

## Community Development Committee

Meeting date: October 19, 2015

For the Metropolitan Council meeting of October 28, 2015

**Subject:** Release of Restrictive Covenant, Sale of Land, Consent to Easement, and Reimbursement Consideration at Lake Waconia Regional Park, Carver County

**District(s), Member(s):** District 4, Deb Barber

**Policy/Legal Reference:** MN Statute 116P.15 and 473.315

**Staff Prepared/Presented:** Jan Youngquist, AICP, Planning Analyst (651-602-1029)

**Division/Department:** Community Development/Regional Parks and Natural Resources

### Proposed Action

That the Metropolitan Council:

1. Direct staff to work with Carver County to request approval from the Legislative-Citizen Commission on Minnesota Resources (LCCMR) for the sale of 5.05 acres and for the 1.64-acre access easement to the DNR on land acquired using Environment and Natural Resources Trust Fund dollars.
2. Contingent upon approval by the (LCCMR):
  - a. Consent to the sale of 5.17 acres of land by Carver County to the Minnesota Department of Natural Resources (DNR) for development of a boat access site at Lake Waconia Regional Park, as described in Attachment A and shown in Attachment B.
  - b. Release the restrictive covenants on the 5.17 acres of land to be sold to the DNR.
  - c. Consent to the 1.64 acre access easement to be granted by Carver County to the DNR as described in Attachment C and shown in Attachment D.
  - d. Require Carver County to reimburse \$13,276 to the Metropolitan Council's Park Acquisition Opportunity Fund to account for the sale of 0.12 acres of land acquired with Minnesota Parks and Trails Fund dollars.
  - e. Revise the amount the Council will consider reimbursing Carver County from its share of future Regional Parks Capital Improvement Programs for acquisition of 19.29 acres at Lake Waconia Regional Park to be up to \$1,190,136 in order to account for the sale of 5.17 acres to the DNR.
3. Inform Carver County that the Council does not under any circumstances represent or guarantee that reimbursement will be granted, and expenditure of local funds never entitles a park agency to reimbursement.

### Background

Carver County has requested that the Metropolitan Council release the restrictive covenants on a portion of two properties at Lake Waconia Regional Park and consent to an access easement in order to facilitate the sale of 5.17 acres to the Minnesota Department of Natural Resources (DNR) for a boat launch and parking lot. Restrictions associated with the use of Environment and Natural Resources

Trust Fund dollars to acquire one of the affected properties requires approval from the LCCMR. For additional detail, please refer to the “Background” section on pages 3-5 of this business item.

### **Rationale**

The proposed action is consistent with the Council action as part of Business Item 2013-150, the Park Acquisition Opportunity Account rules from the *2040 Regional Parks Policy Plan*, and the Council-approved master plan for Lake Waconia Regional Park.

### **Funding**

The proposed action reduces the amount the Council will consider reimbursing Carver County from its share of a future Regional Parks CIP to be up to \$1,176,859 in order to account for the land sold to the DNR. The action does not commit the Council to any funding at this time, however.

### **Known Support / Opposition**

The Metropolitan Parks and Open Space Commission recommended approval of the proposed action at its meeting on October 6, 2015. Since the refund of ENRTF dollars must be sent to the LCCMR to be added to the corpus rather than being returned to the Council’s Park Acquisition Opportunity Fund for use in future acquisitions, comments were made regarding the need to structure acquisitions differently in the future if land purchased with ENRTF dollars is intended to be sold to another entity.

There is no known opposition.

