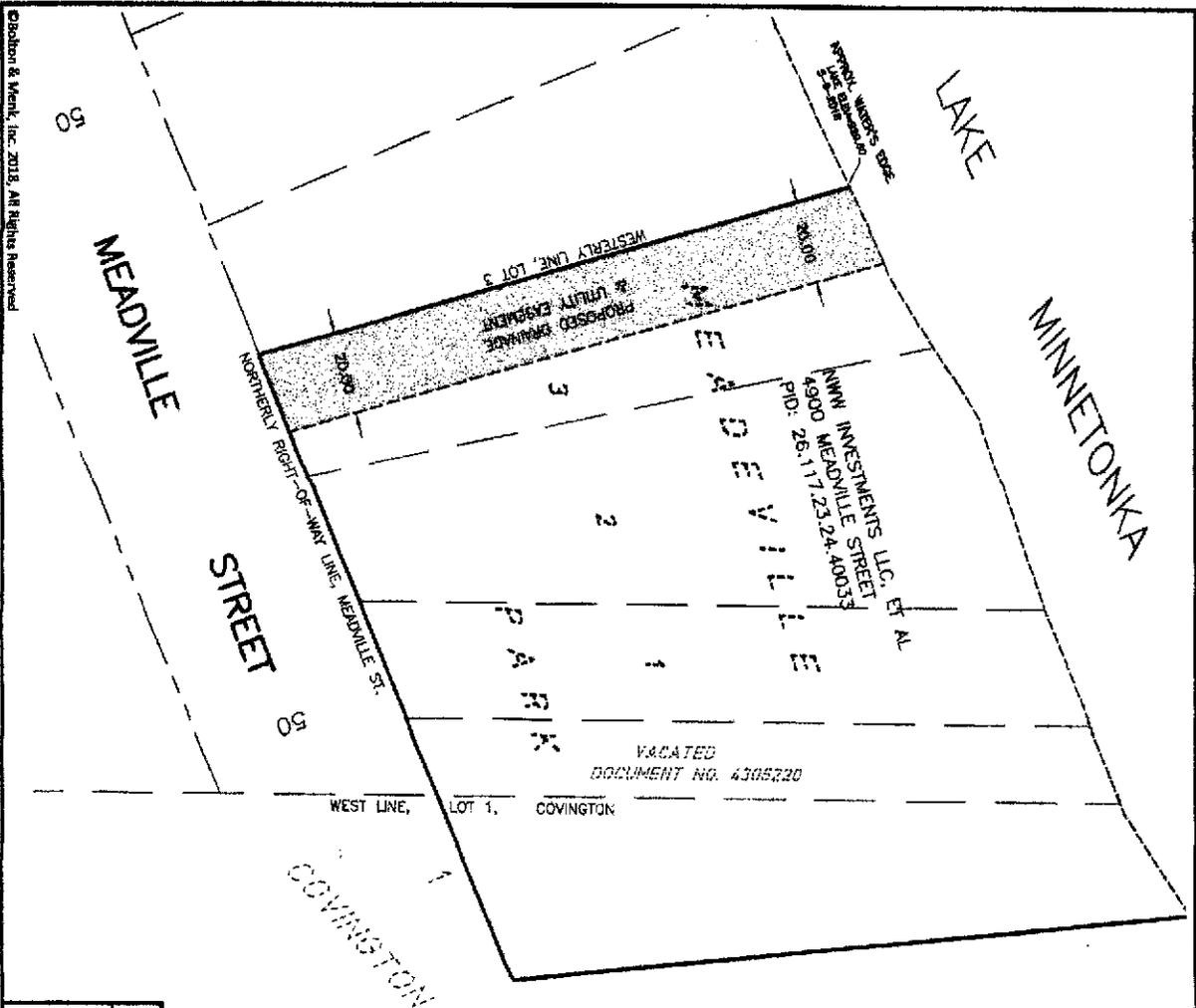
Legal Description

Lots 1, 2, and 3, "Meadville Park," Hennepin County, Minnesota, including the adjacent vacated street, and also that part of Lot 1, Covington, in the Town of Excelsior, described as follows: Beginning at the point of intersection of the West line of said Lot 1, Covington, with the Northeasterly extension of the Southerly line of said Lot 1, Meadville Park; thence Northeasterly along said extension of distance of 49.80 feet; thence deflecting left 74 degrees 24 minutes 50 seconds and running Northwesterly to the shore of Lake Minnetonka; thence Southwesterly along said shore to the intersection of the West line of said Lot 1, Covington, and its extensions; thence South along said West line to the point of beginning; according to the plat thereof on file or of record in the Office of the Register of Deeds in and for said county.

