

# Committee Report

Community Development Committee



Community Development Committee Meeting: March 18, 2024

For the Metropolitan Council: March 27, 2024

## Business Item: 2024-52

Rush Creek Regional Park, Park Acquisition Opportunity Fund Award (McCartney), Three Rivers Park District

### Proposed Action

That the Metropolitan Council:

1. Approve a grant of up to \$720,829 from the Park Acquisition Opportunity Fund to Three Rivers Park District to acquire an 8.7-acre parcel located at 10775 Fernbrook Lane North in Maple Grove, MN, for the Rush Creek Regional Trail.
2. Authorize the Executive Director of Community Development to execute the grant agreement and restrictive covenant on behalf of the Council.

### Summary of Community Development Commission Discussion/Questions

This business item was passed as part of the Community Development Committee's consent agenda on March 18, 2024.



# Committee Report

Metropolitan Parks and Open Space Commission



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### 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. Jonathan Vlaming from Three Rivers Park District was in attendance and helped answer questions.

Commissioner Cecily Harris asked why Agencies typically have a budget line item for an environmental assessment Phase I, but not an environmental assessment Phase II, and inquired as to the cost always being around \$2,000. Lee responded that \$2,000 seems to be the going rate and that the second environmental assessment is only required if there is a finding in the first one.

Chair Tony Yarusso asked about the use of Better Futures to remove the house on the property. Lee responded that Better Futures is an organization that removes as many materials from the house as possible for reuse before it is demolished. Council member Vento added that Better Futures has a great reputation.

Commissioner Bob Moeller asked what the plan is for the 8-acre parcel beyond the trail itself. Vlaming responded that the goal for Rush Creek Regional Trail is to have a natural resources corridor and development will be very minimal beyond the trail itself.

Motion by Commissioner Dillenburg, seconded by Commissioner Duerr. 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

## Business Item: 2024-52

Rush Creek Regional Trail, Park Acquisition Opportunity Fund Award (McCartney), Three Rivers Park District

<b>District(s), Member(s):</b>	District A, Monica Dillenburg District 1, Judy Johnson
<b>Policy/Legal Reference:</b>	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.
<b>Staff Prepared/Presented:</b>	Jessica Lee, Senior Planner, 651-602-1621
<b>Division/Department:</b>	Community Development / Regional Planning

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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***

Three Rivers Park District requested a Park Acquisition Opportunity Fund (PAOF) grant on January 5, 2023, to fund the acquisition of an 8.7-acre parcel for the Rush Creek Regional Trail. A copy of the Agency's request is attached to this item as Exhibit 2 with application details in Exhibit 3.

The Rush Creek Regional Trail when completed will span 18 miles beginning at the Mississippi River and running west to Crow Hassan Park Reserve (see Exhibit 1, Figure 1). Currently the trail is open for seven miles from Mississippi Gateway Regional Park to Elm Creek Park Reserve. An additional 11 miles are planned to connect Elm Creek Park Reserve to Crow Hassan Park Reserve (see Exhibit 1, Figure 2). The subject property is located just west of Elm Creek Park Reserve, where Three Rivers Park District is actively working on acquiring property rights to continue construction of the trail (see Exhibit 1, Figure 3).

### **Subject Property**

The subject 8.7-acre property is within the Council-approved boundary of the Rush Creek Regional Trail. The property includes about 1.7 acres of developed land containing a home that will be removed, and about 7 acres of undeveloped wooded land along Rush Creek. The undeveloped portion of the property is eligible for the Environment and Natural Resources Trust Fund as it has high-quality natural resources and will help protect the creek.

### **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 \$842,500, 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 \$961,105, as shown in Table 1 below.

Table 1. Project Budget

<b>Budget item</b>	<b>Requested amount</b>
Purchase price	\$842,500
Appraisal, legal fees, taxes, closing costs	\$23,505
Environmental assessments, phases I	\$2,100
Site remediation and land stewardship	\$93,000
<b>Total Costs</b>	<b>\$961,105</b>
<b>Grant structure</b>	
Grant amount	\$720,829
Local match	\$240,276

### **Acquisition Details**

This is a straightforward fee title acquisition.

### **Rationale**

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

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

This acquisition is consistent with:

- The Parks and Trails Legacy Fund
- The 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 Rush Creek Regional Trail long-range plan in 2008. The



proposed acquisition is within the boundaries of the approved long-range plan.

- Siting and Acquisition Strategy 1 prioritizes the acquisition of lands with natural resource features, access to water, and/or restoration potential for the Regional Parks System. The subject property is necessary to complete the Rush Creek Regional Trail, contains 7 acres of undeveloped natural resources, and will help protect Rush Creek.
- 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 Rush Creek Regional Trail will provide additional access to nature and the outdoors and enhance quality of life.

### **Funding**

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

Three Rivers Park District will provide a local match of \$240,276.