## Metropolitan Parks and Open Space Commission

Meeting date: October 6, 2015

For the Community Development Committee meeting of October 19, 2015

For the Metropolitan Council meeting of October 28, 2015

**Subject:** Release of Restrictive Covenant, Sale of Land, Consent to Easement, and Reimbursement Consideration at Lake Waconia Regional Park, Carver County

**District(s), Member(s):** MPOSC District B, Bob Moeller

**Policy/Legal Reference:** MN Statute 116P.15 and 473.315

**Staff Prepared/Presented:** Jan Youngquist, AICP, Planning Analyst (651-602-1029)

**Division/Department:** Community Development/Regional Parks and Natural Resources

### Proposed Action

That the Metropolitan Council:

1. Direct staff to work with Carver County to request approval from the Legislative-Citizen Commission on Minnesota Resources (LCCMR) for the sale of 5.05 acres and for the 1.64-acre access easement to the DNR on land acquired using Environment and Natural Resources Trust Fund dollars.
2. Contingent upon approval by the (LCCMR):
  - a. Consent to the sale of 5.17 acres of land by Carver County to the Minnesota Department of Natural Resources (DNR) for development of a boat access site at Lake Waconia Regional Park, as described in Attachment A and shown in Attachment B.
  - b. Release the restrictive covenants on the 5.17 acres of land to be sold to the DNR.
  - c. Consent to the 1.64 acre access easement to be granted by Carver County to the DNR as described in Attachment C and shown in Attachment D.
  - d. Require Carver County to reimburse \$13,276 to the Metropolitan Council's Park Acquisition Opportunity Fund to account for the sale of 0.12 acres of land acquired with Minnesota Parks and Trails Fund dollars.
  - e. Revise the amount the Council will consider reimbursing Carver County from its share of future Regional Parks Capital Improvement Programs for acquisition of 19.29 acres at Lake Waconia Regional Park to be up to \$1,190,136 in order to account for the sale of 5.17 acres to the DNR.
3. Inform Carver County that the Council does not under any circumstances represent or guarantee that reimbursement will be granted, and expenditure of local funds never entitles a park agency to reimbursement.

### Background

Carver County has requested that the Metropolitan Council release the restrictive covenants on a portion of two properties at Lake Waconia Regional Park and consent to an access easement in order to facilitate the sale of 5.17 acres to the Minnesota Department of Natural Resources (DNR) for a boat launch and parking lot. Carver County's request letter is shown in Attachment E.

Carver County, the DNR, and the Council have been working in partnership to plan for a public water access at Lake Waconia for several years, which was part of the development master plan for the regional park and approved by the Council on October 10, 2001.

Carver County has been in ongoing discussions with the DNR regarding acquisition, development, and maintenance of a boat launch since 2004. In 2012, negotiations for a key 19.29 acre lakeshore parcel for the park and the boat launch were accelerated when the property owner threatened legal action against the County if it did not work in good faith to acquire the property. The County reached an agreement with the owner in 2013. The DNR was not able to participate in funding the acquisition, but remained engaged in the partnership and committed to purchasing land from the County for the boat access when it had funding available. In order to not lose the opportunity to acquire the property, the County purchased it with the intent to sell a portion to the DNR for the boat launch in the future.

On June 12, 2013, the Metropolitan Council authorized a grant to Carver County from the Park Acquisition Opportunity Fund (PAOF) in the amount of \$1,700,000 to partially fund the acquisition of the 19.29 parcel (Business Item 2013-150). The total grant-eligible acquisition costs were \$3,629,240. Since the maximum grant amount from the PAOF is \$1,700,000, Carver County funded the balance of the acquisition costs, which was \$1,929,240 (53%). The grant was funded with \$1,020,000 in Environment and Natural Resources Trust Fund (ENRTF) dollars (28% of acquisition costs) and \$680,000 in Council bonds (19% of acquisition costs). Carver County also requested reimbursement consideration from a future Regional Parks Capital Improvement Program (CIP) for its share of the acquisition costs, but indicated that it would not seek reimbursement for any land sold to the DNR. The 19.29 acre subject parcel is shown in Attachment F.

In March 2015, Carver County entered into a “Cooperative Agreement and an Option for the Purchase of Real Estate” with the DNR to sell 5.17 acres and grant a 1.64-acre access easement along an existing park road to Highway 5 for the boat launch, which affects parcels acquired for the regional park. Of the area to be sold, 5.05 acres are part of the 19.29 acre parcel described above that was acquired using Environment and Natural Resources Trust Fund (ENRTF) dollars and Council bonds. The 1.64-acre access easement affects 99.34 acres that were acquired in 1999 with a grant funded with \$95,610 of ENRTF dollars and \$331,158 in Council bonds (Grant No. SG99-34).

