



STAFF REPORT

DATE: May 21, 2019

CONSENT

AGENDA ITEM: Amendment for MOU to obtain Outlot F for Sanctuary Neighborhood

SUBMITTED BY: Kristina Handt, City Administrator

BACKGROUND:

At its October 2, 2018 meeting, Council approved a resolution to acquire Outlot F in the Sanctuary development which is in tax forfeiture. The resolution further approved a Memorandum of Understanding (MOU) with the Sanctuary HOA whereby the City would convey the outlot to them in exchange for having our costs covered and other items. Sanctuary HOA is interested in getting the outlot as it contains their septic system.

Since that time, Washington County has identified some of the right of way they need for the Manning/TH36 interchange and have proposed dividing that out before conveyance to the City and HOA. In order to execute this change a new resolution and amendments to the MOU are needed.

ISSUE BEFORE COUNCIL:

Should the City Council approve the revise Outlot F conveyance and amendments to the Memorandum of Understanding?

PROPOSAL DETAILS/ANALYSIS:

The council may request to buy the property through resolution in the amount of \$7,500. This amount was reduced since less land will be conveyed with the County keeping a portion for right of way. In addition to approving the purchase, the resolution also approves amendments the Memorandum of Understanding (MOU). The MOU amendments change the legal description of Outlot F and reduce the price.

Once the MOU is approved by the City and the HOA, then the resolution would be sent to Washington County for the City to purchase the property. After the City purchases the property it would be conveyed to the HOA.

FISCAL IMPACT:

Though the price for the property is \$7,500 there are other fees associate with the process.

- | | |
|----------------------------------|---------|
| 1. Basic Sale Price | \$7,500 |
| 2. State Deed Fee | \$25 |
| 3. 3% Surcharge | \$300 |
| 4. State Deed Tax | \$33 |
| 5. County Recording Fee | \$46 |
| 6. Agricultural Conservation Fee | \$5 |

Total Cost for All Fees and Sale Price \$7,909

In addition, staff estimates a not to exceed costs of \$5,000 to cover the legal time into the process so far and additional costs the city will incur in the transfer to the HOA. The estimate is high as a precaution and staff would expect it to be about \$1,000 less provided the purchase agreement process goes smoothly.

All of the costs incurred by the City are expected to be reimbursed by the HOA.

OPTIONS:

- 1) Approve Resolution No 2019-037
- 2) Amend and then Approve Resolution No 2019-037
- 3) Do not agree to purchase Outlot F

ATTACHMENTS

- Resolution No 2019-037
- Amendments to Memorandum of Understanding
- Graphic of Proposed area.

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

RESOLUTION NO. 2019-037

*A RESOLUTION APPROVING THE PURCHASE OF A PORTION OF OUTLOT F, ST. CROIX
SANCTUARY AND APPROVING AN AMENDMENT TO THE MEMORANDUM OF
UNDERSTANDING BETWEEN THE CITY AND THE SANCTUARY OF LAKE ELMO
HOMEOWNERS ASSOCIATION REGARDING THE CONVEYANCE THEREOF*

WHEREAS, in 2005, the plat of “St. Croix’s Sanctuary” was approved by the City and recorded in Washington County, Minnesota (the “Subdivision”); and

WHEREAS, the Subdivision consists of numerous residential lots and outlots; and

WHEREAS, Outlot F of the Subdivision contains the community septic system for the residential lots of the Subdivision and all homes within the Subdivision use the system; and

WHEREAS, Outlot F of the Subdivision (“Outlot F”) was owned by Sanctuary LLC which was operated by Case Arkel, the original developer of the Subdivision; and

WHEREAS, Outlot F was not conveyed by Sanctuary LLC to Sanctuary of Lake Elmo Homeowners Association (“Sanctuary HOA”) and eventually went into tax forfeiture; and

WHEREAS, Washington County (the “County”) had originally planned to auction off the entire Outlot F unless the City wanted to purchase it prior to it being sold to the public; and

WHEREAS, previously, Sanctuary HOA requested that the City purchase Outlot F from the County and then convey it to Sanctuary HOA; and

WHEREAS, the City and Sanctuary HOA had entered into a Memorandum of Understanding dated _____, 2018 whereby the City agreed to purchase Outlot F from the County and convey it to Sanctuary HOA; and

WHEREAS, the County has decided to retain the portion of Outlot F that is needed for the County’s right-of-way purposes, but to sell the remainder portion that contains the community septic system of the Sanctuary HOA, which is legally described on the attached Exhibit A (the “Outlot F Remainder Parcel”); and

WHEREAS, the City has agreed to purchase the Outlot F Remainder Parcel from the County and the Sanctuary HOA has agreed to purchase it from the City; and

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The First Amendment to the Memorandum of Understanding between the City and Sanctuary HOA is hereby approved with respect to the conveyance of the Outlot F Remainder Parcel to the Sanctuary HOA.
2. Upon execution of the Memorandum of Understanding by both parties, the City will purchase the Outlot F Remainder Parcel from the County and pay any fees associated with the purchase. The purchase price for the Outlot F Remainder Parcel shall not exceed \$7,500 and fees from Washington County shall not exceed \$409 for a total expense of \$7,909.

