

## Community Development Committee

Meeting date: September 18, 2017

For the Metropolitan Council meeting of September 27, 2017

**Subject:** Consent to Easements, Carver and Murphy Hanrehan Park Reserves, Three Rivers Park District

**District(s), Member(s):** District 4, Deb Barber and District 16, Wendy Wulff

**Policy/Legal Reference:** System Protection Strategy 6, *2040 Regional Parks Policy Plan*

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

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

### Proposed Action

That the Metropolitan Council:

1. Consent to Three Rivers Park District granting an easement to the Minnesota Department of Natural Resources for groundwater monitoring at Carver Park Reserve as shown in Attachment 1.
2. Consent to Three Rivers Park District granting an easement to the Minnesota Department of Natural Resources for groundwater monitoring at Murphy Hanrehan Park Reserve as shown in Attachment 2.
3. Require Three Rivers Park District to ensure that a Consent to Easement document executed by the Council's Regional Administrator is recorded for each easement.

### Background

The Minnesota Department of Natural Resources (DNR) has developed a groundwater strategic plan and requires water appropriations permit holders to apply for and submit annual monitoring data that complies with permit requirements. Three Rivers Park District uses groundwater for several operations, including golf and landscape irrigation, nursery irrigation, and snow-making activities.

The DNR has an established groundwater monitoring program, where regular aquifer checks are conducted through a system of groundwater monitoring wells to supplement data collected through permittee reports. The DNR established a partnership with Three Rivers Park District and has groundwater monitoring wells in Elm Creek, Crow-Hassan, and Hyland-Bush-Anderson Lakes Park Reserves. The DNR would like to expand its groundwater program in Carver and Murphy-Hanrehan Park Reserves, which would require Three Rivers Park District to grant easements to the DNR at each location. The terms of the negotiated easement agreements are shown in Attachments 1 and 2.

Metropolitan Council bonds helped fund acquisition of the land on which the easements will lie. As such, there are restrictive covenants between the Metropolitan Council and Three Rivers Park District recorded on the properties that do not allow easements to be granted without consent of the Council.

### Rationale

The request for the Council's consent to the groundwater monitoring easements is consistent with the requirements of the *2040 Regional Parks Policy Plan (RPPP)* and other Council policies. System Protection Strategy 6 of the RPPP acknowledges that it may be necessary to grant easements for utilities on regional parkland and requires that the location of the easements be placed to minimize the



impact on existing and planned facilities and natural resources of the park. Although the groundwater monitoring wells are not specifically for utilities, the wells are supportive of the use of groundwater for the betterment of the Regional Parks System.

Three Rivers Park District asserts that the location of the groundwater monitoring wells will not adversely affect or impair park user's recreational activities or negatively impact the surrounding natural resources.

### **Thrive Lens Analysis**

The groundwater monitoring wells advance the Thrive outcomes of stewardship and sustainability by providing information to help responsibly protect the region's groundwater supply. The Thrive principle of collaboration is supported through the partnership between Three Rivers Park District and the DNR.

### **Funding**

None.

### **Known Support / Opposition**

The Metropolitan Parks and Open Space Commission recommended approval of the proposed action at its meeting on September 12, 2017. Three Rivers Park District Board of Commissioners approved the two easement agreements at its meeting on August 24, 2017. There is no known opposition.

## Metropolitan Parks and Open Space Commission

Meeting date: September 12, 2017

For the Community Development Committee meeting of September 18, 2017

For the Metropolitan Council meeting of September 27, 2017

**Subject:** Consent to Easements, Carver and Murphy Hanrehan Park Reserves, Three Rivers Park District

**District(s), Member(s):** MPOSC District B, Robert Moeller and District H, Todd Kemery

**Policy/Legal Reference:** System Protection Strategy 6, *2040 Regional Parks Policy Plan*

**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. Consent to Three Rivers Park District granting an easement to the Minnesota Department of Natural Resources for groundwater monitoring at Carver Park Reserve as shown in Attachment 1.
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### Background

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The DNR has an established groundwater monitoring program, where regular aquifer checks are conducted through a system of groundwater monitoring wells to supplement data collected through permittee reports. The DNR established a partnership with Three Rivers Park District and has groundwater monitoring wells in Elm Creek, Crow-Hassan, and Hyland-Bush-Anderson Lakes Park Reserves. The DNR would like to expand its groundwater program in Carver and Murphy-Hanrehan Park Reserves, which would require Three Rivers Park District to grant easements to the DNR at each location. The terms of the negotiated easement agreements are shown in Attachments 1 and 2.