[Part Abstract Property and Part Registered Property]

[Certificate of Title No. 1461342]

[PID No. 26-117-23 24-0033]



Bolton & Menk, Inc. 2018. All Rights Reserved
 H:\GEMW\1231161161\CAD\CAD\4900 Meadville.dwg 5/15/2018 5:58 PM

PROPOSED EASEMENT DESCRIPTION

A permanent easement for drainage and utility purposes over, under and across the westerly 20.00 feet of Lot 3, MEADVILLE PARK, according to the recorded plat thereof, Hennepin County, Minnesota. The sidelines of said easement are to be shortened or extended as necessary to terminate at the northerly right-of-way line of Meadville Street (50.00 foot wide, public) and the shoreline of Lake Minnetonka, respectively.

Subject to easements and restrictions of record, if any.

NOTES:

1. Lot 3, MEADVILLE PARK is part of a larger parcel of land (PID: 2611723240033) and is per Certificate of Title No. 1461342.
2. Easterly line of proposed easement measured at right angles to west line, Lot 3.

SURVEYOR'S CERTIFICATION

I hereby certify 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.

Edward J. Wood III
 Edward J. Wood III
 License Number 43810

05/15/2018
 Date

 BOLTON & MENK	EASEMENT EXHIBIT 4900 MEADVILLE ST., GREENWOOD, MN	2698 SHADOW LANE, SUITE 200 CHASKA, MINNESOTA 55318 (952) 448-8888	PROPOSED DRAINAGE & UTILITY EASEMENT 4900 MEADVILLE STREET PID: 2611723240033
	JOB NUMBER: C3.115415 FIELD BOOK:	DRAWN BY:	FOR: MMW INVESTMENTS LLC, ET AL CITY OF GREENWOOD

EXHIBIT B

**MINUTES OF ACTION
OF
THE BOARD OF DIRECTORS OF
RNW ASSOCIATES, LLC**

**RESOLUTION APPROVING PETITION TO THE CITY
OF GREENWOOD, MINNESOTA FOR THE VACATION OF A PUBLIC
DRAINAGE EASEMENT**

WHEREAS, RNW ASSOCIATES, LLC is co-owner with NWW INVESTMENTS, LLC of real property commonly known as 4900 Meadville Street, Greenwood, Minnesota (hereinafter "the Property"); and

WHEREAS, the property is burdened by a Public Drainage Easement over and across a portion of same, created by Quit Claim Deed of Robert John Walser in favor of the City of Greenwood, a Municipal Corporation dated June 24, 1977 and filed of record in the Office of the Hennepin County Recorder as Document 4300278 (hereinafter "the Easement"); and

WHEREAS, the Drainage Easement bisects improvements upon the property and cloud on the title; and

WHEREAS, it is in the best interest of the company to request of the City of Greenwood, Minnesota, the vacation of the Easement;

NOW, THEREFORE, BE IT RESOLVED, by the Board of Directors of RNW ASSOCIATES, LLC that its Manager, Robert Y. Walser, acting on behalf of the Company, petition the City of Greenwood, Minnesota for the vacation of the Easement.

FURTHER RESOLVED, that the Manager, Robert Y. Walser, take all action and sign all documents necessary to effectuate the intent of this Resolution.

**RESOLUTION APPROVING GRANT OF A DRAINAGE AND UTILITY
EASEMENT TO THE CITY
OF GREENWOOD, MINNESOTA**

WHEREAS, RNW ASSOCIATES, LLC is co-owner with NWW INVESTMENTS, LLC of real property commonly known as 4900 Meadville Street, Greenwood, Minnesota (hereinafter "the Property"); and

WHEREAS, the property is burdened by a Public Drainage Easement over and across a portion of same, created by Quit Claim Deed of Robert W. Walser in

favor of the City of Greenwood, a Municipal Corporation dated June 24, 1977 and filed of record in the Office of the Hennepin County Recorder as Document 4300278 (hereinafter "the easement"); and

WHEREAS, the Easement bisects existing improvements upon the property and cloud on the title; and

WHEREAS, the company has requested of the City of Greenwood, Minnesota, the vacation of the Easement; and

