

## Community Development Committee

For the Community Development Committee meeting of November 20, 2017

For the Metropolitan Council meeting of November 29, 2017

**Subject:** Parks Acquisition Opportunity Fund Grant for Baker to Carver Regional Trail (Kucher), Environment and Natural Resources Trust Fund, Three Rivers Park District

**District(s), Member(s):** 3 – Jennifer Munt

**Policy/Legal Reference:** MN Constitution, Article XI, Sec. 15 and MN Statutes 473.315; 2040 Regional Parks Policy Plan Siting and Acquisition Policy: Strategy 2

**Staff Prepared/Presented:** Deb Streets Jensen, Senior Parks Finance Planner 651-602-1554

**Division/Department:** Community Development Division / Regional Planning

### Proposed Action

That the Metropolitan Council:

1. Approve a grant of up to \$250,274 to Three Rivers Park District to acquire the Kucher parcels at 3910 and 3940 Farmhill Circle in Minnetrista for Baker to Carver Regional Trail;
2. Authorize the Community Development Director to execute the grant agreement and restrictive covenant on behalf of the Council;
3. Consider reimbursing Three Rivers Park District for up to \$83,425 from its share of a future Regional Parks Capital Improvement Program for costs associated with this acquisition; and
4. Inform Three Rivers Park District that the Council does not under any circumstances represent or guarantee that the Council will grant reimbursement in the future and a Regional Parks Implementing Agency is not entitled to reimbursement because of the expenditure of local funds.

### Background

**Regional Park Implementing Agency and Location.** Three Rivers Park District (Park District) requested this grant on June 2, 2017. A copy of the Park District's request is attached to this item as Exhibit 1. Baker to Carver Regional Trail will be located in western Hennepin County.

**Policy.** Strategy Two of the Siting and Acquisition policy from the *2040 Regional Parks Policy Plan* states that "*priorities for land acquisition are set by regional park implementing agencies in Council-approved master plans.*"

**Funding sources.** The Council's Park Acquisition Opportunity Fund (PAOF) provides resources to purchase property and easements via two state sources: the Parks and Trails Legacy Fund (PTLF) and the Environment and Natural Resources Trust Fund (ENRTF). The Council contributes further by matching every \$3 in state funds with \$2 in Council bonds proceeds. Between them, state and Council funds contribute up to 75% of the purchase price and eligible costs; the Regional Park Implementing Agency contributes the remaining 25% as local match. ENRTF and Council match would fund this grant. The Environment and Natural Resources Trust Fund provided funding for this project as recommended by the Legislative-Citizen Commission on Minnesota Resources (LCCMR). The Trust Fund is a permanent fund constitutionally established by the citizens of Minnesota to assist in the protection, conservation, preservation, and

enhancement of the state's air, water, land, fish, wildlife, and other natural resources.

**Council review.** Staff from the Council's Regional Parks and Natural Resources work unit:

- reviews each PAOF request to ensure that the proposed acquisition complies with state statute and Council policy;
- ensures that all necessary documentation is in place; and
- processes requests on a first-come-first-served basis.

**Acquisition details.** The property currently comprises six parcels totaling 9.04 acres. The Park District intends to purchase all six parcels, combine and subdivide the property into two new parcels, and sell the surplus parcel to Minnehaha Creek Watershed District (MCWD). The Park District is requesting grant funding for only the portion of the property that it will permanently retain.

**Subject property.** When it is completed, the Baker to Carver Regional Trail (formerly known as the Minnetrista Regional Trail Search Corridor) will connect Carver Park Reserve, Lake Minnetonka Regional Park, Dakota Rail Regional Trail, Gale Woods Farm, Kingswood Special Recreation Feature and the Luce Line State Trail through several communities and two counties. Located directly on Six Mile Creek and incorporating portions of the associated wetlands, this property provides an opportunity to protect the creek and the wetlands and provide public access to them.

Currently, there are four easements on the property. Two will remain on the property, as they do not prohibit the Park District's use of the property as a future regional trail; the Park District will resolve the other two easements prior to closing.

- The two easements that will remain are:
  - A three-foot easement allows for a walkway through portions of the property (please see the purple line on the north end of the map included as Attachment 2-B). This easement allows a nearby resident access to the lake. No dock is allowed.
  - An ingress/egress easement through Outlot M that allows for passive recreation, as shown on Attachment 2B.
- The two easements that the Park District will resolve prior to closing are:
  - A flowage and conservation easement held by the City of Minnetrista restricts the construction of any structures or other improvements inconsistent with the natural state of the land for Outlots L and M. The Park District will modify this easement to allow for regional trail construction, including but not limited to a boardwalk and bridges, as well as infrastructure such as piping for MCWD's alum treatment facility.
  - The City of Minnetrista holds a restriction on the property that prohibits reconfiguration and subdivision. The Park District, the current property owner, and the City of Minnetrista are working together to re-plat the property. The City's Planning Commission will consider the request on November 27, 2017. See Exhibit 4 for the resolution of support for this acquisition.

## Rationale

This acquisition is consistent with:

- The *2040 Regional Parks Policy Plan*;
- Appropriation requirements – the Council's Regional Parks staff obtained approval from the Legislative-Citizen Commission on Minnesota Resources to amend the work plan for the Council's ENRTF appropriation for state fiscal year 2014 to include this acquisition; and
- The Baker to Carver Regional Trail master plan, approved by the Council on May 13, 2015.

The partnership between MCWD and the Park District is beneficial to both parties as well as the local community, greater region, and the State of Minnesota. The City of Minnetrista adopted Resolution number 74-17 in favor of the planned acquisition (see Exhibit 4-B).

### Thrive Lens Analysis

This request is consistent with *Thrive MSP 2040's* Livability outcome because the regional trail helps increase access to nature and outdoor recreation, providing vistas across farmland, small hobby farms, wetlands and wooded areas. This regional trail is networked within an almost 400 mile system of regional trails that help connect our region, promote healthy communities, and active living. The request is also tangentially consistent with the Stewardship outcome. According to the MCWD, the water quality in Halstead Bay is among the worst in the Watershed District due in part to an excessive nutrient load. Although no state or regional dollars will contribute to the MCWD's purchase of part of this property, their planned alum treatment facility will help to improve water quality downstream, extending benefits throughout Lake Minnetonka to Minnehaha Creek and the Mississippi River.

### Funding

**Project budget.** The entire property was appraised in February 2017 at \$750,000 on a per-square-foot basis, and the Park District has also supplied a 2013 appraisal as historical context. The appraised value of the portion of the property the Park District will permanently retain was calculated at \$317,635, and the Park District has offered the seller 100% of the appraised amount plus closing and other costs as shown below.