Metropolitan Council bonds helped fund acquisition of the land on which the easements will lie. As such, there are restrictive covenants between the Metropolitan Council and Three Rivers Park District recorded on the properties that do not allow easements to be granted without consent of the Council. Information regarding the restrictive covenants is shown in Figure 1.



*Figure 1: Restrictive Covenant Information*

Regional Parks System Unit	Acquisition Date	County	Property ID Number	Restrictive Covenant Recording Number	Date Restrictive Covenant was Recorded
Carver Park Reserve	4/10/1980	Carver	652600010 & 652600020	56112	8/30/1982
Murphy-Hanrehan Park Reserve	2/16/1976	Scott	49040030	202180	6/7/1984

**Rationale**

The request for the Council’s consent to the groundwater monitoring easements is consistent with the requirements of the *2040 Regional Parks Policy Plan (RPPP)* and other Council policies. System Protection Strategy 6 of the RPPP acknowledges that it may be necessary to grant easements for utilities on regional parkland and requires that the location of the easements be placed to minimize the impact on existing and planned facilities and natural resources of the park. Although the groundwater monitoring wells are not specifically for utilities, the wells are supportive of the use of groundwater for the betterment of the Regional Parks System.

Three Rivers Park District asserts that the location of the groundwater monitoring wells will not adversely affect or impair park user’s recreational activities or negatively impact the surrounding natural resources.

**Thrive Lens Analysis**

The groundwater monitoring wells advance the Thrive outcomes of stewardship and sustainability by providing information to help responsibly protect the region’s groundwater supply. The Thrive principle of collaboration is supported through the partnership between Three Rivers Park District and the DNR.

**Funding**

None.

**Known Support / Opposition**

The Three Rivers Park District Board of Commissioners approved the two easement agreements at its meeting on August 24, 2017. There is no known opposition.

**GROUNDWATER MONITORING WELLS EASEMENT AGREEMENT**

THIS EASEMENT AGREEMENT is entered into this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_, by and between the Three Rivers Park District, a political subdivision of the State of Minnesota, (“Grantor”), and by the State of Minnesota, acting by and through the Commissioner of Natural Resources (“Grantee”).

WHEREAS, the Grantee desires to expand the observation well network throughout the state for the purpose of obtaining geologic and hydrologic information; and

WHEREAS, the Grantor is the owner of property described below on which the Grantee has determined would be beneficial to gather geological and hydrologic information; and

WHEREAS, the Commissioner of Natural Resources has the authority to conduct surveys, investigations, and studies of waters of the state in order to implement the Commissioner’s duties under Minnesota Statutes, § 103G.121,

NOW THEREFORE, it is agreed between the parties hereto:

1. The following terms shall have the following definitions for the purpose of this Agreement:
  - a. Well(s): Water level and quality monitoring well, as applicable;
  - b. Property: An easement for observation well purposes over, under and across that part of Government Lot 8 of Section 1, Township 116 North, Range 24 West, Carver County, Minnesota, described as follows:

**Commencing at the southwest corner of said Government Lot 8; thence on an assumed bearing of North 88 degrees 46 minutes 29 seconds East 670.21 feet along the south line of said Government Lot 8; thence North 03 degrees 55 minutes 48 seconds West 76.66 feet to the POINT OF BEGINNING; thence North 26 degrees 26 minutes 34 seconds West 209.61 feet; thence North 66 degrees 30 minutes 11 seconds East 101.65 feet; thence South 06 degrees 04 minutes 55 seconds East 222.54 feet; thence South 73 degrees 33 minutes 20 seconds West 24.46 feet to the point of beginning and there terminating.**

2. The Grantor, for and in consideration of the faithful performance by the Grantee of all covenants and conditions herein contained, hereby authorizes the Grantee to install DNR observation Wells on the Property at the location depicted on the attached map, which is attached hereto as Exhibit A, to



obtain geologic and hydrologic information to determine whether the hydrologic conditions of the Property are, in the opinion of Grantee, favorable for the establishment of the Wells.

