

Committee Report

Metropolitan Parks and Open Space Commission



Community Development Committee Meeting: March 18, 2024

For the Metropolitan Council: March 27, 2024

Business Item: 2024-53

Big Marine Park Reserve, Park Acquisition Opportunity Fund Award (Kelley Phase 1), Washington County

Proposed Action

That the Metropolitan Council:

1. Approve a grant of up to \$2,725,384 from the Park Acquisition Opportunity Fund to Washington County to acquire approximately 248 acres of park reserve land located in the southeast quadrant of Manning Avenue and 170th Street for the Big Marine Park Reserve.
2. Authorize the Executive Director of Community Development to execute the grant agreement and restrictive covenant on behalf of the Council.

Summary of Metropolitan Parks and Open Space Commission Discussion

Jessica Lee presented the staff report to the Metropolitan Parks and Open Space Commission on March 7, 2024. JJ Williams from Washington County was in attendance and helped answer questions.

Commissioner Harris commented on how this is a very exciting opportunity for Washington County and our Regional Parks System.

Chair Tony Yarusso asked why the three phased-acquisition acquires the north parcels first, then the south, then the middle. Lee responded that the southern parcels contain no structures, and that fits with the requirements of the Environment and Natural Resources Trust Fund. Council staff prioritizes the use of this funding source first, if possible.

Commissioner Yakes asked about future development. Williams responded that this land will remain mostly undeveloped, with some trail development in response to community engagement. Yarusso added that because Big Marine is a park reserve, at least 80% of the total park must remain undeveloped for natural resources protection.

Motion by Commissioner Harris, seconded by Commissioner Yakes. The Commission voted unanimously to pass the proposed action.

Business Item

Metropolitan Parks and Open Space Commission



Community Development Committee Meeting: March 18, 2024 For the Metropolitan Council: March 27, 2024

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Big Marine Park Reserve, Park Acquisition Opportunity Fund Award (Kelley Phase 1), Washington County

District(s), Member(s):	District F, Cecily Harris District 11, Gail Cederberg
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

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1. Approve a grant of up to \$2,725,384 from the Park Acquisition Opportunity Fund to Washington County to acquire approximately 248 acres of park reserve land located in the southeast quadrant of Manning Avenue and 170th Street for the Big Marine Park Reserve.
2. Authorize the Executive Director of Community Development to execute the grant agreement and restrictive covenant on behalf of the Council.

Background

Regional Park Implementing Agency and Project Request

Washington County requested a Park Acquisition Opportunity Fund (PAOF) grant on January 4, 2023, to fund the acquisition of approximately 248 acres for the Big Marine Park reserve. A copy of the Agency's request is attached to this item as Exhibit 2 with application details in Exhibit 3.

Big Marine Park Reserve is known for its excellent natural resources, with high-quality upland, shoreland, and wetland wildlife habitat in the northern part of Washington County (see Exhibit 1, Figures 1 and 2). The Park Reserve also provides a substantial ecological buffer around a significant portion of Big Marine Lake (see Exhibit 1, Figure 3).

Subject Property

The subject property is within the Council-approved boundary of the Big Marine Park Reserve. The property is entirely undeveloped and has high-quality natural resources, with a mix of prairie, hardwoods, wetlands, lakes, and ponds (see Exhibit 1, Figures 3 and 4).

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 \$3,600,000, and the Seller has agreed to that amount. See Exhibit 4 for more information on the appraisal. The total project cost including legal fees, environmental assessments, stewardship, taxes, and appraisal is \$3,633,845, as shown in Table 1 below.

Table 1. Project Budget

Budget item	Requested amount
Purchase price	\$3,600,000
Appraisal, legal fees, taxes, closing costs	\$31,145
Environmental assessments, phase I	\$2,200
Site remediation and land stewardship	\$500
Total Costs	\$3,633,845
Grant structure	
Grant amount	\$2,725,384
Local match	\$908,461

Acquisition Details

This is a straightforward fee title acquisition. Washington County has an option agreement to purchase approximately 690 acres of Kelley Land and Cattle property phased over three years to accommodate the annual PAOF grant limits of \$1.7 million per funding account. This acquisition is phase one of the agreement.

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 Environment and Natural Resources Trust 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 Big Marine Park Reserve master plan in 2010 and a master plan amendment in 2021 ([Business Item 20221-223](#)). 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 contains approximately 248 acres of undeveloped land with high-quality natural resources.

- 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 Big Marine Park Reserve 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, Environment and Natural Resources Trust Fund, and Council funds. The PAOF program has available funds in the Council's Authorized Capital Program.

Washington County will provide a local match of \$908,461.

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: Option agreement to purchase property



Exhibit 1 – Images

Figure 1. Map of the Regional Parks System and the Big Marine Park Reserve (circled in red)