### **Exhibit List**

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



# Exhibit 1 – Images

Figure 1. Map of the Regional Parks System and the Rush Creek Regional Trail (circled in red)

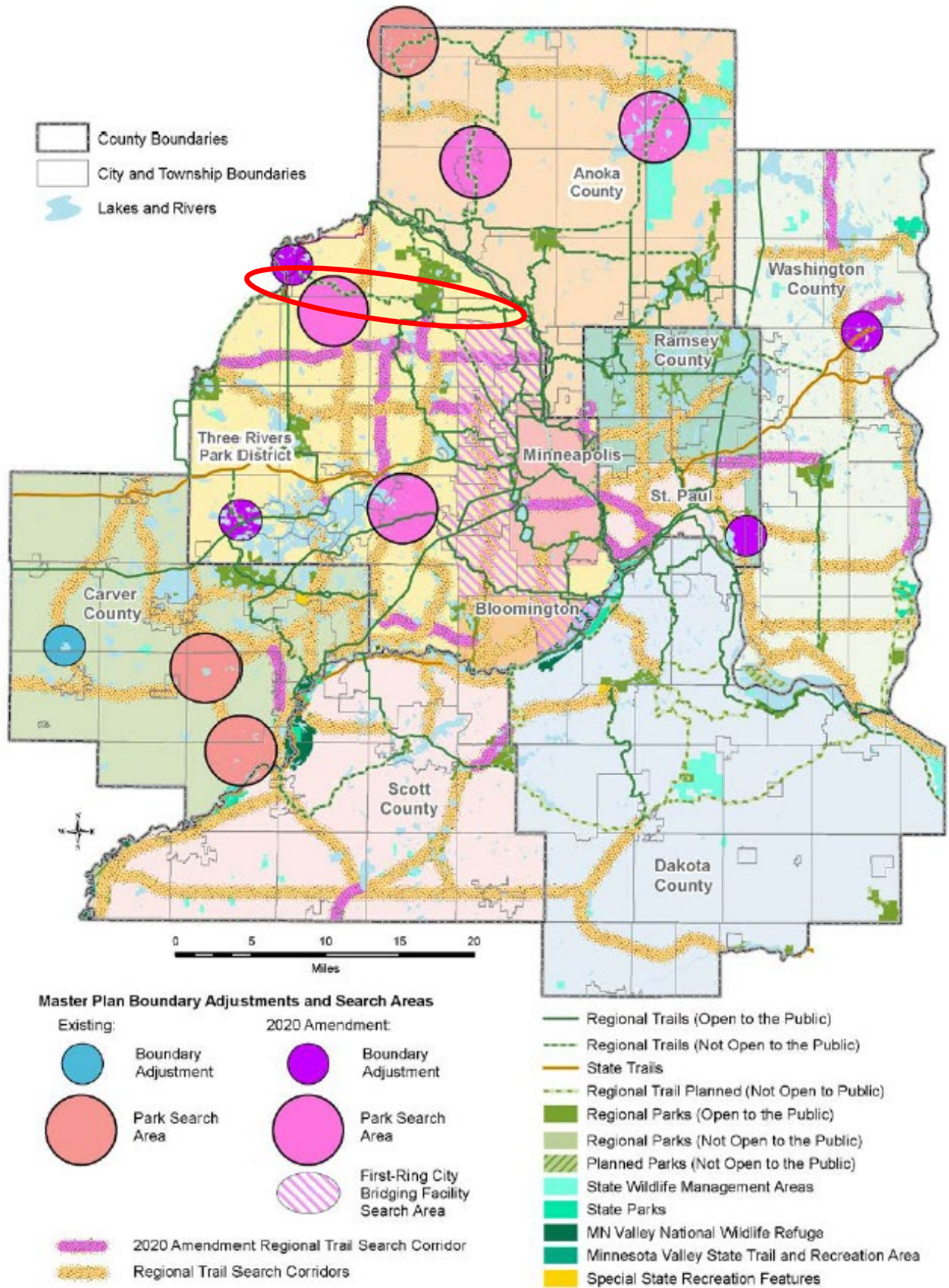


Figure 2. Excerpt from the Rush Creek Regional Trail long-range plan showing the built trail from Elm Creek Park Reserve east to the Mississippi River and the planned trail west of Elm Creek Park Reserve to Crow Hassan Park Reserve (please note that the Coon Rapids Dam Regional Park is now called the Mississippi Gateway Regional Park).



Figure 3. Close-up map of a portion of the Rush Creek Regional Trail, with the approximate location of the subject property circled in red.



**Rush Creek Regional Trail Greenway Corridor**

- - - Future Rush Creek Regional Trail Route
- Rush Creek Regional Trail Greenway Property Rights: Three Rivers Park District
- Rush Creek Regional Trail Greenway: Potential Properties of Interest
- Natural Resource Corridor
- Parcels
- City
- Park Boundary

0 0.25 0.5 1 Miles



Figure 4. Image of the subject property.





Exhibit 2: Grant request letter



Three Rivers  
Park District  
Board of  
Commissioners

01/05/2024

Marge Beard  
District 1

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

Jennifer DeJournett  
Vice Chair  
District 2

RE: Park Acquisition Opportuning Grant Fund Request for Rush Creek Regional Trail  
10775 Fernbrook Lane North, Maple Grove, MN 55369 ('McCartney Property')

Dear Emmett,

Erin Kolb  
District 3

Three Rivers Park District respectfully requests a Park Acquisition Opportunity Grant for Rush Creek Regional Trail in the amount of \$720,891 for acquisition of the McCartney Property which includes about 8.69 acres located in the City of Maple Grove directly on the Rush Creek and future Rush Creek Regional Trail corridor. Please process this request and forward to the Metropolitan Parks Open Space Commission, Community Development Committee, and Metropolitan Council for consideration and approval.

Louise M. Segreto  
District 4

**Background Summary**

The McCartney Property includes about 1.68 acres of developed, rural residential property with a residential rental property and about 7.01 acres of undeveloped, wooded land along the Rush Creek. The developed portion of the property is a strong candidate for Legacy funding and the undeveloped portion of the property is a strong candidate for the ENRTF funding. Three Rivers respectfully requests that this acquisition request be divided between the two funding opportunities accordingly.