3. If hydrologic conditions on the Property are favorable, Grantee is hereby authorized to establish, operate and maintain the monitoring Wells for a term of twenty (20) years from the effective date of this Easement Agreement, unless earlier terminated in accordance with this Agreement, at the location on the Property depicted on the attached Exhibit A, with an option to renew the Easement Agreement for an additional 10 years.
4. Grantee is provided with a nonexclusive right of ingress and egress over the Property for the purpose of establishing the test hole and Well, and monitoring the same. Grantee agrees to use existing access roads whenever possible.
5. The Wells shall be operated in accordance with Minnesota Statutes Chapter 103I and shall be used for measuring the water level and/or water quality monitoring, as applicable, on a regular basis.
6. This Easement Agreement includes the installation of up to seven (7) observation Wells. Each of the **seven (7)** Wells shall consist of either **2"** diameter PVC or **4"** diameter steel casing covered by **8"** or **10"** protective tops extending approximately **three (3)** feet above the land surface.
7. The Wells shall meet or exceed all regulations for such Wells, and the Wells shall be constructed in accordance with industry standards for Wells and in a safe and workmanlike manner.
8. Excavation and/or installation of the test hole and/or Wells shall begin within one (1) year after the effective date of this Agreement. If the test hole and/or Wells are not installed on the Property within one (1) year of the effective date of this Agreement, this Agreement shall automatically terminate. All tools and equipment used for the excavation and/or installation of the test hole and/or Wells shall be removed from the Property within thirty (30) days of the work being completed.
9. Well installation and sampling shall be performed by the Grantee in a manner which minimizes interference with the Grantor and the public's use of the Property. If the Grantee's activities related to the excavation, installation, or continued use of the Wells disturb any portion of the Property, the Grantee will restore the Property to as close to its original condition as is reasonably possible under the circumstances, including but not limited to such items as replacement of adequate top soil, seeding, sodding where necessary, finish grading to original grade, pavement repair or replacement, and other reasonable restoration measures deemed necessary to the satisfaction of the Grantor.
10. Within six (6) months from the termination of this Easement Agreement, Grantee shall seal the test hole and/or Wells in accordance with the provisions of Minnesota Statutes Chapter

103I and all rules adopted by the Commissioner of Health. Grantee shall be responsible for all costs and activities related to sealing the Wells. Upon completion, Grantee shall provide Grantor with a copy of the Well and Boring Sealing Record, which shall be filed with the Minnesota Department of Health. Upon sealing of the test hole and/or Wells, the Grantee shall restore the Property as close as possible to the same state and condition existing prior to the excavation, and/or installation of the test hole and/or Wells.

11. The Grantee and Grantor will each be responsible for their own acts and omissions and the results thereof. The Grantor's liability is governed by Minnesota Statutes, Section 466.04 and the Grantee's liability is governed by Minnesota Statutes, Section 3.736.
12. Grantee recognizes that a hazardous condition, whether obvious or latent, disclosed or undisclosed, may exist on the Property, and the Grantee assumes the risk of and waives all claims with respect to such conditions while conducting its activities pursuant to the terms of this Easement Agreement on the Property.
13. The Grantee agrees to cooperate, to the extent allowed by law, in the submittal of all claims for alleged loss, injuries, or damages to persons or property arising from the acts of the Grantee's employees, acting within the scope of their employment, or contractors in the excavation, installation, operation, use, maintenance, removal and/or sealing of the test hole and/or the Wells as authorized and limited by the Minnesota Torts Act, M. S. 3.736. Grantee shall ensure any contractors working on the Property have procured comprehensive general liability insurance in an amount of at least the liability caps set forth in Minnesota Statutes Section 3.736, as amended, naming the Grantee and Grantor as additional insured prior to commencing any work on the Property.
14. Results of the water level observations shall be made available to the Grantor.
15. This Easement Agreement shall become effective when all signatures required have been obtained and shall continue in full force and effect until terminated. Either party may terminate this Easement Agreement by providing thirty (30) days written notice to the other party.
16. The Grantee and its contractors shall comply with all applicable local, state and federal laws and regulations now in existence or hereafter enacted, including all laws governing health, safety and environmental protection.
17. To the best of the Grantor's knowledge, the vicinity of the proposed water level observation Wells is free from contamination. Contamination which occurs after the construction of the Wells is introduced into the aquifer because of the existence of the Wells shall be the responsibility of the Grantee.
18. Grantee acknowledges and agrees that no failure or delay by the Grantor in exercising any right, power or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise of any right, power or

privilege under this Agreement.

19. This Easement Agreement constitutes the entire agreement between the parties and supersedes any and all prior agreements between the parties relating to the subject matter of the Agreement at this Property.