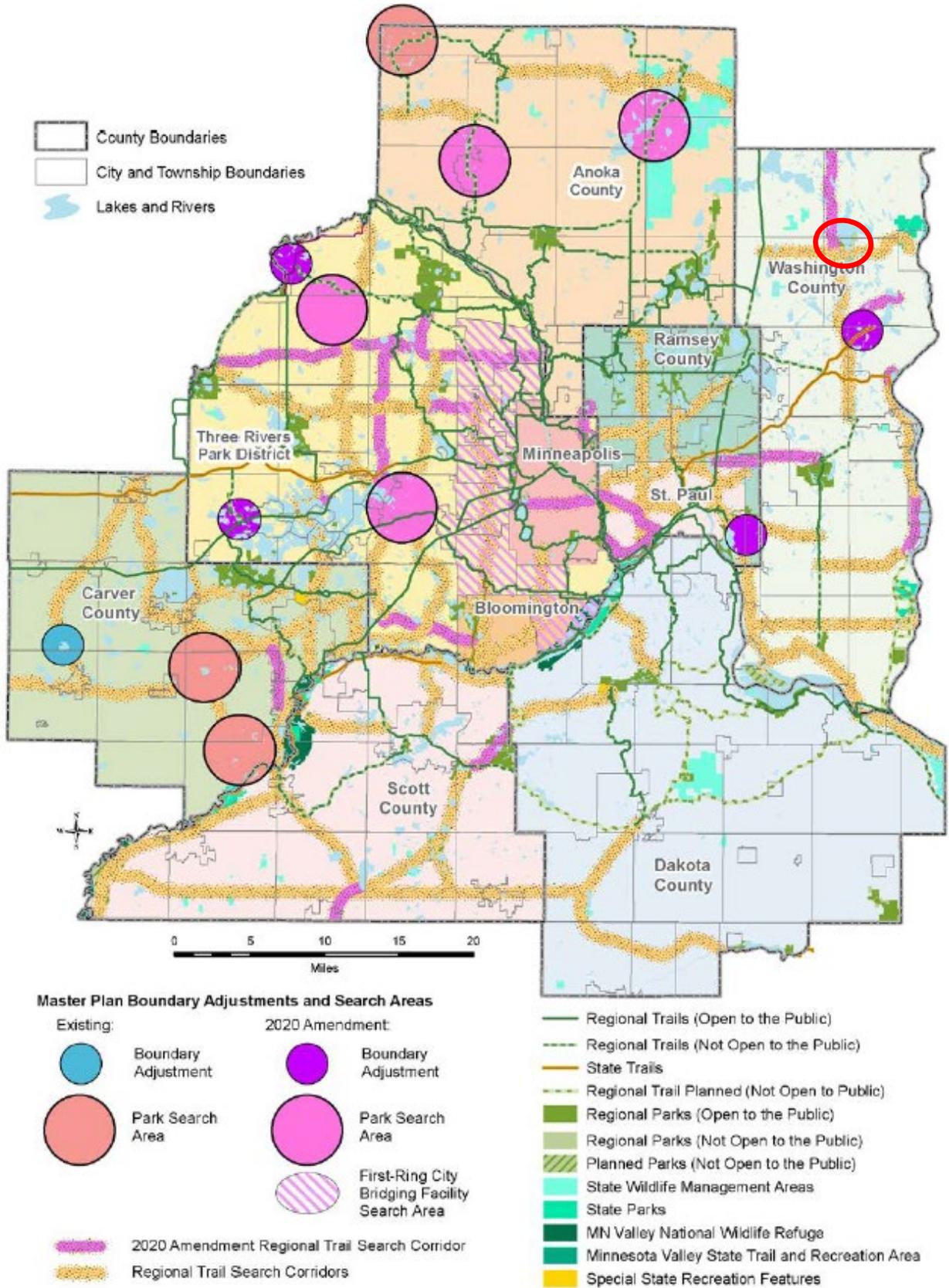
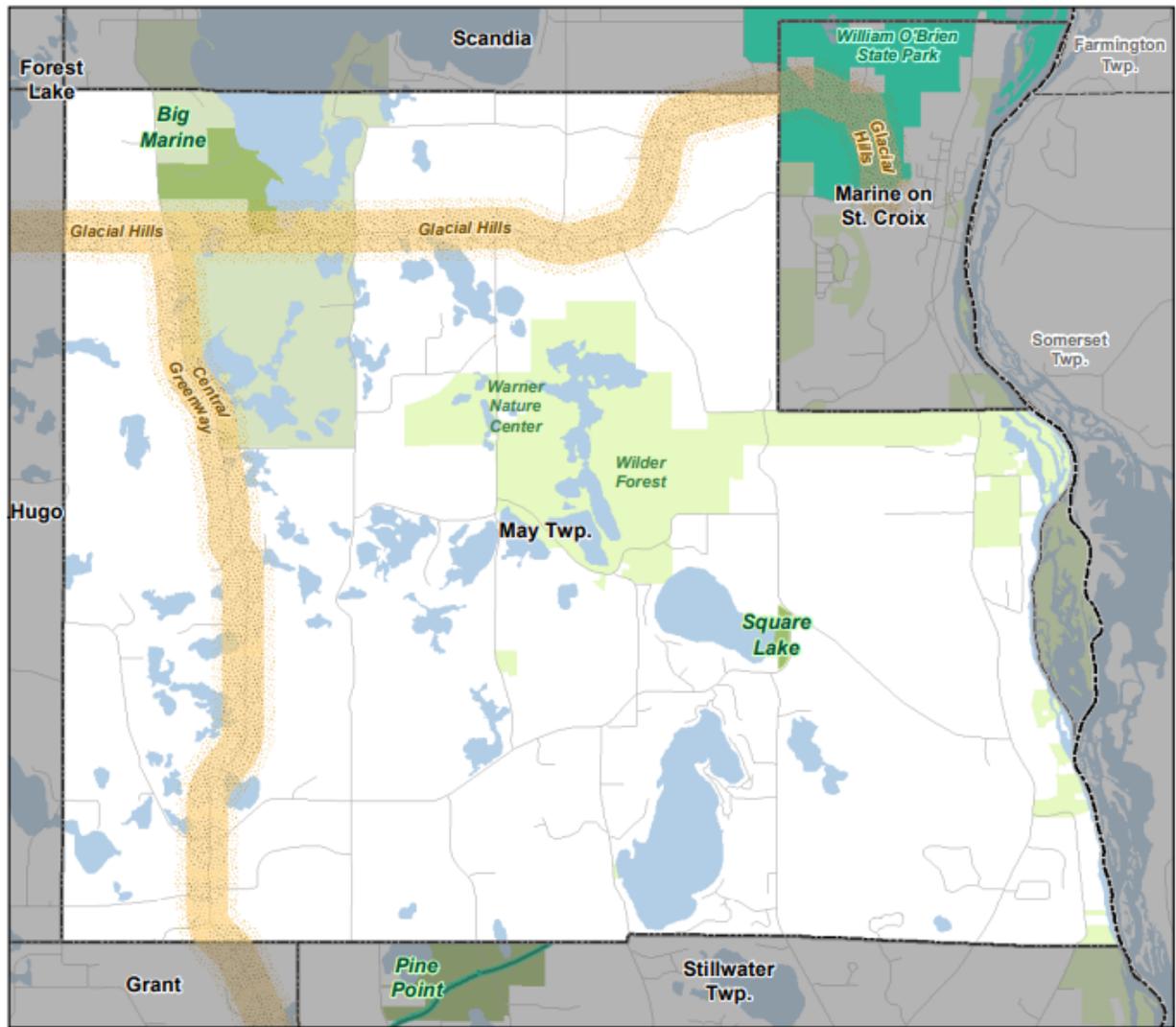


Figure 2. Map of May Township showing the location of Big Marine Park Reserve and nearby park and natural areas.



