

## Metropolitan Parks and Open Space Commission

Meeting date: July 5, 2016

For the Community Development Committee meeting of July 18, 2016

For the Metropolitan Council meeting of July 27, 2016

**Subject:** Park Acquisition Opportunity Fund Grant for Spring Lake Park Reserve (Burger), Dakota County

**District(s), Member(s):** H – Todd Kemery

**Policy/Legal Reference:** MN Statutes 473.315

**Staff Prepared/Presented:** Deb Streets Jensen, Senior Parks Finance Planner 651-602-1554

**Division/Department:** Community Development Division / Regional Parks & Natural Resources

### Proposed Action

That the Metropolitan Council:

1. Approve a grant of up to \$733,064 to Dakota County to acquire the Burger parcel at 13584 Fischer Avenue for Spring Lake Park Reserve; and
2. Authorize the Community Development Director to execute the grant agreement and restrictive covenant on behalf of the Council.

### Background

**Regional Park Implementing Agency.** This grant was requested by Dakota County on March 1, 2016. A copy of the Agency's request is attached to this item. Spring Lake Park Reserve is located in Nininger Township along the Mississippi River in Dakota County.

**Policy.** Strategy Two of the Siting and Acquisition policy from the *2040 Regional Parks Policy Plan* states that "*priorities for land acquisition are set by regional park implementing agencies in Council-approved master plans.*"

**Funding sources.** The Council's Park Acquisition Opportunity Fund (PAOF) provides resources 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 further by matching every \$3 in state funds with \$2 in Council bonds proceeds. Between them, state and Council funds contribute up to 75% of the purchase price and eligible costs; the regional park implementing agency (Agency) contributes at least 25% as local match. The County is not seeking consideration for future reimbursement of its local match. This grant would be funded through PTLF and Council match, as this property currently has a structure on it that needs to be demolished.

**Council review.** Staff from the Council's Regional Parks and Natural Resources work unit:

- review each PAOF request to ensure that the proposed acquisition complies with state statute and Council policy;
- ensure that all necessary documentation is in place and that the appraisal is reasonable and appropriate; and
- process requests on a first-come-first-served basis.

**Subject property.** This property is located in Spring Lake Park Reserve. In the short term, the Agency plans on demolishing an existing residence, then later restoring it to native prairie. The existing water supply to the house will be capped for possible future use in a trailhead.

**Acquisition details.** This is a straightforward, fee simple transaction with no easements or other property restrictions.

**Rationale**

This acquisition is consistent with:

- The 2040 Regional Parks Policy Plan, Strategy Two, Siting and Acquisition;
- PTLF appropriation requirements; and
- The Spring Lake Park Reserve master plan, approved by the Council on April 14, 2004.

This property comprises 9.3 acres and will add a mix of grassland and high-quality forest on a steep bluff along Spring Lake to the regional parks system. Dakota County indicates that acquisition of these parcels is not controversial.

**Funding**

**Project budget.** The appraised value of the property is \$900,000, and the Agency has offered the seller 100% of the appraised amount plus closing and other costs as shown below. Because the house contains asbestos, the grant request includes \$45,000 for pre-demolition asbestos abatement in addition to the actual demolition, as part of the stewardship costs. Other eligible acquisition-related costs requested for this grant are listed below.

<b>Budget item</b>	<b>Requested amount</b>
Purchase price	\$900,000
Due diligence (appraisal, Phase I environmental site assessment, etc.)	5,163
Holding and closing costs	11,256
Stewardship (asbestos abatement and demolition)	<u>61,000</u>
Total costs	\$977,419
<b>Grant structure</b>	
PTLF PAOF	\$439,838
Council bonds	293,226
<b>Grant amount not to exceed</b>	<b>\$733,064</b>
Local match	\$244,355

**Fund balance.**

As of July 1, 2016, the combined balance available for PTLF PAOF and Council match was \$1,331,267. If this grant is awarded by the Council, the balance will be \$598,202.

