

**CITY OF TONKA BAY
ITEM NO. 4C**

MEMORANDUM OF AGREEMENT AND COUNCIL ACTION

THIS MEMORANDUM OF AGREEMENT AND CITY COUNCIL ACTION, hereinafter called "Agreement," made this ____ day of _____, 2016, by and between the **City of Tonka Bay**, a Minnesota municipal corporation, party of the first part, hereinafter called "City" and **Dirk C. McMahon** and **Wendy Jo McMahon**, husband and wife, parties of the second part, hereinafter called "Owners."

WHEREAS, Owners are the fee owners of certain real property commonly known as 60 Wildhurst Road, Tonka Bay, Minnesota, and legally described as follows to-wit:

That part of the South 125 feet of Lot 12 lying West of the East 140 feet thereof, also that part of Lot 13 described as: beginning at the northeast corner thereof, then South along the East line of said Lot 13, a distance of 24 feet, then West parallel with the North line thereof a distance of 201 feet, then Northwesterly to the Northwest corner thereof, then East to the beginning, except the East 140 feet of said Lot 13, Wild Hurst, Hennepin County, Minnesota; and

WHEREAS, Owners applied for a conditional use permit ("CUP") to exceed the maximum height of 15ft. for an accessory structure located on the above property, and City granted said application on January 26, 2016; and

WHEREAS, as a condition of approving the CUP, the parties have agreed that said garage shall not be used for permanent or temporary living quarters, a home office/occupation nor the conduct of any business, service or industry; and

WHEREAS, in the event the CUP is violated, the CUP may be revoked, and if the violation continues the Certificate of Occupancy may be revoked for the home. The Owners will be responsible for reimbursing the City for all costs and expenses, including attorney's fees, for enforcing the terms and conditions of this Agreement; and

WHEREAS, the parties desire to evidence the above action and to provide record notice that the above action runs with the land and is binding upon the parties, their personal representatives, administrators, successors and assigns.

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

[Remainder of page intentionally left blank.
Signatures contained on following pages.]