John Gibbs  
Chair  
District 5

Three Rivers is including an additional spreadsheet in its acquisition request submittal outlining a proposing funding breakdown between the various funding sources for Council consideration and legal descriptions for each portion of the property for use when preparing the associated Agreement and Restrictive Covenant and/or Funding Declaration.

Jan Guenther  
Appointed  
At Large

The Park District has an approved purchase agreement, is in the process of obtaining municipal consent from the City of Maple Grove, and is formally seeking acquisition from the Metropolitan Council to offset the acquisition costs in accordance with the Regional Parks Policy Plan and associated Grant Administration Guide.

Jesse Winkler  
Appointed  
At Large

Warm regards,

Kelly Grissman  
Director of Planning  
kelly.grissman@threeriversparks.org

Boe Carlson  
Superintendent

**Exhibit 3: Grant application****Application****18956 - FY2024 Park Acquisition Opportunity Fund Program - Final Application**

20452 - McCartney Acquisition - Rush Creek RT  
Parks Grants Acquisition

Status: Under Review

Submitted Date: 01/05/2024 2:59 PM

Submitted By: Heather Kuikka

**Applicant Information****Primary Contact:**

Feel free to edit your profile any time your information changes. Create your own personal alerts using My Alerts.

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

**Title:\*** Planning & Research Coordinator

**Department:**

**Email:\*** Heather.Kuikka@threeriversparks.org

**Address:\*** 3000 Xenium Lane N

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

**Phone:\*** 763-694-7649  
Phone Ext.

**Fax:**

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

**Organization Information**

**Name:\*** THREE RIVERS PARK DISTRICT

**Jurisdictional Agency (if different):**

**Organization Type:**

**Organization Website:**

**Address:\*** RESERVATIONS  
3000 XENIUM LN N

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

**County:\*** Hennepin

**Phone:\*** 763-559-6700  
Ext.

**Fax:**

**PeopleSoft Vendor Number** 0000057347A1

## Project description

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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** Rush Creek RT-Three Rivers Park District

### 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** Rush Creek Regional Trail 05/01/2008

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** 02/16/2024  
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? No

Appraisal

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

Appraisal effective date 09/19/2023

Appraised value \$842,500.00

Amount being offered the seller (net of closing and other costs) \$842,500.00 100.0% % of appraised value

Who performed the appraisal? Day Group

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

Survey

Was a survey done? No

Quality of natural resources - is the property...

Table with 3 columns: Question, Fully, Partially. Rows include: ...undeveloped?, ...wooded?, ...shoreline?

Describe the existing natural resources it contains

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?

If yes, describe

Clear title

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

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

Suggested funding source

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

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

**Anticipated funding source** PTLF Legacy / Council match, ENRTF / Council match  
Select as many as apply

**Funding source comments, if desired**

**Structures currently on the property**

**Does the property contain ANY structures?** Yes

**If yes, are there any habitable structures?** Yes

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

**If yes, what is the plan for the structure(s)?** The house and any outbuildings will be demolished and the property will be filled and seeded.

**If there are habitable structures, could they be relocated? If yes, how? If no, why not?** Yes. It would be too expensive to relocated a walkout house and we would have to find a buyer, which we are not in the business of doing.

**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.*

**Stewardship and minimal access**

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**Describe the stewardship plan.**

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

**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** Residential  
Select as many as apply

**Previous land uses** Residential  
Select as many as apply

**Adjacent land uses** Park, Residential

Select as many as apply

**Inspection**

Does the property contain any of the following?

Wells, Septic  
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
David and Cynthia McCartney	10775 Fernbrook Lane N, Maple Grove, MN 55369	0411922110005	8.69	12/21/2023	Yes	37B	Maple Grove	Hennepin	1	A	45.149980	-93.464530
			8.69									

**Local match**

Source of local match

**Grant agreement signatories**

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

**Acquisition Costs**

Cost Items	Amount	State funds	Metro funds	Match funds
<b>Purchase price</b>				
Negotiated purchase price	\$842,500.00	\$379,125.00	\$252,750.00	\$210,625.00
<b>Appraisal expenses</b>				
Appraisal	\$5,500.00	\$2,475.00	\$1,650.00	\$1,375.00
Appraisal review	\$0.00	\$0.00	\$0.00	\$0.00
<b>Environmental expenses</b>				
Phase I environmental site assessment	\$2,100.00	\$945.00	\$630.00	\$525.00
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	\$93,000.00	\$41,850.00	\$27,900.00	\$23,250.00
Land development	\$0.00	\$0.00	\$0.00	\$0.00
Pro-rated share of all property taxes/assessments	\$150.00	\$67.50	\$45.00	\$37.50
Legal services and closing costs	\$825.00	\$371.00	\$248.00	\$206.00
Property tax equivalency payment-473.341	\$3,780.00	\$1,701.00	\$1,134.00	\$945.00
Relocation costs to seller	\$0.00	\$0.00	\$0.00	\$0.00
State deed tax/conservation fee	\$2,870.00	\$1,291.50	\$861.00	\$717.50

Title insurance	\$1,500.00	\$675.00	\$450.00	\$375.00
Well disclosure statement	\$0.00	\$0.00	\$0.00	\$0.00
Other holding	\$0.00	\$0.00	\$0.00	\$0.00
<b>Other expenses</b>				
Other expenses	\$8,880.00	\$3,996.00	\$2,664.00	\$2,220.00
<b>Totals</b>	<b>\$961,105.00</b>	<b>\$432,497.00</b>	<b>\$288,332.00</b>	<b>\$240,276.00</b>

**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)	\$961,105.00	\$432,497.00	\$288,332.00	\$240,276.00	\$720,829.00

