

# Committee Report

Community Development Committee



Community Development Committee Meeting: April 18, 2022

For the Metropolitan Council: April 27, 2022

## Business Item: 2022-86

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

### Proposed Action

That the Metropolitan Council:

1. Approve a grant of up to \$962,700 to Washington County to acquire the 79.04-acre Kelley Land and Cattle Company property located at 170th Street North in May Township for Big Marine Park Reserve.
2. Authorize the Community Development Director to execute the grant agreement and restrictive covenant on behalf of the Council.

### Summary of Community Development Committee Discussion/Questions

Chee Yang, Planner, presented the staff report to the Community Development Committee on April 18, 2022. Sharon Price, from Washington County, was in attendance.

The Community Development Committee voted unanimously to approve the proposed actions.

Motion by Council Member Vento, seconded by Council Member Lee. Motion carried.

# Committee Report

Metropolitan Parks and Open Space Commission



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4. 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

Chee Yang, Planner, presented the staff report to the Metropolitan Parks and Open Space Commission on April 7, 2022. Sharon Price and Sandy Breuer, both from Washington County, were in attendance and responded to questions.

Commissioners Peichel and Moeller, and Council Member Vento expressed their support for this acquisition at Big Marine Park Reserve.

Chair Yarusso asked if the existing easements on the property will have any impacts to the future planned recreation. Sharon Price responded that the existing easements will not have any impact on future planned recreation activities.

The Metropolitan Parks and Open Space Commission voted unanimously to approve the proposed actions.

Motion by Commissioner Peichel, seconded by Commissioner Dillenburg. Motion carried.

# Business Item

Metropolitan Parks and Open Space Commission



Metropolitan Parks and Open Space Commission Date: April 7, 2022

Community Development Committee Meeting: April 18, 2022

For the Metropolitan Council: April 27, 2022

## Business Item: 2022-86

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

<b>District(s), Member(s):</b>	District F, Cecily Harris District 12, Francisco J. Gonzalez
<b>Policy/Legal Reference:</b>	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.
<b>Staff Prepared/Presented:</b>	Chee Yang, Planner, 651-602-1449
<b>Division/Department:</b>	Community Development

### Proposed Action

That the Metropolitan Council:

1. Approve a grant of up to \$962,700 to Washington County to acquire the 79.04-acre Kelley Land and Cattle Company property located at 170<sup>th</sup> Street North in May Township for Big Marine Park Reserve.
2. Authorize the Community Development Director to execute the grant agreement and restrictive covenant on behalf of the Council.

### Background

#### ***Regional Park Implementing Agency (Agency) and Project Request***

Washington County requested a Park Acquisition Opportunity Fund (PAOF) grant on February 24, 2022, to fund the acquisition of a 79.04-acre property for 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 identified as an excellent natural resource park with high-quality upland and wetland wildlife habitat in the northern part of Washington County. The establishment of the Park Reserve also provides a substantial ecological buffer around a significant portion of Big Marine Lake. The County has acquired about 657 acres for the park reserve, with 205 acres open to the public. When completed, the park will be 1,884 acres, with 80 percent of the park dedicated to conservation and protection.

### **Subject Property**

The subject property is within the Council-approved boundary of Big Marine Park Reserve. There are no existing structures on the partially wooded parcel. About 27% of the property is within areas designated as wetlands. The initial stewardship plan is to plant disturbed areas with native vegetative cover to stabilize the site. Long term restoration efforts will be consistent with the 2010 Big Marine Park Reserve master plan.

### **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 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 property is \$1,268,900 and the Seller has agreed to 100% of the appraised amount. See Exhibit 4 for more information on the appraisal. The total project cost including legal fees, taxes, appraisal, environmental assessment, and stewardship is \$1,283,600 as shown in Table 1 below.

Table 1. Project Budget

<b>Budge item</b>	<b>Requested amount</b>
Purchase price	\$1,268,900
Stewardship	\$500
Appraisal, legal fees, taxes, closing costs	\$11,700
Environmental assessment	\$2,500
<b>Total Costs</b>	<b>\$1,283,600</b>
<b>Grant structure</b>	
Grant amount	\$962,700
Local match	\$320,900

### **Acquisition Details**

This is a straightforward, fee simple transaction. There are two existing easements on the property. There is a 50-foot wide gas pipeline easement and a 70-foot wide powerline easement along the road frontage, 170<sup>th</sup> Street North (Exhibit 1, Figure 3). The easements do not impact the natural resources or the value of the property.