Regional Parks

- Existing
- In Master Plan
- Planned Parks and Reserves

Regional Trails

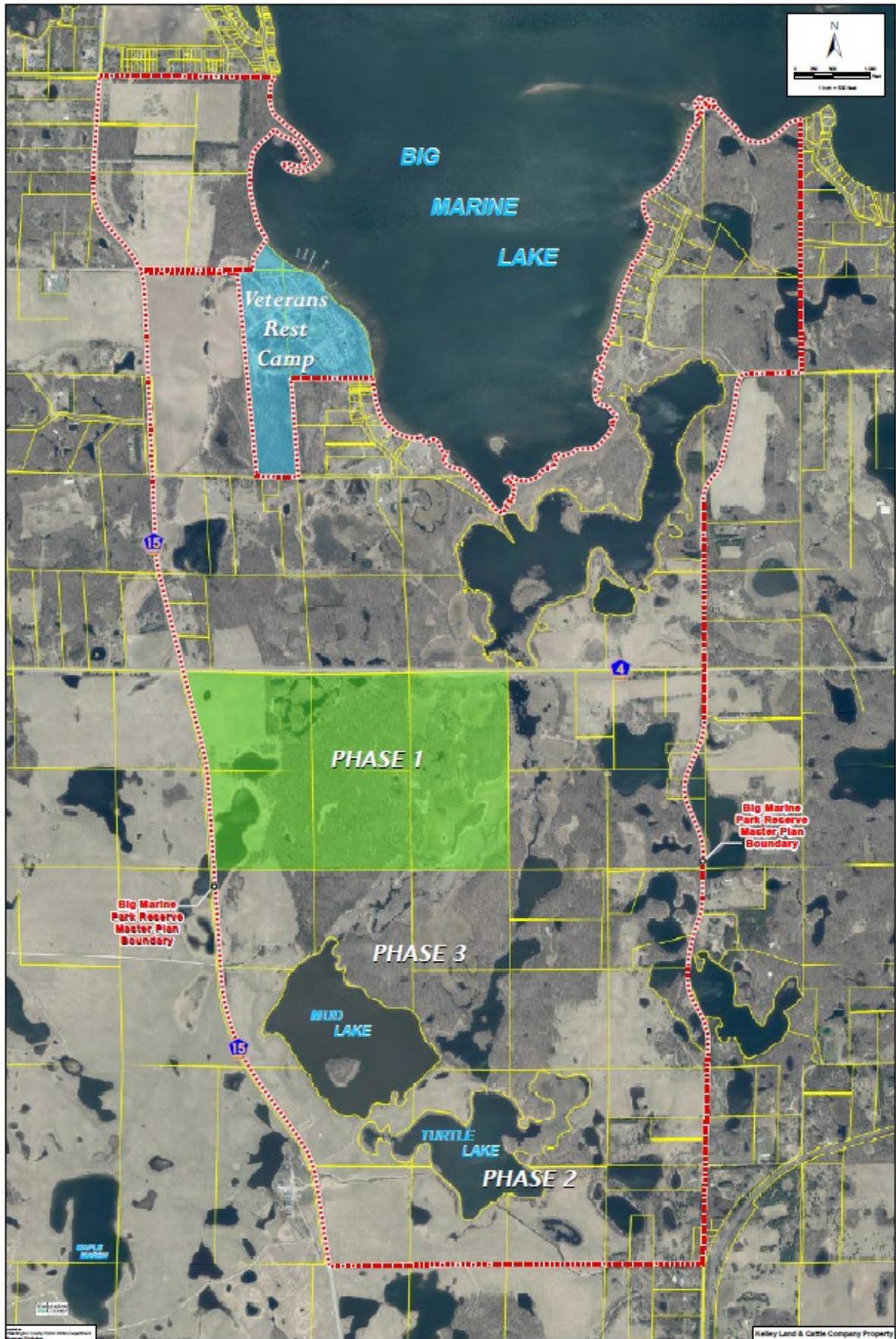
- Existing Regional Trails
- Planned Regional Trails
- Regional Trail Corridor Land

Regional Park Search Areas and Regional Trail Search Corridors

- Boundary Adjustments
- Search Areas
- Regional Trail Search Corridors
- Regional Trails - 2040 System Additions

- Minnesota Valley National Wildlife Refuge
- State Parks
- State Wildlife Management Areas (Publicly Accessible)
- Scientific and Natural Areas (SNA)
- Other Parks and Preserves
- Existing State Trails
- Street Centerlines (NCompass)
- Lakes and Major Rivers

Figure 3. Map of Big Marine Park Reserve and the three-phased acquisition of the Kelley Farms property, highlighting phase 1.



Metropolitan Council

Figure 4. Aerial image of the subject property.





PUBLIC WORKS

Wayne Sandberg, P.E., Director, County Engineer
Frank D. Ticknor, P.E., Deputy Director

January 4, 2024

Ms. Jessica Lee
Senior Grants Administrator
Metropolitan Council
390 North Robert Street
St. Paul, MN 55101

RE: Request for Acquisition Opportunity Grant Funds for Purchase of the Kelley Land and Cattle Co. Property
Phase I Option - in Big Marine Park Reserve

Dear Jessica,

Washington County requests that Metropolitan Council consider providing acquisition opportunity grant funds for the purchase of a portion of the Kelley Land and Cattle Co. property located within the boundary of Big Marine Park Reserve in May Township. This property is vacant land with no improvements. The agreed upon price is the same as the appraised value.

This offer presented here has been signed by both the landowner and the Washington County Board on January 2, 2024. Funding for this project is requested to be 75% from Metropolitan Council’s Acquisition Opportunity Fund with remaining 25% funded by Washington County funds.

Estimated Acquisition Costs:

Purchase Price	\$3,600,000.00
Estimated costs related to purchase	\$ 33,845.00

	\$3,633,845.00

Proposed Revenue Sources:

Acquisition Opportunity Fund (75%)	\$2,725,383.75
Washington County (25%)	\$ 908,461.25

	\$3,634,165.00

We understand that there are funds available for the 2024 fiscal year and hope to be able to use said funds. If the funds are not available, we request that this acquisition be funded in the 2025 fiscal year. We anticipate closing this at the end of May 2024 following Met Council action on the grant request.

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www.co.washington.mn.us

Washington County is an equal opportunity organization and employer

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January 4, 2024

Thank you for your consideration of this request. If you have any questions or need additional information, please let me know.

Sincerely,

A handwritten signature in blue ink, appearing to read "Sharon M. Price". The signature is written in a cursive style with a large initial "S".

Sharon M. Price
Property Acquisition Manager

cc: Alex McKinney, Parks Director

Exhibit 3: Grant application



Application

18956 - FY2024 Park Acquisition Opportunity Fund Program
20516 - BMPPR - Kelley Land and Cattle Phase I Option Purchase
Parks Grants Acquisition

Status: Under Review
Submitted Date: 01/04/2024 2:35 PM

Primary Contact

Feel free to edit your profile anytime your information changes. Create your own personal alerts using [My Alerts](#).

Name: * Ms. Sharon Price
Pronouns First Name Middle Name Last Name

Title: Land Acquisition

Department:

Email: Sharon.Price@co.washington.mn.us

Address: 11660 Myeron Road N.

*** City:** Stillwater **State/Province:** Minnesota **Postal Code/Zip:** 55082

Phone: * 651-430-4391 Phone Ext.

Fax:

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

Organization Information

Name: WASHINGTON CTY

Jurisdictional Agency (if different):

Organization Type:

Organization Website:

Address: PUBLIC WORKS
11660 MYERON RD

*** City:** STILLWATER **State/Province:** Minnesota **Postal Code/Zip:** 55082

County: Washington

Phone: * 651-430-4325 Ext.

Fax:

PeopleSoft Vendor Number 0000028637A10

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 Big Marine PR-Washington County

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

Big Marine Park Reserve

08/03/2010

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?

No

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

Format: mmddyyyy (Do not enter any punctuation.)

Type of agreement

Purchase Agreement

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

Date agreement expires

Format: mmddyyyy (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?

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

08/19/2023

Appraised value

\$3,600,000.00

Amount being offered the seller (net of closing and other costs)

\$3,600,000.00

100.0%

% of appraised value

Who performed the appraisal?

Ethan Waytas

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

Washington County

Survey

Was a survey done?

No

Quality of natural resources - is the property...

...undeveloped?

Yes

Fully

Partially

...wooded?

Fully

Yes

Partially

...shoreline?

Fully

Yes

Partially

Describe the existing natural resources it contains

Big Marine Park Reserve is comprised of diverse natural systems with many lakes and wetlands throughout. This parcel contains a mix of prairie, hardwoods together with wetlands and ponds that provide important habitat for wildlife used for nesting, foraging and a travel corridor.

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

Select as many as apply

Funding source comments, if desired

Structures currently on the property

Does the property contain ANY structures? No

If yes, are there any habitable structures? No

Does the property currently contain any revenue-generating businesses? 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?

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

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.

The entire approximately 240 acres could be eligible for ENRTF funds as it contains no structures.

