

Business Item

Community Development Committee



Committee Meeting Date: November 6, 2023

For the Metropolitan Council: November 8, 2023

Business Item: 2023-260 SW

West Mississippi River Regional Trail, Park Acquisition Opportunity Fund Award (Coutolenc), Three Rivers Park District

District(s), Member(s):	District A, Monica Dillenburg District 1, Judy Johnson
Policy/Legal Reference:	Minn. Const. art. XI, sec. 15; Minn. Stat. § 473.315; <i>2040 Regional Parks Policy Plan</i> , Chapter 4, Siting and Acquisition Policy- Strategy 1; Chapter 5, Planning Policy- Strategy 1; Chapter 8, Finance Policy- Strategy 7. FM 15-2 Grant/Loan Approval Policy, FM 14-2 Expenditures for the Procurement of Goods and Services Policy.
Staff Prepared/Presented:	Jessica Lee, Senior Planner, 651-602-1621
Division/Department:	Community Development/ Regional Planning

Proposed Action

That the Metropolitan Council:

1. Approve a grant of up to \$480,000 to Three Rivers Park District to acquire a 1.1-acre parcel located at 16590 Dayton River Road in Dayton, MN, for the West Mississippi River Regional Trail.
2. Authorize the Community Development Director to execute the grant agreement and restrictive covenant on behalf of the Council.

Summary of Metropolitan Parks and Open Space Commission Discussion/Questions

Jessica Lee presented the staff report to the Metropolitan Parks and Open Space Commission on November 2, 2023.

Chair Tony Yarusso asked approximately how long the parcel was. Lee responded that it's about 400 feet long and 135 feet wide, with the width of the parcel being Mississippi River shoreline.

The full Commission voted unanimously to pass the proposed action.

Business Item

Metropolitan Parks and Open Space Commission



Community Development Committee Meeting: Nov. 6, 2023

For the Metropolitan Council: Nov. 8, 2023

Business Item: 2023-260 SW

West Mississippi River Regional Trail, Park Acquisition Opportunity Fund Award (Coutolenc), Three Rivers Park District

District(s), Member(s):	District A, Monica Dillenburg District 1, Judy Johnson
Policy/Legal Reference:	Minn. Const. art. XI, sec. 15; Minn. Stat. § 473.315; 2040 <i>Regional Parks Policy Plan</i> , Chapter 4, Siting and Acquisition Policy- Strategy 1; Chapter 5, Planning Policy- Strategy 1; Chapter 8, Finance Policy- Strategy 7. FM 15-2 Grant/Loan Approval Policy, FM 14-2 Expenditures for the Procurement of Goods and Services Policy.
Staff Prepared/Presented:	Jessica Lee, Senior Planner, 651-602-1621
Division/Department:	Community Development / Regional Planning

Proposed Action

That the Metropolitan Council:

1. Approve a grant of up to \$480,000 to Three Rivers Park District to acquire a 1.1-acre parcel located at 16590 Dayton River Road in Dayton, MN, for the West Mississippi River Regional Trail.
2. Authorize the Community Development Director to execute the grant agreement and restrictive covenant on behalf of the Council.

Background

Regional Park Implementing Agency and Project Request

Three Rivers Park District requested a Park Acquisition Opportunity Fund (PAOF) grant on September 16, 2023, to fund the acquisition of a 1.1-acre parcel for the West Mississippi River Regional Trail. A copy of the Agency's request is attached to this item as Exhibit 2 with application details in Exhibit 3.

The West Mississippi River Regional Trail when completed will span 20 miles adjacent to or near the Mississippi River in northeast Hennepin County, connecting the communities of Dayton, Champlin, Brooklyn Park and Brooklyn Center (see Exhibit 1, Figures 1 and 2). Exhibit 1, Figure 3 shows the Dayton segment of the regional trail, highlighting the acreage in public ownership and showing the future trail connections to other regional parks and trails. The regional trail is also part of the National Mississippi River Trail that spans the entire length of the Mississippi River from the headwaters at Itasca State Park to the mouth in Louisiana.

Subject Property

The subject 1.1-acre property is within the Council-approved boundary of the West Mississippi River Regional Trail. The property contains a home that will be removed. The property has partially wooded terrain features and 134.5 linear feet of Mississippi River shoreline.

Park Acquisition Opportunity Fund (PAOF)

The Council's Park Acquisition Opportunity Fund (PAOF) Program provides funding 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 by matching every \$3 in state funds with \$2 in Council funds. The \$3 to \$2 match is required at the program level, not the individual project level.

State and Council funds contribute up to 75% of the purchase price and eligible costs; the Regional Park Implementing Agency (Agency) contributes the remaining 25% as local match.

Project Budget

The appraised value of the subject property is \$525,000, and the Seller has agreed to that amount. See Exhibit 4 for more information on the appraisal. The total project cost including legal fees, taxes, and appraisal is \$640,000, as shown in Table 1 below.

Table 1. Project Budget

Budget item	Requested amount
Purchase price	\$525,000
Appraisal, legal fees, taxes, closing costs	\$20,500
Environmental assessments, phases I	\$2,500
Site remediation and land stewardship	\$92,000
Total Costs	\$640,000
Grant structure	
Grant amount	\$480,000
Local match	\$160,000

Acquisition Details

This is a straightforward fee title acquisition.