<b>Budget item</b>	<b>Requested amount</b>
Purchase price	\$317,635
Due diligence (appraisal, Phase I environmental site assessment, etc.)	4,000
Holding and closing costs	11,764
Stewardship	<u>300</u>
Total costs	\$333,699
Local match	\$83,425
<b>Grant structure – Grant amount not to exceed</b>	<b>\$250,274</b>
State FY 2015 ENRTF PAOF	\$150,164
Council bonds	100,110

### Fund balance.

If this grant is awarded by the Council, the combined balance available for the ENRTF PAOF, including the Council's match, will be:

State fiscal year	ENRTF balance	Council bond match	Total
2015	\$937,150	\$624,767	\$1,561,917.00
2016	1,000,000	666,666	1,666,666
2018	1,500,000	1,000,000	2,500,000
<b>Total</b>	<b>\$3,437,150</b>	<b>\$2,291,433</b>	<b>\$5,728,583</b>

**Future reimbursement consideration.** The Agency is also requesting that the Council consider reimbursing its local match of \$83,425 for this acquisition as a part of a future Regional Parks Capital Improvement Program (CIP). A request for "future reimbursement consideration" is the first step in a process the Regional Parks Implementing Agencies may use to request repayment of their match amount for this acquisition in a future CIP cycle. Because the Council issues bonds to cover exactly

40% of CIP costs for a given state bonding cycle, such reimbursements are limited. The Council is under no obligation to reimburse this amount.

**Known Support / Opposition**

There is no known opposition. The Metropolitan Parks and Open Space Commission (MPOSC) unanimously recommended approval of this request at their meeting on November 14, 2017.

## Metropolitan Parks and Open Space Commission

Meeting date: November 14, 2017

For the Community Development Committee meeting of November 20, 2017

For the Metropolitan Council meeting of November 29, 2017

**Subject:** Parks Acquisition Opportunity Fund Grant for Baker to Carver Regional Trail (Kucher), Environment and Natural Resources Trust Fund, Three Rivers Park District

**MPOSC District:** B – Robert Moeller

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amount for this acquisition in a future CIP cycle. Because the Council issues bonds to cover exactly 40% of CIP costs for a given state bonding cycle, such reimbursements are limited. The Council is under no obligation to reimburse this amount.

**Known Support / Opposition**

There is no known opposition.



## **Exhibit List**

Exhibit 1: Grant request letter

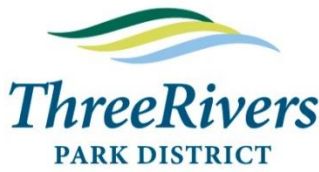
Exhibit 2: Images

Exhibit 3: Grant application

Exhibit 4: Resolutions of support

Exhibit 5: Purchase agreement

Exhibit 6: Appraisal excerpt



June 2, 2017

Three Rivers  
Park District  
Board of  
Commissioners

Mr. Emmett Mullin, Manager  
Regional Parks and Natural Resources Unit  
Community Development Division  
390 North Robert Street  
St. Paul, MN 55101

Penny Steele  
District 1

RE: Park Acquisition Opportunity Grant Fund Request for Baker/Carver Regional Trail

Jennifer DeJournett  
District 2

Dear Emmett,

Three Rivers Park District respectfully requests a Park Acquisition Opportunity Grant for Baker/Carver Regional Trail in the amount of \$250,274.04 for acquisition of 3.72 acres located in the City of Minnetrista. Please process this request and forward to the Metropolitan Parks Open Space Commission, Community Development Committee, and Metropolitan Council for consideration and approval.

Daniel Freeman,  
Vice Chair  
District 3

**Background Summary**

Three Rivers Park District was approached by the seller's via the City of Minnetrista regarding the sale of their property. Known as Segment F - Six Mile Marsh in the master plan, the Barker/Carver Regional Trail will travel north/south directly through the parcel. This segment is a critical link between Carver Park Reserve and the Dakota Rail Regional Trail, crossing the Six Mile Creek and marsh. This route will provide vistas across farmland, small hobby farms, wetlands and wooded areas.

John Gunyou,  
Chair  
District 4

The Park District intends to purchase the entire property comprised of six parcels totaling 9.04 acres, combine/subdivide the property into two parcels, and then sell the surplus parcel to Minnehaha Creek Watershed District (MCWD). Only the portion of the property the Park District will permanently retain is included in the land acquisition grant request.

John Gibbs  
District 5

The portion of the property that will be owned by the Park District has two recently placed encumbrances held by the City of Minnetrista as part of their water treatment project. The encumbrances include a permanent utility easement totaling 4,525 square feet and a temporary easement totaling 11,605 square feet which terminates July 1, 2017.

Larry Blackstad  
Appointed  
At Large

The Park District has entered into an agreement with MCWD to purchase 5.32 acres of the 9.04 acres with the intention of constructing a future alum treatment facility to help improve the water quality of Halsted Bay in Lake Minnetonka. The terms of the agreement state that MCWD will reimburse the Park District for the land conveyed at the same per square foot price as listed in the appraisal. All associated closing and subdivision costs will split the cost equally.

Steve Antolak  
Appointed  
At Large

Cris Gears  
Superintendent

The following is a breakdown of the land square footage and purchase price between the Park District and MCWD, per the appraised value of the overall property:

<b>Proposed Split Costs per Agency</b>		<b>TRPD</b>		<b>MCWD</b>	
	\$/SF	SF		SF	
Upland	6.41	43091	\$ 276,213.31	58250	\$ 373,382.50
Wetland	0.34	114503	\$ 38,931.02	173478	\$ 58,982.52
Easement	0.17	4526	\$ 769.42		
Rounding			\$ 1,721.23		
Total Each Entity			<b>\$ 317,634.98</b>		<b>\$ 432,365.02</b>
<b>Appraisal Total</b>			<b>\$ 750,000.00</b>		

Please process this request in order to close on property in mid-August.

Thank you for your continued assistance throughout this process.