### **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 *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 master plan. The Council approved the Big Marine Park Reserve master plan in 2010 ([Business Item 2010-393](#)). The

- proposed acquisition is within the boundaries of the approved master 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 has small ponds and Department of Minnesota Natural Resources (DNR) designated wetlands described as Shallow Marsh and Shallow Open Water, Emergent Vegetation, Moss/Lichen, and Shrub Wetland. The property also contains a mix of prairie and hardwood forest.
  - Finance Strategy 7 authorizes the use of PAOF as the funding mechanism for the acquisition of Regional Park lands and matching every \$3 in state funds with \$2 in Council bonds.
  - The Environment and Natural Resources Trust Fund (ENRTF) appropriation requirements.

### Thrive Lens Analysis

This request is consistent with Thrive’s Livability and Stewardship outcomes. The Council’s investment in Big Marine Park Reserve will preserve and protect natural resources with restoration potential to increase high quality natural resources and wildlife habitat in the regional parks system.

### Funding

The Council will fund the 75% share with ENRTF and Council funds. The PAOF program has available undesignated funds in the Council’s Authorized Capital Program.

Washington County will provide a local match of \$320,900.

### Small Business Inclusion

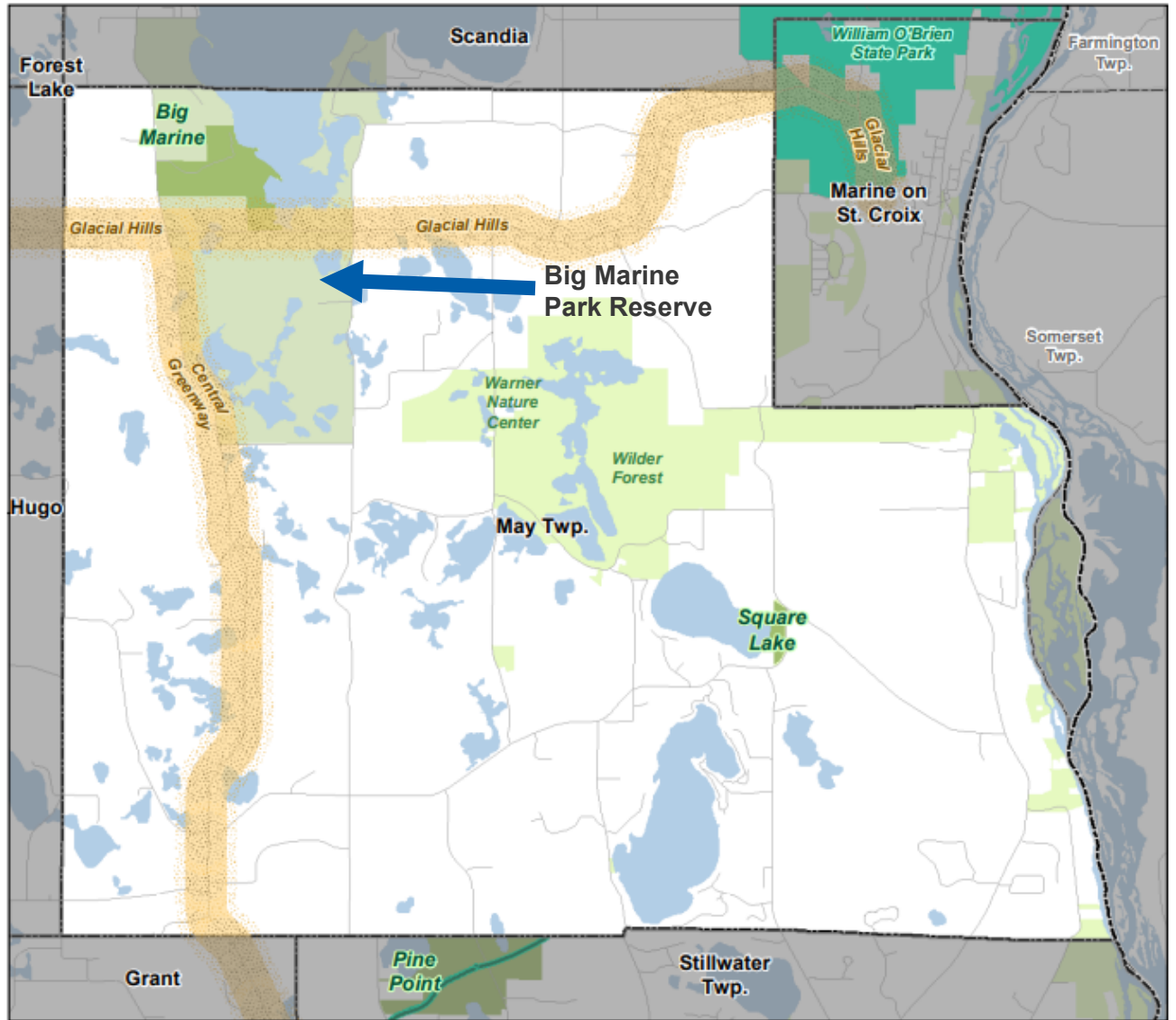
Not applicable.