WHEREAS, the City of Greenwood, Minnesota, as a condition precedent to the vacation of the easement, requires the company, together with property co-owner of NWW INVESTMENTS, LLC, to dedicate a new, alternate, public drainage easement over and across the Property, in favor of the city in form as set forth in attached Exhibit "A" (hereinafter "the new drainage easement"); and

WHEREAS, the new drainage easement bisects the property at a location that does not conflict with existing structures upon the property; and

WHEREAS, the terms of the new drainage easement (Exhibit "A") have been reviewed and found to be reasonable and acceptable to the company as stated; and

WHEREAS, it is in the best interest of the company to agree to the grant of the new drainage easement to the City of Greenwood, Minnesota, as stated in Exhibit "A".

NOW, THEREFORE, BE IT RESOLVED, by the Board of Directors of RNW ASSOCIATES, LLC that its Manager, Robert Y. Walser, acting on behalf of the Company, execute the new drainage easement, in form attached hereto as Exhibit "A", in favor of the City of Greenwood, Minnesota.

FURTHER RESOLVED, that the Manager, Robert Y. Walser, take all steps and sign all documents necessary to effectuate the intent of this Resolution and otherwise cooperate with the city of Greenwood, Minnesota hereon.

Adopted by the Board of Directors of RNW ASSOCIATES, LLC this _____ day of _____, 2018.

By _____
Robert Y. Walser
Sole Director/Governor of the Company

EXHIBIT A

[The space above is reserved for recording data]

DRAINAGE AND UTILITIES EASEMENT AGREEMENT

THIS DRAINAGE AND UTILITIES EASEMENT AGREEMENT (the "Agreement") is entered into this ____ day of _____, 2018, by and among The City of Greenwood, Minnesota, a public body corporate and politic under the laws of the State of Minnesota (hereinafter "City" or "Grantee"), and NWW INVESTMENTS, LLC, A Minnesota limited liability company, 2305 Oliver Avenue South, Minneapolis, MN 55405, owner of an undivided one-half (1/2) interest in and to the property described in attached Exhibit "A", and RNW ASSOCIATES, LLC, a Minnesota limited liability company, 2308 Fremont Avenue South, Minneapolis, MN 55405, owner of an undivided one-half (1/2) interest in and to the property described in attached Exhibit "A", (hereinafter the "Owners" or "Grantors"). The City and the Grantor(s) shall be referred to herein each as a "party" and collectively as the "Parties".

RECITALS:

1. The City holds a public right of way interest in the public street commonly known and dedicated as Meadville Street, in Meadville Park, Hennepin County, Minnesota (the "City Property").

2. The Grantors are the fee owners of property commonly known as 4900 Meadville Street, Greenwood, Minnesota 55331, legally described in Exhibit A attached hereto and made a party hereof (the "Grantor's Property").
3. The Grantor's Property is subject to a natural flowage of water emanating from property lying to the east, south and west, which flows over and across the Grantor's property to the waters of Lake Minnetonka, (hereinafter "the Lake"). The legal description of the flowage/drainage is set forth on attached Exhibit "B" (hereinafter the "Grantor's Easement Area").
4. The City and the Grantors wish by this Agreement to establish a permanent drainage and utility easement over and across the Grantor's property coincident with the flowage/drainage described above over the property described in attached Exhibit "B".

AGREEMENTS:

NOW, THEREFORE, in consideration of the foregoing Recitals, which are incorporated herein and adopted as if set forth hereat in full, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Consideration. The Grantors hereby acknowledge receipt of One Dollar (\$1.00) and other good and valuable consideration to them in hand paid by the City as and for the Agreements herein.
2. Grant of Easement from the Grantors to the City. The Grantors hereby grant to the City, its successors and assigns, a continuing easement to enter on, over, and across the Grantor's Easement Area, legally described in Exhibit B, for the purposes of construction, maintenance, repair, and

reconstruction of any drainage and any utility improvements, adequate to drain, manage and direct storm water and snow melt across the Grantors' Easement Area, and for placement of drainage and utility easement related signage, and such other public utilities (both existing and future municipal utility needs as the City may determine necessary from time to time), and other public purposes as the City may from time to time determine necessary in the interests of public health, safety or welfare ("City Easement"). The City Easement is a permanent easement for the benefit of the City and general public.