It is understood and agreed that this Easement Agreement and all rights, privileges, and obligations created herein shall run with the land and shall inure to the benefit of and be binding upon the legal representatives, heirs, executors, administrators, successors, and assigns of the parties hereto. It is further understood that the indemnification provisions of this Easement Agreement shall survive termination of the Easement Agreement.

Signed and delivered this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\*\*\*\*\*

Signature Pages (2) Follow



**GRANTOR:**

**THREE RIVERS PARK DISTRICT**

By: \_\_\_\_\_  
John Gunyou, Board Chair

By: \_\_\_\_\_  
Boe Carlson, Superintendent and  
Secretary to the Board

STATE OF MINNESOTA    )  
  )ss.  
COUNTY OF HENNEPIN    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2017, by John Gunyou, as Chair, and by Boe Carlson, as Superintendent and Secretary to the Board of the Three Rivers Park District.

\_\_\_\_\_  
Notary Public  
My Commission Expires \_\_\_\_\_

**GRANTEE:**

**MINNESOTA DEPARTMENT OF  
NATURAL RESOURCES**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF MINNESOTA        )  
  )ss.  
COUNTY OF \_\_\_\_\_  )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2017, by \_\_\_\_\_, as \_\_\_\_\_ of Minnesota Department of Natural Resources.