Stewardship and minimal access

Describe the stewardship plan.

The approximate 240 acres of Kelley Land property contains various types of natural resources and the plan surrounding this area to manage what would include prairie restoration, savanna restoration and wetland restoration. The first step in making this transition would be by planting vegetation in the disturbed areas. The initial vegetation planted would be a wildlife cover to stabilize the site. Longer term restoration efforts over this area would consist of plantings consistent within the Big Marine Park Reserve master plan.

How will the stewardship implementation be funded?

Stewardship implementation will continue to be funded through Washington County Parks, the Metropolitan Council and available grants.

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?

Site Description

Land Use History

Current land uses

Select as many as apply

Wetland, Woods

Previous land uses

Select as many as apply

Agricultural, Wetland, Woods

Adjacent land uses

Select as many as apply

Residential, Wetland, Woods

Inspection

Does the property contain any of the following?

Select as many as apply

Wells

Sellers and parcels

Seller name	Parcel address	PID	Acres (SF for easements)	Date PA signed	Habitable structures?	MN House district	City	County	Met Council district	MPOSC	Latitude	Longitude
Kelley Land and Cattle Co	Southeast quadrant of Manning Ave and 170th St	07.031.20.11.0001, plus additional	240 +/-	01/02/2024	No	39A	Marine-on-St. Croix	Washington			45.195660	-92.882260

Local match

Source of local match

Grant agreement signatories

Full name	Title	If this is an attorney, is the signature 'for form only'?
Stan Karwoski	Board Chair	No
Kevin Corbid	County Administrator	No
Andrew Jackola	Assistant County Attorney	Yes

Acquisition Costs

Cost Items	Amount	State funds	Metro funds	Match funds
Purchase price				
Negotiated purchase price	\$3,600,000.00	\$1,620,000.00	\$1,080,000.00	\$900,000.00
Appraisal expenses				
Appraisal	\$3,800.00	\$1,710.00	\$1,140.00	\$950.00
Appraisal review	\$0.00	\$0.00	\$0.00	\$0.00
Environmental expenses				
Phase I environmental site assessment	\$2,200.00	\$990.00	\$660.00	\$550.00
Phase II environmental site assessment	\$0.00	\$0.00	\$0.00	\$0.00
Environmental contamination remediation	\$0.00	\$0.00	\$0.00	\$0.00
Holding expenses				
Interest	\$0.00	\$0.00	\$0.00	\$0.00
Land stewardship	\$500.00	\$225.00	\$150.00	\$125.00
Land development	\$0.00	\$0.00	\$0.00	\$0.00
Pro-rated share of all property taxes/assessments	\$1,400.00	\$630.00	\$420.00	\$350.00
Legal services and closing costs	\$0.00	\$0.00	\$0.00	\$0.00
Property tax equivalency payment-473.341	\$740.00	\$333.00	\$222.00	\$185.00
Relocation costs to seller	\$0.00	\$0.00	\$0.00	\$0.00
State deed tax/conservation fee	\$11,885.00	\$5,348.00	\$3,566.00	\$2,971.00
Title insurance	\$4,200.00	\$1,890.00	\$1,260.00	\$1,050.00
Well disclosure statement	\$120.00	\$54.00	\$36.00	\$30.00
Other holding	\$9,000.00	\$4,050.00	\$2,700.00	\$2,250.00
Other expenses				
Other expenses	\$0.00	\$0.00	\$0.00	\$0.00
Totals	\$3,633,845.00	\$1,635,230.00	\$1,090,154.00	\$908,461.00

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
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Total Estimated Acquisition Cost (calculated after costs above are entered)	\$3,633,845.00	\$1,635,230.00	\$1,090,154.00	\$908,461.00	\$2,725,384.00
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Required Attachments - Acquisition

Attachment	Description	File Name	File Size	Type
SECTION 1 - All of the following are required to BEGIN review unless otherwise indicated				
1.0 Grant request letter (REQ'D)	Big Marine - Kelley Land Phase I Purchase Request Letter	1-4-24_Grant Request Letter.pdf	32.3 MB	pdf
2.0 Master plan documentation (REQ'D)	Big Marine Park Reserve Master Plan	Big Marine Master Plan-2010_Reduced.pdf	32.3 MB	pdf
3.0 RECORDED Governing Board action authorizing grant request (REQ'D)	Big Marine Park Reserve - Resolution to Purchase	2023-126_Resolution_Option Agmt.pdf	32.3 MB	pdf
4.0 Signed purchase agreement/instrument (REQ'D)	Big Marine - Kelley Land Purchase Agmt Phase 1 Acquisition	Amendment No 1-Phase I Purchase_Option Agmt.pdf	32.3 MB	pdf
5.1 Appraisal report (REQ'D)	BMPR - Kelley Land Phase I Purchase Appraisal	9-28-23_Phase I Appraisal - Report_Kelley.pdf	32.3 MB	pdf
5.2 Appraisal review report (NOT req'd)			32.3 MB	
5.3 Client's instructions to appraiser (REQ'D)	BMPR - Kelley Land Phase I Purchase - Proposal Instructions	RFP - App Consulting Services 4-13-23.pdf	32.3 MB	pdf
5.4 Title documentation (Req'd before finalization)			32.3 MB	
6.1 Phase 1 ESA (if land may be contaminated or have abandoned wells)	BMPR - Kelley Land Phase I Purchase - Phase I ESA	Phase I ESA Report_Phase I Option 240ac - Kelley Land Company.pdf	32.3 MB	pdf
6.2 Phase II environmental assessment report (required if indicated in Phase I)			32.3 MB	
7.0 Survey report (NOT req'd)			32.3 MB	
8.0 Legal description in Microsoft Word that includes PIDs and, if available, address	BMPR - Kelley Land Phase I - Legal Description	Kelley Phase I_Legal Description.pdf	32.3 MB	pdf
9.0 Land stewardship plan	BMPR - Stewardship Plan for Kelley Phase I Purchase	Kelley Phase I_Stewardship Plan_Phase I Option.pdf	32.3 MB	pdf
10.0 Relocation description and estimated costs OR signed waiver of relocation rights			32.3 MB	
SECTION 2 - Condemnation only - all required for eminent domain				
11.1 For condemnations, copy of notice to Council advising court filing			32.3 MB	
11.2 Condemnation or administrative settlement			32.3 MB	
11.3 Documentation of when petition was filed with court			32.3 MB	
SECTION 3 - Matching grant				
12.0 If this grant will serve as match to another grant, copy of other grant is required			32.3 MB	
SECTION 4 - Required images & GIS information				
13.1 Aerial photo showing park/trail boundary with parcel overlay (REQ'D)	Big Marine Park Reserve - Boundary and Kelley Purchase	Kelley_Farms_BigM_phase1_map_121523 (003).pdf	32.3 MB	pdf
13.2 For trails, parcel map showing trail route (Required for trails)			32.3 MB	
13.3 Image documenting location of property within RPS unit (REQ'D)			32.3 MB	
13.4 GIS shape-file for property (REQ'D)			32.3 MB	
SECTION 5 - Invoices				
14.1 Invoices: State deed tax or conservation fee (REQ'D)	BMPR - Kelley Phase I - State Deed & Conservation Fee Invoice	Kelley Phase I_State Deed_Cons Fee Estimate_Invoice.pdf	32.3 MB	pdf
14.2 Invoices: Current property tax statement with pro-rated share of tax due (REQ'D)	Big Marine - Kelley Land Estimated 2024 prorated tax invoice	Kelley Phase I_Prorated 2024 Tax Estimate.pdf	32.3 MB	pdf