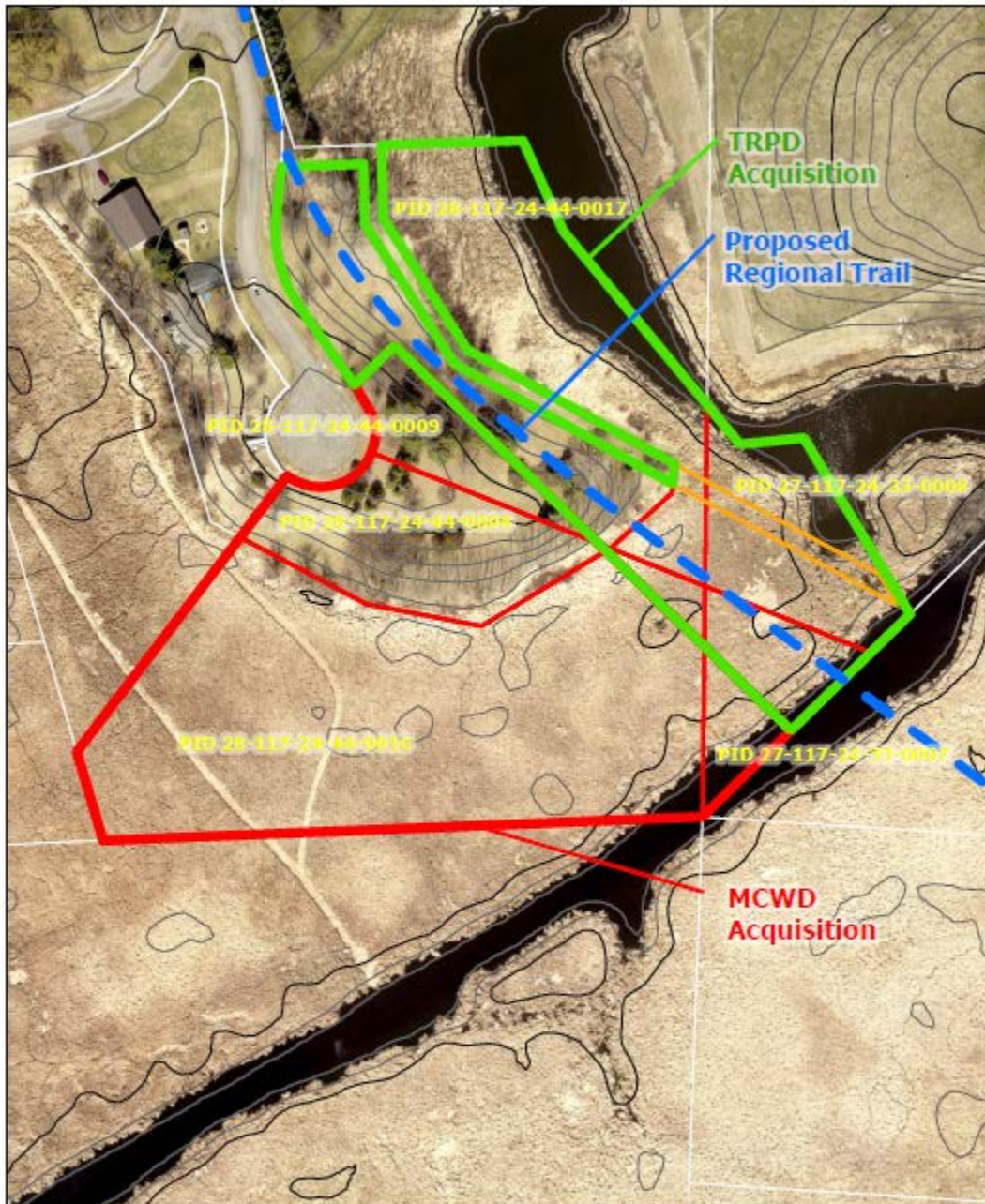


Heather Kuikka  
 Planning Administrative Specialist

Enclosures

C: Jonathan Vlaming, Associate Superintendent  
 Kelly Grissman, Director of Planning  
 Stephen Shurson, Landscape Architect

Exhibit 2-A: Property Division



Kucher Property



Exhibit 2B: Easements

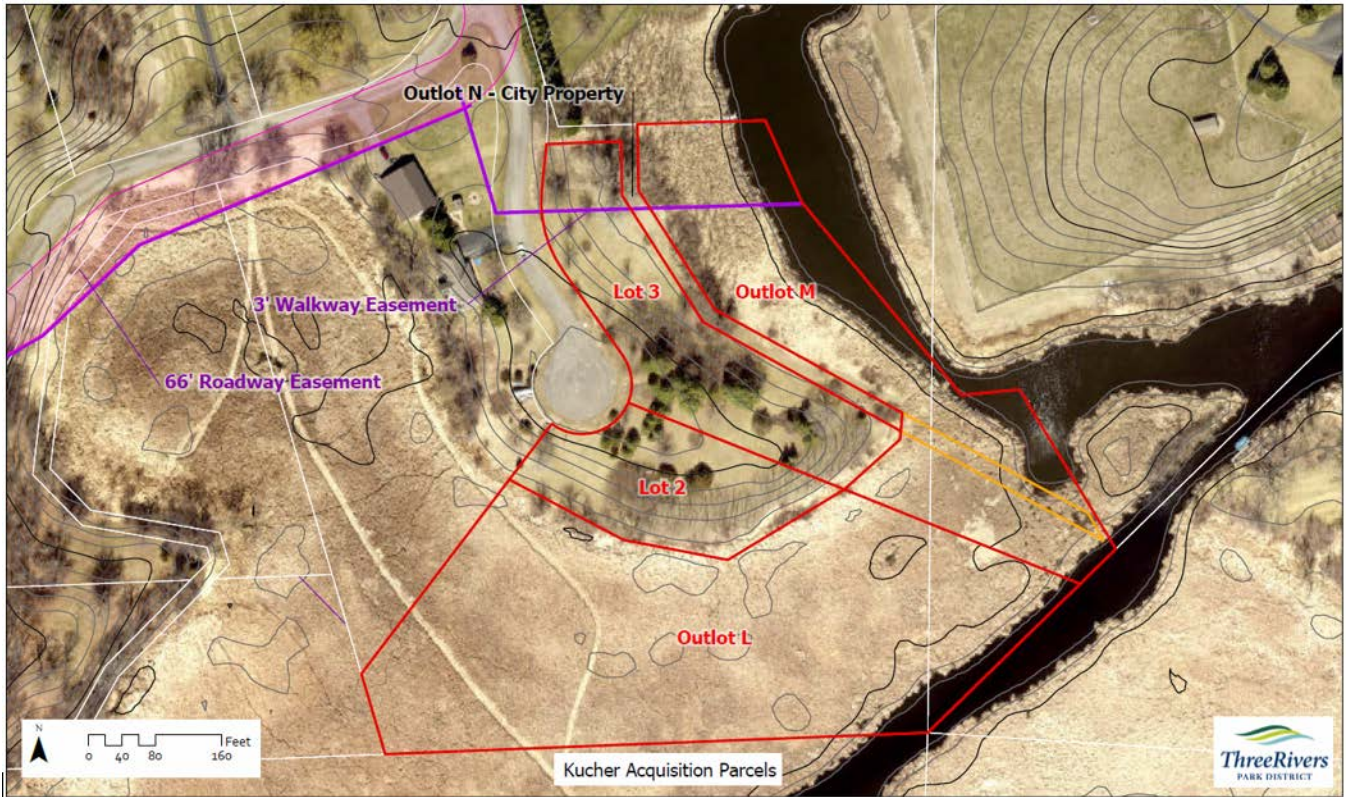


Exhibit 2-C: Aerial image



Exhibit 2-D – Site photographs





Application

101121748 - 2017 PAOF Parks Acquisition Opportunity Fund

101121842 - Baker-Carver RT Kucher Property

Parks Grants Acquisition

Status: Submitted
Submitted Date: 06/02/2017 3:56 PM

Primary Contact

Name: Stephen Francis Shurson
Title: Landscape Architect
Department: TRPD Planning
Email: stephen.shurson@threeriversparks.org
Address: 3000 Xenium Lane North

\* Plymouth Minnesota 55441
City State/Province Postal Code/Zip

Phone: 763-559-6766
Phone Ext.

Fax:
What Grant Programs are you most interested in? Parks Grants Acquisition

Organization Information

Name: THREE RIVERS PARK DISTRICT
Jurisdictional Agency (if different):

Organization Type:

Organization Website:

Address:

RESERVATIONS  
3000 XENIUM LN N

\*

PLYMOUTH Minnesota 55441-2661  
City State/Province Postal Code/Zip

County:

Hennepin

Phone:\*

763-559-6700  
Ext.