\_\_\_\_\_  
Notary Public

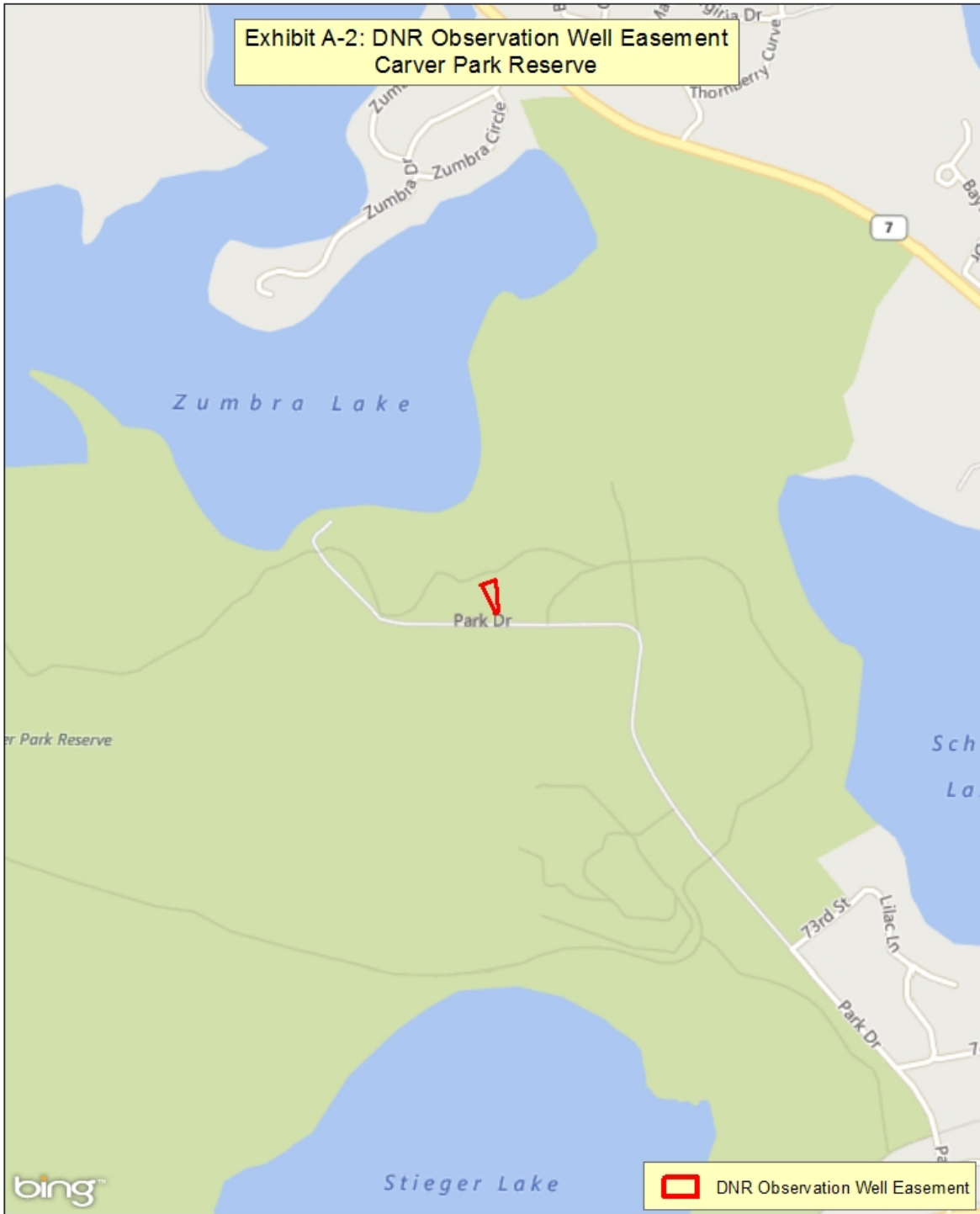
My Commission Expires \_\_\_\_\_

**Return this Instrument to:**  
Minnesota Department of Natural Resources  
Ecological and Water Resources Department  
Attn: Nick Evans  
325 Randolph Avenue S, Suite 500  
St. Paul, Minnesota 55102

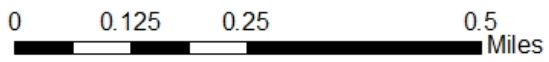
**EXHIBIT A  
CARVER PARK RESERVE**



Exhibit A-2: DNR Observation Well Easement  
Carver Park Reserve



**mi** DEPARTMENT OF  
NATURAL RESOURCES



**GROUNDWATER MONITORING WELLS EASEMENT AGREEMENT**

THIS EASEMENT AGREEMENT is entered into this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_, by and between the Three Rivers Park District, a political subdivision of the State of Minnesota, (“Grantor”), and by the State of Minnesota, acting by and through the Commissioner of Natural Resources (“Grantee”).

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WHEREAS, the Commissioner of Natural Resources has the authority to conduct surveys, investigations, and studies of waters of the state in order to implement the Commissioner’s duties under Minnesota Statutes, § 103G.121,

NOW THEREFORE, it is agreed between the parties hereto:

20. The following terms shall have the following definitions for the purpose of this Agreement:
- a. Well(s): Water level and quality monitoring well, as applicable;
  - b. Property: An easement for observation well purposes over, under and across that part of Government Lot 3 of Section 4, Township 114 North, Range 21 West, Scott County, Minnesota, described as follows:

**Commencing at the north quarter corner of said Section 4; thence on an assumed bearing of South 00 degrees 28 minutes 14 seconds West 2387.18 feet along the north-south quarter line of said Section 4; thence North 89 degrees 22 minutes 44 seconds East 42.27 feet to the POINT OF BEGINNING; thence North 35 degrees 00 minutes 00 seconds East 105.00 feet; thence South 49 degrees 00 minutes 00 seconds East 80.00 feet; thence South 35 degrees 00 minutes 00 seconds West 105.00 feet; thence North 49 degrees 00 minutes 00 seconds West 80.00 feet to the point of beginning and there terminating.**

21. The Grantor, for and in consideration of the faithful performance by the Grantee of all

covenants and conditions herein contained, hereby authorizes the Grantee to install DNR observation Wells on the Property at the location depicted on the attached map, which is attached hereto as Exhibit A, to obtain geologic and hydrologic information to determine whether the hydrologic conditions of the Property are, in the opinion of Grantee, favorable for the establishment of the Wells.

22. If hydrologic conditions on the Property are favorable, Grantee is hereby authorized to establish, operate and maintain the monitoring Wells for a term of twenty (20) years from the effective date of this Easement Agreement, unless earlier terminated in accordance with this Agreement, at the location on the Property depicted on the attached Exhibit A, with an option to renew the Easement Agreement for an additional 10 years.
23. Grantee is provided with a nonexclusive right of ingress and egress over the Property for the purpose of establishing the test hole and Well, and monitoring the same. Grantee agrees to use existing access roads whenever possible.
24. The Wells shall be operated in accordance with Minnesota Statutes Chapter 103I and shall be used for measuring the water level and/or water quality monitoring, as applicable, on a regular basis.
25. This Easement Agreement includes the installation of up to six (6) observation Wells. Each of the six (6) Wells shall consist of either 2" diameter PVC or 4" diameter steel casing covered by 8" or 10" protective tops extending approximately three (3) feet above the land surface.
26. The Wells shall meet or exceed all regulations for such Wells, and the Wells shall be constructed in accordance with industry standards for Wells and in a safe and workmanlike manner.
27. Excavation and/or installation of the test hole and/or Wells shall begin within one (1) year after the effective date of this Agreement. If the test hole and/or Wells are not installed on the Property within one (1) year of the effective date of this Agreement, this Agreement shall automatically terminate. All tools and equipment used for the excavation and/or installation of the test hole and/or Wells shall be removed from the Property within thirty (30) days of the work being completed.
28. Well installation and sampling shall be performed by the Grantee in a manner which minimizes interference with the Grantor and the public's use of the Property. If the Grantee's activities related to the excavation, installation, or continued use of the Wells disturb any portion of the Property, the Grantee will restore the Property to as close to its original condition as is reasonably possible under the circumstances, including but not limited to such items as replacement of adequate top soil, seeding, sodding where necessary, finish grading to original grade, pavement repair or replacement, and other reasonable restoration measures deemed necessary to the satisfaction of the Grantor.