**Required Attachments - Acquisition**

Attachment	Description	File Name	Type	File Size
<b>SECTION 1 - All of the following are required to BEGIN review unless otherwise indicated</b>				
1.0 Grant request letter (REQ'D)	Grant Request Letter	2023 McCartney Request Letter.pdf	pdf	692 KB
2.0 Master plan documentation (REQ'D)	Master Plan	2008-05-05 Rush Creek MP FINAL Reduced size-1.pdf	pdf	6.2 MB
3.0 RECORDED Governing Board action authorizing grant request (REQ'D)	Recorded Board Action	Approved Board Action.pdf	pdf	63 KB
4.0 Signed purchase agreement/instrument (REQ'D)	Purchase Agreement	McCartney Property PA - FULLY SIGNED.pdf	pdf	672 KB
5.1 Appraisal report (REQ'D)	Appraisal	Report-Fernbrook_9-15-23.pdf	pdf	39.8 MB
5.2 Appraisal review report (NOT req'd)				
5.3 Client's instructions to appraiser (REQ'D)	Appraisal Request	FW_ Appraisal Requests.pdf	pdf	2.2 MB
5.4 Title documentation (Req'd before finalization)				
6.1 Phase 1 ESA (if land may be contaminated or have abandoned wells)				
6.2 Phase II environmental assessment report (required if indicated in Phase I)				
7.0 Survey report (NOT req'd)				
8.0 Legal description in Microsoft Word that includes PIDs and, if available, address	legal description	Legal Description.docx	docx	20 KB
9.0 Land stewardship plan				
10.0 Relocation description and estimated costs OR signed waiver of relocation rights				
<b>SECTION 2 - Condemnation only - all required for eminent domain</b>				
11.1 For condemnations, copy of notice to Council advising court filing				
11.2 Condemnation or administrative settlement				
11.3 Documentation of when petition was filed with court				
<b>SECTION 3 - Matching grant</b>				
12.0 If this grant will serve as match to another grant, copy of other grant is required				
<b>SECTION 4 - Required images &amp; GIS information</b>				
13.1 Aerial photo showing park/trail boundary with parcel overlay (REQ'D)	Parcel Map	McCartney Parcel Map.pdf	pdf	2.2 MB
13.2 For trails, parcel map showing trail route (Required for trails)	Trail Map	trail map.pdf	pdf	61 KB
13.3 Image documenting location of property within RPS unit (REQ'D)	Location map	RCRT Corridor Map - Maple Grove Segment McCartney.pdf	pdf	4.9 MB
13.4 GIS shape-file for property (REQ'D)	Shapefile	Shapefile.lyrx	lyrx	13 KB
<b>SECTION 5 - Invoices</b>				
14.1 Invoices: State deed tax or conservation fee (REQ'D)	Conversion Fee	Placeholder.pdf	pdf	37 KB
14.2 Invoices: Current property tax statement with pro-rated share of tax due (REQ'D)	Current Property Taxes	McCartney 2023 Property Taxes.pdf	pdf	66 KB
14.3 Invoices: Tax equivalency payment (REQ'D)	180 Percent due to Maple Grove	Taxes.pdf	pdf	93 KB
14.4 Invoices: Phase 1 environmental assessment (Required if claimed in application)				
14.5 Invoices: Phase II environmental assessment (Required if claimed in application)				

14.6 Invoices: Appraisal (Required if claimed in application)	Appraisal Invoice	Invoice-MG_9-15-23.pdf	pdf	133 KB
14.7 Invoices: Appraisal review invoice (Required if claimed in application)				
14.8 Invoices: Title insurance (Required if claimed in application)				
<b>SECTION 6 - Estimated costs</b>				
15.1 Estimated costs: Itemized ESTIMATE of closing costs	Estimated Closings Costs	Closing Costs.docx	docx	20 KB
15.2 Estimated costs: Land stewardship				
15.3 Estimated costs: Minimal access development				
15.4 Estimated costs: Other (NOT req'd)	Cost estimate	Cost_Estimate_Split.pdf	pdf	156 KB

**Additional attachments**

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File Name	Description	File Size
Cost_Estimate_Split.pdf (156 KB)	Cost Estimate Split	156 KB



## Exhibit 4: Appraisal excerpt

Summary and Value Conclusions	
	Total
Value Before Acquisition:	
Residential Dwelling on 1.68 Upland Acres	\$455,000
Second Residential Lot on 0.53 Upland Acres	\$62,500
High-Amenity Parkland of 6.48 Gross Acres	\$325,000
<b>Total Concluded Subject Market Value Before Acquisition</b>	<b>\$842,500</b>
Value After Acquisition	
Residential Dwelling on 1.53 Gross Acres (1.12 Upland Acres)	\$445,000
Second Residential Lot on 0.56 Gross Acres (0.36 Upland Acres)	\$52,500
<b>Concluded Market Value of Residential Portions After Acquisition (2.09 Gross Acres)</b>	<b>\$497,500</b>
<b>Resulting Allocated Value of Three Rivers Parkland Portion (6.60 Gross Acres)</b>	<b>\$345,000</b>

## Exhibit 5: Board approval to purchase property

# **THREE RIVERS PARK DISTRICT**

## **REGULAR BOARD MEETING**

**December 21, 2023**

Commissioners Present: John Gibbs, Chair; Marge Beard, Jennifer DeJournett, Jan Guenther, Erin Kolb, Louise Segreto, and Jesse Winkler

Staff Present: Boe Carlson, Superintendent; K. Grissman, H. Koolick, K. Lynch, J. McGrew-King, E. Quiring, C. Remiger, L. Skinner, M. Swenson, J. Vlaming, A. Whiteside, and J. Zemke

Others Present: People Wishing to Address the Board regarding Silverwood Park: Sue Bembenek, Niels and Vicky Jensen, and Leisha Ingdal

### **1. OPENING BUSINESS**

#### **A. Call to Order**

Board Chair John Gibbs called the meeting to order at the Administrative Center, Board Room, 3000 Xenium Lane North, Plymouth, MN at 5:03 p.m.