The Council currently has several other PTLF PAOF applications under review. The PTLF PAOF fund will not have sufficient funds to award grants to all of these projects. Applications are presented for MPOSC consideration in the order in which they are deemed complete, and only if the entire request can be funded. Once the fund is depleted, likely via recommendations through MPOSC in August, there will not be any further PTLF PAOF money available for acquisitions until further funds are appropriated.

**Known Support / Opposition**

There is no known opposition.



Application

04280 - 2016 Parks Acquisition Grants

04568 - Dakota Co. Spring Lake PR PTLF PAOF: Burger property (13584 Fischer Ave)

Parks Grants Acquisition

Status: Under Review  
 Original Submitted Date: 04/06/2016 4:08 PM  
 Last Submitted Date: 04/20/2016 8:11 AM

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## Primary Contact

**Name:\*** Ms. Tammy Drummond  
Salutation First Name Middle Name Last Name

**Title:** Edit

**Department:**

**Email:** tammy.drummond@co.dakota.mn.us

**Address:** 14955 Galaxie Drive

**\*** Apple Valley Minnesota 55124  
City State/Province Postal Code/Zip

**Phone:\*** 952-891-7003  
Phone Ext.

**Fax:**

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

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## Organization Information

**Name:** DAKOTA COUNTY

**Jurisdictional Agency (if different):**

**Organization Type:** County Government

**Organization Website:**

**Address:** PARKS  
14955 GALAXIE AVE

\* APPLE VALLEY Minnesota 55124  
City State/Province Postal Code/Zip

**County:** Dakota

**Phone:\*** 952-891-7991  
Ext.

**Fax:**

**PeopleSoft Vendor Number** 0000026855A13

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## Project description

*Please limit acquisition requests to a single park or trail*

**Park or trail name** Spring Lake PR-Dakota County

### Master plan

*An acquisition request will not be considered complete or added to an ENRTF work plan 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** Spring Lake Park Reserve  
Master Plan

Name of master plan Council approval date - Format: mmmddyyyy  
(Do not enter any punctuation.)

### 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**.*

Fee title purchase agreement provided in hard copy - dated 1/6/16 and executed 1/12/16, with an expiration date of 7/31/16 (MC 2/19/16 suggested that Dakota County pursue an extension amendment to the PA due to tight timelines - see uploads). Amended executed and expires 09/30/16

The PA includes an amendment indicating the seller may occupy the premises rent-free for four months after the closing date.

The PA excludes some items, consisting of chandeliers, plants, and a fountain and its base. Seller is not responsible for more than \$2,500 in costs for corrective title action and only 50% of closing costs. Conditions precedent include an adopted resolution by the county board (provided in hard copy, #15-642 - see uploads), MC approval of the grant, and completion of due diligence (specified as by 5/31/16).

**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.

If condemnation will be involved, include documentation of your governing body's authorization (on the Other Acquisition Attachments web page).

If condemnation is involved, date the petition was/will be filed.

If condemnation is involved, expected settlement date

Are there easements or other encumbrances on any part of the property? Yes

If yes, describe

A private road runs across the property. The road will be removed.

**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 grant term.

Estimated closing date 09/01/2016

Format: mmdyyy (Do not enter any punctuation.)

Date purchase agreement expires 09/30/2016

Format: mmdyyy (Do not enter any punctuation.)

**Appraisal information**

Appraised value \$900,000.00

Amount being offered the seller (net of closing and other costs) \$900,000.00 100.0% % of appraised value

Appraisal date 07/23/2015

Who performed the appraisal? Lake State Realty Services

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

**Quality of natural resources - is the property...**

...undeveloped? Fully Yes Partially

...wooded? Fully Yes Partially

...shoreline? Fully Yes Partially

**Describe the existing natural resources it contains**

2.2 acres of high quality forest on steep bluff along Spring Lake with 3.0 acres of mixed deciduous woodland, 3.5 acres of grasslands and 0.6 acres mixed vegetative landscaping.

**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** PTLF Legacy / Council match

Select as many as apply

### For ENRTF funding only

If this will use ENRTF funding, their rules require that you describe the selection process used to identify these proposed parcels.