The remaining 0.12 acres of the 5.17 acre site to be sold to the DNR were acquired with a grant funded with Parks and Trails Legacy Funds and Council bonds. The total grant-eligible acquisition costs were \$876,763 and a PAOF grant in the amount of \$657,572 was awarded to Carver County, funded with \$394,543 in Parks and Trails Fund dollars (45% of acquisition costs) and \$263,029 in Council bonds (30% of acquisition costs). Carver County funded the remaining 25% of the acquisition costs, which totaled \$219,191.

Attachment G shows the acreage to be sold to the DNR and the access easement with relationship to the underlying parcels. Attachment H outlines the timeframe regarding the boat launch and associated financial transactions.

Staff from Carver County, the DNR, and the Council have had several meetings and conversations regarding this transaction with staff from the LCCMR, which administers the ENRTF appropriations. In order to sell a portion of the land acquired with ENRTF dollars, Minnesota Statute 116P.15 requires review and approval from the LCCMR in order to convey any interest in land acquired with ENRTF

appropriations and requires a replacement in the interest in the real property of at least fair market value.

The 5.17 acre site to be sold to the DNR was appraised at \$1,271,000. As stated earlier in this staff report, ENRTF paid 28 percent of the acquisition costs for the 19.29 parcel. Carver County is proposing to refund the proportionate amount calculated at 28 percent of the appraised value of the 5.05 acres to be sold to the DNR, for a total of \$347,620. The calculation is shown as follows:

- The 5.17 acre site was appraised at \$1,271,000, or \$245,841 per acre.
- The proportionate value of the 5.05 acres is \$1,241,499 (5.05 x \$245,841 plus rounding).
- The proposed refund of 28% of the value of the 5.05 acres is \$347,620 (\$1,241,499 x .28).

Additionally, Carver County is proposing to refund the proportionate amount of the appraised value of the 0.12 acre portion of the parcel that was acquired with Parks and Trails Fund dollars. As stated earlier, Parks and Trails Fund dollars paid 45 percent of the acquisition costs, so the proportionate amount refunded will be \$13,276. The calculation is shown as follows:

- The 5.17 acre site was appraised at \$1,271,000, or \$245,841 per acre.
- The proportionate value of the 0.12 acres is \$29,501 (0.12 x \$245,841).
- The proposed refund of 45% of the value of the 0.12 acres is \$13,276 (\$29,501 x .45).

This money will be placed in the Parks and Trails Legacy Fund account of the Council's Park Acquisition Opportunity Fund to be available for future land acquisitions.

This proposed transaction will need to be approved by the LCCMR before the sale of the land and granting of an access easement to the DNR could occur. Council staff will work with Carver County to request approval from the LCCMR.

As a condition for receiving the PAOF grants, restrictive covenants between the Metropolitan Council and Carver County were recorded on all of the properties affected by the transaction with the DNR. The restrictive covenants do not allow for sale of the property or the creation of an easement without the written approval of the Council. Therefore, in order for Carver County to sell a portion of the property and grant an easement to the DNR, the Council will need to release the restrictive covenants on the 5.17 acre parcel and consent to granting an easement on regional parkland.

As part of Business Item 2013-150 authorizing the acquisition grant for the 19.29 acre parcel, the Council acted to "consider reimbursing Carver County up to \$1,929,240 from its share of a future Regional Parks Capital Improvement Program for the balance of the acquisition costs minus potential income from selling a portion of the property to the Minnesota Department of Natural Resources for a boat access as called for in the Lake Waconia Regional Park master plan."

