

# Attachment A

## RESOLUTION NO. 23-031

### CITY OF MAPLE GROVE

#### RESOLUTION VACATING CERTAIN EASEMENTS LOCATED IN THE CITY OF MAPLE GROVE, COUNTY OF HENNEPIN, STATE OF MINNESOTA EASEMENT VACATION NO. 23-01

WHEREAS, currently there are easements for Temporary Road and Utility Easements, Temporary Street and Utility Easement, and Temporary Drainage and Utility Easement (collectively “Easements”) created by that *Temporary Right-of-Way, Drainage and Utility Easement*, dated June 2, 2009, recorded June 30, 2009, as **Document No. A9380704** (“Grant Document”), which Grant Document is attached hereto as Exhibit A and Easements are depicted on attached Exhibit B; and

WHEREAS, a public hearing regarding the vacation of the Easements was held by the City Council on the 21<sup>st</sup> day of February, 2023, at which hearing all persons interested to be heard thereon were given an opportunity to be heard; and

WHEREAS, the City has sent notice to certain companies regarding any existing facilities within the Easements (“Existing Facilities”); and

WHEREAS, the Grant Document provides that the Easements are temporary and shall expire when the plat of The Markets at Rush Creek is recorded with the office of the Hennepin County Recorder. A plat with a different name, not the plat of The Markets at Rush Creek, was recorded with the office of the Hennepin County Recorder. As such, the Easements did not terminate. Said recorded plat provided the required permanent easements contemplated in the Grant Document. The vacation of the Easements is necessary to meet the intent of the Grant Document; and

WHEREAS, upon the Conditions (defined below) being met to the satisfaction of the City, the Easements will no longer be needed by the City and a vacation of the Easements is in the best interest of the public.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Maple Grove, Minnesota that the Easements are herein and hereby vacated, which vacation shall not become effective until the concerns of the companies, if any, regarding the Existing Facilities are resolved (the “Conditions”). The recording of a Notice of Vacation shall be considered satisfaction of the Conditions.

Adopted by the City Council on this 21<sup>st</sup> day of February, 2023.

The motion for the adoption of the foregoing resolution was made by Councilmember \_\_\_\_\_, seconded by Councilmember \_\_\_\_\_, and upon vote being duly taken thereon, the following voted in favor thereof:

and the following voted against the same:

and the following were absent:

whereupon said resolution was declared duly passed and adopted.

STATE OF MINNESOTA    )  
COUNTY OF HENNEPIN   ) SS.  
CITY OF MAPLE GROVE    )

I, the undersigned, being the duly qualified and acting Clerk of the City of Maple Grove, Hennepin County, Minnesota, a Minnesota municipal corporation, hereby certify that the above and foregoing Resolution No. 23-031 is a true and correct copy of the Resolution as adopted by the City Council on the 21<sup>st</sup> day of February, 2023.

\_\_\_\_\_  
City Clerk

**EXHIBIT A**



Doc No **A9380704**

Certified filed and/or recorded on  
6/30/09 1:51 PM

Office of the County Recorder  
Hennepin County, Minnesota  
Michael H. Cunniff, County Recorder  
Jill L. Alverson, County Auditor and Treasurer

Deputy 11

Pkg ID 547373

**Doc Name: Easement**

Document Recording Fee \$46.00

---

**Document Total** \$46.00

This cover sheet is now a permanent part of the recorded document.

Box 273

**TEMPORARY RIGHT-OF-WAY, DRAINAGE AND UTILITY EASEMENT**

This EASEMENT GRANT is made by Hustad Investments, LP, a Minnesota limited partnership (hereinafter referred to as "**Grantor**"), to and in favor of the City of Maple Grove, a Minnesota municipal corporation (hereinafter referred to as "**Grantee**").