Fax:

PeopleSoft Vendor Number

0000057347A1

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## Project description

*Please limit acquisition requests to a single park or trail*

Park or trail name

Baker-Carver RT - Three Rivers Park District

### Master plan

*An acquisition request will not be considered complete or added to an ENRTF work plan until the property is included in a Council-approved master plan.*

Is the project consistent with a Council-approved master plan? Yes

If yes, name of master plan and date of Council approval

Baker/Carver Regional Trail 05/20/2015  
Name of master plan Council approval date - Format: mmddyyyy  
(Do not enter any punctuation.)

If no, has a master plan amendment been submitted to the Council for review and approval?

### Acquisition method

Acquisition method

Fee title

If the acquisition method is anything other than routine, provide more detail.

*This question seeks a general description of the acquisition method - is this a routine purchase, or does it involve a land donation, park dedication fees, condemnation, or some combination? Please use this space to describe the overall acquisition **project**.*



This acquisition is not routine. The Park District intends to purchase the entire property comprised of six parcels, combine/subdivide the property into two parcels, and then sell the surplus parcel to Minnehaha Creek Watershed District. Only the portion of the property the Park District will permanently retain is included in the land acquisition grant request. This partnership is beneficial to both parties as well as the local community, greater region, and state of Minnesota. The land the Park District will permanently retain will be used as part of a new regional trail corridor spanning from the Lake Minnetonka Regional Trail to Bake Park Reserve connecting Carver Park Reserve, Lake Minnetonka Regional Park, Dakota Rail Regional Trail, Gale Woods Farm, Kingswood SRF, and the Luce Line State Trail through several communities and two counties. The regional trail is envisioned to incorporate and highlight areas of natural resource value such as this property. Located directly on Six Mile Creek and incorporating portions of the associated wetlands, this property provides an opportunity to further protect and preserve these important resources and provides public access to them.

The land in which the Watershed District will retain is intended to be used as a future alum treatment facility ultimately improving water quality of Halstead Bay – the most polluted bay in all of Lake Minnetonka in respect to nutrient loading. While this directly benefits the Park District (Lake Minnetonka Regional Park is located on Halstead Bay), improving Lake Minnetonka water quality improves the water quality of Minnehaha Creek and the Mississippi River – all significant Twin Cities and Minnesota resources.

The Park District and Watershed District have entered into an agreement outlining this partnership as well as how associated costs will be split. In general each party will be responsible to purchase the property for the appraised value and split most associated costs. Exceptions to the cost split are for items in which only party benefits from or both parties need to do for their regulatory processes (title commitment/insurance).

**Is any portion of the property currently in the public domain?** Yes

**If yes, describe/name the entity and the portion of the property it owns, as well as why this public-to-public transfer is necessary.**

See easement information below.

*If condemnation will be involved, include documentation of your governing body's authorization (on the Other Acquisition Attachments web page).*

**If condemnation is involved, date the petition was/will be filed.**

**If condemnation is involved, expected settlement date**

**Are there easements or other encumbrances on any part of the property?** Yes

**If yes, describe**

City of Minnetrista easements:

- Permanent utility easement totaling 4,525 square feet through wetland (see required parcel map)
- Temporary easement totaling 11,605 square feet, terminating July 1, 2017 (note: this will expire prior to Park District closing on the property)

**Closing date**

*The Council will process all acquisition requests expeditiously, but we do not guarantee that the approval process will be completed to meet your requested closing date. This date will be considered an **estimate** only. However, the acquisition must be completed during the grant term.*

**Estimated closing date** 08/15/2017

*Format: mmddyyyy (Do not enter any punctuation.)*

**Date purchase agreement expires**

*Format: mmddyyyy (Do not enter any punctuation.)*

**Appraisal effective date** 02/17/2017

**Appraisal information**

**Appraised value** \$317,634.98

Amount being offered the seller (net of closing and other costs) \$317,634.98 100.0%  
% of appraised value

Appraisal date 02/17/2017

Who performed the appraisal? Day Group LLC

Who contracted for the appraisal (i.e., was it done at arms' length)? Three Rivers Park District

Was a survey done? No

**Quality of natural resources - is the property...**

...undeveloped? Yes  
Fully Partially

...wooded? Yes  
Fully Partially

...shoreline? Yes  
Fully Partially

**Describe the existing natural resources it contains**

This parcel is located directly on Six Mile Creek and includes several acres of associated wetlands. The upland overlooks a large wetland complex in which Six Mile Creek winds through and includes some woodland areas with mature trees.

The portion of the property in which the Park District will permanently retain includes:

- 0.99 ac. upland with some mature trees
- 2.73 ac. wetland with frontage on Six Mile Creek

**Suggested funding source**

For guidance, see the PAOF rules in the 2040 Regional Parks Policy Plan at <http://metro council.org/Parks/Publications-And-Resources/POLICY-PLANS/2040-Regional-Parks-Policy-Plan.aspx>; for **ENRTF fee title acquisition project requirements**, see [http://www.lccmr.leg.mn/pm\\_info/enrtf\\_fee-title-acquisition-project-requirements.pdf](http://www.lccmr.leg.mn/pm_info/enrtf_fee-title-acquisition-project-requirements.pdf)

The Council will review your project specifics and work with you to determine the optimal funding source(s).

Anticipated funding source ENRTF / Council match

Select as many as apply

**Structures currently on the property**

Does the property contain ANY structures? No

If yes, are there any habitable structures? No

If yes, what is the plan for the structure(s)?

If there are habitable structures, could they be relocated? If yes, how? If no, why not?

**For ENRTF funding only**

If this will use ENRTF funding, LCCMR rules require that you describe the selection process used to identify these proposed parcels.

NOTICE: ENRTF funding has specific requirements for disseminating information to the public when property is purchase through the Trust Fund. It is the agency's responsibility to meet those requirements and to provide documentation to the Council BEFORE payment will be made.

This parcel is within the boundaries of the Council approved master plan for the regional trail and was identified for acquisition. Acquisition of this parcel is critical to providing a safe and constructable crossing of Six Mile Creek. Without this crossing, the 17-miles regional trail will have a critical gap. As envisioned the regional trail will provide a high-quality destination regional trail greenway through southwest Hennepin County connecting to five existing natural resource-based regional parks and three regional/state trails.

The overall route, which includes this parcel, was developed to incorporate and highlight the natural resources of the area including the Six Mile Creek, wetland complexes, and wooded areas. The regional trail will provide people utilizing the regional trail system an opportunity to view, interact, and experience undeveloped natural places and resources close to home.

There are no other existing or planned regional or local bike and pedestrian facilities that span the entire corridor or overcome the significant barriers this corridor will (TH 7, Six Mile Creek, Hwy 12).

Acquisition of this parcel at this time is critical as the Park District predominately acquires property on a willing seller basis. In this case, there is a willing seller and a purchase agreement was prepared and entered into.

**Does the property currently contain any revenue-generating businesses?** No

**If the property contains habitable structures or revenue-generating businesses, describe:**

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## Stewardship and minimal access

**Describe the stewardship plan.**

Boundary signage will be installed.

The long-term ecological restoration and management plan is to remove invasive species and to add native vegetation which will serve both an ecological function (wildlife habitat, air quality, stormwater management, erosion control, etc.) as well as provide recreation value by buffering the regional trail from adjacent existing and future development and creating an opportunity to experience and appreciate nature while using the regional trail. Vegetation will most likely come from the Park District's nursery which grows herbaceous and woody native plant materials using local ecotypes. The plant material will be selected based on site conditions (soil type, flood plain, etc.).