#### **B. Pledge of Allegiance**

#### **C. Roll Call**

### **2. APPROVAL OF AGENDA**

*Commissioner Kolb requested that Item 5E. be removed from Routine Business; Commissioner DeJournett requested that Current Business Item 6B. be considered prior to Item 6A.*

MOTION by Kolb, seconded by Winkler, TO AMEND THE AGENDA BY REMOVING ITEM 5E. FROM ROUTINE BUSINESS AND TO CONSIDER CURRENT BUSINESS ITEM 6A. PRIOR TO ITEM 6B.; AND FURTHER, TO APPROVE THE AGENDA OF THE DECEMBER 21, 2023, REGULAR BOARD MEETING AS AMENDED.

All ayes, no nays, **MOTION ADOPTED**

### **3. SPECIAL BUSINESS**

#### **A. Swearing-in of Public Safety Police Officers**

*The Public Safety Oath of Office was administered by Board Chair John Gibbs for Pete Larson, Gideon Gonzales, and Matthew Chiles.*

### **4. COMMUNICATIONS**

#### **A. Special Matters: Acknowledgement of Donations**

**B. Superintendent's Report**

*Superintendent Carlson reported on the following item(s):*

- *2024 Proposed Board Meeting and Study Session Calendar. After final review, Board Members accepted the proposed 2024 meeting schedule.*
- *Mandy Whiteside, Director of Marketing and Community Engagement, shared the details and plans for priority registration for 2024 Summer Camps beginning in February 2024.*
- *Chelsea Remiger, Events and Sponsorship Supervisor, provided a recap and shared photos **(on file)** of the 2023 Nordic Ski Opener held on Saturday, December 9, 2023.*

**C. People Wishing to Address the Board**

*The following individuals addressed Board Members concerning Silverwood Park.*

*Sue Bembenek, resident of Minneapolis, MN, representing self. Ms. Bembenek presented a picture of Van Gogh's Starry Night as well as a flyer on Silverwood Park for the public record **(on file)**;*

*Niels and Vicky Jensen, residents of Minneapolis, former Presidents of Columbia Park Neighborhood Association;*

*Leisha Ingdal, resident of New Brighton, representing self.*

*In addition, due to the high volume of comments related to Silverwood Park submitted through the Park District's Let's Talk website for the December 21, 2023, Regular Board Meeting, Superintendent Carlson distributed a compilation of these comments to Board Members, along with a list of other people who have submitted correspondence via letters, emails, etc. pertaining to Silverwood as well **(see Reference 6E-1)**.*

**5. ROUTINE BUSINESS****MOTION by Segreto, seconded by DeJournett, TO APPROVE ROUTINE BUSINESS ITEMS AS FOLLOWS:****A. Approve Culvert Maintenance Cooperative Agreement with Hennepin County in Baker Park Reserve and County Road 19**

MOTION TO ENTER INTO A CULVERT MAINTENANCE COOPERATIVE AGREEMENT WITH HENNEPIN COUNTY FOR CULVERT AND ASSOCIATED STORM SEWER STRUCTURES TO ADDRESS EROSION AND STORMWATER CONTROL AT BAKER PARK RESERVE IN CONJUNCTION WITH COUNTY ROAD 19 BEING IMPROVED BY HENNEPIN COUNTY PROJECT #2183500.

**B. Award of Contract for Habitat Restoration Work at Elm Creek Park Reserve – Lemans Lake**

MOTION TO APPROVE THE LEMANS LAKE TREE REMOVAL AND WOODLAND THINNING CONTRACT FOR \$164,475.00 AS PART OF THE WOODLAND RESTORATION PORTION OF THE CONSERVATION PARTNERS LEGACY GRANT - ELM CREEK NORTHEAST RESTORATION AND ENHANCEMENT.

**C. Lake Minnetonka Regional Trail: Xcel Access Permit/Trail Closure Request**

MOTION TO APPROVE A TEMPORARY ACCESS PERMIT TO XCEL ENERGY ALLOWING TRAIL CLOSURE ASSOCIATED WITH REPLACEMENT OF HIGH VOLTAGE TRANSMISSION LINES ALONG THE LAKE MINNETONKA REGIONAL TRAIL.

**D. Budget Adjustments for 2023**

MOTION TO APPROVE AMENDMENTS TO THE 2023 APPROVED GENERAL FUND OPERATING BUDGET, SCOTT THREE RIVERS PARTNERSHIP BUDGET AND GLEN LAKE GOLF AND PRACTICE CENTER BUDGET BY INCREASING EXPENDITURES AND REVENUES BY \$398,819, \$118,150, AND \$34,265, RESPECTIVELY.

**E. (Removed)**

**F. Minutes of the November 9, 2023, Regular Board Meeting**

MOTION TO APPROVE THE MINUTES OF THE NOVEMBER 9, 2023, REGULAR BOARD MEETING.

**G. Approval of Claims for the Period Ended December 14, 2023**

MOTION TO APPROVE PAYMENT OF CLAIMS AS RECOMMENDED BY THE SUPERINTENDENT FOR THE PERIOD ENDED DECEMBER 14, 2023, IN THE AMOUNT OF \$11,946,327.08.