### 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 Big Marine Park Reserve



### Regional Parks

- Existing
- In Master Plan
- Planned Parks and Reserves

### Regional Trails

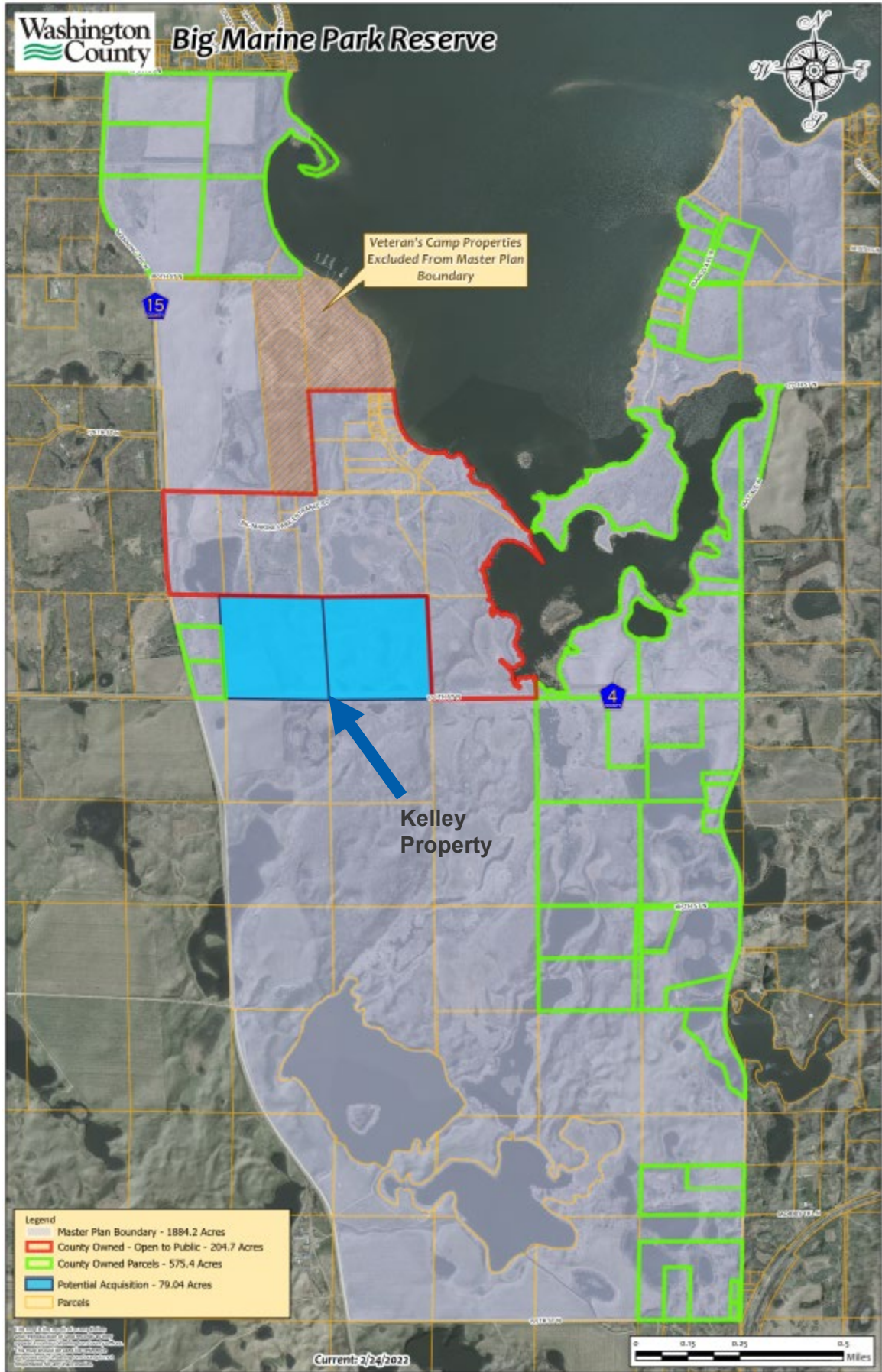
- Existing Regional Trails
- Planned Regional Trails
- Regional Trail Corridor Land