The following recitals of fact are a material part of this instrument:

A. Grantor is the owner of a tract of land described as follows (hereinafter referred to as the "**Parcel**"):

The West Half of the Southwest Quarter of Section 30, Township 119, Range 22, Hennepin County, Minnesota, lying south of Hennepin County State Aid Highway No. 10 and State Highway No. 101, and the East Half of said Southwest Quarter,

Except the following parcels:

Beginning at the northeast corner of said Southwest Quarter; thence southerly along the east line of said Southwest Quarter to the northeast corner of the Southeast Quarter of said Southwest Quarter; thence continuing southerly along said east line 433.83 feet; thence westerly parallel with the north line of said Southwest Quarter 525.00 feet; thence northerly parallel with the east line of said Southwest Quarter to the north line of said Southwest Quarter; thence easterly to the point of beginning.

A 60 foot wide strip of land, the northwesterly line of which is described as follows: Beginning at the southwest corner of said Southwest Quarter; thence northerly along the west line of said Southwest Quarter 143.67 feet; thence northeasterly 1077.60 feet along tangential curve concave to the southeast having a radius of 1432.39 feet and a central angle of 43 degrees 06 minutes 14 seconds; thence northeasterly, tangent to said curve, 2086.67 feet to the north line of said Southwest Quarter and there terminating.

A 60 foot wide strip of land, the southeasterly line of which is described as follows: Commencing at the southwest corner of said Southwest Quarter; thence northerly along the west line of said Southwest Quarter 143.67 feet; thence northeasterly 1077.60 feet along tangential curve concave to the southeast having a radius of 1432.39 feet and a central angle of 43 degrees 06 minutes 14 seconds, thence northeasterly, tangent to said curve, 1277.54 feet to the point of beginning of said line to be described; thence continuing northeasterly, along the prolongation of said tangent, 781.18 feet to the north line of said Southwest Quarter and there terminating.

A 60 foot wide strip of land, the northeasterly line of which is described as follows: Commencing at the northwest corner of said Southwest Quarter; thence southerly along the west line of said Southwest Quarter 109.54 feet; thence easterly deflecting to the left 89 degrees 56 minutes 31 seconds 191.90 feet; thence southeasterly 1076.56 feet along a tangential curve concave to the southwest having a radius of 1432.39 feet and a central angle of 43 degrees 03 minutes 45 seconds; thence southeasterly, tangent to said curve, 63.33 to the point of beginning of said line to be described; thence continuing southeasterly, along the prolongation of said tangent, 1089.83 feet and there terminating.

AND

That part of the East Half of the Southwest Quarter of Section 30, Township 119, Range 22, and Hennepin County, Minnesota more particularly described as follows:

Commencing at the northeast corner of the Southeast Quarter of the Southwest Quarter; thence South 00 degrees 31 minutes 07 seconds East, assumed bearing along the east line of said Southeast Quarter of the Southwest Quarter a distance of 433.83 feet to the point of beginning of the land to be described; thence North 89 degrees 57 minutes 24 seconds West, parallel with the north line of said Southwest Quarter a distance of 525.00 feet; thence North 00 degrees 31 minutes 07 seconds West, parallel with the east line of said Southwest Quarter a distance of 447.99 feet; thence South 47 degrees 09 minutes 55 seconds East a distance of 29.07 feet; thence southeasterly along a tangential curve, concave to the northeast, a distance of 570.72 feet, said curve has a radius of 2250.00 feet, and a central angle of 14 degrees 32 minutes 00 seconds; thence South 61 degrees 41 minutes 55 seconds East, a distance of 50.06 feet to the east line of said Southeast Quarter of the Southwest Quarter; thence southerly along the east line of said Southwest Quarter a distance of 73.80 feet to the point of beginning.

B. Grantee, by its Resolution No. 09-034, granted preliminary plat approval for the replatting of the Parcel as The Markets at Rush Creek (hereinafter referred to as the "**Markets Plat**", which term shall include said plat as it may be revised from time to time and as it is filed and recorded in final form), a true and correct copy of which Markets Plat is attached hereto as Exhibit A.

C. Pursuant to the dedications set forth on the Markets Plat, Grantor would have donated and dedicated to the public for public use forever the avenues, lanes, places and roads shown on the Markets Plat and would have dedicated the drainage and utility easements as shown on the Markets Plat (collectively and hereinafter referred to as the "**Road and Utility Easements**").