SUMMARY OF IMPORTANT FACTS & CONCLUSIONS



General Description:	Land
Appraisal Report:	Appraisal Report
Current Use:	Vacant Land
Extraordinary Assumptions:	None
Hypothetical Assumptions:	None
Total Site Area:	Gross: 240 acres +/- (10,454,400 SF), estimated
County Easement Acquisition:	No easement acquisitions.
County Fee Title Acquisition:	240 Acres +/-.
Building Improvements:	None, the site is vacant land
Building Rights:	The upland appears to be developable at this time
Zoning:	RR, Rural Residential (1:10) Shoreland Management District
Guided Land Use:	Park & Recreation
Highest and Best Use:	Future rural residential development
Property Rights Appraised:	Fee Simple
Business Value / FF&E:	No business value or FF&E included
Market Value:	\$3,600,000

DATE October 24, 2023
MOTION
BY COMMISSIONER Miron

DEPARTMENT Public Works – Parks
SECONDED BY
COMMISSIONER Bigham

**RESOLUTION TO ACQUIRE KELLEY LAND AND CATTLE CO.
PROPERTY BY OPTION AGREEMENT IN MAY TOWNSHIP
FOR INCLUSION INTO BIG MARINE PARK RESERVE**

WHEREAS, Washington County (County) is interested in acquiring certain property owned by Kelley Land and Cattle Co. (Kelley) for inclusion into Big Marine Park Reserve; and,

WHEREAS, the owners, Kelley, agree to sell the property to the County; and,

WHEREAS, the property for purchase is approximately 685 acres and is too large to purchase in one segment; and,

WHEREAS, both County and Kelley agree that an Option Agreement is necessary in order to be able to purchase the entire Kelley property; and,

WHEREAS, the Option Agreement will be exercised in three phases; and.

WHEREAS, funding for each phase is intended to be a combination of Land and Water Legacy Program funds and Metropolitan Council grant funds.

NOW, THEREFORE, BE IT RESOLVED, that the Washington County Board of Commissioners hereby authorizes its Chair and Administrator to execute on behalf of the County an Option Agreement which lays out the conditions by which the three-phase purchase of the Kelley Land and Cattle Co. property will be accomplished.

ATTEST: *Kevin Corbid*
COUNTY ADMINISTRATOR

Gary Kriesel
COUNTY BOARD CHAIR

	YES	NO
MIRON	<u>X</u>	___
KARWOSKI	<u>X</u>	___
KRIESEL	<u>X</u>	___
BIGHAM	<u>X</u>	___
CLASEN	<u>X</u>	___

Exhibit 6: Option agreement to purchase property

DocuSign Envelope ID: F132FB36-621D-42A4-8AEB-71D5F70E7E10

**AMENDMENT NO. 1
OPTION AGREEMENT TO PURCHASE – PHASE I**

This Amendment No. 1 is entered into by and between Washington County and Kelley Land and Cattle Co. to amend Option Agreement to Purchase dated October 26, 2023 thereto as follows:

1. Recital No. 1 is amended to incorporate the legal description for the Phase I purchase depicted in this Option Agreement and described in this Amendment No. 1 as follows:

Those parts of the Northwest Quarter of the Northeast Quarter and the Northeast Quarter of the Northeast Quarter Section 7, Township 31, Range 20, Washington County, Minnesota, lying easterly of the following described line:

Commencing at the southwest corner of the Northwest Quarter of Section 17, Township 31 North, Range 20 West, Washington County, Minnesota; thence North 89 degrees 51 minutes 59 seconds East, along the south line of said Northwest Quarter, a distance of 163.23 feet to the point of beginning of the line to be described; thence North 08 degrees 44 minutes 40 seconds West a distance of 1125.75 feet; thence 609.64 feet along a tangential curve concave to the southwest having a radius of 1282.70 feet and central angle 27 degrees 13 minutes 53 seconds; thence North 35 degrees 58 minutes 33 seconds West a distance of 845.62 feet; thence 1605.38 feet along a tangential curve concave to the northeast having a radius of 2863.43 feet and a central angle of 32 degrees 07 minutes 22 seconds; thence North 03 degrees 51 minutes 11 seconds West a distance of 2586.38 feet; thence 437.83 feet along a tangential curve concave to the southwest having a radius of 2440.47 feet and a central angle of 10 degrees 16 minutes 45 seconds; thence North 14 degrees 07 minutes 56 seconds West a distance of 1068.45 feet, more or less to the north line of Section 7, Township 31 North, Range 20 West and there terminating.

(PID: 07.031.20.11.0002)

AND

Those parts of the South Half of the Northeast Quarter of Section 7, Township 31, Range 20, Washington County, Minnesota, lying easterly of the following described line:

Commencing at the southwest corner of the Northwest Quarter of Section 17, Township 31 North, Range 20 West, Washington County, Minnesota; thence North 89 degrees 51 minutes 59 seconds East, along the south line of said Northwest Quarter, a distance of 163.23 feet to the point of beginning of the line to be described; thence North 08 degrees 44 minutes 40 seconds West a distance of 1125.75 feet; thence 609.64 feet along a tangential curve concave to the southwest having a radius of 1282.70 feet and central angle 27 degrees 13 minutes 53 seconds; thence North 35 degrees 58 minutes 33 seconds West a distance of 845.62 feet; thence 1605.38 feet along a tangential curve concave to the northeast having a radius of 2863.43 feet and a central angle of 32 degrees 07 minutes 22 seconds; thence North 03 degrees 51 minutes 11 seconds West a distance of 2586.38 feet; thence 437.83 feet along a tangential curve concave to the southwest having a radius of 2440.47 feet and a central angle of 10 degrees 16 minutes 45 seconds; thence North 14 degrees 07 minutes 56 seconds West a distance of 1068.45 feet, more or less to the north line of Section 7, Township 31 North, Range 20 West and there terminating.

(PID: 07.031.20.13.0002)

AND

The Northwest Quarter of the Northwest Quarter, Section 8, Township 31 North, Range 20 West, Washington County, Minnesota.

(PID: 08.031.20.22.0001)

AND

The Southwest Quarter of the Northwest Quarter, Section 8, Township 31 North, Range 20 West, Washington County, Minnesota.

(PID: 08.031.20.23.0001)

AND

The East Half of the Northwest Quarter, Section 8, Township 31 North, Range 20 West, Washington County, Minnesota.