3. Prohibition Against Unreasonable Interference and Obstructions. Each Party's use of the Grantor's Easement Area shall not unreasonably interfere with the other Party's use of the Grantor's Easement Area. Except as permitted hereunder, no fence, obstruction, structure, improvement or other barrier shall be erected, permitted or maintained within or across the City Easement Area, which would prevent or obstruct the flow of water over, across or through same of said Easement or which would interfere with construction, installation, repair and maintenance, or restoration of City Easement, including the improvements thereto, now or in the future. The foregoing shall not prohibit the temporary erection of barricades in the Grantor's Easement Area by the City, which are reasonably necessary for security, and/or safety purposes in connection with the construction, reconstruction, repair, maintenance, or operation of the drainage and utility improvements, or other improvements in and about the Grantor's Easement Area. The foregoing shall not prohibit the placement by the Grantors of movable personal property in the Grantor's Easement Area on a temporary basis in conjunction with the use and enjoyment of the Grantor's property, all of which property Grantors agree to remove within three days on written demand from the City, if same is deemed an obstruction to flowage or repair and/or maintenance.

4. Construction of Drainage and Utility Improvements. The City has determined no drainage and utility improvements are presently needed over and across the Grantor's Easement Area, but reserves the right to construct improvements in the Grantor's Easement Area to maintain the functionality of the drainage and utility easement, including but not limited to the flow of water over and across the City Easement.
5. Maintenance of Drainage and Utility Improvements. The Grantee agrees to keep City Easement in a safe, clean and good state of repair and condition, reasonably free of personal property, debris, and accumulations of leaves, or other obstructions which may impact or obstruct the free flow of storm water or snow melt to be managed by the City's improvements made within the Grantor's Easement Area.
6. Payment of Costs of Construction and Maintenance. The future costs of construction and maintenance of the drainage and utility improvements, and related improvements, if any, made within the Grantor's Easement Area shall be paid by the City, except for activities listed in 5 above.
7. Notice of Construction and Maintenance Activities. The City shall provide reasonable advance notice in writing to the Grantors, except in the event of an emergency, in which case notice shall be given as soon as reasonably practical, of any construction, inspection, maintenance, repair, alteration, replacement, or reconstruction activities it plans to conduct in the Grantor Easement Area that will temporarily impair use of the Grantor's Easement Area. Upon 48 hours of delivery of notice, City may act.
8. [Reserved]

9. Amendment and Termination. This Agreement may not be amended or terminated, except by an instrument in writing, signed by the Parties, and duly recorded in the real estate records of Hennepin County, Minnesota, and any such attempted amendment or termination without all such signatures shall be of no force or effect, provided, that in the event of exigent circumstances, the City may terminate this Agreement for cause in the interest of the public health, safety or welfare, including public travel, and/or public utilities.

10. Notices. Notices or demands required or permitted given hereunder shall be given by certified mail, return receipt requested, addressed as follows:

If to the Grantor: NWW INVESTMENTS, LLC
2305 Oliver Avenue South
Minneapolis, MN 55405
Attention: Nancy Warner

-and-

RNW ASSOCIATES, LLC
2308 Fremont Avenue South
Minneapolis, MN 55405
Attention: Robert Y. Walser

If to the City: City of Greenwood
20225 Cottagewood Road
Deephaven, MN 55331
Attention: City Clerk

Or such other address as specified in writing by the Parties to one another.

11. Easement Runs With and Benefits Land. The easement granted in this Agreement shall be perpetual and shall run with the land and shall

bind the Parties hereto and their successors and assigns as owners of the Properties.

12. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which together shall constitute one single instrument.
13. Entirety. This Agreement states in full the entirety of the Agreement of the parties and there are no other understandings, or other written or oral agreements.
14. Captions. The captions or paragraphs of this Agreement are for convenience only and are not intended to affect the interpretation or construction of the provisions herein contained.
15. Singular and Plural. Whenever required by the context of this Agreement, the singular shall include the plural, and vice versa, and the masculine shall include the feminine and neuter genders, and vice versa.
16. Severability. If any term, provision or condition contained in this Agreement shall to any extent be invalid or unenforceable, the remainder of this Agreement or the application of such term, provision or condition to persons or circumstances other than those in respect of which it is invalid or unenforceable, shall not be affected thereby and each term, provision or condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
17. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

GRANTORS:

NWW INVESTMENTS, LLC

by _____
Nancy Warner
Its Chief Manager, President
And Secretary

RNW ASSOCIATES, LLC

by _____
Robert Y. Walser
Its Chief Manager, President
And Secretary

STATE OF MINNESOTA)
)SS.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2018, by Nancy Warner as Chief Manager, President, and as Secretary of NWW Investments, LLC. on behalf of the company.