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

*Item 5E. was considered separately at this time.*

**E. Eagle Lake Regional Trail Land Agent Agreement**

MOTION by Kolb, seconded by Beard, TO ENTER INTO A LAND AGENT AGREEMENT WITH THE CITY OF PLYMOUTH FOR PURPOSES OF SECURING ALL NECESSARY PROPERTY RIGHTS FOR THE EAGLE LAKE REGIONAL TRAIL GENERALLY BETWEEN THE LUCE LINE REGIONAL TRAIL AND 1ST AVENUE.

MOTION TO ADOPT RESOLUTION NO. 23-16, TO AMEND THE SCOPE AND FUNDING AWARD FOR THE EAGLE LAKE REGIONAL TRAIL PROJECT.

Beard	<u>Aye</u>	Guenther	<u>Aye</u>	Winkler	<u>Aye</u>
DeJournett	<u>Aye</u>	Kolb	<u>Aye</u>	Gibbs, Chair	<u>Aye</u>
		Segreto	<u>Aye</u>		

**MOTION AND RESOLUTION ADOPTED**

**6. CURRENT BUSINESS**

*Item 6B. was considered at this time.*

**B. Mississippi Gateway Regional Park - Increase Project Budget and Project Update**

*Matt Swenson, Project Manager, shared a video of the construction progress at the Gateway Center, Tree Top Trail, and the Maintenance Facility (on file).*

MOTION by DeJournett, seconded by Winkler, TO APPROVE AN INCREASE IN THE PROJECT BUDGET IN THE AMOUNT OF \$1,335,811 WITH FUNDING FROM THE APPROVED 2024 ASSET MANAGEMENT PLAN.

All ayes, no nays, **MOTION ADOPTED**

*Item 6A. was considered at this time.*

**A. 2024 Asset Management Program**

MOTION by DeJournett, seconded by Segreto, TO APPROVE THE 2024 ASSET MANAGEMENT PROGRAM TOTALING \$20,023,397.

All ayes, no nays, **MOTION ADOPTED**

**C. Approval of Applications for Metropolitan Council Equity Grant Program**

MOTION by Kolb, seconded by Guenther, TO AUTHORIZE THE SUPERINTENDENT TO PREPARE AND SEEK EXTERNAL FUNDING FOR THE FOLLOWING PROJECTS THROUGH THE METROPOLITAN COUNCIL'S EQUITY GRANT PROGRAM:

1. FARM TO SCHOOL PROGRAM EXPANSION WITH BROOKLYN CENTER SCHOOLS
2. IN-PARK BIKE RENTAL STATIONS
3. WATER SAFETY EDUCATION
4. EXPANDING OUTREACH TO LATINO COMMUNITIES.

All ayes, no nays, **MOTION ADOPTED**

**D. CP Rail Regional Trail Long Range Planning Update**

*No action required; this item was presented for information and discussion by Director of Planning Kelly Grissman.*

**E. Rush Creek Regional Trail Acquisition Opportunity**

MOTION by DeJournett, seconded by Beard, TO APPROVE A PURCHASE AGREEMENT IN THE AMOUNT OF \$842,500 FOR THE ACQUISITION OF 10775 FERNBROOK LANE LOCATED IN THE CITY OF MAPLE GROVE ALONG THE RUSH CREEK REGIONAL TRAIL; TO ENTER INTO AN ACQUISITION REIMBURSEMENT GRANT WITH THE METROPOLITAN COUNCIL; AND TO ESTABLISH A PROJECT

BUDGET IN THE AMOUNT OF \$975,000 WITH LOCAL FUNDING FROM THE LAND ACQUISITION DEVELOPMENT AND BETTERMENT FUND.

All ayes, no nays, **MOTION ADOPTED**

**F. Draft 2024 Legislative Platform**

*No action required; this item was presented by Jason McGrew-King, Intergovernmental Relations and Communications Supervisor, for information and discussion.*

*Save the Date – Three Rivers’ Day at the Capitol will be held on Tuesday, April 30, 2024, in the Rotunda as well as on the Capitol’s upper mall.*

**G. Resolution Adopting 2024 General Fund Operating Budget and Tax Levy**

MOTION by Guenther, seconded by DeJournett, TO ADOPT RESOLUTION NO. 23-17, A RESOLUTION ADOPTING THE 2024 GENERAL FUND OPERATING BUDGET AND THE 2024 PROPERTY TAX LEVY.

Beard	<u>Aye</u>	Guenther	<u>Aye</u>	Winkler	<u>Aye</u>
DeJournett	<u>Aye</u>	Kolb	<u>Aye</u>	Gibbs, Chair	<u>Aye</u>
		Segreto	<u>Aye</u>		

**RESOLUTION ADOPTED**

**7. ANNOUNCEMENTS**

**A. Commissioner Announcements/Proposed Future Discussion Topics**

*Commissioner Beard announced that she recently attended the bi-annual Highway 55 Corridor Coalition with Director of Planning Kelly Grissman.*

*Commissioner Beard extended her personal thanks to Chair Gibbs for shepherding and championing Board Members throughout all the changes over the past year.*

**8. ADJOURNMENT**

MOTION by Segreto, seconded by Winkler, TO ADJOURN THE REGULAR BOARD MEETING OF DECEMBER 21, 2023.

All ayes, no nays, **MOTION ADOPTED**

The meeting was adjourned at 6:24 p.m.