Rationale

Council staff conduct the review of each PAOF request on a first-come-first-served basis under the following standards:

- the proposed acquisition complies with state statute and Council policy
- all necessary documentation for the acquisition is in place
- the appraisal is reasonable and appropriate

This acquisition is consistent with:

- The Parks and Trails Legacy Fund
- The *2040 Regional Parks Policy Plan*
 - Planning Policy Strategy 1 requires that before an Agency can receive a grant for acquisition, the proposed project must be consistent with a Council-approved long-range plan. The Council approved the West Mississippi River Regional Trail long-range plan in 2018 ([Business Item 2018-85](#)). The proposed acquisition is within the boundaries of the approved long-range plan.
 - Siting and Acquisition Strategy 1 prioritizes the acquisition of lands with natural resource features, access to water, and/or restoration potential for the Regional Parks System. The



subject property is necessary to complete the West Mississippi River Regional Trail, which will help protect the Mississippi River.

- Finance Strategy 7 authorizes the use of PAOF as the funding mechanism for the acquisition of Regional Park and Trail lands and matching every \$3 in state funds with \$2 in Council bonds.

Thrive Lens Analysis

This request is consistent with *Thrive MSP 2040's* Livability and Stewardship outcomes. The Council's investment in the West Mississippi River Regional Trail will provide additional access to nature and the outdoors and enhance quality of life.

Funding

The Council will fund the 75% share with Parks and Trails Legacy Fund and Council funds. The PAOF program has available funds in the Council's Authorized Capital Program.

Three Rivers Park District will provide a local match of \$160,000.

Exhibit List

- Exhibit 1: Images
- Exhibit 2: Grant request letter
- Exhibit 3: Grant application
- Exhibit 4: Appraisal excerpt
- Exhibit 5: Board approval to purchase property
- Exhibit 6: Purchase agreement



Exhibit 1 – Images

Figure 1. Map of the Regional Parks System and the West Mississippi River Regional Trail (circled in red)

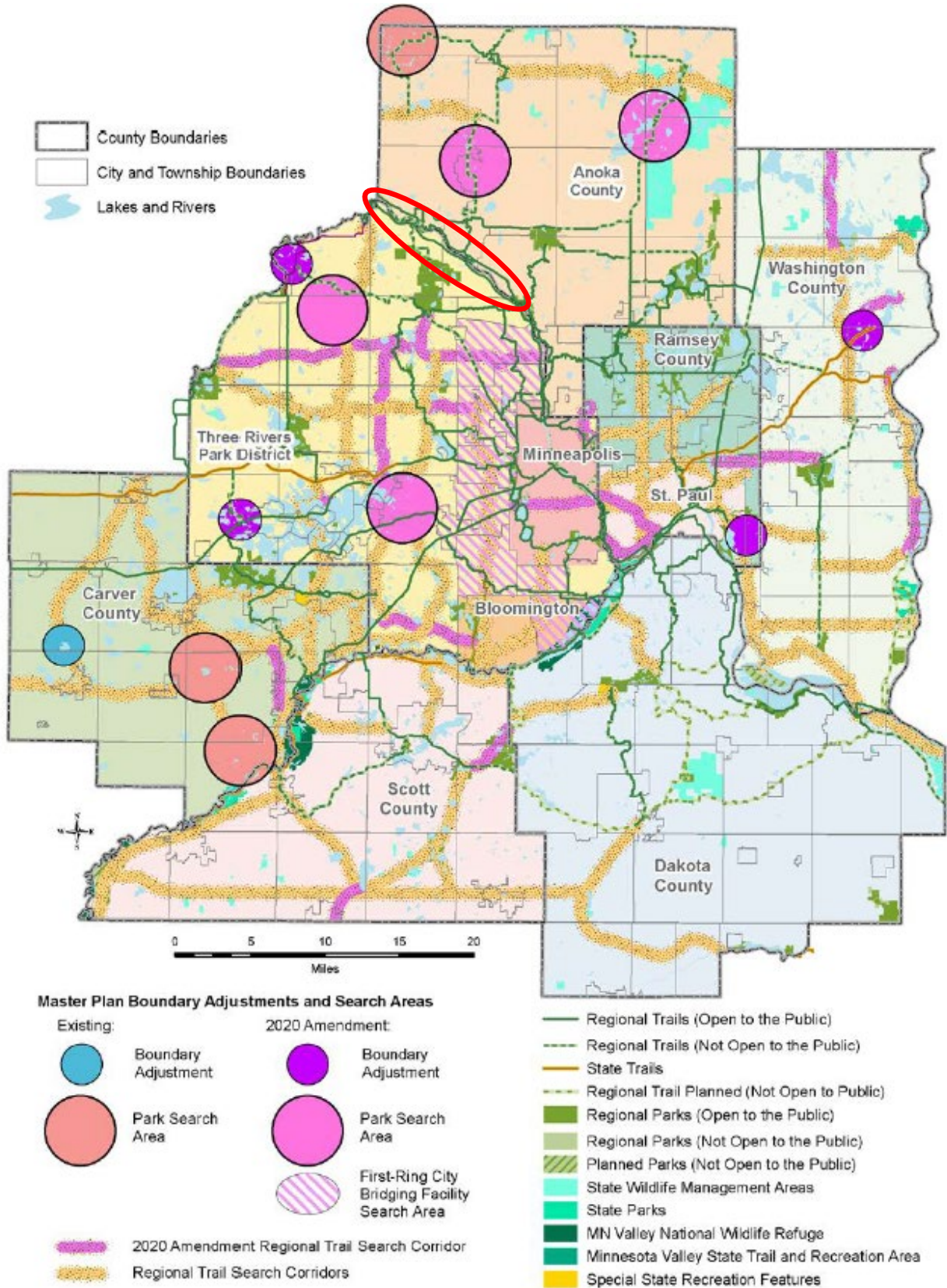


Figure 2. Excerpt from the West Mississippi River Regional Trail long-range plan showing a map of the regional trail, with the approximate location of the subject property area circled in red.