Passed and duly adopted this ____ day of May, 2019 by the City Council of the City of Lake Elmo, Minnesota.

Mike Pearson, Mayor

ATTEST:

Julie Johnson, City Clerk

EXHIBIT A

Legal Description of the Outlot F Remainder Parcel

All that part of Outlot F, ST. CROIX SANCTUARY, according to the plat thereof on file and of record in the Office of the Recorder, Washington County, Minnesota, EXCEPT as described as follows:

Commencing at the northeast corner of the Northeast Quarter of Section 1, Township 29 North, Range 21 West, Washington County, Minnesota; thence South 00 degrees 25 minutes 42 seconds East, bearings are based on the Washington County Coordinate System NAD83/1986, along the east line of said Northeast Quarter a distance of 422.83 feet; thence South 89 degrees 39 minutes 30 seconds West a distance of 17.03 feet to a point on the easterly line of said Outlot F, said point being the **point of beginning**; thence South 00 degrees 14 minutes 54 seconds East, along the easterly line of said Outlot F, a distance of 430.35 feet; thence South 33 degrees 29 minutes 28 seconds West, along the southeasterly line of said Outlot F, a distance of 120.17 feet; thence South 45 degrees 14 minutes 46 seconds West, continuing along said southeasterly line, a distance of 131.87 feet; thence South 25 degrees 53 minutes 26 seconds West, continuing along said southeasterly line, a distance of 177.14 feet; thence continuing along said southeasterly line a distance of 90.27 feet on a tangential curve, concave to the northwest, said curve having a radius of 105.00 feet and a central angle of 49 degrees 15 minutes 33 seconds; thence South 75 degrees 08 minutes 59 seconds West, along the southerly line of said Outlot F, and tangent to the last described curve, a distance of 70.06 feet; thence continuing along said southerly line a distance of 91.14 feet on a tangential curve, concave to the north, said curve having a radius of 175.00 feet and a central angle of 29 degrees 50 minutes 17 seconds; thence North 14 degrees 59 minutes 16 seconds East, and radial to the last described curve, a distance of 25.00 feet; thence easterly a distance of 78.12 feet along a curve, concave to the north and not tangent to the last described line, said curve having a radius of 150.00 feet, a central angle of 29 degrees 50 minutes 17 seconds and a chord that bears South 89 degrees 55 minutes 52 seconds East for a distance of 77.24 feet; thence North 75 degrees 08 minutes 59 seconds East and tangent to the last described curve, a distance of 40.91 feet; thence North 25 degrees 53 minutes 14 seconds East a distance of 172.70 feet; thence North 00 degrees 15 minutes 05 seconds West a distance of 361.98 feet; thence North 60 degrees 14 minutes 36 seconds West a distance of 293.78 feet; thence North 55 degrees 14 minutes 36 seconds West a distance of 289.35 feet; thence South 89 degrees 45 minutes 35 seconds West a distance of 679.58 feet to a point on the easterly line of Outlot E of said ST. CROIX SANCTUARY; thence North 00 degrees 00 minutes 00 seconds East, along said easterly line, a distance of 120.00 feet to the northerly line of said Outlot F; thence North 89 degrees 45 minutes 35 seconds East, along said northerly line, a distance of 1255.93 feet; thence South 00 degrees 50 minutes 16 seconds East, continuing along said northerly line, a distance of 129.89 feet; thence North 89 degrees 39 minutes 30 seconds East, continuing along said northerly line, a distance of 40.00 feet; thence North 00 degrees 50 minutes 16 seconds West, continuing along said northerly line, a distance of 129.82 feet; thence North 89 degrees 45 minutes 35 seconds East, continuing along said northerly line, a distance of 122.06 feet to the northeast corner of said Outlot F; thence South 00 degrees 11 minutes 30 seconds East, along the easterly line of said Outlot F, a distance of 129.60 feet; thence North 89 degrees 39 minutes 30 seconds East, along said easterly line, a distance of 17.71 feet to the point of beginning.