### 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 2. Location of the Kelley property within the Big Marine Park Reserve boundary



Metropolitan Council

Figure 3. Aerial image of the Kelley property and easement location

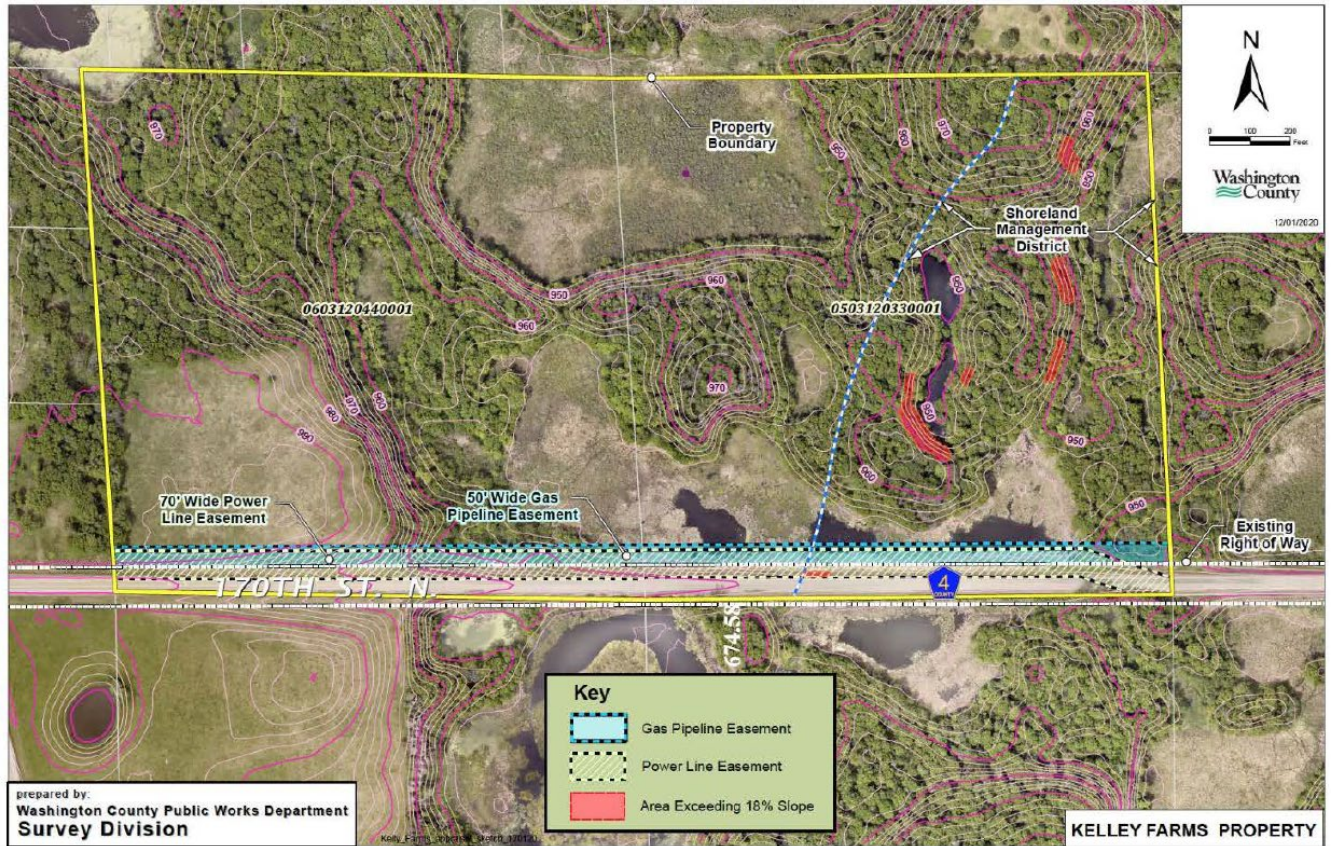


Figure 4. Existing condition images of the Kelley property







# Exhibit 2: Grant Letter Request



Public Works

Donald J. Theisen, P.E., Director  
Wayne H. Sandberg, P.E., Deputy Director,  
County Engineer

February 24, 2022

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 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 February 22, 2022. 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	\$1,268,900.00
Estimated costs related to purchase	\$ 15,174.08
	-----
	\$1,284,074.08

#### Proposed Revenue Sources:

Acquisition Opportunity Fund (75%)	\$ 963,055.56
Washington County (25%)	\$ 321,018.52
	-----
	\$1,284,074.08

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

*Washington County is an equal opportunity organization and employer*

Page Two  
February 24, 2022

We understand that there are funds available for the 2021 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 2022 fiscal year. We anticipate closing this at the end of May 2022 following Met Council action on the grant request.

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

Sincerely,



Sharon M. Price  
Property Acquisition Manager

cc: Sandy Breuer, Parks Director



**Application**

**17132 - 2022 Park Acquisition Opportunity Fund Program - Final Application**

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17431 - North 80 Acres - Kelley Land & Cattle  
Parks Grants Acquisition

Status: Under Review

Submitted Date: 02/28/2022 3:58 PM

**Applicant Information**

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**Primary Contact:**

**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 **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**

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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 master plan approved in 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?** No

### 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** 05/31/2022  
Format: mmddyyyy (Do not enter any punctuation.)

**Type of agreement** Purchase Agreement  
i.e., purchase agreement, offer letter, etc.

**Date agreement expires** 06/30/2022  
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?** 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** 10/12/2021