29. Within six (6) months from the termination of this Easement Agreement, Grantee shall seal the test hole and/or Wells in accordance with the provisions of Minnesota Statutes Chapter 103I and all rules adopted by the Commissioner of Health. Grantee shall be responsible for all costs and activities related to sealing the Wells. Upon completion, Grantee shall provide Grantor with a copy of the Well and Boring Sealing Record, which shall be filed with the Minnesota Department of Health. Upon sealing of the test hole and/or Wells, the Grantee shall restore the Property as close as possible to the same state and condition existing prior to the excavation, and/or installation of the test hole and/or Wells.
30. The Grantee and Grantor will each be responsible for their own acts and omissions and the results thereof. The Grantor's liability is governed by Minnesota Statutes, Section 466.04 and the Grantee's liability is governed by Minnesota Statutes, Section 3.736.
31. Grantee recognizes that a hazardous condition, whether obvious or latent, disclosed or undisclosed, may exist on the Property, and the Grantee assumes the risk of and waives all claims with respect to such conditions while conducting its activities pursuant to the terms of this Easement Agreement on the Property.
32. The Grantee agrees to cooperate, to the extent allowed by law, in the submittal of all claims for alleged loss, injuries, or damages to persons or property arising from the acts of the Grantee's employees, acting within the scope of their employment, or contractors in the excavation, installation, operation, use, maintenance, removal and/or sealing of the test hole and/or the Wells as authorized and limited by the Minnesota Torts Act, M. S. 3.736. Grantee shall ensure any contractors working on the Property have procured comprehensive general liability insurance in an amount of at least the liability caps set forth in Minnesota Statutes Section 3.736, as amended, naming the Grantee and Grantor as additional insured prior to commencing any work on the Property.
33. Results of the water level observations shall be made available to the Grantor.
34. This Easement Agreement shall become effective when all signatures required have been obtained and shall continue in full force and effect until terminated. Either party may terminate this Easement Agreement by providing thirty (30) days written notice to the other party.
35. The Grantee and its contractors shall comply with all applicable local, state and federal laws and regulations now in existence or hereafter enacted, including all laws governing health, safety and environmental protection.
36. To the best of the Grantor's knowledge, the vicinity of the proposed water level observation Wells is free from contamination. Contamination which occurs after the construction of the Wells is introduced into the aquifer because of the existence of the Wells shall be the responsibility of the Grantee.

37. Grantee acknowledges and agrees that no failure or delay by the Grantor in exercising any right, power or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise of any right, power or privilege under this Agreement.

38. This Easement Agreement constitutes the entire agreement between the parties and supersedes any and all prior agreements between the parties relating to the subject matter of the Agreement at this Property.

It is understood and agreed that this Easement Agreement and all rights, privileges, and obligations created herein shall run with the land and shall inure to the benefit of and be binding upon the legal representatives, heirs, executors, administrators, successors, and assigns of the parties hereto. It is further understood that the indemnification provisions of this Easement Agreement shall survive termination of the Easement Agreement.

Signed and delivered this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\*\*\*\*\*

Signature Pages (2) Follow



**GRANTOR:**

**THREE RIVERS PARK DISTRICT**

By: \_\_\_\_\_  
John Gunyou, Board Chair

By: \_\_\_\_\_  
Boe Carlson, Superintendent and  
Secretary to the Board

STATE OF MINNESOTA    )  
  )ss.  
COUNTY OF HENNEPIN    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2017, by John Gunyou, as Chair, and by Boe Carlson, as Superintendent and Secretary to the Board of the Three Rivers Park District.