Although the 5.17 acre site to be sold to the DNR was appraised at \$1,271,000, the County has agreed to sell the property for \$1,100,000 in consideration for the DNR developing the boat access site and for cooperation in planning, constructing, and managing the site consistent with the master plan for Lake Waconia Regional Park. After refunding \$347,620 to the LCCMR and \$13,276 to the Council's Park Acquisition Opportunity Fund, Carver County will net \$739,104 from the sale of the property. Therefore, in accordance with Business Item 2013-150, the amount that the Council will consider reimbursing Carver County through its share of future CIPs should be revised from "up to \$1,929,240" to be "up to \$1,190,136."

The 5.17 acre site will remain within the boundary of the Lake Waconia Regional Park, with the cooperative agreement between Carver County and the DNR governing planning, construction, and management of the site consistent with the Council-approved master plan. This transaction between Carver County and the DNR allows for further achievement of the master plan vision for the regional park through the construction of a boat launch and parking lot with no regional parks funding required for associated capital costs and a reduction in the amount of Council bonds that may be needed for future reimbursement for land acquisition.

### **Rationale**

The proposed action is consistent with the Council action as part of Business Item 2013-150, the Park Acquisition Opportunity Account rules from the *2040 Regional Parks Policy Plan*, and the Council-approved master plan for Lake Waconia Regional Park.

### **Funding**

The proposed action reduces the amount the Council will consider reimbursing Carver County from its share of a future Regional Parks CIP to be up to \$1,176,859 in order to account for the land sold to the DNR. The action does not commit the Council to any funding at this time, however.

### **Known Support / Opposition**

None.

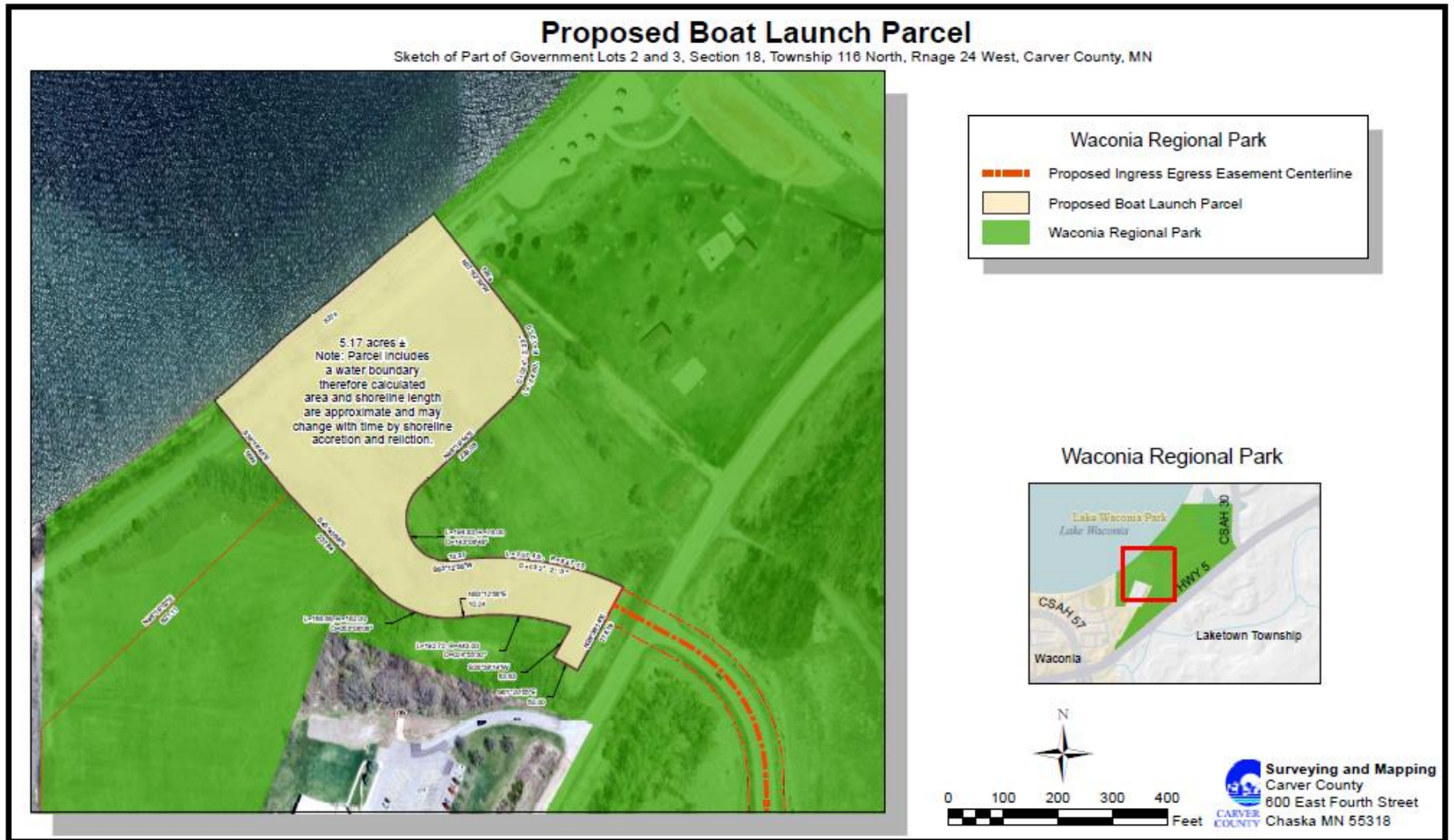
## Attachment A: Legal Description of Property