D. The filing of the Markets Plat has been postponed, but the Grantor wishes to grant and Grantee wishes to receive the Road and Utility Easements in advance of filing the Markets Plat (hereinafter referred to as the "**Temporary Road and Utility Easements**"),

E. Grantee also is planning certain improvements to County Road State Aid Highway Nos. 10 and 101 (also known as Bass Lake Road and Troy Lane North, respectively) within the Parcel; accordingly, Grantor wishes to grant and Grantee wishes to receive a temporary street and utility easement over all portions of the Parcel that were to be dedicated as County State Aid Highway Nos. 10 and 101 in the Markets Plat (hereinafter referred to as the "**Temporary Street and Utility Easement**").

F. Grantee also is planning certain drainage and utility improvements to a portion of the Parcel upon proposed Outlots F and G, the Markets Plat; accordingly, Grantor wishes to grant and Grantee wishes to receive a temporary drainage and utility easement over that portion of the Parcel that was to be platted as Outlots F and G in the Markets Plat (hereinafter referred to as the "**Temporary Drainage and Utility Easement**").

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the following grants, agreements, and covenants and restrictions are made:

1. GRANT OF TEMPORARY EASEMENTS. Grantor hereby grants to Grantee the Temporary Road and Utility Easements, over those portions of the Parcel that would have been donated and dedicated in the Markets Plat for road, drainage and utility purposes as described in Recital C above, with the right, privilege and authority to freely use such portions of the Parcel affected by the Temporary Road and Utility Easements for the purposes stated in the dedication thereof set forth on the Markets Plat; Grantor also hereby grants to Grantee the Temporary Street and Utility Easement, over all portions of the Parcel that were to be dedicated as County State Aid Highway Nos. 10 and 101 in the Markets Plat as described in Recital E above, with the right, privilege and authority to freely use such portions of the Parcel affected by the Temporary Street and Utility Easement for public street and utility purposes; and Grantor also hereby grants to Grantee the Temporary Drainage and Utility Easement, over that portion of the Parcel that was to

be platted as Outlots F and G in the Markets Plat as described in Recital F above, with the right, privilege and authority to freely use such portions of the Parcel affected by the Temporary Drainage and Utility Easement for drainage and utility purposes (the purposes for which all of such temporary easements may be based are hereinafter collectively referred to as the "Purposes").

2. IMPROVEMENT OF TEMPORARY EASEMENTS. Grantor also hereby grants and conveys unto Grantee the right, privilege and authority to freely enter upon the respective portions of the Parcel affected by the Temporary Road and Utility Easements, the Temporary Street and Utility Easement and the Temporary Drainage and Utility Easement (collectively, such Easements are hereinafter referred to as the "Temporary Easements") at any and all times with all machinery, tools, equipment, vehicles and materials necessary for the respective Purpose for which each such Temporary Easement has been granted. Grantor agrees not to place any structure upon the Temporary Easements or otherwise to do anything if and to the extent that the placement of such structure or the taking of such other action will tend to unreasonably interfere with Grantee's operation and maintenance of the road and utility installations constructed in the Temporary Easements, without first securing the written approval of Grantee. Notwithstanding anything herein to the contrary, however, any utility and drainage equipment and facilities installed by Grantee in the Temporary Easements shall be installed below the surface of the Temporary Easements except for those types of equipment and facilities that by their nature must be installed above ground, such as inlet drains and transformer boxes, and Grantor may make such improvements and undertake such activities within the portions of the Parcel affected by the Temporary Easements as will not unreasonably interfere with Grantee's use of the Temporary Easements for the Purposes. Grantee, in constructing and installing road, street, drainage, utility and other improvements pursuant hereto, shall cooperate and coordinate with Grantor and its contractors, and shall cause Grantee's contractors to cooperate and coordinate with Grantor and its contractors, to cause as little interference as reasonably possible with the development and construction activities of Grantor and its contractors on and in the vicinity of the Parcel. Grantee shall use its best efforts to substantially complete such improvements as soon as reasonably possible and in any event not later than October 1, 2010.