Appraised value \$1,268,900.00  
Amount being offered the seller (net of closing and other costs) \$1,268,900.00 100.0%  
% of appraised value

Who performed the appraisal? Patricia J. Nolan  
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? Yes  
Fully Partially  
...shoreline? Fully 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, hardwood together with wetlands that provide important habitat for wildlife used for nesting, foraging, loafing and a traveling 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](http://www.lccmr.leg.mn/pm_info/enrtf_fee-title-acquisition-project-requirements.pdf)

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

Anticipated funding source ENRTF / Council match  
Select as many as apply

Funding source comments, if desired

**Structures currently on the property**

Does the property contain ANY No

structures?

If yes, are there any habitable structures?

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 purchased 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 80 acres could be eligible for ENRTF funds as it contains no structures.

## Stewardship and minimal access

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### Describe the stewardship plan.

The approximate 80 acre Kelley 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 including managing the open water areas to minimize the potential for erosion and prevent contaminated runoff from draining directly into surface water areas. 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 with 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

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### Land Use History

Current land uses Wetland, Woods  
Select as many as apply

Previous land uses Agricultural, Wetland, Woods  
Select as many as apply

Adjacent land uses Residential, Wetland, Woods  
Select as many as apply

### Inspection

Does the property contain any of the following? Select as many as apply

## 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	Approximately 350' East of Manning Ave along 170th	05.031.20.33.0001 and 06.031.20.44.0001	0	02/22/2022	No	39A	Marine-on-St. Croix	Washington		F	45.197176	-92.875825
			79.04									

## Local match

Source of local match

## Grant agreement signatories

Full name	Title	If this is an attorney, is the signature 'for form only'?
Wayne A. Johnson	County Board Chair	
Kevin Corbid	County Administrator	Yes
Jessica Oertel	Assistant County Attorney	