\_\_\_\_\_  
Notary Public  
My Commission Expires \_\_\_\_\_

**GRANTEE:**

**MINNESOTA DEPARTMENT OF  
NATURAL RESOURCES**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF MINNESOTA        )  
  )ss.  
COUNTY OF \_\_\_\_\_     )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2017, by \_\_\_\_\_, as \_\_\_\_\_ of Minnesota Department of Natural Resources.

\_\_\_\_\_  
Notary Public

My Commission Expires \_\_\_\_\_

**Return this Instrument to:**  
Minnesota Department of Natural Resources  
Ecological and Water Resources Department  
Attn: Nick Evans  
325 Randolph Avenue S, Suite 500  
St. Paul, Minnesota 55102

**EXHIBIT A**  
**MURPHY-HANREHAN PARK RESERVE**

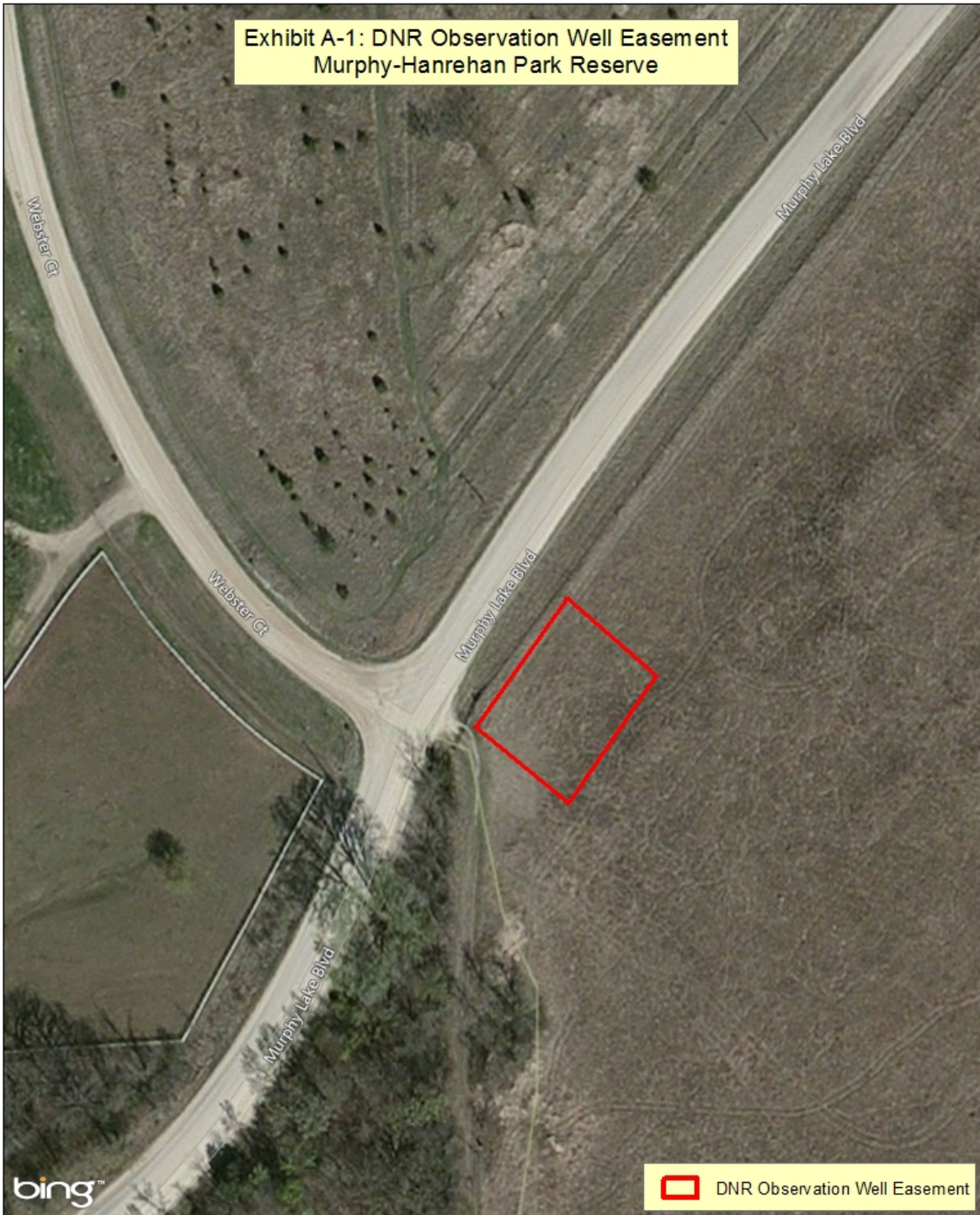
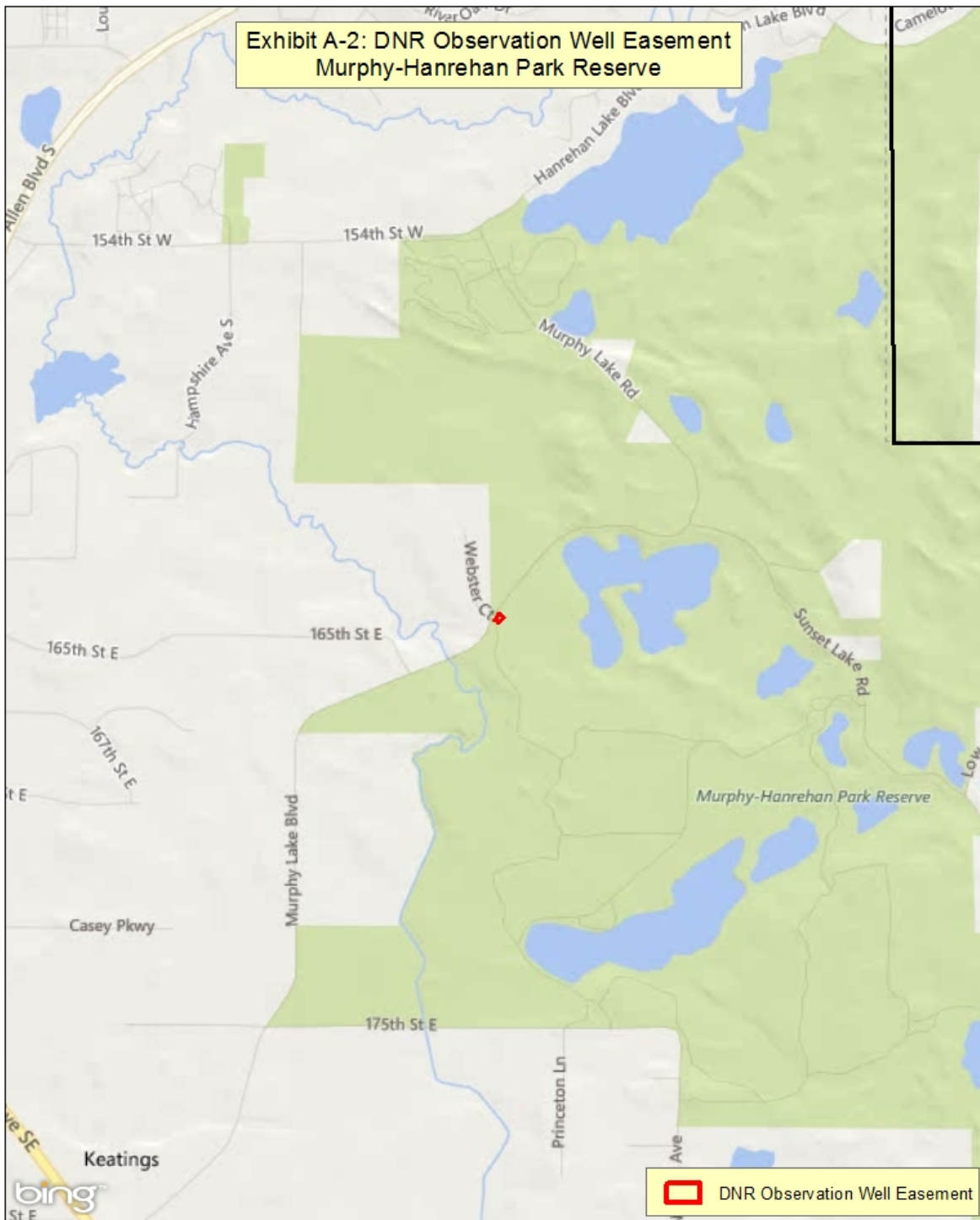


Exhibit A-2: DNR Observation Well Easement  
Murphy-Hanrehan Park Reserve



**m** DEPARTMENT OF  
NATURAL RESOURCES