3. WARRANTIES OF TITLE. Grantor represents and warrants that it has good and indefeasible fee simple title to the real property encumbered by the Temporary Easements and warrants that Grantor has full authority to grant the Temporary Easements provided herein, free and clear of all other claims, subject to the right of way and drainage and utility easements to be dedicated in the Markets Plat.

4. RUNNING OF BENEFITS AND BURDENS. All provisions of this instrument, including the benefits and burdens, run with the Parcel and are binding upon and inure to the heirs, assigns, successors, tenants and personal representatives of the parties hereto.

5. TERMINATION OF TEMPORARY RIGHT-OF-WAY, DRAINAGE AND UTILITY EASEMENT. The Temporary Easements and this instrument and all of the terms and provisions hereof (except for any such terms and provisions which expressly survive the expiration of this instrument) shall expire when the plat of The Markets at Rush Creek is



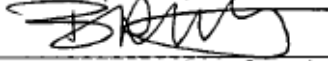
recorded with the office of the Hennepin County Recorder, without the need for any further action by Grantor or Grantee or the recording of any additional document.

6. INDEMNIFICATION AND INSURANCE. Grantee will compensate Grantor for damages to Grantor or its tenants or its or their property or the Parcel caused by the activities of Grantee, its employees, agents and contractors on the Temporary Easements, subject to the limitations in Minn. Stat. 466.04. In addition, Grantee will include in its contracts for work done in and on the Temporary Easements that the contractor will indemnify and defend Grantor and its tenants, and its and their employees, agents, contractors and invitees (collectively the "Indemnified Parties") against, and hold the Indemnified Parties harmless from, all claims, actions, liabilities, damages, costs and expenses caused by the activities of Grantee, its employees, agents and contractors on the Temporary Easements. Grantee will also include in its contracts for work done in and on the Temporary Easements that the contractor will obtain and maintain public liability insurance with respect to their activities on the Parcel, in such limits as Grantor and Grantee agree is commercially reasonable, and that such insurance will name the Indemnified Parties as additional insureds. Grantee shall provide Grantor with evidence of such insurance at least five (5) business days prior to entering upon any portion of the Parcel pursuant hereto and commencing activities and operations thereon. The terms and provisions of this Section 6, except those pertaining to insurance, shall survive the expiration or termination of this instrument.

IN WITNESS WHEREOF, Grantor has caused this instrument to be duly executed this 2nd day of June, 2009.

HUSTAD INVESTMENTS, LP, a  
Minnesota limited partnership

By Hustad Real Estate Company, a  
Minnesota corporation, its General Partner

By   
Name: Elisabeth R. Hustad  
Its: president, CEO

STATE OF MINNESOTA )  
 ) SS.  
COUNTY OF HENNEPIN )

On this 2nd day of June, 2009, before me personally appeared Elisabeth R. Hustad, to me known to be the person described in and who did say that she is the President + CEO of Hustad Real Estate Company, a Minnesota corporation, the General Partner of Hustad Investments, LP, a Minnesota limited partnership, and acknowledged said instrument to be the free act and deed of said limited partnership.



*Kristen Cleo Kuelbs-Sedah*  
Notary Public

This instrument was drafted by:

CITY OF MAPLE GROVE  
12800 Arbor Lakes Parkway  
Maple Grove, MN 55369  
(763) 494-6000