## Acquisition Costs

Cost Items	Amount	State funds	Metro funds	Match funds
<b>Purchase price</b>				
Negotiated purchase price	\$1,268,900.00	\$520,249.00	\$431,426.00	\$317,225.00
<b>Appraisal expenses</b>				
Appraisal	\$4,800.00	\$1,968.00	\$1,632.00	\$1,200.00
Appraisal review	\$0.00	\$0.00	\$0.00	\$0.00
<b>Environmental expenses</b>				
Phase I environmental site assessment	\$2,500.00	\$1,025.00	\$850.00	\$625.00
Phase II environmental site assessment	\$0.00	\$0.00	\$0.00	\$0.00
Environmental contamination remediation	\$0.00	\$0.00	\$0.00	\$0.00
<b>Holding expenses</b>				
Interest	\$0.00	\$0.00	\$0.00	\$0.00
Land stewardship	\$500.00	\$205.00	\$170.00	\$125.00
Land development	\$0.00	\$0.00	\$0.00	\$0.00
Pro-rated share of all property taxes/assessments	\$375.00	\$153.75	\$127.50	\$93.75
Legal services and closing costs	\$0.00	\$0.00	\$0.00	\$0.00
Property tax equivalency payment-473.341	\$275.00	\$112.75	\$93.50	\$68.75
Relocation costs to seller	\$0.00	\$0.00	\$0.00	\$0.00
State deed tax/conservation fee	\$4,200.00	\$1,722.00	\$1,428.00	\$1,050.00
Title insurance	\$2,000.00	\$820.00	\$680.00	\$500.00
Well disclosure statement	\$50.00	\$20.50	\$17.00	\$12.50
Other holding	\$0.00	\$0.00	\$0.00	\$0.00
<b>Other expenses</b>				
Other expenses	\$0.00	\$0.00	\$0.00	\$0.00
Totals	\$1,283,600.00	\$526,276.00	\$436,424.00	\$320,900.00

## 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)	\$1,283,600.00	\$526,276.00	\$436,424.00	\$320,900.00	\$962,700.00



*SUMMARY OF SALIENT FACTS AND CONCLUSIONS*

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<b>Purpose of Appraisal:</b>	The purpose of the updated appraisal is to provide market value of the subject property for a possible acquisition for inclusion into the Big Marine Park Reserve.
<b>Property Owner(s):</b>	Kelley Land & Cattle Company
<b>Property Address:</b>	XXX 170 <sup>th</sup> Street North May Township
<b>Tax Parcel No(s):</b>	06.031.20.44.0001 & 05.031.20.33.0001
<b>Size of Subject Property:</b>	74.64± acres 4.40± acres of existing right of way 79.04± acres total (per Washington County GIS)
<b>Shape:</b>	Rectangular
<b>Access/Road Frontage:</b>	170 <sup>th</sup> Street North, paved two lane road
<b>Property Interest Appraised:</b>	Fee Simple Interest
<b>Date of Inspection:</b>	November 25, 2020 and again on October 12, 2021 for updated appraisal
<b>Present Use:</b>	Recreational Land
<b>Zoning:</b>	RR, Rural Residential and a portion within the Shoreland Management District
<b>Flood Zone:</b>	Zone X & A (Map #27163C0134E & 27163C0153E, effective on 02/03/2010)
<b>Highest and Best Use:</b>	Rural Residential Development for 1 to 7 Single Family Lots
<b>Acquisition:</b>	Total Acquisition of 79.04± acres
<b>Effective Date of Value &amp; Report Date:</b>	Effective Date of Value – October 12, 2021 (most recent date of inspection) Date of Report – October 15, 2021
<b>Valuation Conclusion:</b>	<b>\$1,268,900</b>

Exhibit 5: Board Approval

BOARD OF COUNTY COMMISSIONERS  
WASHINGTON COUNTY, MINNESOTA

RESOLUTION NO. 2022-018

DATE February 22, 2022  
MOTION  
BY COMMISSIONER Miron

DEPARTMENT Public Works - Parks  
SECONDED BY  
COMMISSIONER Karwoski

**RESOLUTION TO PURCHASE 80 ACRES OF LAND ALONG 170<sup>TH</sup> STREET  
IN MAY TOWNSHIP FOR BIG MARINE PARK RESERVE**

**WHEREAS**, Washington County is interested in acquiring the property described herein in May Township, Minnesota, for inclusion into Big Marine Park Reserve; and,

**WHEREAS**, the owners, Kelley Land and Cattle Company, agree to sell the property to the County.

**NOW, THEREFORE, BE IT RESOLVED**, that Washington County Board of Commissioners hereby authorizes its Chair and Administrator to execute on behalf of the County a Purchase Agreement and any other documents necessary for the County to purchase the property legally described as follows:

The Southwest Quarter of the Southwest Quarter of Section 5, Township 31 North, Range 20 West, Washington County Minnesota.