NA

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

**If yes, what is the plan for the structure(s)?** The house will be demolished and will require pre-demo asbestos abatement. As of 2/23/16, the MC has not yet agreed that these costs are eligible.

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

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

This is a 41-year old, two-story, single-family, 2,972 square foot residence with a walkout basement on Spring Lake. It has two fireplaces, a three-car garage, two balconies, four patios, a fenced pasture, a large fountain (which the seller will retain) and a koi pond. The appraisal states the house is in average condition for its age and has good quality finish materials which lack some modern updating. The highest and best use was single-family detached development was appraised thusly. The comparable properties used in the appraisal ranged from \$1,051,580 to \$806,000. The comparables were in good or very good condition, with the appropriate adjustments.

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## Stewardship and minimal access

### Describe the stewardship plan.

There are two wells on the property. One is on the original abandon farmsted at the south end of the property, which will be sealed. The other well is at the house on the north end, which provided the water supply to the home, which will be capped for possible future use in a Trailhead. Once the home and septic system are removed, the property will be restored to native prairie with all man made materials removed. The estimates were based on the actual costs of the work completed on the Flower Property, which sat next door and adjusted based on sq. footage. The estimate for demotion, wich includes septic abandonment, estimate is approx. \$16,000. The estimate for Hazard Material Assessment, Asbestos Abatement, Well Sealing and site restoration is included in the \$45,000. There was a limited asbestos survey completed in the envirnmental assessment. A complete full pre-demo survey will be completed to identify specific asbestos materials . Given the age of the structure, it is likely that asbestos materials are located within the structure.

### How will the stewardship implementation be funded?

Funding is requested as part of this grant and is included in the cost to remove the home and bring the land back to native prairie. The calculations for restoration and for the home to be removed have come from past estimates of the

**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?** Yes

If yes, how will those funds be used?

The County requested \$16,000 for demolition and \$45,000 for asbestos abatement. Initial MC response is that these activities are ineligible as stewardship and belong in a development plan due to lack of urgency due to a public safety issue.

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## Local match

### Source of local match

Dakota County funds. Some of the individual items requested are part of the settlement statement, which is received upon closing. These items are not listed individually under the grant budget.

Will you be requesting consideration for future reimbursement of any part of your local match? No

If yes, how much? \$0.00

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## Sellers and parcels

Seller name	Street address	PID	Acres	Date PA signed	Habitable structures?	MN House district	City	County	MPOSC	Latitude	Longitude	
K. Gail Burger	13584 Fischer Ave	30-02200-53-020	9.3	01/12/2016	Yes	54B	Hastings	Dakota	H	44.749857	-92.967749	

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## Grant agreement signatories

Full name	Title	If this is an attorney, is the signature 'for form only'?
Steven C. Mielke	Physical Development Division Director	

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## Acquisition Costs

Cost Items	Amount
<b>Purchase price</b>	
Negotiated purchase price	\$900,000.00
<b>Appraisal expenses</b>	
Appraisal	\$2,000.00

Appraisal review	\$0.00
<b>Environmental expenses</b>	
Phase I environmental site assessment	\$3,163.00
Phase II environmental site assessment	\$0.00
Environmental contamination remediation	\$45,000.00
<b>Holding expenses</b>	
Interest	\$0.00
Land stewardship	\$16,000.00
Land development	\$0.00
Pro-rated share of all property taxes/assessments	\$3,860.00
Legal services and closing costs	\$2,000.00
Property tax equivalency payment	\$1,521.00
Relocation costs to seller	\$0.00
State deed tax/conservation fee	\$1,375.00
Title insurance	\$2,500.00
Well disclosure statement	\$0.00
Other holding	\$0.00
<b>Other expenses</b>	
Other expenses	\$0.00
<b>Totals</b>	<b>\$977,419.00</b>

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### Total Estimated Acquisition Costs