\_\_\_\_\_  
John Gibbs, Board Chair

\_\_\_\_\_  
Boe Carlson, Superintendent

**PURCHASE AGREEMENT**

**THIS PURCHASE AGREEMENT** ("Agreement") is entered into by and between **Three Rivers Park District**, a public corporation and political subdivision of the State of Minnesota ("Buyer") and **David B. & Cynthia R. McCartney**, husband and wife ("Sellers").

**RECITALS**

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

**WHEREAS**, Sellers own property located at 10775 Fernbrook Lane North, Maple Grove, Minnesota, legally described on Exhibit A hereto ("Subject Property"), containing approximately 8.69 acres; and

**WHEREAS**, Sellers and Buyer wish to enter into an agreement for the conveyance of the Subject Property from Sellers to Buyer.

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

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

**2. Consideration.** In consideration of the conveyance, transfer and delivery by the Sellers to the Buyer of the Subject Property, the Buyer shall pay to the Sellers the sum of Eight Hundred Forty-Two Thousand Five Hundred Dollars (\$842,500) ("Purchase Price") at Closing.

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

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

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

date of Closing. Real estate taxes payable in the years subsequent to Closing shall be paid by Buyer.

**5. Special Assessments.** Sellers shall pay on or before the date of Closing all special assessments levied against the Subject Property as of the date of Closing.

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

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

**8. Title and Documents.**

(a) Documents and Information to be provided. Within 15 days after the acceptance of this Agreement by the parties hereto, Sellers shall provide Buyer with the following:

- (i) Copies of any environmental audits or assessments of the Subject Property that are in Sellers' possession.
- (ii) Copies of any certificates, authorizations, permits, licenses and approvals which have been issued covering the Subject Property issued within the past ten (10) years.
- (iii) Copies of any surveys that are in Sellers' possession.
- (iv) Copies of any unrecorded written agreements affecting the ownership and use of the Subject Property known to Sellers.
- (v) An abstract of the Subject Property if in Sellers' possession.

(b) Title Commitment. Buyer agrees to obtain an owner's title commitment from Old Republic National Title Insurance Company ("Title Company"). Buyer agrees to provide Sellers with a copy of the title commitment. Buyer shall pay the title commitment fee and shall pay the premium for any title insurance desired by Buyer.

(c) Review of Commitment. Buyer shall have 30 days after receipt of the title commitment within which to object to the contents. If said objections are not made



in writing within such time period, Buyer shall be deemed to have waived such objections. If Buyer objects to the contents of the title documents, Sellers shall have 90 days from the date of such objections to make title marketable. If title is not made marketable within 90 days, this Agreement shall be null and void at the sole option of Buyer and neither party shall have any further obligation under this Agreement.

(d) Inspections; Document Review. With respect to all of the above items other than the title documents, Buyer shall have 90 days after delivery of the foregoing to Buyer during which to inspect all such items. Further, Buyer may inspect the Subject Property and conduct such other and further inspections or other review as seems necessary by Buyer during such period. If such review and/or inspection by the Buyer shall be unsatisfactory to Buyer, Buyer shall notify Sellers within such time period, and this Agreement shall be null and void at the sole discretion of the Buyer. If said period should expire without notice of Buyer's intention to terminate this Agreement, then this Agreement shall be considered in full force and effect and Buyer shall be deemed to have waived any objections based upon such review and inspection. Sellers hereby grant Buyer and/or its agents the right to enter upon the Subject Property for the purpose of inspection and to prepare topological studies, planning, surveys, soil tests and other engineering studies, and environmental inspection and testing that may be deemed necessary; provided however that Buyer shall pay all costs thereof and shall protect, defend, indemnify, save and hold Sellers and Subject Property harmless from and against any and all costs, damages and liabilities arising from entry upon inspection or testing of Subject Property, including but not limited to costs, damages and liabilities arising from mechanics, materialmen and other liens filed against Subject Property in connection with work performed or material furnished by or at the direction of Buyer and also any legal fees and court costs that may be expended or incurred in defending or releasing such liens. Notwithstanding anything to the contrary herein, this indemnification shall survive termination or cancellation of this Agreement.

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

During the period of Sellers' ownership of the Subject Property, to the Sellers' knowledge, and except as disclosed in the reports and other documents provided to the Buyer (a) there has been no Release, as defined below, of any Hazardous Materials, as defined below, on the Subject Property, and (b) there have not been, and Sellers have not received any notices from any governmental authority of any underground storage tanks on the Subject Property. For purposes of this Agreement, "Release" shall mean, in violation of applicable Environmental Laws, depositing, discharging, injecting, spilling, leaking, leaching, dumping, emitting, escaping, emptying, seeping or placing and other similar actions into or upon any land, water or air, or otherwise entering into the environment, and "Hazardous Materials" shall mean (a)

any chemicals, materials or substances defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous substances," "toxic substances," "pollutant or contaminant" or words of similar import, under applicable Environmental Laws; (b) any petroleum or petroleum products, natural or synthetic gas, radioactive materials, polychlorinate, biphenyls, asbestos in any form that is friable, urea formaldehyde foam insulation or radon, and (c) any other chemical, material or substance, the handling, storage, transport or disposal of which is prohibited, limited or regulated by any governmental authority under applicable Environmental Laws.

Sellers have disclosed to the Buyer all reports and other documents in Sellers' possession concerning environmental matters relating to the Subject Property. To Sellers' knowledge there are no existing claims or causes of action, and there are no pending claims regarding the Subject Property against the Subject Property or Sellers involving the violation of Environmental Laws, and Sellers have no such claims against third parties. Sellers shall indemnify and hold Buyer harmless from and against any and all claims brought under Environmental Laws pertaining to conditions in existence and known to Sellers prior to conveyance to Buyer.