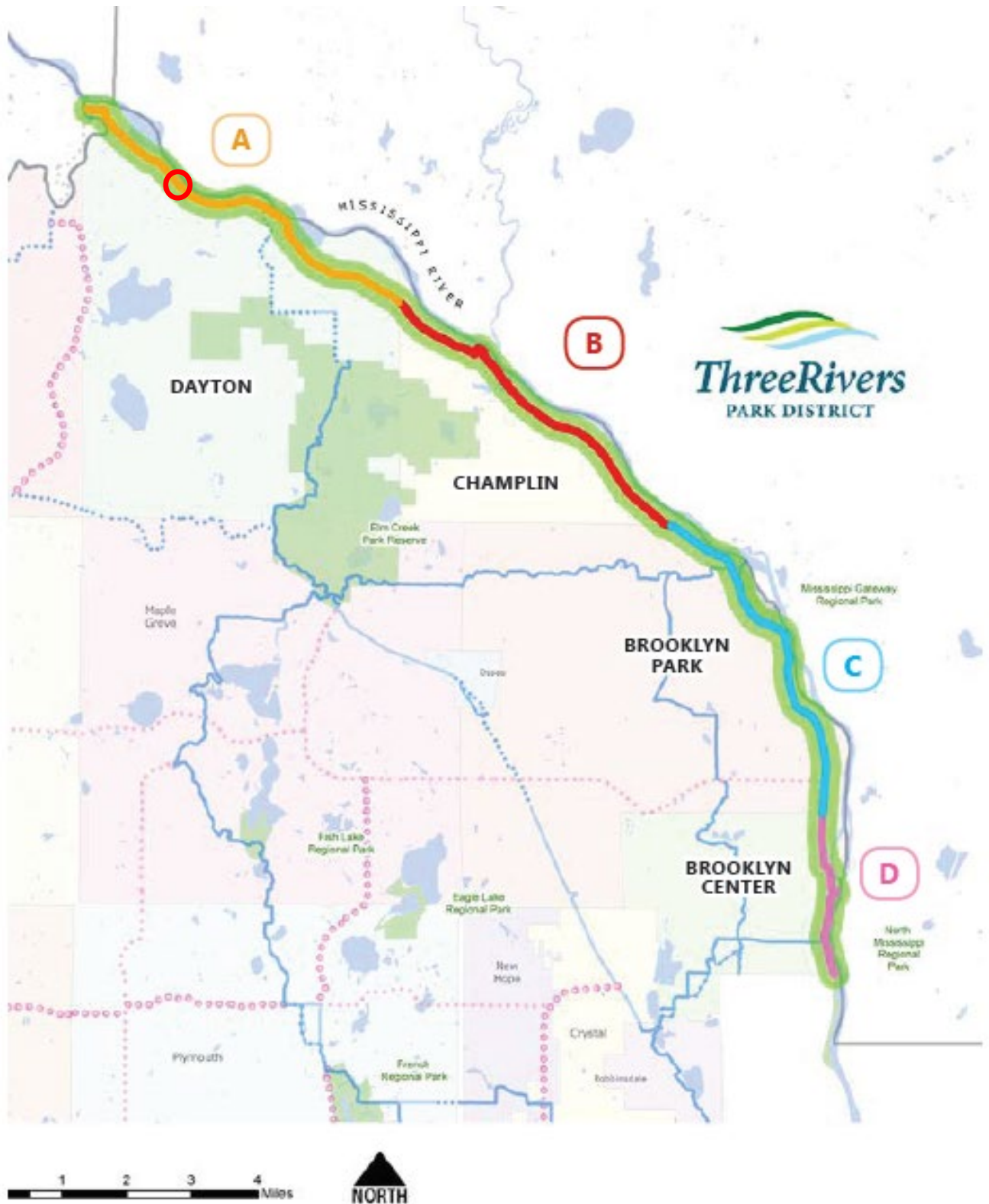
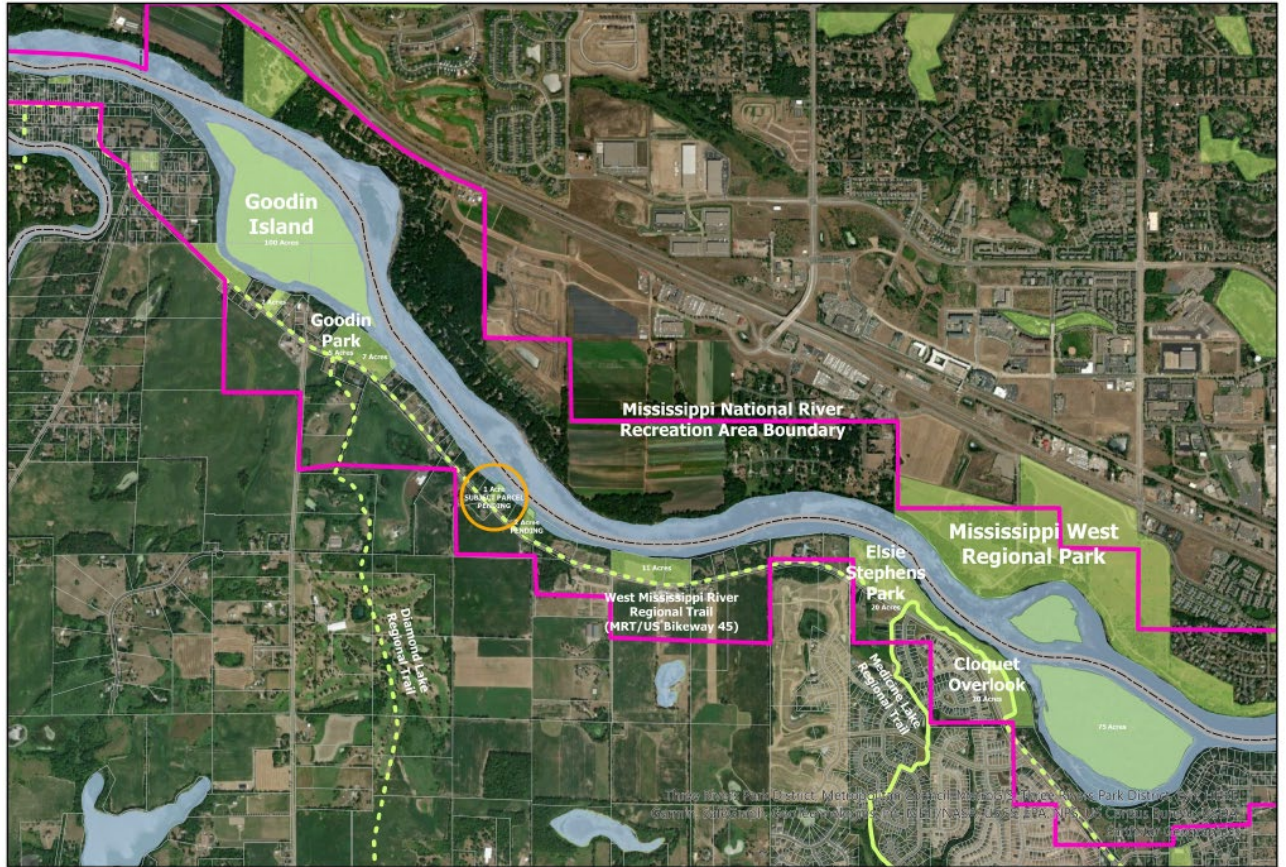