**FIRST AMENDMENT TO MEMORANDUM OF UNDERSTANDING REGARDING
OUTLOT F, ST. CROIX'S SANCTUARY**

This First Amendment to Memorandum of Understanding Regarding Outlot F, St. Croix's Sanctuary (this "Amendment") is made and entered into this ____ day of _____, 2019, by and between the City of Lake Elmo, a municipal corporation under the laws of Minnesota (the "City") and Sanctuary of Lake Elmo Homeowners Association, a Minnesota nonprofit corporation (the "Sanctuary HOA").

RECITALS:

A. The City and the Sanctuary HOA have entered into a Memorandum of Understanding Regarding Outlot F, St. Croix's Sanctuary dated _____ (the "MOU"); and

B. The MOU relates to the conveyance of Outlot F by the City to the Sanctuary HOA after subsequent conveyance of Outlot F by Washington County (the "County") to the City; and

C. It has been determined by County that it will be conveying only a portion of Outlot F to the City because it wishes to retain a portion of Outlot F for future right-of-way purposes and that the conveyance will be at a purchase price of \$7,500 instead of \$10,000; and

D. The City and the Sanctuary HOA have agreed to amend the MOU so that the City is only conveying the remainder portion of Outlot F to the Sanctuary HOA instead of the entire Outlot F at a purchase price of \$7,500 instead of \$10,000; and

NOW, THEREFORE, in consideration of the above recitals, which are expressly incorporated herein, and for other good and valuable consideration, the receipt and sufficiency which is hereby acknowledged, the City and the Sanctuary HOA agree to amend the MOU as follows:

1. The sixth "WHEREAS" clause of the MOU shall be changed to read as follows:

WHEREAS, a portion of Outlot F will be retained by the County for right-of-way purposes and the remaining portion of Outlot F will be auctioned off by the County at a tax forfeiture sale and the Sanctuary HOA risks not being the highest bidder; and

2. The seventh “WHEREAS” clause of the MOU shall be changed to read as follows:

WHEREAS, the City is able to purchase the remainder portion of Outlot F from the County prior to it being sold to the public; and

3. The eighth “WHEREAS” clause of the MOU shall be changed to read as follows:

WHEREAS, the Sanctuary HOA has requested that the City purchase the remainder portion of Outlot F from the County and then convey it to the Sanctuary HOA; and

4. The ninth “WHEREAS” clause of the MOU shall be changed to read as follows:

WHEREAS, the City may need a portion of the remainder portion of Outlot F in the future for right-of-way purposes; and

5. The tenth “WHEREAS” clause of the MOU shall be changed to read as follows:

WHEREAS, the City is willing to purchase the remainder portion of Outlot F that is being sold by the County and convey it to the Sanctuary HOA provided that the Sanctuary HOA convey, at such date that the City requests, any part of the remainder portion of Outlot F that the City may determine, in its sole discretion, is needed for right-of-way purposes; and

6. Section 1 of the MOU shall be changed to read as follows:

1. The City agrees to purchase the remainder portion of Outlot F that is legally described on the attached Exhibit B from Washington County. The purchase price for the remainder portion of Outlot F that the City is purchasing shall not exceed \$7,500.

7. The first sentence of Section 2 of the MOU shall be changed to read as follows:

“[o]nce the City receives the remainder portion of Outlot F from Washington County, it will convey it to the Sanctuary HOA for \$7,500.”

8. All references to “Outlot F” in Section 3 of the MOU are hereby changed to “the remainder portion of Outlot F.”

9. The attached Exhibit B is hereby added to the MOU.

10. All other terms and conditions of the MOU shall remain in full force and effect.

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

CITY OF LAKE ELMO

By: _____
Mike Pearson

Its: Mayor

By: _____
Julie Johnson

Its: City Clerk

STATE OF MINNESOTA)
) ss.
COUNTY OF WASHINGTON)

The foregoing instrument was acknowledged before me this ____ day of _____, 2019, by Mike Pearson and Julie Johnson, the Mayor and the City Clerk, respectively, of the City of Lake Elmo, a Minnesota municipal corporation, on behalf of the City.

Notary Public

**SANCTUARY OF LAKE ELMO
HOMEOWNERS ASSOCIATION**

By: _____

Its: _____

STATE OF MINNESOTA)
) ss.
COUNTY OF WASHINGTON)

The foregoing instrument was acknowledged before me this ____ day of _____, 2019,
by _____, the _____, of Sanctuary of Lake Elmo Homeowners'
Association, a Minnesota nonprofit corporation, on behalf of the corporation.