While the public will be allowed to access the site for passive recreation, it will not be promoted in Park District literature until additional adjacent right-of-way is obtained and the regional trail is developed.

**How will the stewardship implementation be funded?**

TRPD funds will be used.

**Are you requesting funds to provide minimal access to the property (prior to it being open to the public) as part of this grant request?** No

**If yes, how will those funds be used?**

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## Local match

**Source of local match**

Three Rivers Park District Land Acquisition Development and Betterment Fund

**Will you be requesting consideration for future reimbursement of any part of your local match?** Yes

**If yes, how much?** \$83,424.69

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## Sellers and parcels



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## Grant agreement signatories

Full name	Title	If this is an attorney, is the signature 'for form only'?
Boe R. Carlson	Superintendent and Secretary to the Board	No

---

## Acquisition Costs

Cost Items	Amount
<b>Purchase price</b>	
Negotiated purchase price	\$317,634.98
<b>Appraisal expenses</b>	
Appraisal	\$4,000.00
Appraisal review	\$0.00
<b>Environmental expenses</b>	
Phase I environmental site assessment	\$0.00
Phase II environmental site assessment	\$0.00
Environmental contamination remediation	\$0.00
<b>Holding expenses</b>	
Interest	\$0.00
Land stewardship	\$300.00
Land development	\$0.00
Pro-rated share of all property taxes/assessments	\$2,000.00
Legal services and closing costs	\$630.00
Property tax equivalency payment-473.341	\$1,593.77
Relocation costs to seller	\$0.00
State deed tax/conservation fee	\$539.98
Title insurance	\$7,000.00
Well disclosure statement	\$0.00
Other holding	\$0.00
<b>Other expenses</b>	
Other expenses	\$0.00
<b>Totals</b>	<b>\$333,698.73</b>

---

## Total Estimated Acquisition Costs

<b>Totals</b>	<b>Total acquisition cost</b>	<b>Total paid with state funds</b>	<b>Total paid with metro funds</b>	<b>Total paid by agency</b>	<b>Total grant amount</b>
Total Estimated Acquisition Cost (calculated after costs above are entered)	\$333,698.73	\$150,164.43	\$100,109.61	\$83,424.69	\$250,274.04

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## Required Attachments - Acquisition

Exhibit 4-A: City of Minnetrista Resolution No. 74-17

**RESOLUTION NO. 74-17**

**A RESOLUTION OF SUPPORT FOR THE  
ACQUISITION OF 3910 & 3940 FARMHILL CIRCLE  
IN THE CITY OF MINNETRISTA**

WHEREAS, the City of MINNETRISTA ("City") participated in and passed Resolution No. 14-15 in of support for the Baker-Carver Regional Trail master plan on January 20, 2015; and

WHEREAS, the City entered into a Regional Trail Cooperative Agreement ("Agreement") with Three Rivers Park District ("Park District") on February 5, 2015; and

WHEREAS, the Agreement allows the Park District to acquire land necessary for creating a contiguous and continuous regional trail corridor; and

WHEREAS, the Agreement requires the City to approve Park District acquisition of the property via resolution; and

WHEREAS, acquisition of 3910 & 3940 Farmhill Circle, Minnetrista, MN ("Property") is consistent with the City supported master plan and necessary to create a contiguous and continuous regional trail corridor; and

WHEREAS, the Property is further described:

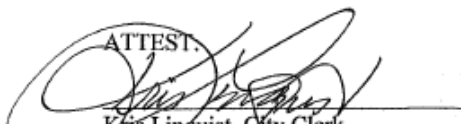
MN PIDs:	
28-117-24-44-0008	28-117-24-44-0017
28-117-24-44-0009	28-117-24-33-0007
28-117-24-44-0016	28-117-24-33-0008

Lots 2 and 3, Block 2, that part of Outlot L lying in Sec 27 T 117 R 24, that part of Outlot L lying in Sec 28 T 117 R 24, that part of Outlot M lying in Sec 27 T 117 R 24, that part of Outlot M lying in Sec 28 T 117 R 24, Farmhill 2nd Addition, Hennepin County;

THEREFORE, BE IT RESOLVED, that the City Council of the City of Minnetrista, Minnesota approves the direct purchase of property rights of the aforementioned property by the Park District for the Baker-Carver Regional Trail.

This resolution was adopted by the City Council of the City of Minnetrista on the 1<sup>st</sup> day of May, 2017 by a vote of 5 ayes and 0 nays.

  
Lisa Whalen, Mayor

ATTEST:  
  
Kris Linquist, City Clerk  
(SEAL)



**PURCHASE AGREEMENT**

**THIS PURCHASE AGREEMENT** ("Agreement") is entered into by and between **Three Rivers Park District**, a public corporation and political subdivision of the State of Minnesota ("Buyer") and **James and Lynda Kucher**, husband and wife ("Seller").

**RECITALS**

**WHEREAS**, Buyer is a political subdivision of the State of Minnesota, whose primary duties are acquisition, development and maintenance of large parks, wildlife sanctuaries or other reservations, and means for public access to historic sites and to lakes, rivers and streams and to other natural phenomena, and to acquire, establish, operate and maintain trail systems; and

**WHEREAS**, Seller owns property described on Exhibit A hereto ("Subject Property") in the City of Minnetrista, Minnesota; and

**WHEREAS**, Seller and Buyer wish to enter into an agreement for the conveyance of said property from Seller to Buyer.

**NOW THEREFORE**, for and in consideration of the above premises and the promises contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

**1. Conveyance.** Seller hereby agrees to convey to Buyer and Buyer agrees to accept from Seller the Subject Property together with all improvements and fixtures.

**2. Consideration.** In consideration of the conveyance, transfer and delivery by the Seller to the Buyer of the Subject Property, the Buyer shall pay to the Seller the sum of Seven Hundred Fifty Thousand Dollars and no cents (\$750,000.00) at closing.

**3. Deed/Marketable Title.** Subject to performance by the Buyer, Seller agrees to execute and deliver a Warranty Deed in recordable form conveying marketable title to Subject Property subject only to the following exceptions:

- (a) Building and zoning laws, ordinances, State and Federal regulations; and
- (b) Reservation of any minerals or mineral rights to the State of Minnesota.

**4. Real Estate Taxes.** Real estate taxes due and payable in the year of closing shall be prorated between Seller and Buyer on a calendar year basis to the actual date of closing. Seller shall pay the prorated portion of the real estate taxes up to and including the date prior to the date of closing. Buyer shall pay its prorated portion of the real estate taxes from and after the date of closing. Real estate taxes payable in the years prior to closing shall be paid by Seller on or before the date of closing. Real estate taxes payable in the years subsequent to closing shall be paid by Buyer.



**5. Special Assessments.** Seller shall pay on or before the date of closing all installments of special assessments certified for payment with the real estate taxes due and payable in the year of closing, and all other special assessments levied as of the date of this Agreement. Seller shall provide for payment of special assessments pending as of the closing for improvements that have been ordered by the City Council or other governmental assessing authorities. Seller shall pay on date of closing any deferred real estate taxes or special assessments, payment of which is required as a result of the closing of this sale.