Figure 3. Map of Dayton segment of the West Mississippi River Regional Trail, with parcels in public ownership shown in green and the subject property circled in yellow.



**West Mississippi River RT:
Dayton Segment**

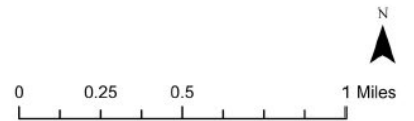


Figure 4. Image of the subject property outlined in yellow.



Exhibit 2: Grant request letter



Three Rivers
Park District
Board of
Commissioners

September 16, 2023

Marge Beard
District 1

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

Jennifer DeJournett
Vice Chair
District 2

Erin Kolb
District 3

RE: Trail Acquisition Opportunity Grant Fund Request
West Mississippi River Regional Trail: Coutolenc
Property 16590 Dayton River Road, Dayton, MN
55327
PID: 05-120-22-43-0002

Louise M. Segreto
District 4

Dear Emmett,

John Gibbs
Chair
District 5

Three Rivers Park District respectfully requests a Park Acquisition Opportunity Grant for West Mississippi River Regional Trail in the amount of \$480,000 for acquisition of 1.10 acres located in the City of Dayton. Please process this request and forward to the Metropolitan Parks Open Space Commission, Community Development Committee, and Metropolitan Council for consideration and approval.

Jan Guenther
Appointed
At Large

Background Summary

Three Rivers is pursuing acquisition of several properties along Dayton River Road in City of Dayton near Goodin Island and Goodin Park to create a river touchpoint for the future West Mississippi River Regional Trail. This regional trail is proposed to follow the Mississippi River/Dayton River Road and is also part of the National Mississippi River Trail and US Bikeway 45. The entire area is within the Mississippi National River Recreation Area (MNRRA) which the National Park Service works with partners to implement and operate. Acquisition of the property supports the long-term vision of the West Mississippi River Regional Trail corridor.

Jesse Winkler
Appointed
At Large

Boe Carlson
Superintendent

Regional Recreation Amenity

Acquisition of this parcel, as well as several others along the Mississippi River, are critical to the long-term West Mississippi River Regional Trail vision. When complete, the regional trail will span over 20 miles adjacent to, or near, the Mississippi River through northeastern Hennepin County. The regional trail connects the communities of Dayton, Champlin, Brooklyn Park and Brooklyn Center – with the confluence of the Crow/Mississippi Rivers and the Minneapolis Grand Rounds acting as bookends.

Natural Resource Summary

The property totals 1.10 acres including approximately 128 lineal feet of Mississippi River shoreline along the back half of the undeveloped portion of the property. The homestead area includes a home with attached garage, driveway, and mowed lawn with partial tree coverage whereas the undeveloped portions of the portions of the property include smooth brome grass, mature non-native trees, river shoreline, and areas of mowed lawn.

Funding Request

Three Rivers requests FY2023 Parks and Trails Legacy Fund and Metropolitan Council acquisition funding consideration at the Council's earliest opportunity in preparation with a pending closing date of on or before December 1, 2023.

Thank you for your continued assistance through this process.



Heather Kuikka
Planning & Research Coordinator

Enclosures

C: Jonathan Vlaming, Associate Superintendent
Kelly Grissman, Director of Planning
Jessica Lee, Metropolitan Council

Exhibit 3: Grant application



Application

18956 - FY2024 Park Acquisition Opportunity Fund Program

19920 - West Mississippi River Regional Trail - Coutolenc Acquisition

Parks Grants Acquisition

Status: Under Review
Submitted Date: 09/16/2023 12:54 PM

Primary Contact

Name:* Ms. Heather Kuikka
Pronouns First Name Middle Name Last Name

Title: Planning & Research Coordinator

Department:

Email: Heather.Kuikka@threeriversparks.org

Address: 3000 Xenium Lane N

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

Phone:* 763-694-7649
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

Project description

PAOF grants are limited to a single park or trail. Do not mix properties from more than one park or trail on a single request.