AND

The Southeast Quarter of Southeast Quarter of Section 6, Township 31 North, Range 20 West, Washington County, Minnesota.

Subject to existing easements of record.

For the sum of \$1,268,900.

ATTEST:

*Kevin Corbid*

COUNTY ADMINISTRATOR

*Wayne A. Johnson*

COUNTY BOARD CHAIR

YES            NO

MIRON	<u>X</u>	___
KARWOSKI	<u>X</u>	___
KRIESEL	<u>X</u>	___
JOHNSON	<u>X</u>	___
WEIK	<u>X</u>	___

## Exhibit 6: Purchase Agreement

### **PURCHASE AGREEMENT**

**Between**

**Kelley Land and Cattle Co.**

**("SELLER")**

**and**

**WASHINGTON COUNTY**

**("BUYER")**

## PURCHASE AGREEMENT

THIS PURCHASE AGREEMENT (this "Agreement") is made to be effective the 28<sup>th</sup> day of JANUARY, 2022 (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 Property subject to the terms and conditions hereof.

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. **SALE AND PURCHASE** Seller agrees to sell and Buyer agrees to purchase the Property upon the terms and conditions set forth in this Agreement.
2. **CLOSING DATE** The closing of the transaction contemplated by this Agreement (the "Closing") shall be on or before June 30, 2022 ("Closing Date").
3. **PURCHASE PRICE** The "Purchase Price" shall be One Million Two Hundred Sixty-Eight Thousand Nine Hundred and no/100 (\$1,268,900.00) Dollars. The Purchase Price shall be payable in cash or cash equivalent at Closing.
4. **TITLE, TAXES, CLOSING COSTS**

**4.1** Within a reasonable amount of time after execution of this Agreement, Seller shall provide Buyer with an updated abstract of title or a commitment for an owner's policy of title insurance for 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 fifteen (15) 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 15-day period. If written objections are received as specified above and Seller agrees to cure such objections in writing, then, 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 executed by Buyer upon or prior to the Closing Date. Failure of Buyer to terminate on or before the Closing Date shall be deemed a 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.

**4.2** 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.

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

- (i) a Limited Warranty Deed substantially in form attached as Exhibit B, 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.

4.4 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.

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

- 5. **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.
- 6. **NOTICE** All notices permitted or required by this Agreement shall be sent in writing 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

**TO BUYER:** Washington County  
11660 Myeron Road North  
Stillwater, MN 55082-9573  
ATTN: Sharon M. Price  
Property Acquisition Manager

- 7. **BROKERAGE INDEMNITY AGREEMENT** Seller and Buyer agree that neither party has retained any real estate brokers or agents in connection with this transaction. Both parties agree to indemnify and hold the other party harmless from any inaccuracy in their respective foregoing representation with respect to real estate brokers and agents.
- 8. **WELL DISCLOSURE** Seller certifies that Seller has no actual knowledge of any wells on the Property.

9. **SEPTIC SYSTEM** Seller has no actual knowledge of any private sewer system on the Property.
10. **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.
11. **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.

12. **MISCELLANEOUS**

**12.1** 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.

**12.2** 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 12.2 will survive Closing or earlier termination, nullification, or cancellation of this Agreement.

**12.3** 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.

**12.4** 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.

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

**12.6** 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. This purchase is conditioned upon Buyer being approved to receive these grant funds on or before the Closing Date, as the same may be extended or delayed pursuant to the terms of this Agreement. 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, this Agreement shall be null and void and neither party shall be liable for damages to the other.