(PID: 0803120210001)

2. Covenants No. 4 EXERCISE DATE is amended to incorporate and include the Exercise Date for Phase I to be November 8, 2023. All other provisions of Covenants No. 4 not expressly amended herein remain in full force and effect.
3. Covenants No. 6 PURCHASE PRICE is amended to incorporate and include the Purchase Price for the Phase I Option to Purchase in the amount of \$3,600,000.00. All other provisions of Covenants No. 6 not expressly amended herein remain in full force and effect.
4. Covenants No. 15 MISCELLANEOUS is amended as follows:
 - 15.1 Is amended to adjust the Phase I Environmental Site Assessment (ESA) to be conducted in two segments. The adjustment is made in the interest of time for the Phase I purchase. The first segment of the Phase I ESA will cover the Phase I purchase property and the second segment will cover the remainder property. Buyer acknowledges and agrees that neither a Phase II Environmental Assessment nor any corrective action is required with respect to the Phase I parcels of the Property. All other provisions of Covenants 15, item 15.1 not expressly amended herein remain in full force and effect.

All other terms and conditions set forth in the Option Agreement to Purchase dated October 26, 2023 not expressly amended herein remain in full force and effect.

SELLERS:

KELLEY LAND AND CATTLE CO.

By: Hampton K. O'Neill 8/2023
Date
Its: Hampton O'Neill
President

By: Kelley M. O'Neill 12/9/2023
Date
Its: Kelley M. O'Neill
Vice President

BUYER:

WASHINGTON COUNTY

By: Commissioner Stan Karasinski 2/24
Date
Its: Board Chair

By: Kevin Corbid 1/3/2024
Date
Its: Kevin Corbid
County Administrator

Approved as to form:

Andrew Jackola
Assistant County Attorney

**OPTION AGREEMENT TO
PURCHASE**

Between

Kelley Land and Cattle Co.

("SELLER")

and

WASHINGTON COUNTY

("BUYER")

OPTION AGREEMENT TO PURCHASE

THIS OPTION PURCHASE AGREEMENT (this "Agreement") is made to be effective the ____ day of October 26, 2023 (the "Effective Date of this Agreement") between KELLEY LAND AND CATTLE CO., (hereinafter referred to as "Seller") and WASHINGTON COUNTY (hereinafter referred to as "Buyer").

RECITALS AND PRELIMINARY STATEMENT OF FACTS

1. Seller is the owner of certain real property located in the County of Washington, State of Minnesota, and legally described in the attached Exhibit "A" (the "Property").
2. Seller desires to sell and Buyer desires to purchase the entire Property from Seller described on Exhibit A, which is part of Big Marine Park Reserve, subject to the terms and conditions hereof.
3. Seller recognizes that the Buyer is not able to purchase the entirety of the Property in one transaction because Buyer will rely on grant funding to purchase the Property, which is allocated to participants in limited amounts on a schedule determined by the grantor's fiscal calendar running from July to June 30.
4. Seller and Buyer have determined a three-phase approach to purchase the Property as shown on the attached Exhibit "B" (three-phase purchase diagram).
5. Buyer intends to purchase the entire Property over the course of three years, marked by the fiscal calendar of the grantor providing funding to Buyer, which is described more thoroughly in the following paragraph. The fiscal calendar runs from July 1 to June 30; *to wit*: the 2024 fiscal year will run from July 1, 2023 through June 30, 2024. Buyer intends to close on Phase I in Fiscal Year 2024; Buyer intends to close on Phase II in Fiscal Year 2025; and Buyer intends to close on Phase III in Fiscal Year 2026, which ends on June 30, 2026. With the execution of this Agreement, Buyer's option period for acquiring the Phase I parcels, identified on Exhibit B, will commence. In accordance with the three-phase approach to the sale contemplated herein, Buyer will have the right to exercise its options on each phase of the sale after closing on the previous phase. Each phase will have an "Exercise Date" and a "Closing Date." The Exercise Date is the date by which Buyer must inform Seller of Buyer's intent to exercise its option for a certain Phase. The Closing Date is the date by which Buyer and Seller will close on the transaction for a certain Phase. Prior to each closing, the parties will agree upon and memorialize the closing schedule, purchase price, allocation of costs (including, but not limited to, title, survey, taxes and closing costs), and other miscellaneous items (including, but not limited to, well disclosures, septic system disclosures and environmental impact issues) necessary for each subsequent phase of the Agreement. All other terms of the Agreement will remain in effect notwithstanding the pre-closing memorialization of these terms.

6. Buyer intends to purchase the entire Property using funds from a grant program authorized by chapter 563, Laws of Minnesota, 1974, which provides funding for the acquisition, preservation, protection, development, and betterment of regional recreational open space for public use. In keeping with the spirit and intent of the grant program authorized under Minnesota Statutes Chapter 563 and with the Metropolitan Regional Park Policy Plan, the Property will be part of Big Marine Park Reserve which ensures the preservation of large tracts of contiguous habitat, substantial ecological buffers around water bodies and preserve surrounding landscapes of forests and woodlands. To ensure this preservation, a Covenant and Restriction is placed on each Phase of the property on the date such Phase is purchased in form substantially similar to that attached hereto as Exhibit D, which obligation shall survive the closing on the purchase of each and every Phase of the Property. Grant funds are allocated annually pursuant to the grant's fiscal calendar, which runs from July 1 to June 30; *to-wit*: the 2024 fiscal year will run from July 1, 2023 through June 30, 2024. Because the availability of grant funds is anticipated, but not assured, each phase of the purchase and sale is conditioned upon Buyer actually receiving grant funds from the grant program. Buyer affirmatively represents that it will exercise its best efforts to secure grant funds timely and annually. With respect to Phase I and Phase II, if, due to circumstances beyond the control of Buyer, grant funds are not available to Buyer for a particular fiscal year, the parties agree that Buyer shall retain its exclusive purchase option for the remaining phases of the sale, provided that Buyer accelerates the exercise of its next option to keep the closing of Phase III on schedule and further provided that Buyer close on the prior Phase(s) at the same time it closes on the next Phase. By way of example, if Buyer is unable to obtain funding to close on Phase II by the Phase II Closing Date, Buyer will retain its options for Phase II and Phase III, but the transactions for Phase II and Phase III must close by the end of Fiscal Year 2026. If Buyer has closed on the purchase of Phase I and Phase II prior to the Phase III Closing Date, but Phase III grant funding is unavailable for Buyer to close on the purchase of Phase III on or before the Phase III Closing Date, despite Buyer's best efforts to acquire said funding, the parties agree that upon delivery of written notice of such unavailability of grant funding from Buyer to Seller delivered prior to the original Phase III Closing Date, the Phase III Closing Date shall be extended until December 31, 2026 to allow Buyer to pursue alternate funding and close on the Phase III transaction.

In consideration of the Recitals and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties, intending to be legally bound, agree as follows:

COVENANTS

1. **GRANT OF OPTION.** Subject to the terms and conditions of this Agreement, and in consideration herein, Seller hereby grants to Buyer the option to purchase the Property identified on Exhibit A.
2. **EXERCISE OF OPTION.** Buyer is part of the Metropolitan Council Regional Park System and is a participant in the grant program described in the Recitals at Item 6 above. With the execution of this Agreement, Buyer's option period for acquiring the Phase I parcels, identified on Exhibit B, will commence. Thereafter, each phase will occur

sequentially. At any time after the closing of Phase I, but prior to the Exercise Date for Phase II, Buyer has the right to exercise the Option for Phase II by giving written notice to Seller. At any time after the closing of Phase II, but prior to the Exercise Date for Phase III, Buyer has the right to exercise the Option of Phase III by giving written notice to Seller. Should there be remaining grant funds within certain fiscal years, the Buyer may accelerate its right to exercise the Options for Phase II and Phase III. That is, if additional funding is available in a fiscal year, enough to purchase the next phase, Buyer will move forward to exercise the next phased option. It is anticipated that this three-phased purchase could be completed within the 2026 fiscal year (between July 1, 2025 and June 30, 2026).