Park or trail name

West Mississippi Regional Trail

Master plan

An acquisition request will not be considered complete 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

West Mississippi River
Regional Trail 05/21/2018
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**.*

Does this acquisition involve eminent domain? No

Eminent domain

If eminent domain is being used:

(1) you must upload a copy of the notice your Agency provided to the Council that the petition to the Court was filed.

(2) Include documentation of your governing body's authorization (on the Other Acquisition Attachments web page).

When was the Council notified of your intention to use eminent domain?

Date the petition was filed.

Settlement date

Public domain

Note that ENRTF funding cannot be used for acquisitions of property already in the public domain unless a minimum of 12 LCCMR commissioners approve the transaction. If this is a public domain acquisition and if you propose using ENRTF, be sure your closing schedule accommodates planning to be included on a future LCCMR agenda.

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

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.

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 standard one-year grant term unless prior approval is obtained from the Council or the grant term is amended.*

Estimated closing date 12/01/2023

Format: mmdyyy (Do not enter any punctuation.)

Type of agreement Purchase Agreement

i.e., purchase agreement, offer letter, etc.

Date agreement expires

Format: mmdyyy (Do not enter any punctuation.)

Relocation costs

Payment of relocation costs is required by both state and federal law, unless the seller waives those rights. Please consult with Agency attorneys to determine applicability for this acquisition. If the seller has waived relocation rights, you must upload an executed copy of the waiver.

Does the requested grant amount include relocation costs? No

Appraisal

*The appraisal must have an effective date within one year of the date the purchase agreement is signed. The appraisal **MUST** list the Metropolitan Council as an intended user, and the intended use must include "negotiation and grant reimbursement."*

Appraisal effective date 09/01/2023

Appraised value \$525,000.00

Amount being offered the seller (net of closing and other costs) \$525,000.00 100.0%
% of appraised value

Who performed the appraisal? Patchin Messner

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

Survey

Was a survey done? No

Quality of natural resources - is the property...

...undeveloped? Fully Partially

...wooded? Fully Yes
Partially

...shoreline? Fully Yes
Partially

Describe the existing natural resources it contains

Mississippi River Shoreline and mature trees.

Known opposition

Is the Agency aware of any opposition to this acquisition? No

If yes, explain:

Encumbrances

To your knowledge, are there any current or anticipated assessments or liens on property? No

If yes, describe.

Are there easements or other encumbrances on any part of the property? No

If yes, describe

Clear title

To your knowledge, does the current owner have clear title to the property? Yes

If not, what must be done to clear the title, and when will that be completed?

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*

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

Anticipated funding source PTLF Legacy / Council match

Select as many as apply

Funding source comments, if desired

Structures currently on the property

Does the property contain ANY structures? Yes

If yes, are there any habitable structures? Yes

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

If yes, what is the plan for the structure(s)? Better Futures Minnesota will deconstruct and bring to their store for resell and then the house will be demolished.

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

Pamela and Kent Coutele nc	16590 Dayton River Road, Dayton, MN 55327	05-120-22-43-0002	1.1	09/22/2023	Yes	34A	Dayton	Anoka	1	A	45.226820	-93.490090	
			1										

Local match

Source of local match

Three Rivers Park District Land and Development Betterment fund.

Grant agreement signatories

Full name	Title	If this is an attorney, is the signature 'for form only'?
Boe Carlson	Superintendent and Secretary to the Board	
Eric Quiring	General Counsel	Yes

Acquisition Costs

Cost Items	Amount	State funds	Metro funds	Match funds
Purchase price				
Negotiated purchase price	\$525,000.00	\$236,250.00	\$157,500.00	\$131,250.00
Appraisal expenses				
Appraisal	\$4,500.00	\$2,025.00	\$1,350.00	\$1,125.00
Appraisal review	\$0.00	\$0.00	\$0.00	\$0.00
Environmental expenses				
Phase I environmental site assessment	\$2,500.00	\$1,125.00	\$750.00	\$625.00
Phase II environmental site assessment	\$0.00	\$0.00	\$0.00	\$0.00
Environmental contamination remediation	\$5,000.00	\$2,250.00	\$1,500.00	\$1,250.00

Holding expenses

Interest	\$0.00	\$0.00	\$0.00	\$0.00
Land stewardship	\$87,000.00	\$39,150.00	\$26,100.00	\$21,750.00
Land development	\$0.00	\$0.00	\$0.00	\$0.00
Pro-rated share of all property taxes/assessments	\$450.00	\$202.50	\$135.00	\$112.50
Legal services and closing costs	\$4,000.00	\$1,800.00	\$1,200.00	\$1,000.00
Property tax equivalency payment-473.341	\$9,000.00	\$4,050.00	\$2,700.00	\$2,250.00
Relocation costs to seller	\$0.00	\$0.00	\$0.00	\$0.00
State deed tax/conservation fee	\$2,000.00	\$900.00	\$600.00	\$500.00
Title insurance	\$500.00	\$225.00	\$150.00	\$125.00
Well disclosure statement	\$50.00	\$22.50	\$15.00	\$12.50
Other holding	\$0.00	\$0.00	\$0.00	\$0.00
Other expenses				
Other expenses	\$0.00	\$0.00	\$0.00	\$0.00
Totals	\$640,000.00	\$288,000.00	\$192,000.00	\$160,000.00