**10. Sellers' Warranties.** As an inducement to Buyer to enter into this Agreement, and as part of the consideration therefore, Sellers represent and warrant to and covenant with Buyer that to the best of Sellers' knowledge at the time of Closing there are no persons in possession of the Subject Property, including, but not limited to tenants, licensees, or permittees.

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

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

**13. Closing; Contingencies.**

(a) Performance at Closing. Subject to satisfaction of Paragraphs 8 and 13(b) hereof, the Closing of the transaction contemplated by this Agreement shall take place at Three Rivers Park District Administrative Center, located at 3000 Xenium Lane North, Plymouth, MN 55441 on or before September 11, 2024, or at such other time and place as may be agreed upon between the parties.

- (i) At the Closing, Sellers shall:
  - (a) Deliver a signed Affidavit of Sellers confirming the absence of judgments, mechanics liens and unrecorded interests against the Subject Property not disclosed herein;
  - (b) Deliver any documents necessary to clear title in accordance with this Agreement, if any;
  - (c) Deliver a signed well disclosure statement required by Minnesota Statutes §103I.235,
  - (d) Deliver a signed Limited Warranty Deed,
  - (e) Deliver a signed non-foreign certification;
  - (f) Deliver an eCRV worksheet;
  - (g) Sign and deliver such other documents required by the Title Company; and
  - (h) Pay the deed tax.
- (ii) At the Closing, Buyer shall:
  - (a) Pay the title commitment fee, if not paid pursuant to paragraph 8(b);
  - (b) Pay the premium for title insurance, if desired by Buyer;
  - (c) Pay any and all other Closing costs including all filing fees; and
  - (d) Pay to the Sellers the Purchase Price for the conveyance, transfer and delivery of the Subject Property to the Buyer.

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

- (i) Buyer shall obtain consent of the City of Maple Grove to its acquisition of the Subject Property pursuant to Minn. Stat. §398.09(b)(1);
- (ii) Buyer shall obtain all other consents required from governmental or other regulatory authorities;
- (iii) Buyer shall have the right, at its sole discretion, to terminate this Agreement based on the environmental inspection findings which will occur within the 90-day inspection window or in the event any

storage, dumping or release of hazardous materials, chemicals, pollution or similar occurs after the 90-day inspection window;

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

Any failure to satisfy any contingency contained herein shall render this Agreement null and void, in the Buyer's sole discretion, and the parties shall execute any instruments necessary to cancel this Agreement.

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

**15. Possession.** Sellers shall deliver possession of the Subject Property on the date of Closing. Sellers may leave personal property at the Subject Property, but upon delivery of possession of the Subject Property, any such personal property left behind shall become property of the Buyer.

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

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

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

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

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

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

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

If to Sellers:

David B. & Cynthia R. McCartney  
10775 Fernbrook Lane North  
Maple Grove, MN 55369

If to Buyer:

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

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

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

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

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

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

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

- (d) Sellers certify that Sellers DO know of a private sewer system on or serving the Subject Property (*If the answer is DO, attach a private sewer system disclosure statement*).
- (e) Sellers certify that Sellers DO know of a well on or serving the Subject Property (*If the answer is DO, attach a well disclosure certificate*).
- (f) Under Minnesota law, Sellers of residential property, except by waiver or with limited exceptions, are obligated to disclose the prospective buyers all material facts of which Sellers are aware that could adversely and significantly affect an ordinary buyer's use or enjoyment of the property.

**WAIVER:** Sellers and Buyer hereby waive the written disclosure required under Minnesota Statutes 513.52 through 513.60.

- (g) Minnesota Statutes Section 144.496 require Sellers to disclose in writing any knowledge of the presence of radon. Sellers hereby certify that radon tests HAVE occurred on the Subject Property.

**28. Memorial Bench.** Upon Buyer's completion of the Rush Creek Regional Trail on the Subject Property, Sellers may purchase a memorial bench to be located on the Subject Property through Buyer's memorial bench program, in accordance with all applicable rules and limitations existing at that time.

**29. As-Is Sale.** Buyer expressly affirms its understanding and agreement that it is purchasing the property "as is", without any warranties or representations of any kind whatsoever as to the property, whether as to value, condition, state of repair or fitness for any use or purpose (except warranties as to real estate taxes and title). Any oral or prior representations or warranties are superseded. The Sellers have no further responsibility or liability with respect to the condition of the Subject Property.

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

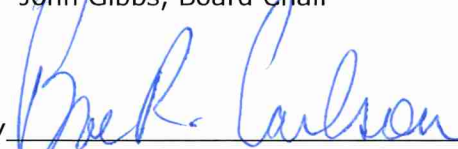
**BUYER:**

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

Dated: 12/21/23

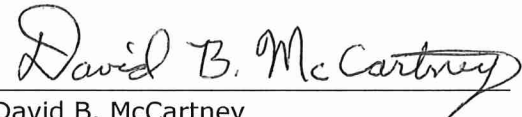
By  \_\_\_\_\_  
John Gibbs, Board Chair

Dated: 12/21/23

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

**SELLERS:**

Dated: 12/8/23

By  \_\_\_\_\_  
David B. McCartney

Dated: 12/8/23

By  \_\_\_\_\_  
Cynthia R. McCartney

**EXHIBIT A**

**Legal Description of Subject Property**

The North 300 feet of the South 600 feet of the Northeast 1/4 of Northeast 1/4 of Section 4,  
Township 119, Range 22, Hennepin County, Minnesota.

Property Identification Number: 04-119-22-11-0005