3. **SALE AND PURCHASE** Seller agrees to sell and Buyer agrees to purchase the Property upon the terms and conditions set forth in this Agreement.
4. **EXERCISE DATE** Each of the three phases will have its own exercise date, in keeping with the grantor's fiscal calendar. The Exercise Date for Phase I will be within 30 days of the date this Agreement is fully executed. The Exercise Date for Phase II will be July 31, 2024. The Exercise Date for Phase III will be July 31, 2025. If Buyer fails to notify Seller of the exercise of its option to purchase any particular Phase by the applicable Exercise Date, then Buyer shall be deemed to have irrevocably waived its right to exercise the right to purchase the applicable Phase and all subsequent Phases.
5. **CLOSING DATE** Each of the three phases will have its own closing date pursuant to the terms of this Agreement. The Closing Date of the transaction for Phase I contemplated by this Agreement shall be on or before June 30, 2024. The Closing Date of the transaction for Phase II shall be on or before June 30, 2025. The Closing Date of the transaction for Phase III shall be on or before June 30, 2026. The parties recognize and agree that the Closing Dates are subject to change based on the contingencies outlined in Recital 6 and Covenant 2 (Exercise of Option).
6. **PURCHASE PRICE** The "Purchase Price" shall be determined separately for each of the three phases in this Agreement at the time we move forward to purchase each phase dependent upon funding availability for Buyer. The Purchase Price for each phase of the transaction will be determined by an independent appraisal of the value of the portion of the Property included in such Phase, which appraisal shall determine the fair market value of such Phase and shall be conducted with the assumption that Buyer will ultimately purchase all of the Property by June 30, 2026 in the phased approach described herein and the assumption that the Property is being purchased as part of an arms-length transaction with a unrelated third-party without any of the intended or required use restrictions set forth in this Agreement. Each such appraisal shall be conducted within the 12-month period immediately preceding the applicable Closing Date by an appraiser already selected by Buyer and approved by Seller. Buyer shall bear all costs associated with each appraisal. Within a reasonable amount of time after receiving the appraisal reports, Seller shall notify Buyer whether Seller accepts or rejects the appraised value as the Purchase Price for the land. Seller agrees not to unreasonably withhold acceptance of a fair appraisal price. If Seller rejects the appraisal due to an error in the analysis that can be confirmed by Buyer, both Buyer and Seller agree to either Option 1 - seek to have the appraiser rectify the error; or

Option 2 - select a different appraiser to conduct a new appraisal. Should Option 2 be selected, both Buyer and Seller will agree to the new appraiser. The Purchase Price shall be payable in cash or cash equivalent at Closing.

7. **TITLE, SURVEY, TAXES, CLOSING COSTS**

7.1 Within a reasonable amount of time after agreement upon the Purchase Price for Phase I and each future Phase, Seller shall provide Buyer with an updated abstract of title or a commitment for an owner's policy of title insurance for the applicable phase of the Property, which shall include proper searches covering bankruptcies and state and federal judgments, liens, and levied and pending special assessments (the "**Title Commitment**"). Buyer shall have thirty (30) days after receipt of the Title Commitment to have Buyer's attorney examine the Title Commitment and provide Seller's attorney with written objections. Buyer shall be deemed to have waived any title objection not made within said 30-day period. If written objections are received as specified above, Seller will be allowed time in which to make title marketable. At Seller's discretion, the Closing Date shall be delayed for a reasonable period in order for Seller to cure such objections. Seller shall provide Buyer with written notice of its intention to delay the Closing Date, said notice shall include the new Closing Date. If Seller does not agree to cure any such objections or fails to cure any objections Seller agreed in writing to cure prior to the Closing Date (as the same may be extended pursuant to this Section 4.1), then Buyer may proceed to Closing which shall constitute a waiver by Buyer of such objections or this Agreement shall be terminated upon receipt by Seller's attorney of a cancellation of this Agreement with respect to any phase of the Property upon which Buyer has not already closed executed by Buyer upon or prior to the applicable Closing Date; provided, however, if Seller notifies Buyer in writing that it will not agree to cure any such objections prior to the applicable Closing Date for such phase, Buyer shall only have a period of ten (10) days after delivery of such written notice to terminate this Agreement, after which Buyer shall be deemed to have irrevocably waived such right to terminate pursuant to this Section 7.1 in connection with such objections. Failure of Buyer to terminate on or before the applicable Closing Date shall be deemed an irrevocable waiver of such right to terminate by Buyer and an election by Buyer to proceed to Closing. Seller shall pay the costs to issue the Title Commitment and Buyer shall pay any premium for the owner's policy, any lender's policy, and any endorsements.

7.2 Survey. Seller will furnish to Buyer any survey of the Property that Seller may have in its possession. Buyer, at its own expense, may have an Alta Land survey of the Property completed without Seller's objection.

7.3 Within each Phased purchase, Seller and Buyer shall prorate real estate taxes payable in the year of closing as of the Closing Date. Seller shall pay special assessments levied as of the Effective Date of this Agreement together with any Green Acres payback if applicable. Buyer shall pay special assessments pending or levied after the Effective Date of this Agreement. Seller is responsible for all taxes due and owing in all years prior to Closing and any Green Acres payback due as a result of Closing.

7.4 Upon Closing Seller shall deliver to Buyer the following "**Transfer Documents**":

- (i) a Limited Warranty Deed substantially in form attached as Exhibit C, depending upon title and subject to the following exceptions:
 - (a) building and zoning laws, ordinances, state and federal regulations;
 - (b) restrictions relating to use or improvements of the Property without effective forfeiture provisions;
 - (c) any reservation of any mineral or mineral rights to the State of Minnesota;
 - (d) drainage and utility easements which do not interfere with existing improvements;
 - (e) assessments levied after the Effective Date of this Agreement;
 - (f) other matters approved by Buyer in writing or deemed to be waived by Buyer in accordance with the terms of this Agreement;
- (ii) any and all trust documents necessary to conduct the sale of the property;
- (iii) a standard form Seller's Affidavit;
- (iv) Closing Statement; and,
- (v) such other documents as may be reasonably necessary to consummate this transaction.

7.5 Buyer shall execute and deliver the following documents at Closing:

- (i) a Certificate of Real Estate Value with respect to the Property;
- (ii) a Closing Statement;
- (iii) all documents relating to any Buyer financing or otherwise reasonably necessary to consummate this transaction.

7.6 Buyer shall be responsible for payment of state deed tax and for payment of all recording fees relating to the transfer deed(s).

8. **ENVIRONMENTAL** Seller makes no representations or warranties express or implied with respect to the environmental condition of the Property and hereby expressly disclaims any such representations and warranties.

9. **NOTICE** All notices permitted or required by this Agreement shall be sent in writing via United States Mail or private courier and electronic mail, and shall be deemed given (1) if and when personally delivered; (2) upon receipt if sent by a nationally recognized overnight courier addressed to a party at its address set forth below; or, (3) on the third business day after being deposited in the United States mail to the following addresses by postage prepaid certified or registered mail. Any party may change that party's address for notice by giving written notice thereof in accordance with the provisions of this Section to the other parties.