That part of Government Lots 2 and 3 of Section 18, Township 116 North, Range 24 West, Carver County, Minnesota, described as follows:

Commencing at the southwest corner of said Section 18; thence North 0 degrees 43 minutes 32 seconds East along the west line of said Section 18, a distance of 1928.09 feet; thence North 46 degrees 19 minutes 02 seconds East, 621.11 feet to the point of beginning; thence South 43 degrees 40 minutes 58 seconds East, 237.84 feet; thence southeasterly, 168.68 feet along a tangential curve, concave northeasterly, having a radius of 182.00 feet and a central angle of 53 degrees 06 minutes 06 seconds; thence North 83 degrees 12 minutes 56 seconds East, tangent to last described curve, 10.24 feet; thence easterly, 192.72 feet along a tangential curve, concave southerly, having a radius of 443.00 feet and a central angle of 24 degrees 55 minutes 30 seconds; thence South 28 degrees 38 minutes 14 second West, not tangent to last described curve, 63.62 feet; thence South 61 degrees 20 minutes 55 seconds East, 50.00 feet; thence North 28 degrees 38 minutes 14 seconds East, 174.19 feet; thence westerly, 307.45 feet along a non-tangential curve, concave southerly, having a radius of 547.00 feet, a central angle of 32 degrees 12 minutes 13 seconds and a chord bearing of North 80 degrees 40 minutes 57 seconds West; thence South 83 degrees 12 minutes 56 seconds West, tangent to last described curve, 10.57 feet; thence northerly, 194.83 feet along a tangential curve, concave easterly, having a radius of 78.00 feet and a central angle of 143 degrees 06 minutes 48 seconds; thence North 46 degrees 19 minutes 44 seconds, tangent to last described curve, 229.05 feet; thence northerly, 164.60 feet along a tangential curve, concave westerly, having a radius of 112.00 feet and a central angle of 84 degrees 12 minutes 23 seconds; thence North 37 degrees 52 minutes 39 seconds West, tangent to last described curve, 195.00 feet, more or less to the shoreline of Lake Waconia; thence southwesterly along said shoreline to the intersection of a line bearing North 38 degrees 18 minutes 45 seconds West from the point of beginning; thence southeasterly along said intersected line to the point of beginning.