<b>Totals</b>	<b>Total acquisition cost</b>	<b>Total paid with state funds</b>	<b>Total paid with metro funds</b>	<b>Total paid by agency</b>	<b>Total grant amount</b>
Total Estimated Acquisition Cost (calculated after costs above are entered)	\$977,419.00	\$439,838.56	\$293,225.70	\$244,354.75	\$0.00

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### Required Attachments





February 26, 2016

Deb Jensen  
 Metropolitan Council  
 390 North Robert Street  
 St. Paul, MN 55101

**Physical Development Division**

Dakota County  
 Western Service Center  
 14955 Galaxie Avenue  
 Apple Valley, MN 5 5124

952-891-7000  
 Fax 952-891-7031  
[www.dakotacounty.us](http://www.dakotacounty.us)

**Environmental Resources**

Land Conservation  
 Groundwater Protection  
 Surface Water  
 Waste Regulation  
 Environmental Initiatives

**Office of Planning**

**Operations Management**

Facilities Management  
 Fleet Management  
 Parks

**Transportation Department**

Highways  
 Surveyor's Office  
 Transit Office

Dear Deb:

Dakota County requests Metropolitan Council (MC) consideration for authorizing a \$733,065 Acquisition Opportunity Fund (AOF) grant for the purchase of the K. Gail Burger (Burger) property in Spring Lake Park Reserve (SLRP).

The SLPR Master Plan recognizes acquisition of the 9.30-acre Burger property as a high priority for protecting natural resources, facilitating public use and preventing additional residential development within the park boundaries that would detract from the park experience or make the property more expensive. (See Attachment A: Location Map, Attachment A-1 Aerial Photo and Attachment B: Legal Description.)

The County completed, reviewed and accepted an independent appraisal to substantiate the purchase price for the property (See Attachment C: Appraisal). Ms. Burger has accepted the County's acquisition offer and terms and has signed a waiver of relocation benefits. (See Attachment D: Waiver of Relocation Benefits.)

The Dakota County Board of Commissioners authorized acquisition of the Burger property and submission of an AOF grant request at its December 15, 2015, meeting. (See Attachment E: Resolution No. 15-642.) The County and Ms. Burger executed the Purchase Agreement on January 12, 2016. (See Attachment F: Executed Purchase Agreement.)

This AOF grant request is based on the following estimated expenses:

Expense Item	Amount
Purchase Price	\$900,000.00
Estimated Legal, Closing and Title Insurance	\$5,875.00
Appraisal	\$2,000.00
Property Taxes	\$3,860.00
Phase I Environment Assessment	\$3,163.00
Stewardship-Demolition of Buildings and Site Restoration	\$16,000.00
Environmental Remediation (asbestos)	\$45,000.00
Payment in Lieu of Taxes (PILT) [1.8 x \$845.10]	\$1,521.18
<b>Total</b>	<b>\$977,419.18</b>
MC AOF Amount (75 percent of total)	\$733,064.38
County Match (25 percent of total)	\$244,354.80

Page 2

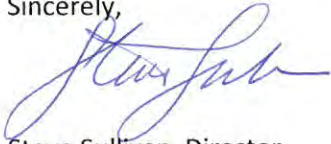
Dakota County will be utilizing a portion of its approved 2016 Capital Improvement Program acquisition budget to match the AOF funds being requested.

Taxes for 2016 are prorated and calculated based on a September 30, 2016, closing date.

The Documents Cost Data Checklist, Appraisal Contract and Invoice, Phase I Environmental Assessment and Invoice, Property Tax Statement, and Township PILT Invoice are also enclosed.

Thank you for considering this request.