**6. Prorations.** Except as otherwise provided herein, all items customarily prorated and adjusted in connection with the closing of the sale of the Subject Property shall be prorated as of the date of closing. It shall be assumed that the Buyer will own the property for the entire date of the closing.

**7. Damages To Real Property.** Except for Buyer's inspections activities pursuant to Section 8(d), if there is any loss or damage to the Subject Property between the date hereof and the date of closing, for any reason, the risk of loss shall be on the Seller. Seller shall notify Buyer of loss or damage to the Subject Property promptly upon such occurrence. If the Subject Property is destroyed or damaged before the closing, this Agreement shall become null and void, at Buyer's sole option. Buyer shall have the right to terminate this Agreement within 30 days after Seller notifies Buyer of such damage. If Buyer elects to not terminate this Agreement, the proceeds of all insurance covering the Subject Property conveyed by this Agreement payable by reason of such damage or destruction shall be paid to the Buyer.

**8. Title and Documents.**

(a) Documents and Information to be provided. Within 30 days after the acceptance of this Agreement by the parties hereto, Seller shall provide Buyer with the following:

- (i) Copies of any environmental audits or assessments of the Subject Property that are in Seller's possession.
- (ii) Copies of any certificates, authorizations, permits, licenses and approvals which have been issued covering the Subject Property.
- (iii) Copies of any surveys that are in Seller's possession.
- (iv) Copies of any written agreements affecting the ownership and use of the Subject Property known to Seller.

(b) Title Commitment. Seller shall within 15 days of approval of this Purchase Agreement furnish Buyer with an updated abstract to the Subject Property, if possible. Buyer agrees to obtain an owner's title commitment. Buyer shall pay the title commitment fee and shall pay the premium for any title insurance desired by Buyer. The title examination period shall commence upon Buyer's receipt of a current title insurance commitment.

(c) Review of Commitment. Buyer shall have 30 days after receipt of the title commitment within which to object to the contents. If said objections are not made in writing within such time period, Buyer shall be deemed to have waived such objections. If Buyer objects to the contents of the title documents, Seller shall have 120 days from the date of such objections to make title marketable or to determine to not make title marketable and to terminate this Agreement, in which case neither party shall have any further obligation to the other. If title is not made marketable within 120 days, this Agreement shall be null and void at the sole option of Buyer and neither party shall have any further obligation under this Agreement.

(d) Inspections; Document Review. With respect to all of the above items other than the title documents, Buyer shall have 30 days after delivery of the foregoing to Buyer during which to inspect all such items. Further, Buyer may inspect the Subject Property and conduct such other and further inspections or other review as seems necessary by Buyer during such period. If such review and/or inspection by the Buyer shall be unsatisfactory to Buyer, Buyer shall notify Seller within such time period, and this Agreement shall be null and void at the sole discretion of the Buyer. If said period should expire without notice of Buyer's intention to terminate this Agreement, then this Agreement shall be considered in full force and effect and Buyer shall be deemed to have waived any objections based upon such review and inspection. Seller hereby grants Buyer and/or its agents the right to enter upon the Subject Property for the purpose of inspection and to prepare topographical studies, planning, surveys, soil tests and other engineering studies, and environmental inspection and testing that may be deemed necessary; provided however that Buyer shall pay all costs thereof and shall indemnify and hold Seller and Subject Property harmless from and against any and all costs, damages and liabilities arising from entry upon inspection or testing of Subject Property, including but not limited to costs, damages and liabilities arising from mechanics, materialmens and other liens filed against Subject Property in connection with work performed or material furnished by or at the direction of Buyer.

**9. Environmental.** To Seller's knowledge, and except as disclosed in the reports and other documents provided to Buyer, Seller's operations are in compliance with all applicable federal, state and local statutes, laws, rules, regulations, ordinances, orders, judicial or administrative decisions of any governmental authority or court of competent jurisdiction in effect and in each case, if applicable, as amended as of the Closing relating to (a) pollution of the environment, (b) a Release, as defined below, or threatened Release of Hazardous Materials, as defined below, or (c) the handling, storage, transport or disposal of Hazardous Materials (collectively, "Environmental Laws").

During the period of Seller's ownership of the Subject Property, to the Seller's knowledge, and except as disclosed in the reports and other documents provided to the Buyer (a) there has been no Release, as defined below, of any Hazardous Materials, as defined below, on the Subject Property, and (b) there have not been, and Seller has not received any notices from any governmental authority of any underground storage tanks on the Subject Property. For purposes of this Agreement, "Release" shall mean, in violation of applicable Environmental Laws, depositing, discharging, injecting, spilling, leaking, leaching, dumping,

emitting, escaping, emptying, seeping or placing and other similar actions into or upon any land, water or air, or otherwise entering into the environment, and "Hazardous Materials" shall mean (a) any chemicals, materials or substances defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous substances," "toxic substances," "pollutant or contaminant" or words of similar import, under applicable Environmental Laws; (b) any petroleum or petroleum products, natural or synthetic gas, radioactive materials, polychlorinate, biphenyls, asbestos in any form that is friable, urea formaldehyde foam insulation or radon, and (c) any other chemical, material or substance, the handling, storage, transport or disposal of which is prohibited, limited or regulated by any governmental authority under applicable Environmental Laws.

Seller has disclosed to the Buyer all reports and other documents in their possession concerning environmental matters relating to the Subject Property. To Seller's knowledge there are no existing claims or causes of action, and there are no pending claims regarding the Subject Property against the Subject Property or Seller involving the violation of Environmental Laws, and Seller has no such claims against third parties.

Seller shall indemnify and hold Buyer harmless from and against any and all claims brought under Environmental Laws pertaining to conditions in existence and known to Seller prior to conveyance to Buyer.

**10. Seller's Warranties.** As an inducement to Buyer to enter into this Agreement, and as part of the consideration therefore, Seller represents and warrants to and covenants with Buyer that to the best of Seller's knowledge at the time of closing there are no persons in possession of the property, including, but not limited to tenants, licensees, or permittees.

**11. Defaults/Right to Terminate.** In addition to the other rights to terminate this Agreement granted to each of the parties pursuant to this Agreement, either party may cancel this Agreement upon 30 day's written notice to the other party at any such time as such other party is in default of its agreements hereunder and remains in such default for 30 days following the written notice of such default.

**12. Due Authorization.** Seller and Buyer hereby represent to the other that each has the requisite power and authority to execute this Agreement and the documents referred to herein and to perform its obligations hereunder and thereunder; and the individuals executing this Agreement and all such other documents that have a legal power, right and actual authority to bind each of the parties hereto to the terms and conditions of the Agreement and all other such documents. Further, each of the parties to this Agreement hereby represents to the other that its execution and performance of this Agreement and all other documents referred to herein shall not violate any applicable statute, ordinance, governmental restriction or regulation, or any prior restriction or agreement.

**13. Closing; Contingencies.**

(a) Performance at Closing. Subject to satisfaction of paragraphs 8 and 13(b) hereof, the Closing of the transaction contemplated by this Agreement shall take place at 3000 Xenium Lane North, Plymouth, MN 55441 on or

before August 15, 2017 or at such time and place as may be agreed upon between the parties.