Attachment B: Map of Property





## Attachment C: Legal Description of Easement

Together with a non-exclusive easement for ingress and egress purposes being a strip of land 66.00 feet wide lying 33.00 feet on each side of the following described centerline:

Commencing at the southwest corner of said Section 18; thence North 00 degrees 43 minutes 32 seconds East along the west line of said Section 18, a distance of 19.06 feet; thence North 50 degrees 01 minutes 35 seconds East, 1714.89 feet to the point of beginning of the centerline to be described; thence North 39 degrees 58 minutes 25 seconds West, 58.53 feet; thence northerly, 162.82 feet along a tangential curve, concave easterly, having a radius of 140.00 feet and a central angle of 66 degrees 37 minutes 59 seconds; thence North 26 degrees 39 minutes 34 seconds East, tangent to said curve, 119.52 feet; thence northerly, 198.71 feet along a tangential curve, concave westerly and having a radius of 400.00 feet and a central angle of 28 degrees 27 minutes 46 seconds; thence North 01 degrees 48 minutes 12 seconds West, tangent to said curve, 221.71 feet; thence northerly 302.08 feet along a tangential curve, concave westerly, having a radius of 290.00 feet and a central angle of 59 degrees 40 minutes 55 seconds; thence North 61 degrees 29 minutes 07 seconds West, tangent to said curve, 143.30 feet to the southeasterly line of the herein before described parcel and said centerline there terminating.

Attachment D: Map of Easement (shown by red dashed line)







# Carver County Parks

Department of Public Works

11360 Highway 212  
Suite 2

Cologne, MN 55322

Phone (952) 466-5250 Fax (952) 466-5223

[www.co.carver.mn.us/parks](http://www.co.carver.mn.us/parks)

11360 Hwy. 212 West, Suite 1

Cologne, Minnesota 55322

Phone (952) 466-5200

Fax (952) 466-5223

October 5, 2015

Jan Youngquist  
Planning Analyst  
Parks and Natural Resources  
Metropolitan Council  
390 North Robert Street  
St. Paul, MN 55101

Re: Lake Waconia Regional Park - Sale of Property for a Boat Access

Dear Ms. Youngquist:

On March 3, 2015, Carver County executed an Option for the Purchase of Real Estate and Memorandum of Conditions with the DNR to sell 5.17 acres of lakeshore property at Lake Waconia Regional Park for a boat access. The area to be acquired by the DNR is consistent with the master plan for the park. The appraised price of the property is \$1,271,000. However, Carver County has agreed to sell the property at a price of \$1,100,000 (the amount the DNR offered). The DNR will develop the boat access site and cooperate in planning, constructing, and managing the site, consistent with plans for Lake Waconia Regional Park.

The area to be sold to the DNR extends over two separate acquisitions for Waconia Regional Park. On December 9, 2009, Metropolitan Council authorized SG 2009-075 that was used to acquire 1.28 acres of the Country Store Garden and Floral parcel. Funding was provided by Council Bonds and State Funds. Within this parcel, 0.12 acres would be sold to the DNR for the boat access. Since 45% of the funding was provided by Parks and Trails Fund (PTF) for this parcel, Carver County will repay the PTF 45% of the appraised land value on 0.12 acres. The amount to be repaid to the PTF is \$13,276.

The Council also authorized Grant SG-2013-074 (June 12, 2013) to acquire 19.29 acres. Funding was provided through Council Bonds and Environmental Natural Resources Trust Fund (ENRTF). Within this parcel, 5.05 acres would be sold to the DNR. Further, since 28% of the funding was provided by the ENRTF for this parcel, Carver County will repay the ENRTF the proportionate amount calculated at 28% of the appraised land value on 5.05 acres. The amount to be repaid to ENRTF will be \$347,620.

The below summary is provided.

Carver County is selling 5.17 acres to the DNR, which consists of 0.12 acres from the former Country Store parcel at a value equal to \$29,501, and 5.05 acres from the Pauls parcel at value equal to \$1,241,499 for a total of \$1,271,000.

Sale of Land to DNR	\$1,100,000
Refund PTF	\$ -13,276 (45% of appraised value of \$29,501)
Refund of ENRTF:	<u>\$ - 347,620</u> (28% of appraised value of \$1,241,499)
Carver County Nets:	\$ 739,104

Carver County is currently eligible to receive \$1,929,240 in a future CIP of the Metropolitan Council for acquisition of the 19.29 acre parcel. The County proposes to reduce its eligible expense on this parcel by \$739,104 upon the sale of land to the DNR, and the County would be eligible for reimbursement in a future CIP of the Metropolitan Council on the remaining balance of \$1,190,136.

