

**CITY OF LAKE ELMO  
WASHINGTON COUNTY  
STATE OF MINNESOTA**

**RESOLUTION NO. 2023-009**

*RESOLUTION VACATING A RIGHT-OF-WAY EASEMENT, A DRAINAGE AND UTILITY  
EASEMENT, AND A UTILITY EASEMENT IN RELATION TO THE DPS LAKE ELMO 3<sup>RD</sup>  
ADDITION PLAT*

**WHEREAS**, the City of Lake Elmo (the “City”) is a municipal corporation, organized and existing under the laws of Minnesota; and

**WHEREAS**, the City has received a request from SDR 2.0 LLC, a limited liability company (the “Applicant”) to vacate the Right-of-Way Easement that was granted by DPS-Lake Elmo, LLC to the City of Lake Elmo that is dated January 23, 2020 and was recorded with the Washington County Recorder on January 23, 2020 as Document No. 4228019 (the “Right-of-Way Easement”); and

**WHEREAS**, the right-of-way encumbered by the Right-of-Way Easement will be encumbered by a new right-of-way easement that will be dedicated to the City in the plat of DPS Lake Elmo 3<sup>rd</sup> Addition; and

**WHEREAS**, the City has also received a request from the Applicant to vacate the drainage and utility easement that is embedded within the Stormwater and Stormwater Quality Treatment Facility Maintenance and Easement Agreement dated February 4, 2020 between the City of Lake Elmo, Continental 483 Fund LLC, and DPS-Lake Elmo, LLC, recorded on April 10, 2020 with the Washington County Recorder as Document No. 4237924 as it relates to the DPS Parcel (Outlot B, DPS Lake Elmo) in the Agreement (the “Drainage and Utility Easement”); and

**WHEREAS**, because the DPS Parcel is being developed, the area to be encumbered by the drainage and utility easement in the Drainage and Utility Easement has changed; and

**WHEREAS**, the Applicant and the City will enter into a new stormwater and stormwater quality treatment facility maintenance and easement agreement with respect to the DPS 3<sup>rd</sup> Addition plat; and

**WHEREAS**, the City has also received a request from the Applicant to vacate the Utility Easement that was granted by DPS-Lake Elmo, LLC to the City of Lake Elmo dated October 3, 2014, recorded on November 20, 2014 with the Washington County Recorder as Document No. 4007704 (the “Utility Easement”); and

**WHEREAS**, new drainage and utility easements to replace the drainage and utility easements being vacated by the City in this Resolution will be dedicated to the City in the DPS Lake Elmo 3<sup>rd</sup> Addition Plat; and

**WHEREAS**, pursuant to Minnesota Statutes Section 412.851, the City scheduled a public hearing for February 7, 2023, to consider the proposed vacation of the Right-of-Way Easement, the Drainage and Utility Easement, and the Utility Easement; and

**WHEREAS**, notice of the public hearing was posted, published in the City's official newspaper, and mailed to the owners of affected properties, all in accordance with law; and

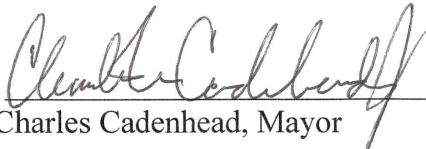
**WHEREAS**, the City held the public hearing on the proposed vacations on February 7, 2023, at which hearing all interested parties were heard; and

**WHEREAS**, following the public hearing, the City determined that the vacation of the Right-of-Way, Drainage and Utility Easement, and the Utility Easement are in the public interest because replacement easements will be dedicated to the City in the DPS Lake Elmo 3<sup>rd</sup> Addition final plat; and

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Lake Elmo as follows:

1. The City hereby declares that the Right-of-Way Easement, the Drainage and Utility Easement, and the Utility Easement are vacated upon all of the following conditions being satisfied:
  - a. The recording of the plat of DPS Lake Elmo 3<sup>rd</sup> Addition that includes the replacement right-of-way and drainage and utility easements as required by the City; and
  - b. The Applicant and the City entering into a Stormwater and Stormwater Quality Treatment Facility Maintenance and Easement Agreement with respect to the stormwater facilities located on the DPS Lake Elmo 3<sup>rd</sup> Addition plat.
2. Upon satisfaction of all of the above conditions, the City Clerk or her designee is authorized and directed to prepare and present to the Washington County Auditor a notice that the City has completed these vacation proceedings and record with Washington County Recorder the notice of completion of the vacation proceedings.

Passed and duly adopted this 7th day of February, 2023, by the City Council of the City of Lake Elmo, Minnesota.

  
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Charles Cadenhead, Mayor

ATTEST:

  
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Julie Johnson, City Clerk