Total Estimated Acquisition Costs

Totals	Total acquisition cost	Total paid with state funds	Total paid with metro funds	Total paid by agency	Total grant amount
Total Estimated Acquisition Cost (calculated after costs above are entered)	\$640,000.00	\$288,000.00	\$192,000.00	\$160,000.00	\$480,000.00

Required Attachments - Acquisition

Exhibit 4: Appraisal excerpt

SUMMARY OF SALIENT FACTS AND CONCLUSIONS

Fee Owner:	Pamela J. Coutolenc and Kent C. Coutolenc
Location:	16590 Dayton River Road Dayton, Minnesota
Tax Identification Number:	05-120-22-43-0002
Date of Valuation:	September 1, 2023
Date of Inspection:	September 1, 2023
Property Appraised:	Real Property
Rights & Interests Appraised:	Fee Simple Market Value
Intended Use:	The intended use of this appraisal is to provide valuation guidance in the potential acquisition of the subject property in its entirety.
Client & Intended Users:	The client of this appraisal assignment is Three Rivers Park District, and the intended users of this appraisal assignment are Three Rivers Park District, as well as the Metropolitan Council, National Park Service, and the Minnesota Department of Natural Resources.
Extraordinary Assumptions:	None
Hypothetical Conditions:	None
Zoning:	A-1, Agricultural District
Guiding:	Rural Estate – Dayton’s 2040 Comprehensive Plan
Property Description:	The subject is an improved parcel, totaling 1.10 acres, with frontage and direct access to Dayton River Road along the southwest portion of the property, and is situated in the northeast portion of Dayton, Minnesota. The subject is also located along the Mississippi River and has ±134.50 LF of river frontage. The site is rectangular with sloping and partially wooded terrain features.
Description of Improvements:	The site is improved with a split-style, single-family residence, which was built in 1978 and contains 2,727 SF of total finished area. There are three bedrooms and two bathrooms, as well as a two-stall attached garage. The home includes a walkout basement with two paver patios.

Note: The description of the improvements is based on Northstar MLS data and Hennepin County records, as well as an interior and exterior viewing of the property.

Highest and Best Use:

As Vacant

Development of a single-family residence

As Improved

Continued use as currently improved

Final Conclusion:

\$525,000

Exhibit 5: Board approval to purchase property

ROUTINE BUSINESS

MOTION by DeJournett, seconded by Beard, TO APPROVE ROUTINE BUSINESS ITEMS AS FOLLOWS:

D. West Mississippi River Regional Trail – 16590 Dayton River Road Purchase Agreement

MOTION TO APPROVE A PURCHASE AGREEMENT IN THE AMOUNT OF \$525,000 FOR THE ACQUISITION OF 16590 DAYTON RIVER ROAD LOCATED IN THE CITY OF DAYTON ALONG THE WEST MISSISSIPPI RIVER REGIONAL TRAIL; TO ENTER INTO AN ACQUISITION REIMBURSEMENT GRANT WITH THE METROPOLITAN COUNCIL; AND TO ESTABLISH A PROJECT BUDGET IN THE AMOUNT OF \$640,000 WITH LOCAL FUNDING FROM THE LAND ACQUISITION DEVELOPMENT AND BETTERMENT FUND.

All ayes, no nays, **MOTIONS ADOPTED**

REQUEST FOR BOARD ACTION

Meeting Date: 09/21/23 Business Item: Routine Item Number: **5D**

Division: Planning, Design & Technology Originating Source: Jonathan Vlaming, Assoc. Supt.

Agenda Item: West Mississippi River Regional Trail – 16590 Dayton River Road Purchase Agreement

Superintendent’s Recommendation:

MOTION TO APPROVE A PURCHASE AGREEMENT IN THE AMOUNT OF \$525,000 FOR THE ACQUISITION OF 16590 DAYTON RIVER ROAD LOCATED IN THE CITY OF DAYTON ALONG THE WEST MISSISSIPPI RIVER REGIONAL TRAIL; TO ENTER INTO AN ACQUISITION REIMBURSEMENT GRANT WITH THE METROPOLITAN COUNCIL; AND TO ESTABLISH A PROJECT BUDGET IN THE AMOUNT OF \$640,000 WITH LOCAL FUNDING FROM THE LAND ACQUISITION DEVELOPMENT AND BETTERMENT FUND.

The following information was prepared by Heather Kuikka, Planning and Research Coordinator.

Background:

The property owner of 16590 Dayton River Road reached out to the Park District in late August notifying the Park District of their intent to list the property for sale and inquiring if the Park District was interested in acquiring the property instead. The property owner had been made aware of the Park District’s interest and efforts to acquire property as a result of a letter from the City of Dayton notifying residents of the Park District’s pending acquisition of three parcels east of the subject property.

The subject property is 1.10-acres, sits directly on the Mississippi River, includes a residential structure with an attached garage, and is located on the West Mississippi River Regional Trail corridor.

As with other recent acquisitions along the Mississippi River and West Mississippi River Regional Trail, acquisition of the property provides an opportunity to connect trail users visually and physically with the Mississippi River. Acquisition also provides an opportunity to further separate the trail from the adjacent Dayton River Road (***Reference 5D-1***).

As is typical with acquisitions, staff reviewed the opportunity with City staff. They are supportive and anticipate that their Council will be supportive as well.

At the request of the property owner, staff expedited an appraisal and associated initial acquisition processes in an effort to close before winter. Subsequently, the property owner has also reviewed and signed a purchase agreement for Board consideration and review (***Reference 5D-2***).