(Seal)

Notary Public

EXHIBIT "A"

Legal Description

Lots 1, 2, and 3, "Meadville Park," Hennepin County, Minnesota, including the adjacent vacated street, and also that part of Lot 1, Covington, in the Town of Excelsior, described as follows: Beginning at the point of intersection of the West line of said Lot 1, Covington, with the Northeasterly extension of the Southerly line of said Lot 1, Meadville Park; thence Northeasterly along said extension of distance of 49.80 feet; thence deflecting left 74 degrees 24 minutes 50 seconds and running Northwesterly to the shore of Lake Minnetonka; thence Southwesterly along said shore to the intersection of the West line of said Lot 1, Covington, and its extensions; thence South along said West line to the point of beginning; according to the plat thereof on file or of record in the Office of the Register of Deeds in and for said county.

[Part Abstract Property and Part Registered Property]

[Certificate of Title No. 1461342]

[PID No. 26-117-23 24-0033]

[The space above is reserved for recording data]

DRAINAGE AND UTILITIES EASEMENT AGREEMENT

THIS DRAINAGE AND UTILITIES EASEMENT AGREEMENT (the "Agreement") is entered into this ____ day of _____, 2018, by and among The City of Greenwood, Minnesota, a public body corporate and politic under the laws of the State of Minnesota (hereinafter "City" or "Grantee"), and NWW INVESTMENTS, LLC, A Minnesota limited liability company, 2305 Oliver Avenue South, Minneapolis, MN 55405, owner of an undivided one-half (1/2) interest in and to the property described in attached Exhibit "A", and RNW ASSOCIATES, LLC, a Minnesota limited liability company, 2308 Fremont Avenue South, Minneapolis, MN 55405, owner of an undivided one-half (1/2) interest in and to the property described in attached Exhibit "A", (hereinafter the "Owners" or "Grantors"). The City and the Grantor(s) shall be referred to herein each as a "party" and collectively as the "Parties".

RECITALS:

1. The City holds a public right of way interest in the public street commonly known and dedicated as Meadville Street, in Meadville Park, Hennepin County, Minnesota (the "City Property").

2. The Grantors are the fee owners of property commonly known as 4900 Meadville Street, Greenwood, Minnesota 55331, legally described in Exhibit A attached hereto and made a party hereof (the "Grantor's Property").
3. The Grantor's Property is subject to a natural flowage of water emanating from property lying to the east, south and west, which flows over and across the Grantor's property to the waters of Lake Minnetonka, (hereinafter "the Lake"). The legal description of the flowage/drainage is set forth on attached Exhibit "B" (hereinafter the "Grantor's Easement Area").
4. The City and the Grantors wish by this Agreement to establish a permanent drainage and utility easement over and across the Grantor's property coincident with the flowage/drainage described above over the property described in attached Exhibit "B".

AGREEMENTS:

NOW, THEREFORE, in consideration of the foregoing Recitals, which are incorporated herein and adopted as if set forth hereat in full, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Consideration. The Grantors hereby acknowledge receipt of One Dollar (\$1.00) and other good and valuable consideration to them in hand paid by the City as and for the Agreements herein.
2. Grant of Easement from the Grantors to the City. The Grantors hereby grant to the City, its successors and assigns, a continuing easement to enter on, over, and across the Grantor's Easement Area, legally described in Exhibit B, for the purposes of construction, maintenance, repair, and

reconstruction of any drainage and any utility improvements, adequate to drain, manage and direct storm water and snow melt across the Grantors' Easement Area, and for placement of drainage and utility easement related signage, and such other public utilities (both existing and future municipal utility needs as the City may determine necessary from time to time), and other public purposes as the City may from time to time determine necessary in the interests of public health, safety or welfare ("City Easement"). The City Easement is a permanent easement for the benefit of the City and general public.