Further, an easement area consisting of 1.64 acres over the existing roadway of Paradise Lane is to be provided to the DNR for access to the property.

In order to convey the property to the DNR, Carver County requests that the restrictive covenants over the future boat access site and Paradise Lane be removed. Additional, in accordance with ENRTF restrictions, the County will work to place a restrictive covenant on the remaining area of the 19.29 acre site not sold the DNR.

Attached please see supporting information of DNR Cooperative Agreement, DNR Option Agreement and Notice of Election of Purchase, exhibit of the boat access area, location of the boat access area within Lake Waconia Regional Park and legal description of the property.

Carver County is excited to work with the DNR on this project which has created win win situations for Metropolitan Council, Carver County, DNR and the public.

Sincerely,

A handwritten signature in black ink, appearing to read 'Martin Walsh', with a stylized flourish at the end.

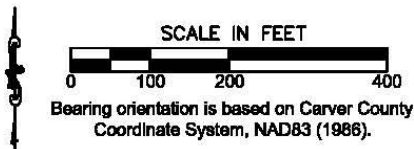
Martin Walsh  
Parks Director



### Carver County Surveyor Exhibit



Total Area computed to 2001 surveyed waterline: 19.29 acres  
 Total area of former C.S.A.H. No. 30: 1.44 acres  
 Total shoreline along Ordinary High Water line (approximate): 901 feet ±