- (i) At the Closing Seller shall:
  - (a) sign an Affidavit of Seller confirming the absence of judgments, mechanics liens and unrecorded interests against the Subject Property not disclosed herein;
  - (b) deliver any documents necessary to clear title in accordance with this Agreement, if any;
  - (c) sign the well disclosure statement required by Minnesota Statutes §103I.235,
  - (d) sign the warranty deed, and
  - (e) pay the deed tax.
- (ii) At the Closing Buyer shall:
  - (a) pay the title commitment fee, if not paid pursuant to paragraph 8(b);
  - (b) pay the premium for title insurance, if desired by Buyer;
  - (c) pay any and all other closing costs including all filing fees; and
  - (d) *Pay to the Seller the sum of Seven Hundred Fifty Thousand Dollars and no cents (\$750,000.00) for the conveyance, transfer and delivery of the Subject Property to the Buyer.*

(b) Contingencies. Notwithstanding the foregoing, the parties to this Agreement acknowledge that the Closing is expressly subject to the following contingencies:

- (i) Buyer shall obtain consent of the City of Minnetrista to its acquisition of the Subject Property pursuant to Minn. Stat. § 398.09(b)(1);
- (ii) Buyer shall obtain all other consents required from governmental or other regulatory authorities;
- (iii) Buyer shall have the right, at its sole discretion, to terminate this Agreement for environmental reasons at any time prior to Closing;

- (iv) This Agreement and the obligations of Buyer hereunder are strictly contingent upon approval of this Agreement by Buyer's Board of Commissioners; and
- (v) Approval of reimbursement to Buyer by Metropolitan Council and the Legislative Citizen Commission on Minnesota Resources.

Any failure to satisfy any contingency contained herein shall render this Agreement null and void and the parties shall execute any instruments necessary to cancel this Agreement.

**14. Condemnation.** In the event of the initiation of proceedings for condemnation (or sale in lieu thereof) of any portion of the Subject Property prior to Closing, Buyer shall have the right to cancel this Agreement, in which case this Agreement shall be deemed null and void and neither of the parties shall have any further obligations. Conversely, Buyer may elect to purchase Subject Property and close the transaction notwithstanding such proceedings and, if Buyer shall so elect, all awards or payments made for such portion of Subject Property by the condemning authority to which Seller is entitled shall be paid to Buyer and Buyer shall proceed to close the transactions herein and pay the full purchase price to Seller.

**15. Possession.** Seller shall deliver possession of the Subject Property on the date of closing.

**16. Representations and Warranties.** The obligations of the Buyer under this Purchase Agreement are contingent on the representations and warranties of Seller contained in this Purchase Agreement which must be true as of the date of this Agreement and on the date of closing. All representations of the parties hereto shall survive Closing and delivery of the warranty deed.

**17. No Intent to Acquire by Condemnation.** Buyer and Seller agree that Buyer has not indicated an intent to acquire the Subject Property through eminent domain.

**18. Time.** Time is of the essence for performance of the terms of this Agreement.

**19. Binding Effect.** The provisions of this Agreement shall inure to the benefit and shall be binding on representatives, successors and assigns of the parties hereto, provided that neither party hereto shall have the right to assign its rights or obligations hereunder without the prior consent of the other party.

**20. Waivers.** No waiver of any of the provisions of this Agreement shall constitute a waiver of any other provision whether or not similar, nor shall any waiver be a continuing waiver. No waiver shall be binding unless executed in writing. Any party may waive any provision of this Agreement intended for its benefit; provided, however, such waiver shall in no way excuse the other party from the performance of any of its other obligations under this Agreement.

**21. Amendment.** No amendment of this Agreement shall be effective unless set forth in writing expressing the intent to so amend and signed by both parties.

**22. Notices.** Any notices to be provided pursuant to the terms of this Agreement shall be in writing and shall be given by personal delivery or by express courier or by deposit in U.S. Certified Mail, Return Receipt Requested, postage prepaid, addressed to the Buyer or Seller at the addresses set forth below or at such other address as either party may designate in writing. The date notice is given shall be the date on which the notice is delivered, if notice is given by personal delivery, or the date notice is sent by express courier or U.S. Mail if otherwise.

If to Seller:

James and Lynda Kucher  
2301 91st Crescent N.  
Brooklyn Park, MN 55443

with a copy to:

If to Buyer:

Three Rivers Park District  
Office of the Superintendent  
c/o General Counsel  
3000 Xenium Lane North  
Plymouth, MN 55441

**23. Governing Law.** This Agreement is made and executed under and in all respects is to be governed and construed under the laws of the State of Minnesota.


**24. Survival of Covenants.** All covenants, agreements, representations and warranties contained herein shall survive delivery of the Deed from Seller to Buyer and be enforceable by Seller or Buyer after delivery of the Deed.

**25. Entire Agreement.** This written Agreement constitutes the complete agreement between the parties and supersedes any and all other oral or written agreements, negotiations, understandings, and representations between the parties regarding the Subject Property.

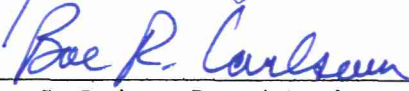
**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement.

**THREE RIVERS PARK DISTRICT**, a  
public corporation and political subdivision  
of the State of Minnesota

Dated: 04/20/17

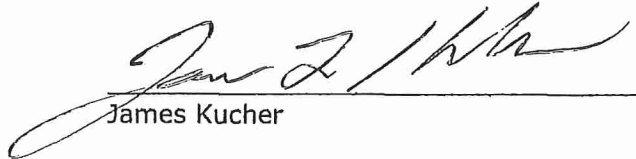
By   
John Gunyou, Board Chair

Dated: 04/20/17

By   
Boe R. Carlson, Superintendent

**SELLERS:**

Dated: 3/30/17

  
James Kucher

Dated: 3/30/17

  
Lynda Kucher

This instrument was drafted by:  
Eric Quiring  
Three Rivers Park District  
3000 Xenium Lane North  
Plymouth, MN 55441  
763-559-6718

**EXHIBIT A**

**Legal Description of Subject Property**

Lots 2 and 3, Block 2, That Part Of Outlot L Lying In Sec 27 T 117 R 24, That Part Of Outlot L Lying In Sec 28 T 117 R 24, That Part Of Outlot M Lying In Sec 27 T 117 R 24, That Part Of Outlot M Lying In Sec 28 T 117 R 24, Farmhill 2nd Addition, Hennepin County,

MN PIDs:

28-117-24-44-0008

28-117-24-44-0009

28-117-24-44-0016

28-117-24-44-0017

28-117-24-33-0007

28-117-24-33-0008





Fernbrook Business Center  
14232 23rd Avenue North  
Plymouth, MN 55447  
763.205.6966  
Fax 763.208.3928  
www.daygroupmn.com

February 17, 2017

Kelly Grissman, Director of Planning  
Three Rivers Park District  
3000 Xenium Lane North  
Plymouth, MN 55441

RE: Market value Appraisal Report  
Single-Family Residential Lot on Six Mile Creek  
3910 & 3940 Farmhill Circle  
Minnetrista, Minnesota 55364  
Owner is James Lee Kucher

Dear Ms. Grissman:

In accordance with your request, an inspection and current market value appraisal analysis of the fee simple interest of the "as-is" status on the above-referenced property have been completed. The attached report contains the pertinent data, summary of the analysis completed, commentary and value conclusions. The appraisal as developed and reported is for your intended use for potential acquisition purposes; there are no other intended uses or users other than authorized agents of Three Rivers Park District. Day Group LLC assumes no responsibility for any unintended uses or users of the appraisal.