3. Prohibition Against Unreasonable Interference and Obstructions. Each Party's use of the Grantor's Easement Area shall not unreasonably interfere with the other Party's use of the Grantor's Easement Area. Except as permitted hereunder, no fence, obstruction, structure, improvement or other barrier shall be erected, permitted or maintained within or across the City Easement Area, which would prevent or obstruct the flow of water over, across or through same of said Easement or which would interfere with construction, installation, repair and maintenance, or restoration of City Easement, including the improvements thereto, now or in the future. The foregoing shall not prohibit the temporary erection of barricades in the Grantor's Easement Area by the City, which are reasonably necessary for security, and/or safety purposes in connection with the construction, reconstruction, repair, maintenance, or operation of the drainage and utility improvements, or other improvements in and about the Grantor's Easement Area. The foregoing shall not prohibit the placement by the Grantors of movable personal property in the Grantor's Easement Area on a temporary basis in conjunction with the use and enjoyment of the Grantor's property, all of which property Grantors agree to remove within three days on written demand from the City, if same is deemed an obstruction to flowage or repair and/or maintenance.

4. Construction of Drainage and Utility Improvements. The City has determined no drainage and utility improvements are presently needed over and across the Grantor's Easement Area, but reserves the right to construct improvements in the Grantor's Easement Area to maintain the functionality of the drainage and utility easement, including but not limited to the flow of water over and across the City Easement.

5. Maintenance of Drainage and Utility Improvements. The Grantee agrees to keep City Easement in a safe, clean and good state of repair and condition, reasonably free of personal property, debris, and accumulations of leaves, or other obstructions which may impact or obstruct the free flow of storm water or snow melt to be managed by the City's improvements made within the Grantor's Easement Area.

6. Payment of Costs of Construction and Maintenance. The future costs of construction and maintenance of the drainage and utility improvements, and related improvements, if any, made within the Grantor's Easement Area shall be paid by the City, except for activities listed in 5 above.

7. Notice of Construction and Maintenance Activities. The City shall provide reasonable advance notice in writing to the Grantors, except in the event of an emergency, in which case notice shall be given as soon as reasonably practical, of any construction, inspection, maintenance, repair, alteration, replacement, or reconstruction activities it plans to conduct in the Grantor Easement Area that will temporarily impair use of the Grantor's Easement Area. Upon 48 hours of delivery of notice, City may act.

8. [Reserved]

9. Amendment and Termination. This Agreement may not be amended or terminated, except by an instrument in writing, signed by the Parties, and duly recorded in the real estate records of Hennepin County, Minnesota, and any such attempted amendment or termination without all such signatures shall be of no force or effect, provided, that in the event of exigent circumstances, the City may terminate this Agreement for cause in the interest of the public health, safety or welfare, including public travel, and/or public utilities.

10. Notices. Notices or demands required or permitted given hereunder shall be given by certified mail, return receipt requested, addressed as follows:

If to the Grantor: NWW INVESTMENTS, LLC
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Minneapolis, MN 55405
Attention: Nancy Warner

-and-

RNW ASSOCIATES, LLC
2308 Fremont Avenue South
Minneapolis, MN 55405
Attention: Robert Y. Walser

If to the City: City of Greenwood
20225 Cottagewood Road
Deephaven, MN 55331
Attention: City Clerk

Or such other address as specified in writing by the Parties to one another.

11. Easement Runs With and Benefits Land. The easement granted in this Agreement shall be perpetual and shall run with the land and shall

bind the Parties hereto and their successors and assigns as owners of the Properties.

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16. Severability. If any term, provision or condition contained in this Agreement shall to any extent be invalid or unenforceable, the remainder of this Agreement or the application of such term, provision or condition to persons or circumstances other than those in respect of which it is invalid or unenforceable, shall not be affected thereby and each term, provision or condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
17. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota.

STATE OF MINNESOTA)
)SS.
COUNTY OF Hennepin)

The foregoing instrument was acknowledged before me this 21 day of May, 2018, by Robert Y. Walser as Chief Manager, President, and Secretary of RNW Associates, LLC. on behalf of the company.



[Signature]
Notary Public

GRANTEE:
CITY OF GREENWOOD, MINNESOTA

By _____
Debra J. Kind,
Mayor of City of Greenwood,
Minnesota

By _____
Dana Young, City Clerk of
City of Greenwood, Minnesota

STATE OF MINNESOTA)
)SS.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2018, by Debra J. Kind, the Mayor and Dana Young, the Clerk of the City of Greenwood, a public body corporate and politic under the laws of the State of Minnesota, on behalf of the public body.