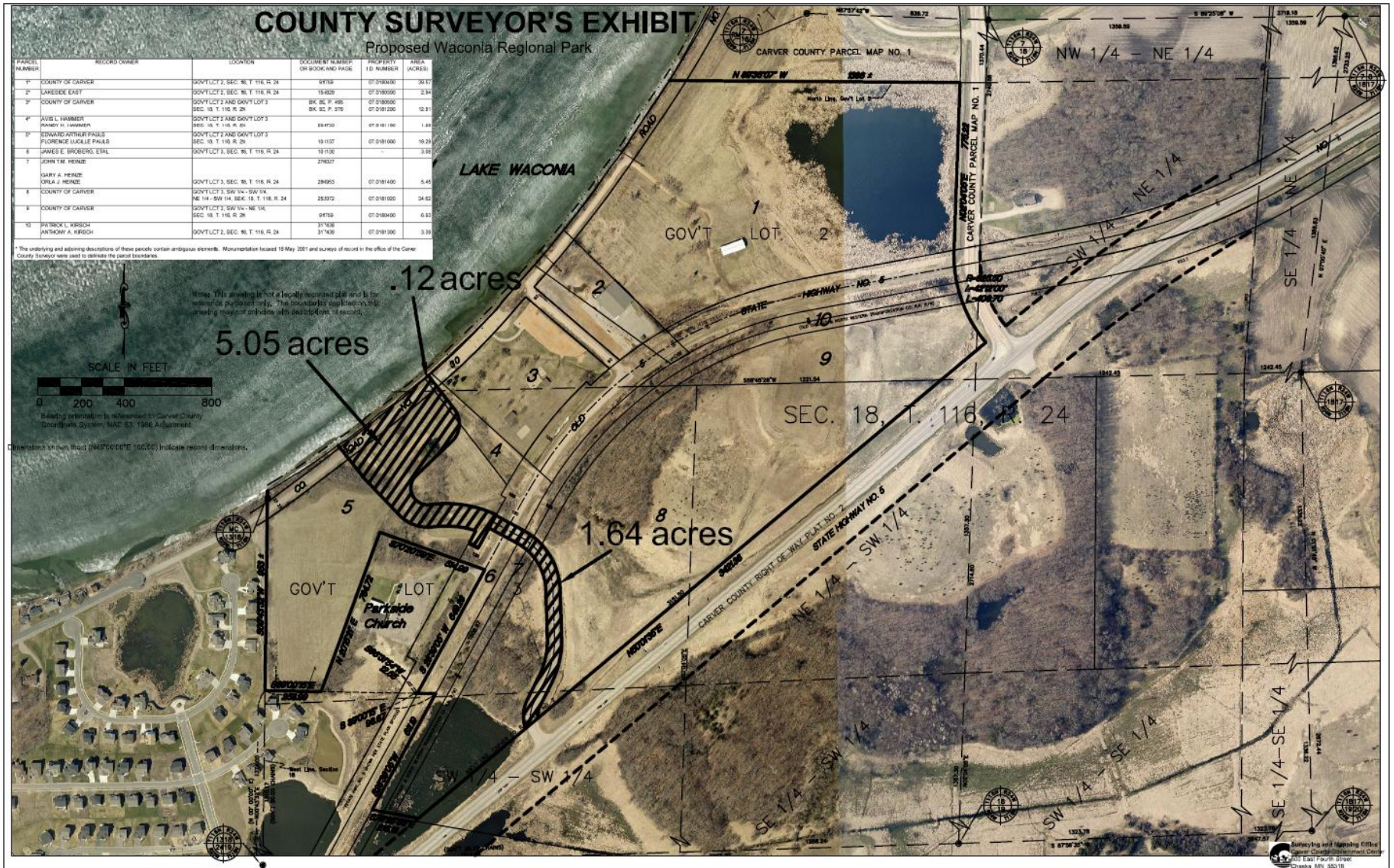



**Surveying and Mapping Office**  
 Carver County Government Center  
 600 East Fourth Street  
 Chaska MN 55318

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# Attachment G: Property to be Sold to DNR and Access Easement in Relation to Underlying Parcels





## Attachment H: Timeline of Boat Launch and Associated Financial Transactions

Date	Action	
1995	Met Council approved an acquisition master plan for Lake Waconia Regional Park that delineated the park boundaries	
October 2001	Lake Waconia Regional Park development master plan approved by Met Council— included a planned boat launch	
2004-2015	Negotiations occurred between Carver County and the DNR regarding the boat launch	
December 2009	Met Council issues grant for acquisition of property adjacent to the planned boat launch site using Parks and Trails Funds and Council bonds.	
	<b>Total Acquisition Costs</b>	<b>\$876,763</b>
	<b>Total Grant</b>	<b>\$657,572</b>
	Parks and Trails Fund (45% of costs)	\$394,543
	Met Council Bonds (30% of costs)	\$263,029
	Carver County (25% of costs)	\$219,191
2012-2013	Negotiations between Carver county and key property owner for boat launch project land are accelerated	
June 2013	Met Council issues grant for acquisition of 19.29 acre property, a portion to be used for the boat launch. DNR does not have funds available for the acquisition, so Carver County purchases the entire parcel, with the plan to sell to DNR once funds are available.	
	<b>Total Acquisition Costs</b>	<b>\$3,629,240</b>
	<b>Total Grant</b>	<b>\$1,700,000</b>
	ENRTF (28% of costs)	\$1,020,000
	Met Council Bonds (19% of costs)	\$680,000
	Carver County (53% of costs)	\$1,929,240
March 2015	Carver County and DNR enter into Cooperative Agreement and Option for Purchase of 5.17 acres of land for boat launch. 5.05 acres of boat launch site is part of the 19.29 acres acquired in 2013. The remaining .12 acres is on the adjacent property purchased in 2009.	
July-October 2015	Staff from Met Council, Carver County, DNR, and LCCMR discuss transaction and refunding of ENRTF and Parks and Trails Fund money	
	<b>Appraised Value of 5.17 acres to be sold to DNR</b>	<b>\$1,271,000</b>
	Value of 5.05 (proportionate to appraisal)	\$1,241,499
	Proposed amount to be refunded to LCCMR (28% of \$1,241,499)	\$347,620
	Value of 0.12 acres (proportionate to appraisal)	\$29,501
	Proposed amount to be refunded to Met Council's Park Acquisition Opportunity Fund (45% of \$29,503)	\$13,276