**12.7** 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:**

**KELLEY LAND AND CATTLE CO.**

By:   
Hampton K. O'Neill  
Its: President

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

**BUYER:**

**WASHINGTON COUNTY**

Buyer Commissioner Wayne A. Johnson 2/24/2022  
Wayne A. Johnson  
Board Chair

Buyer Kevin Corbid 2/25/2022  
Kevin Corbid  
Administrator

Approved as to form:

Jessica L. Oertel 2/2/2022  
Assistant County Attorney

As per Washington County Board Resolution  
No. 2022-1400 dated the 22 day  
of February, 20 22

[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:**

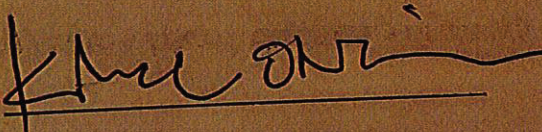
**BUYER:**

**KELLEY LAND AND CATTLE CO.**

**WASHINGTON COUNTY**

By:   
Hampton K. O'Neill  
Its: President

Buyer \_\_\_\_\_  
Wayne A. Johnson  
Board Chair

By:   
Its: VP

Buyer \_\_\_\_\_  
Kevin Corbid  
Administrator

Approved as to form:

\_\_\_\_\_  
Assistant County Attorney

As per Washington County Board Resolution  
No. \_\_\_\_\_ dated the \_\_\_\_\_ da  
of \_\_\_\_\_, 20\_\_

**EXHIBIT A**  
**Legal Description of the Property**

**[LEGAL DESCRIPTION ON TITLE COMMITMENT TO GOVERN]**

The Southwest Quarter of the Southwest Quarter of Section 5, Township 31 North, Range 20 West, Washington County Minnesota.

AND

The Southeast Quarter of Southeast Quarter of Section 6, Township 31 North, Range 20 West, Washington County, Minnesota,

Subject to existing easements of record.

**EXHIBIT B**  
**Form of Limited Warranty Deed**

(Top 3 Inches reserved for recording data)

LIMITED WARRANTY DEED

eCRV number: \_\_\_\_\_

DEED TAX DUE: \$ \_\_\_\_\_

DATE: \_\_\_\_\_

FOR VALUABLE CONSIDERATION, \_\_\_\_\_, a \_\_\_\_\_ under the laws of Minnesota (the "Grantor"), hereby conveys and quitclaims to \_\_\_\_\_, a \_\_\_\_\_ under the laws of \_\_\_\_\_ ("Grantee"), real property in \_\_\_\_\_ County, Minnesota, legally described as follows:

See Exhibit A attached hereto.

Check here if all or part of the described real property is Registered (Torrens)

together with all hereditaments and appurtenances belonging thereto.

This Deed conveys after-acquired title. Grantor warrants that Grantor has not done or suffered anything to encumber the property, EXCEPT: See Exhibit B attached hereto.

Check applicable box:

- The Seller certifies that the Seller does not know of any wells on the described real property.
- A well disclosure certificate accompanies this document or has been electronically filed. (If electronically filed, insert WDC number: [...].)
- I am familiar with the property described in this instrument and I certify that the status and number of wells on the described real property have not changed since the last previously filed well disclosure certificate.

Grantor:

\_\_\_\_\_

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

\_\_\_\_\_

Its: \_\_\_\_\_

State of Minnesota, County of \_\_\_\_\_

This instrument was acknowledged before me on \_\_\_\_\_, 2022, by \_\_\_\_\_ as \_\_\_\_\_ of \_\_\_\_\_, a \_\_\_\_\_, on behalf of the \_\_\_\_\_.

(Stamp)

\_\_\_\_\_

(Signature of notary officer)

Title (and Rank): \_\_\_\_\_

My commission expires \_\_\_\_\_  
\_\_\_\_\_

THIS INSTRUMENT WAS DRAFTED BY:  
Siegel Brin P.A. (SAB)  
120 Washington Avenue South, Suite 1330  
Minneapolis, MN 55401  
612-337-6100

TAX STATEMENTS FOR THE REAL PROPERTY DESCRIBED IN  
THIS INSTRUMENT SHOULD BE SENT TO

**EXHIBIT A**  
Legal Description

**[LEGAL DESCRIPTION ON TITLE COMMITMENT TO GOVERN]**

The Southwest Quarter of the Southwest Quarter of Section 5, Township 31 North, Range 20 West,  
Washington County Minnesota.

AND

The Southeast Quarter of Southeast Quarter of Section 6, Township 31 North, Range 20 West, Washington  
County, Minnesota.

**EXHIBIT B**

Permitted Exceptions

- (a) Building and zoning laws, ordinances, state and federal regulations;
- (b) Restrictions relating to use or improvement 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; and,
- (f) Other matters approved by Buyer in writing or deemed to be waived by Buyer in accordance with the terms of this Agreement.