Cost and Funding

The appraised value of the property is \$525,000 and the estimated total acquisition cost which includes the sale price, appraisal, legal fees, title commitment/insurance, environmental/pre-demo assessment, demolition of the structures, the use of Better Futures Minnesota, site restoration, and providing public access is \$640,000.

The acquisition is eligible for up to 75% (\$480,000) reimbursement from the Metropolitan Council Park Acquisition Grant Fund. The remaining balance of \$160,000 would be covered by the Three Rivers Land Acquisition Development and Betterment (LADB), which has a current balance of \$1,219,000.

Next Steps

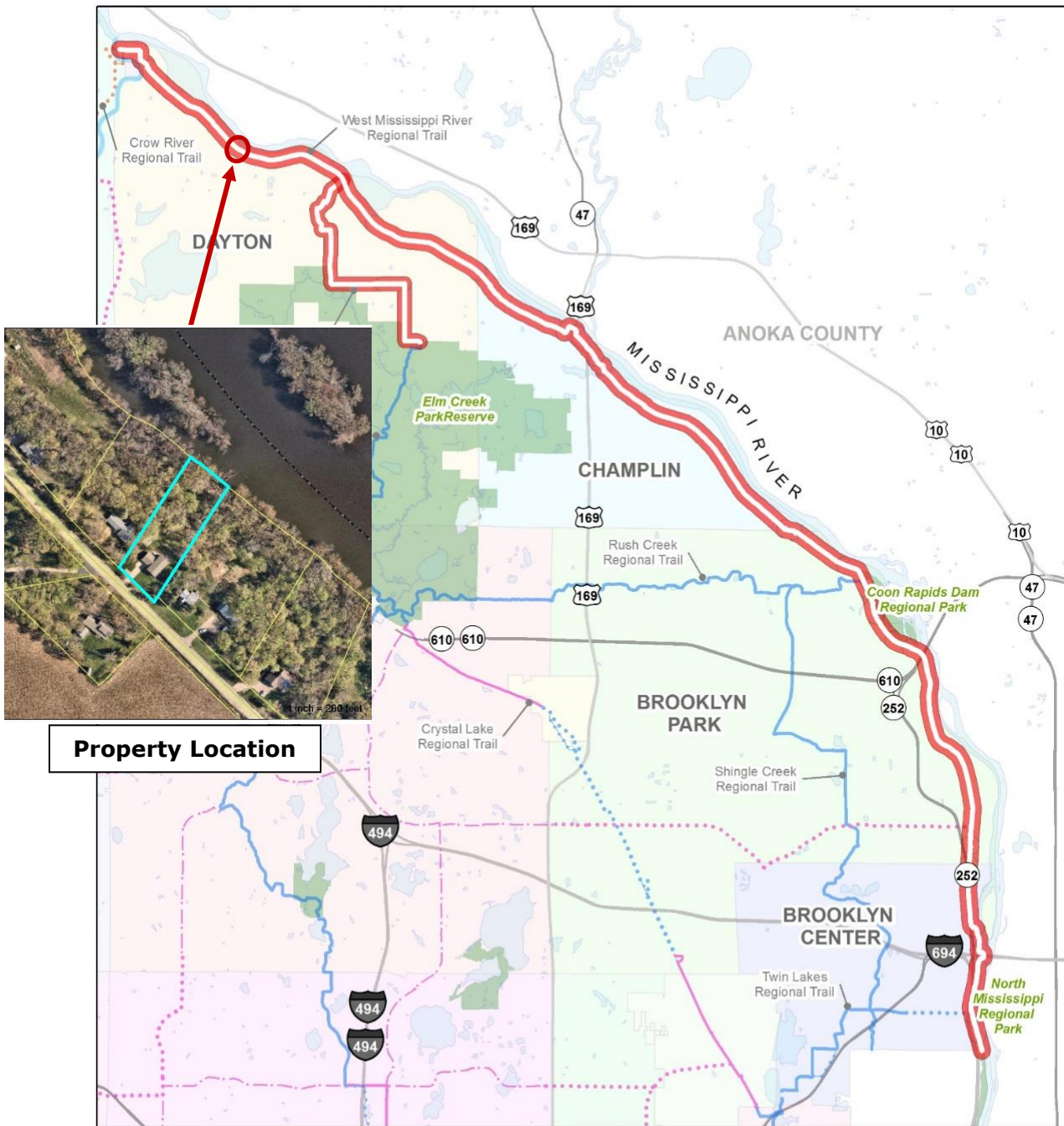
Upon Board approval, staff will seek municipal consent, sign the purchase agreement, and seek Metropolitan Council funding approval.

Relationship to the System Plan

The Request for Action supports the following goal(s) of the System Plan:

- Goal 1: You Belong Here
- Goal 2: Parks Matter

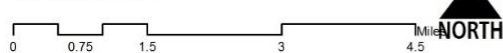
ACQUISITION LOCATION



West Mississippi River Regional Trail

April 1, 2016 - AR

Overview



- TRPD, Existing
- TRPD, Existing, Local Trail, No Agreement
- TRPD, Non Existing, Approved Master Plan
- TRPD, Non Existing Alternative, Approved Master Plan
- TRPD, Under Construction
- Search Corridor, Existing Local Trail
- Search Corridor, Non Existing



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 **Pamela and Kent Coutolenc**, ("Sellers").

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, Sellers own property located at 16590 Dayton River Road, Dayton, Minnesota, legally described on Exhibit A hereto ("Subject Property"), containing approximately 1.10 acres; and

WHEREAS, Sellers and Buyer wish to enter into an agreement for the conveyance of the Subject Property from Sellers 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. Sellers hereby agree to convey to Buyer and Buyer agrees to accept from Sellers the Subject Property together with all improvements and fixtures.