Sincerely,



Steve Sullivan, Director  
Operations Management-Parks



Al Singer, Land Conservation Manager  
Environmental Resources

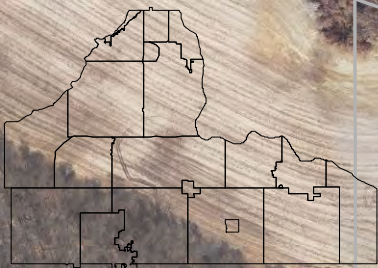
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cc: Taud Hoopingarner, Operations Management Director  
Tara Zgoda, Financial Analyst









# Gail Burger Acquisition

PLS Section 22, 115-18  
Total Acquisition Acres 9.30



S 1/4 Sec. 22

  Section Corner       Quarter Corner       Acquisition Area       Parcels       Roads

Map Date: 12/15/2015      1 inch = 300 feet







Dakota County Contract #C0027450

## FEE TITLE PURCHASE AGREEMENT

### Tract #447

This Purchase Agreement, made and entered into on the 6<sup>th</sup> day of January, 2016, by and between K. GAIL BURGER, a single person, (hereinafter called the "Seller"), and the COUNTY OF DAKOTA, a political subdivision of the State of Minnesota, (hereinafter called the "Buyer").

### WITNESSETH:

**WHEREAS**, Seller is the owner of certain real property (hereinafter called the "Property"), as defined below, situated in Dakota County, Minnesota; and

**WHEREAS**, Seller agrees to sell and Buyer agrees to buy the Property and all improvements thereon, including any mineral rights and access or other easements benefiting the Property;

**NOW, THEREFORE**, in consideration of the mutual promises and covenants and agreements stated in this document, it is agreed by and between Seller and Buyer as follows:

### AGREEMENT

1. **DEFINITIONS**. As used in this Agreement, the following terms shall have the meaning provided herein:

- a. "**Agreement**" shall mean this Purchase Agreement and any addendums between Buyer and Seller as of the Effective Date.
- b. "**Closing**" shall mean the process by which the Buyer, Seller and Title Company execute all necessary documents for the Seller to sell and the Buyer to buy the Property.
- c. "**Closing Date**" shall mean the date on which the Buyer acquires the Property and the terms of this Agreement are fulfilled. For the purpose of this Agreement, the date shall be on or before July 31, 2016.
- d. "**Conveyed Personal Property**" shall mean the following specified personal property Seller intends to convey to Buyer.
- e. "**Due Diligence Deadline**" shall mean May 30, 2016.

- f. "Effective Date" shall mean the last date of execution by either of the Parties to this Agreement.
- g. "Environmental Law" shall mean each and every federal, state, and local law, statute, ordinance, regulation, rule, judicial or administrative order or decree, permit, license, approval, authorization or similar requirement pertaining to the protection of human health and safety or the environment.
- h. "Fixtures" shall mean items that are embedded in the land or attached to the building(s) and cannot be removed without damage to the real property or building(s). Examples are found in paragraph 3.
- i. "Hazardous Substance" shall mean any substance which is (i) defined as a hazardous substance, hazardous material, hazardous waste, pollutant or contaminant under any Environmental Law, (ii) a petroleum hydrocarbon, including crude oil or any fraction thereof, (iii) hazardous, toxic, corrosive, flammable, explosive, infectious, radioactive, carcinogenic, or reproductive toxicant, (iv) regulated pursuant to any Environmental Law(s), or (v) any pesticide regulated under state or federal law.
- j. "Parties" shall mean the Buyer and the Seller, as defined above, collectively.
- k. "Property" shall mean that certain real estate situated in Dakota County, Minnesota, as legally described in **Exhibit A** and generally depicted in **Exhibit A-1**, and any improvements located thereon.
- l. "Purchase Price" shall mean the sum of Nine Hundred Thousand and No/100 Dollars (\$900,000.00).
- m. "Title Company" shall mean DCA Title Company at 7373 147th St W, Suite 161, Apple Valley, Minnesota.
- n. "Warranty Deed" shall mean a deed warranting and conveying good and marketable title of record to the Property, subject to the following title exceptions:
  - i. Building and zoning laws, ordinance, state and federal regulations;
  - ii. Reservation of any mineral rights to the State of Minnesota;
  - iii. Utility, drainage and public road easements of record; and
  - iv. The lien of real property taxes and the lien of special assessments and interest due thereon, if any, payable in the year of closing by which the terms of this Agreement are to be paid or assumed by Buyer.

2. FEE OWNER. Seller represents that Seller is the fee owner of the Property and hereby agrees to sell the Property to Buyer, free of any liens and