Notary Public

This document was drafted by:

Kennedy & Graven, Chartered (SJS)
470 U.S. Bank Plaza
200 South Sixth Street
Minneapolis, MN 55402
(612) 337-9300

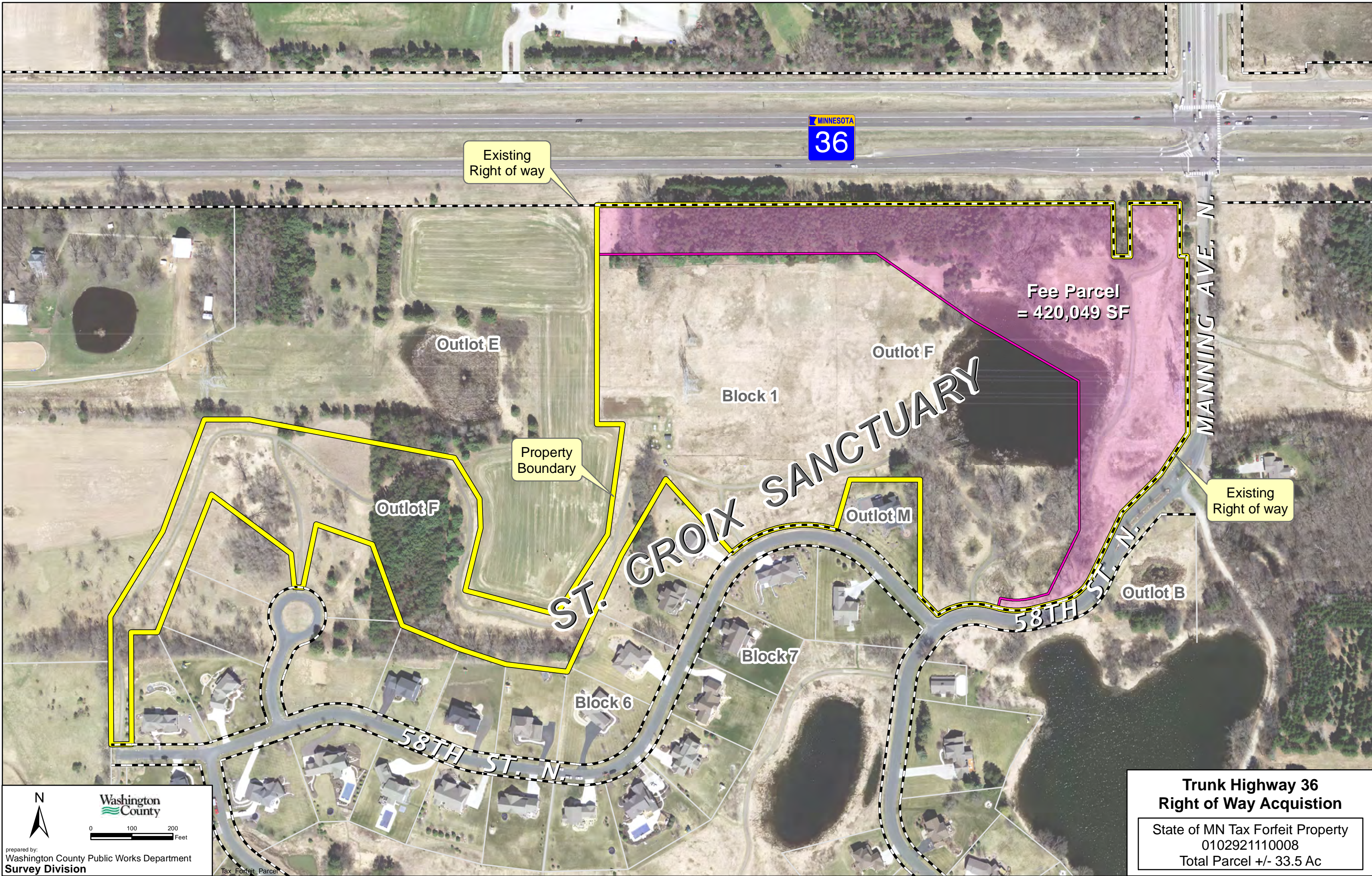
EXHIBIT B


Legal Description of the Remainder Portion of Outlot F Being Conveyed to the Sanctuary HOA


All that part of Outlot F, ST. CROIX SANCTUARY, according to the plat thereof on file and of record in the Office of the Recorder, Washington County, Minnesota, EXCEPT as described as follows:

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N


Washington County

0 100 200 Feet

prepared by:
Washington County Public Works Department
Survey Division

**Trunk Highway 36
Right of Way Acquisition**

State of MN Tax Forfeit Property
0102921110008
Total Parcel +/- 33.5 Ac