2. Consideration. In consideration of the conveyance, transfer and delivery by the Sellers to the Buyer of the Subject Property, the Buyer shall pay to the Sellers the sum of Five Hundred Twenty-Five Thousand Dollars (\$525,000) ("Purchase Price") at Closing.

3. Deed/Marketable Title. Subject to performance by the Buyer, Sellers agree 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 Sellers and Buyer on a calendar year basis to the actual date of Closing. Sellers 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 Sellers 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. Sellers shall pay on or before the date of Closing all special assessments levied or pending against the Subject Property as of the date of Closing.

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 inspection 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 Sellers. Sellers 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 Sellers notify 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 15 days after the acceptance of this Agreement by the parties hereto, Sellers shall provide Buyer with the following:

- (i) Copies of any environmental audits or assessments of the Subject Property that are in Sellers' 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 Sellers' possession.
- (iv) Copies of any written agreements affecting the ownership and use of the Subject Property known to Sellers.
- (v) An abstract of the Subject Property if in Sellers' possession.

(b) Title Commitment. 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.

(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, Sellers shall have 90 days from the date of such objections to make title marketable. If title is not made marketable within 90 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 90 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 Sellers 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. Sellers hereby grant Buyer and/or its agents the right to enter upon the Subject Property for the purpose of inspection and to prepare topological 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 protect, defend, indemnify, save and hold Sellers 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 and also any legal fees and court costs that may be expended or incurred in defending or releasing such liens. Notwithstanding anything to the contrary herein, this indemnification shall survive termination or cancellation of this Agreement.

9. Environmental. To Sellers' knowledge, and except as disclosed in the reports and other documents provided to Buyer, Sellers' 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 Sellers' ownership of the Subject Property, to the Sellers' 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 Sellers have 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.

Sellers have disclosed to the Buyer all reports and other documents in Sellers' possession concerning environmental matters relating to the Subject Property. To Sellers' 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 Sellers involving the violation of

Environmental Laws, and Sellers have no such claims against third parties. Sellers 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 Sellers prior to conveyance to Buyer.

10. Sellers' Warranties. As an inducement to Buyer to enter into this Agreement, and as part of the consideration therefore, Sellers represent and warrant to and covenant with Buyer that to the best of Sellers' knowledge at the time of Closing there are no persons in possession of the Subject 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. Sellers 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 December 15, 2023 or at such other time as may be agreed upon between the parties.

- (i) At the Closing Sellers shall:
 - (a) sign an Affidavit of Sellers 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 §1031.235,
 - (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 Sellers the Purchase Price 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 Dayton 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 based on the environmental inspection findings which will occur within the 90-day inspection window or in the event any storage, dumping or release of hazardous materials, chemicals, pollution or similar occurs after the 90-day inspection window;
- (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.

Any failure to satisfy any contingency contained herein shall render this Agreement null and void, in the Buyer's sole discretion, 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 Sellers are entitled shall be paid to Buyer and Buyer shall proceed to close the transactions herein and pay the full Purchase Price to Sellers.

15. Possession. Sellers 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 Sellers 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 deed.

17. No Intent to Acquire by Condemnation. Buyer and Sellers 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:

Pamela and Kent Coutolenc
16590 Dayton River Road
Dayton, MN 55327

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 Sellers to Buyer and be enforceable by Sellers 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.

26. Brokers. No brokers are involved in this real estate transaction.

27. Disclosures. Sellers make the following disclosures to Buyer:

- (a) Sellers are not foreign persons for purposes of income taxation, and Sellers will provide Buyer with a FIRPTA Affidavit at Closing.
- (b) Sellers are not aware of any methamphetamine production that has occurred on the Subject Property.
- (c) Sellers are not aware of any human remains, burials or cemeteries located on the Subject Property.

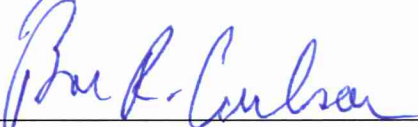
IN WITNESS WHEREOF, the parties hereto have executed this Agreement. The effective date of this Agreement shall be the latest date beside the signatory lines below.

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

Dated: 9/21/23

By 
John Gibbs, Board Chair

Dated: 9/21/23

By 
Boe R. Carlson, Superintendent and Secretary to the Board

SELLERS:

Dated: 9/7/2023

By 
Pamela Coutolenc

Dated: 9/7/2023


By 
Kent Coutolenc

EXHIBIT A

Legal Description of Subject Property

That part of Government Lot 4, Section 5, Township 120, Range 22, described as commencing at the Southwest Corner of said Government Lot 4; thence North along the West line of said Government Lot 4 a distance of 798.27 feet (the West line of said Government Lot 4 is a line bearing North 00 degrees 15 minutes 05 seconds East, assuming the South line of said Government Lot 4 as bearing North 88 degrees 39 minutes 56 seconds West) thence North 80 degrees East (assuming said West line as bearing North) a distance of 549.12 feet to the actual point of beginning; thence North 32 degrees 30 minutes East along a line hereinafter referred to as line "A" to the shore of the Mississippi River; thence Southeasterly along the shore of said river to its intersection with a line drawn parallel with and 130.78 feet Southeasterly from said line "A"; thence South 32 degrees 30 minutes West along said parallel line and its extension to the center line of County Road Number 12; thence Northwesterly along said center line to its intersection with a line bearing South 80 degrees West from the actual point of beginning; thence North 80 degrees East to the actual point of beginning, Hennepin County, Minnesota.

Property Identification Number: 05-120-22-43-0002