NO CERTIFICATION NEEDED

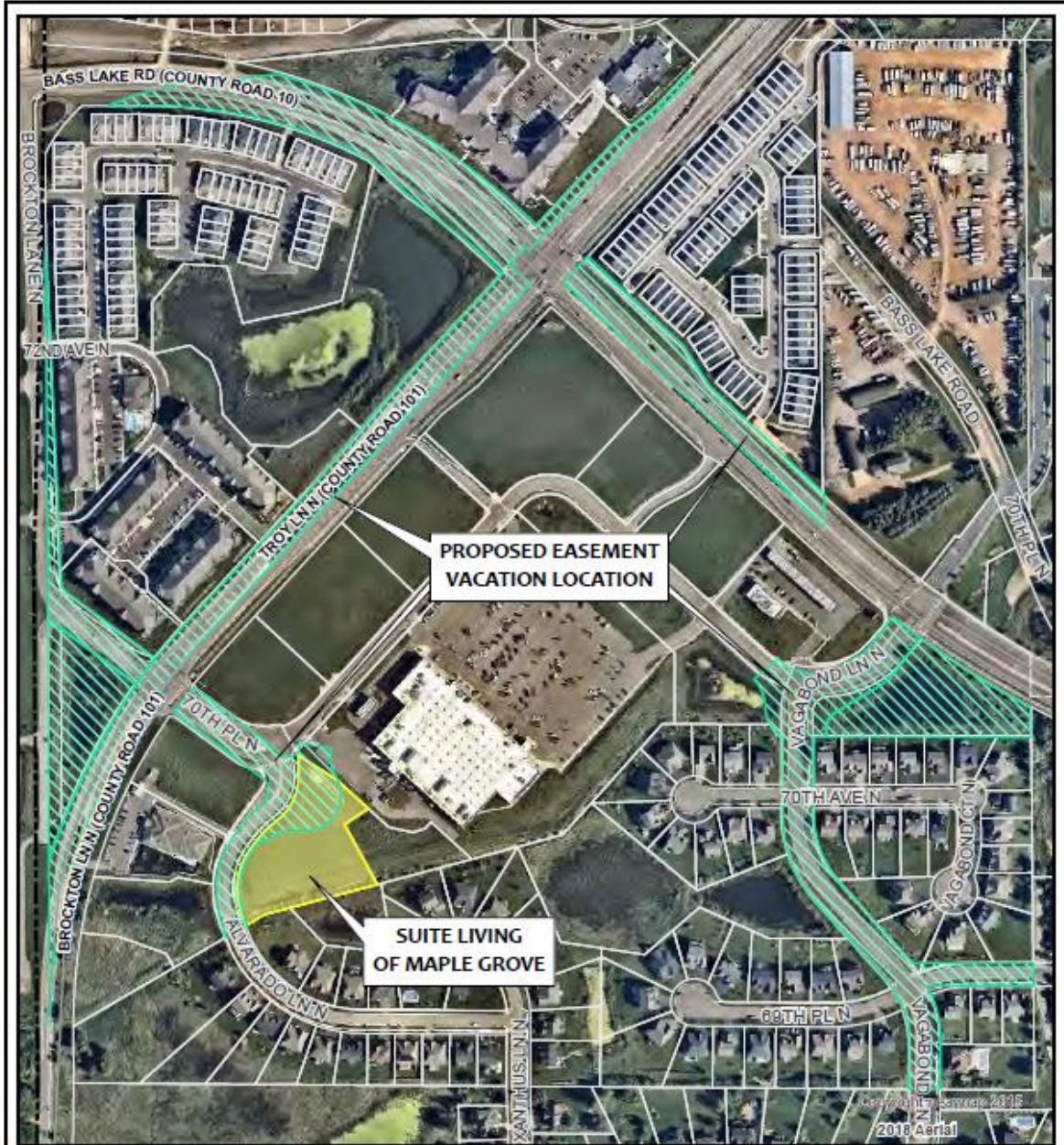
EXHIBIT "A"

[A reduced copy of the Preliminary Plat of The Markets at Rush Creek, as approved by the City Council of Maple Grove pursuant to its Resolution No. 09-034, is attached hereto; a full size copy of said preliminary plat is on file with the Community Development Department of the City of Maple Grove.]

A-1



# EXHIBIT B



**Location Map**

**TEMPORARY EASEMENT**  
**DOC. 9380704**

Disclaimer:  
This [map/data] is furnished "AS IS" with no representation as to completeness or accuracy. It is furnished with no warranty of any kind, and it is not suitable for legal, engineering or surveying purposes. Maple Grove shall not be liable for any damage, injury or loss resulting from this [map/data].

Copyright © 2018 Esri. All rights reserved. Date: 1/13/2019

© Amy/Mapa 2023 TempEasementVacationTempEasementVacation.aprx