

**COLOGNE CITY COUNCIL
RESOLUTION NO. 18-26**

**A RESOLUTION BY THE CITY OF COLOGNE APPROVING THE STIPULATED
ORDER IN A DECLARATORY ACTION REGARDING EAST PLAYHOUSE STREET
LOCATED EAST OF EDWARDS AVENUE**

WHEREAS, the City of Cologne (the “City”) is a Minnesota municipal corporation, duly organized and authorized to conduct its affairs under the laws of the State of Minnesota; and

WHEREAS, the City has been named a Defendant in a Declaratory Action in Carver County District Court brought by DM and RS Limited Partnership, LLLP, a Minnesota limited liability limited partnership (referred to hereafter as “Plaintiff”) in relation to East Playhouse Street located east of Edwards Avenue (referred to hereafter as the “Road”); and

WHEREAS, the Declaratory Judgment Action seeks a judicial determination of the Road as a public highway pursuant to the Minnesota Public User Statute, Minn.Stat. § 160.05 subd.1; and

WHEREAS, the form of the Order seeking the Declaration that the Road exists under the public user statute has been negotiated by and between the City Attorney and the attorney for the Plaintiff; and

WHEREAS, the City has, for at least twenty (20) years, maintained the Road; and

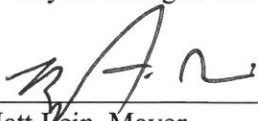
WHEREAS, the City takes no position as to the rights of the abutting property owners adjacent to the Road save and except the City has requested that the Plaintiff offer access and encroachment easements to the property owners of the three (3) parcels to the north side of the Road and the Plaintiff has offered such easements to said property owners; and

WHEREAS, it is the responsibility of the abutting property owners to negotiate easements with the Plaintiff.

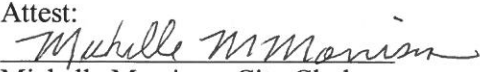
NOW, THEREFORE, it is stipulated and agreed that the proposed Order attached hereto as **Exhibit A** in the Declaratory Judgment Action is acceptable, the Mayor and the City Clerk may execute a Stipulation as to the entry of such Order provided that the Stipulation provides that it does not impact any

claims the property owners abutting the Road may assert in this Declaratory Judgment Action and the abutting property owners preserve whatever claims they may have against the Plaintiff.

Adopted and approved by the City Council of the City of Cologne with a vote of 4 Ayes to 0 Nays effective on the 3rd day of December, 2018.



Matt Lein, Mayor

Attest:

Michelle Morrison, City Clerk