Before relying upon any of the conclusions, please refer to the body of the attached appraisal report for statements or descriptions on the effective date of value, a definition of market value, assignment conditions, any extraordinary assumptions or hypothetical conditions, identification and description of the subject property, any personal property included, and the scope of work employed in our analysis of the subject property.

The subject is a unique, high-amenity, estate residential site with Lake Minnetonka access on Six Mile Creek. It contains 9.04 gross acres of which 2.33 acres are upland. It features panoramic wetland and creek views, good privacy, and dock rights with access to popular Lake Minnetonka. A single buildable estate lot maximizes privacy and the very good southern and western exposures of the site. It can be sustained for immediate development and supports an upper value residence. Analyzing the subject as 2 buildable lots is highly speculative. The lots would likely require many setback variances due to its irregular shape, in addition to a dock length variance for the westernmost lot. Moreover, with a 2-lot scenario, privacy would be compromised.

The appraisal has been made in conformity with the Uniform Standards of Professional Appraisal Practice (USPAP), applicable local, state and federal regulations pertaining to appraisal practice and procedure, and the Code of Professional Ethics and the Standards of Professional Appraisal Practice of the Appraisal Institute. Attached is an "Appraisal Report" as defined by USPAP, which only can be relied upon by the client. Additional supporting data retained in our workfile.

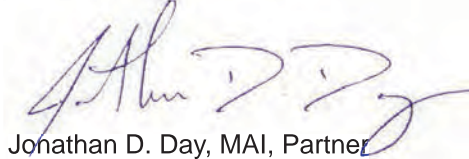
Neither our employment to make this appraisal nor the compensation received is contingent upon the conclusions or values reported herein. Based upon our investigation and analysis, it is our opinion that the subject had a market value, subject to limitations and conditions as hereinafter stated, in the amount shown below:

**SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$750,000)**  
**ALLOCATED AT \$650,000 FOR UPLAND PORTION (\$279,393/acre or \$6.41/sf)**  
**\$99,250 FOR UNENCUMBERED WETLAND PORTION (\$15,013/acre or \$0.34/sf)**  
**\$750 FOR WATERMAIN EASEMENT ENCUMBERED WETLAND PORTION (\$7,218/acre or \$0.17/sf)**

Based upon the potential of a collaborative acquisition between Three Rivers Park District and the Minnehaha Creek Watershed District, the above rates could be used to determine the appropriate valuation between the entities. It has been a pleasure to serve you in this manner. Feel free to contact me if you have any questions or concerns.

Respectfully submitted,

DAY GROUP LLC

A handwritten signature in blue ink, appearing to read "Jonathan D. Day".

Jonathan D. Day, MAI, Partner  
Minnesota Certified General Real Property Appraiser #20480945

# SUBJECT IDENTIFICATION AND EXECUTIVE SUMMARY

## Subject Property Name and Location

Single-Family Residential Lot on Six Mile Creek  
3910 & 3940 Farmhill Circle  
Minnetrista, MN 55364

## Subject Property Owner

James Lee Kucher  
2301 91st Crescent North  
Brooklyn Park, MN 55443

Contact is Jim Kucher, owner  
Phone 763-453-0180

## Legal Description and PID Number

Legal is Lots 2 and 3, Block 2, That Part Of Outlot L Lying In Sec 27 T 117 R 24, That Part Of Outlot L Lying In Sec 28 T 117 R 24, That Part Of Outlot M Lying In Sec 27 T 117 R 24, That Part Of Outlot M Lying In Sec 28 T 117 R 24, Farmhill 2nd Addition, Hennepin County, MN

### PIDs:

28-117-24-44-0008  
28-117-24-44-0009  
28-117-24-44-0016  
28-117-24-44-0017  
28-117-24-33-0007  
28-117-24-33-0008

## Subject Occupancy

Vacant SFR lot

## Day Group File Number

2017102

## County Parcel Map



## SUBJECT IDENTIFICATION AND EXECUTIVE SUMMARY (CONTINUED)

Subject Property Overview	
Location	Good Minnetrista location near Lake Minnetonka
Site	High-amenity, lake access, residential site, 9.04 acres of which 2.33 acres is upland, wetland frontage on Six Mile Creek with very good panoramic views and dock rights /boat access to Lake Minnetonka. Private sanitary sewer system needed. Platted into 2 lots, yet significant variances would be required to create 2 buildable lots. Therefore the subject is considered a larger single building site. The subject is bisected by a 12,609 sf City-owned strip (mostly 19± ft wide) along with a 4526 sf watermain easement (same 19± ft width) within the wetland area acquired in 2016 which connects to the City-owned strip.
History	<p>The subject was purchased in 1990, and the owners have been interested in selling their property for a number of years.</p> <p>Public records indicate a listing for the eastern Kucher lot started at \$3,875,000 in 2006. The owner reports the total subject listing as two lots in the past was as high as \$8,000,000±. The most recent listing, in 2012, was for \$779,000 for both lots. Reportedly, an offer for 1 lot for \$490,000 was made in the past (unclear on how distant). Approximately 10 years ago, an offer on the full site was made for \$1.8 million which the owners rejected. The appraiser is not sure how solid of an offer it was, if it included any contingency for approvals, etc. The client reports the owners have provided them a current opinion of market value for the subject of \$775,000. No other sales or listing activity is known for the subject.</p> <p>In 2016, the City of Minnetrista acquired a 4526 sf permanent watermain easement and a 11,605 sf temporary easement. The PE was fully within the wetland portion and the TE within the usable portion. Some trees were removed for the project. The total compensation for the City acquisitions were \$28,750 according to public documents. Installation of the watermain project is completed with only minor restoration remaining.</p> <p>Three Rivers Park District has been considering a trail easement on the subject property for several years, for future construction of a trail. The park district reports Minnehaha Creek Watershed District (MCWD) also has an interest in the parcel for installation and use as a water recycling station to improve the water quality in Lake Minnetonka and Six Mile Creek. A shared acquisition scenario is possible.</p>

Highest and Best Use	<p>As a single buildable lot, the usable size is large enough for an upper value residence with required 2 septic system locations. Analyzing the subject as 2 buildable lots is highly speculative. The lots would likely require many setback variances due to its irregular shape, in addition to a dock length variance for the westernmost lot. Moreover, with a 2-lot scenario, privacy would be compromised.</p> <p>A single buildable estate lot maximizes privacy and the very good southern and western exposures of the site. It can be sustained for immediate development and supports an upper value residence. The most likely buyer would be a owner seeking a unique lake-access estate site with prime views, good privacy, and a custom home construction</p>
----------------------	--