(Seal)

Notary Public

THIS INSTRUMENT DRAFTED BY:
Kelly Law Offices
7975 Stone Creek Drive, Suite 120
Chanhassen, Minnesota 55317



City of Greenwood, Minnesota Resolution 11-18

A RESOLUTION GRANTING PETITION TO VACATE A PUBLIC DRAINAGE EASEMENT OVER AND ACROSS LOT 1, MEADVILLE PARK, HENNEPIN COUNTY, MINNESOTA

WHEREAS, the City of Greenwood has received a petition from Nancy Warner, Manager of NWW INVESTMENTS, LLC., on behalf of NWW INVESTMENTS, LLC., 2305 Oliver Avenue South, Minneapolis, MN 55405, a Minnesota limited liability company, owner of real property commonly known as 4900 Meadville Street, Greenwood, Minnesota, legally described on attached Exhibit "A", on the 16th day of April, 2018; and

WHEREAS, the petition requested that the City Council pursuant to Minnesota Statutes § 412.211 vacate and release all right title and interest in and to that certain public drainage easement over and across real property legally described as Lot 1, Meadville Park, Hennepin County, Minnesota created by that certain quit claim deed issued by Robert John Walser in favor of the CITY OF GREENWOOD, a municipal corporation, dated June 24, 1977 and filed of record in the office of the Hennepin County Recorder as document number 4300278, being a portion of the real property described in Exhibit "A", (hereinafter the "Subject Property"); and as; and

WHEREAS, said public drainage easement is not a public street; and

WHEREAS, the City Clerk reviewed and examined the petition and determined that the signatures on said petition constituted the authorized representatives of the owner of record of the land in question; and

WHEREAS, a public hearing to consider the vacation of said public drainage easement was held on the 2nd day of May, 2018 at 7:00pm, before the City Council in the Deephaven City Hall at 20225 Cottagewood Road, Deephaven, Minnesota, after due published notice had been given, as well a personal mailed notice to all affected property owners by the City Zoning Administrator on the 17th day of April, 2018, including the Minnesota Department of Natural Resources, and all interested and affected persons were given an opportunity to voice their concerns and be heard; and

WHEREAS, given that the drainage easement in the petition terminates at public waters, notice of said petition was provided to the commissioner of the Department of Natural Resources,; and

WHEREAS, the Council in its discretion has determined that the vacation will benefit the public interest because:

- The public drainage easement under petition for vacation bisects an existing house located upon the subject property thereby negating the effectiveness of the original 1977 easement dedication; and
- The drainage needs of the subject property and of the neighboring community and the city of Greenwood, can be met if upon vacation of the 1977 easement, a new drainage and utility easement is dedicated over and across the westerly 20.00 feet of Lot 3, Meadville Park, Hennepin County, Minnesota as legally described on attached Exhibit "B"; and

WHEREAS, the petitioner, in exchange for approval of the instant petition for vacation, will grant to the city of Greenwood a drainage and utility easement, in the form attached hereto as Exhibit 'C', over and across the real property described in attached Exhibit "B";

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Greenwood, Hennepin County, Minnesota:

1. **That certain Public drainage easement in favor of the CITY OF GREENWOOD, MINNESOTA over and across the westerly 10 feet of Lot 1, Meadville Park, Hennepin County, Minnesota, legally described in that certain quit claim deed dated June 24, 1977, and filed of record in the office of the Hennepin County Recorder as document number 4300278, is hereby VACATED, upon the following conditions:**

A. Submission to the City Clerk by NWW INVESTMENTS, LLC., 2305 Oliver Avenue South, Minneapolis, MN 55405, a Minnesota limited liability company, owner of the Subject Property, of a signed and recordable drainage and utility agreement in favor of the city, over and across the real property described in attached Exhibit "B", in the form attached hereto as Exhibit "C".

BE IT FURTHER RESOLVED, that upon the full performance by petitioner, NWW INVESTMENTS, LLC., 2305 Oliver Avenue South, Minneapolis, MN 55405, of above condition 1A, the Mayor, City Clerk, and Zoning Administrator are hereby authorized to sign all documents necessary to effectuate the intent of this resolution, including but not limited to, execution of a quit claim deed releasing the public drainage easement described in Hennepin County Recorder document number 4300278 Exhibit "A", and the causing a notice of completion of proceedings to be prepared, entered in the transfer record of the Hennepin County Auditor, and filed with the Hennepin County Recorder, in accordance with Minnesota Statutes.

ADOPTED by the city council of Greenwood, Minnesota this ___ day of _____, 2018.

___ AYES ___ NAYS

CITY OF GREENWOOD

By: _____
Debra J. Kind, Mayor

Attest: _____
Dana H. Young, City Clerk