TO SELLERS: Kelley Land and Cattle Co.
159 North Wolcott, Suite 220
Casper, WY 82601
ATTN: Hampton Kelley O'Neill
Chief Executive Officer
HONeill@wsmtlaw.com

with a copy to: Siegel Brill, P.A.
Attn: Tony Gleekel
100 Washington Avenue South
Suite 1300
Minneapolis, MN 55401
tonygleekel@siegelbrill.com

TO BUYER: Washington County
11660 Myeron Road North
Stillwater, MN 55082-9573
ATTN: Sharon M. Price
Property Acquisition Manager
Sharon.Price@co.washington.mn.us

10. **BROKERAGE INDEMNITY AGREEMENT** Seller and Buyer agree that neither party has retained any real estate brokers or agents in connection with this transaction. Each party agrees to indemnify and hold the other party harmless from any inaccuracy in their respective foregoing representation with respect to real estate brokers and agents.
11. **WELL DISCLOSURE** Seller certifies that, to Seller's actual knowledge, there are three (3) wells on the Property within Phase I. Upon exercise of the additional phases, the Seller will disclose any wells on the phased property being exercised, together with any unused or capped wells.
12. **SEPTIC SYSTEM** Seller has no actual knowledge of any private sewer system on the Property within Phase I. Upon exercise of the additional phases, the Seller will disclose any septic systems on the phased property being exercised, together with any abandoned septic systems or drain fields.

13. **DEFAULT** If this transaction is not consummated by reason of default by Seller or Buyer hereunder, then the non-defaulting party shall be entitled to terminate this Agreement upon thirty (30) days' prior written notice to the other party, which notice shall be consistent with Minnesota Statutes § 559.21. In addition, either Buyer or Seller may sue for specific performance or damages, so long as such party commences suit within ninety (90) days after the time the cause of action arises. The non-defaulting party shall be entitled to recover its attorney fees and costs incurred as a result of a default under this Agreement.
14. **ASSIGNABILITY** This Agreement and Buyer's rights hereunder and Buyer's interest in the Property shall not be assigned without Seller's consent, which consent may be withheld in Seller's sole discretion.

15. **MISCELLANEOUS**

15.1 Buyer may obtain a Phase I Environmental Assessment of the Property. In the event Buyer determines that a Phase II Environmental Assessment or any resultant corrective action is necessary, such corrective action and an allocation of those costs shall be negotiated between the parties; provided, however, Seller shall in no event be deemed obligated to agree to pay any such costs. Seller shall have the right to terminate this Agreement, upon written notice to Buyer, if it elects not to agree to a Phase II Environmental Assessment and, upon such termination, the cost of the Phase I Environmental Assessment shall be borne by the Buyer. The Phase I Environmental Assessment will cover the entire Property (all three phases.) This is to occur in order for the Seller to make any determinations that should there be Phase II Environmental Assessments that result in any corrective action, Seller can provide notice within the first phase option if this Agreement will be terminated.

15.2 Buyer and its contractors shall have access to the Property prior to Closing to perform the Phase I Environmental Assessment and other non-intrusive, non-destructive testing and inspection deemed necessary by Buyer (which shall not be deemed to include a Phase II Environmental Assessment, which shall in all events be deemed intrusive testing). Seller will coordinate with Buyer for access to the Property. Buyer agrees, however, (a) that Buyer will not cause or allow any liens to be filed against the Property as a result of any entry or activities upon the Property by Buyer or its contractors, agents, invitees, licensees, or representative (collectively, "Buyer Parties"); (b) Buyer shall, at Buyer's expense, reasonably repair and/or restore the Property as nearly as possible to its condition promptly after any entry or activities upon the Property by the Buyer Parties; and (c) Buyer will indemnify, defend, and protect Seller from and against any and all claims, liens, demands, liabilities and causes of action (including, without limitation, attorney's fees and costs) arising from or relating to any entry or activities upon the Property by any Buyer Parties. Notwithstanding anything in this Agreement to the contrary, the repair, restoration, and indemnification obligations of Buyer in this section 15.2 will survive Closing or earlier termination, nullification, or cancellation of this Agreement.

15.3 This Agreement contains the entire agreement between the parties, and neither party has relied upon any verbal or written representations, agreement or understanding not set forth herein, whether made by any agent or party hereto.

15.4 This Agreement shall be governed by and construed in accordance with the laws of Minnesota. The invalidity or unenforceability of any provision of this Agreement in any particular respect shall not affect the validity and enforceability of any other provision of this Agreement or of the same provision in any other respect.

15.5 There is no personal property which is sold under the terms of this Agreement.

15.6 Buyer is a participant in the grant program authorized by chapter 563, Laws of Minnesota, 1974. This program was established pursuant to the law to provide for acquisition, preservation, protection, development, and betterment of regional recreational open space for public use. The purchase of each Phase is conditioned upon Buyer being approved to receive these grant funds on or before the Closing Date for each Phase, as the same may be extended or delayed pursuant to the terms of this Agreement, particularly including that portion of Recital 6 above providing Buyer may extend the Phase III Closing Date until December 31, 2026 if grant funds are unavailable to Buyer for the Phase III transaction, subject to the terms and conditions set forth in said Recital 6. Buyer shall notify Seller in writing on or before the Closing Date if this condition was not satisfied. If said condition is not satisfied on or before the Closing Date for Phase I or Phase II, then, pursuant to Recital 6 above, Buyer shall retain its exclusive purchase option for the remaining phases of the sale, provided that Buyer accelerates the exercise of its next option to keep the closing of Phase III on schedule and further provided that Buyer close on the prior Phase(s) at the same time it closes on the next Phase. If said condition is not satisfied on or before the Closing Date for Phase III, which closing date may be extended pursuant and subject to the terms and conditions of Recital 6 hereof, this Agreement shall be null and void and neither party shall be liable for damages to the other, except with respect to those obligations that are expressly stated herein to survive termination of this Agreement.

15.7 This Agreement shall not be binding or effective until properly executed and delivered by Seller and Buyer.

[Signature Page Follows]

[Signature Page to Purchase Agreement]

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed on the date last below written.

SELLERS:

BUYER:

KELLEY LAND AND CATTLE CO.

WASHINGTON COUNTY

By: Hampton K. O'Neill
Hampton K. O'Neill
Its: President

Buyer Commissioner Gary Kriesel 10/26/2023
Gary Kriesel
Board Chair

By: Kelley M. O'Neill
Kelley M. O'Neill
Its: Vice President

Buyer Kevin Corbid 10/26/2023
Kevin Corbid
Administrator

Approved as to form:

Andrew Jackola
Assistant County Attorney

As per Washington County Board Resolution
No. 2023-126 dated the 24th day
of October, 2023

EXHIBIT A
Legal Description of the Property

[LEGAL DESCRIPTION ON TITLE COMMITMENT TO GOVERN]

TO BE COMPLETED

PHASE I – Legal

PHASE II – Legal

PHASE III – Legal

EXHIBIT B Three Phase Purchase Diagram

