

Metropolitan Parks and Open Space Commission

Meeting date: July 9, 2020

For the Community Development Committee meeting of July 20, 2020

For the Metropolitan Council meeting of August 12, 2020

Subject: Park Acquisition Opportunity Fund Grant for Bald Eagle-Otter Lake Regional Park (Spencer), Ramsey County

MPOSC District: F, Cecily Harris

Council District, Member: 11, Susan Vento

Policy/Legal Reference: Minn. Const. art. XI, sec. 15; Minn. Stat. § 473.315; *2040 Regional Parks Policy Plan*, Chapter 4, Siting and Acquisition Policy- Strategy 1; Chapter 5, Planning Policy- Strategy 1; Chapter 8, Finance Policy- Strategy 7.

Staff Prepared/Presented: Jessica Lee, Senior Parks Planner (651-602-1621)

Division/Department: Community Development

Proposed Action

That the Metropolitan Council:

1. Approve a grant of up to \$291,960 to Ramsey County to acquire the 0.6-acre Spencer property located at 5600 Otter Lake Road in White Bear Township for Bald Eagle-Otter Lake Regional Park, contingent on Council approval of the July 2020 Special Budget Amendment, Business Item 2020-182 JT.
2. Authorize the Community Development Director to execute the grant agreement and restrictive covenant on behalf of the Council.
3. Consider reimbursing Ramsey County up to \$97,320 from its share of a future Regional Parks Capital Bonding Program for costs associated with their local match.
4. Inform Ramsey County that the Council does not under any circumstances represent or guarantee that the Council will grant future reimbursement and that expenditure of local funds never entitles a park agency to reimbursement.

Background

Park Acquisition Opportunity Fund (PAOF)

The Council's Park Acquisition Opportunity Fund (PAOF) 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 bonds.

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.

Regional Park Implementing Agency (Agency) and Location

Ramsey County requested this grant on April 13, 2020. A copy of the Agency's request is attached to this item as Exhibit 2. Bald Eagle-Otter Lake Regional Park is in the northeast corner of Ramsey County in White Bear Township.

Project budget

The appraised value of the property is \$348,000, and the Seller has agreed to 100% of the appraised amount. The total project cost including legal fees, taxes, and stewardship is \$389,280, as shown in Table 1 below.

Table 1. Project Budget

Budget item	Requested amount
Purchase price	\$348,000
Due diligence (appraisal)	\$1,500
Holding and closing costs, taxes	\$6,780
Phase I environmental site assessment	\$3,000
Stewardship (including building removal and site restoration)	\$30,000
Total costs	\$389,280
Grant structure	
State FY 2021 PTLF PAOF	\$175,176
Council bonds	\$116,784
Grant amount not to exceed	\$291,960
Local match	\$97,320

Council review

Council staff conduct 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

Subject property

The Spencer property is one of the last inholdings in Bald-Eagle-Otter Lake Regional Park. The subject 0.61-acre property is within the Council-approved boundary of the park, and contains a house built in 1968. The house will be removed, and the site will be restored to oak woods. Bald Eagle-Otter Lake Regional Park contains three segments: Bald Eagle Lake, Otter Lake, and Tamarack Nature Center, and totals 885 acres. In addition to the lakes, the park contains mesic woods, oak woodlands, red maple woods, prairies, a variety of wetlands, and the unique tamarack and shrub swamps.

Acquisition details

This is a straightforward, fee simple transaction. As part of the purchase agreement, Ramsey County will provide the current landowners a lease to reside on the property for up to two years while they search for a new home.

Rationale

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 master plan for Bald Eagle-Otter Lake in 1987, and this property is included in the approved master plan.
 - Siting and Acquisition Strategy 1 requires that lands with natural resource features, access to water, and/or restoration potential will be a priority for the Regional Parks

System. The property recommended for acquisition will be restored to its natural state and added to the existing natural resource features of Bald Eagle-Otter Lake Regional Park.

- 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.
- All requirements of PTLF and the 2021 appropriation. This funding aligns with the goals of the 25-year, Parks and Trails Legacy Plan, strategic direction of “Acquire land – create opportunities.”

Thrive Lens Analysis

This request is consistent with Thrive’s Livability and Stewardship outcomes. The Council’s investment in Bald Eagle-Otter Lake Regional Park will provide additional access to outdoor recreation, enhance quality of life, and further protect natural resources including lakes and wetlands.

Funding

The Council will fund this grant through Council Bonds (\$116,784) and State Fiscal Year 2021 Parks and Trails Legacy Funds (\$175,176). Funds are available in the Council’s Authorized Capital Program.

Ramsey County will provide a local match of \$97,320.

Future reimbursement consideration

The Agency is also requesting that the Council consider reimbursing its local match of \$97,320 for this acquisition at some point in the future through the Regional Parks Bonding Program. A request for “future reimbursement consideration” is the first step in a process Agencies may use to request repayment of their match amount in a future bonding cycle. The Council is under no obligation to reimburse this amount.

Known Support / Opposition

There is no known opposition.

Exhibit List

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

Exhibit 1 – Images



Figure 1. Map of the Spencer property



Figure 2. Map of the entire Bald Eagle-Otter Lake Regional Park, with the Spencer property circled in red



April 13, 2020

Metropolitan Council
Regional Parks and Natural Resource Unit
Attn: Jessica Lee
390 North Robert Street
St. Paul, MN 55101

RE: Park Acquisition Opportunity Grant Request for 5600 Otter Lake Road, Bald Eagle-Otter Lake Regional Park

Dear Ms. Lee:

Ramsey County is submitting a Park Acquisition Opportunity Grant Request for the acquisition of a residential property at 5600 Otter Lake Road, White Bear Township that is associated with Bald Eagle-Otter Lake Regional Park.

Acquisition Grant Request

Steven and Dorothy Spencer own approximately .61-acres of land at 5600 Otter Lake Road, White Bear Township, Mn. The property is directly adjacent to the Otter Lake section of the regional section. Ramsey County and the owners have executed a Purchase Agreement contingent on available Park Acquisition funds.

Ramsey County is requesting the Metropolitan Council's consideration of an acquisition opportunity grant in the amount of \$291,959.25 that would fund 75% of the acquisition and associated costs, with 25% local match coming from Ramsey County funds. In addition, Ramsey County requests that the 25% local match of \$97,319.75 be eligible for reimbursement in future Regional Park CIP request.

This acquisition of this property is critical for securing remaining inholdings for Bald Eagle-Otter Lake Regional Park. This property was identified within the 1987 Bald Eagle-Otter Lake Master Plan for future acquisition of properties within the Otter Lake section of the regional park located along Otter Lake Road.

Summary of Property Acquisition

In May 2019, the owners contacted Ramsey County for interest in pursuing acquisition of their property. Ramsey County completed a certified land appraisal for the property in June 2019 and proceeded to move forward with acquisition discussion with the property owners. A purchase agreement has been prepared and was approved by the Ramsey County Board of Commissioners in April 7, 2020. In addition, a lease agreement has also been prepared allowing the property owners to remain at the property until they found a suitable property. The terms of the lease agreement will allow the property owners to lease the property for a period up to 2 years prior relocating to their desired property.

Stewardship Plan

Following acquisition and any related lease agreement with the property owners, Ramsey County will begin land stewardship activities. Short-term stewardship improvements include removal of the house structure, existing driveway, utilities, and the existing out building structure. In addition, excavation areas will be filled with suitable import, and all impacted areas will receive suitable topsoil and reseeded. Long-term stewardship

improvements for this property will be consistent with land cover changes to prairie and oak wood as identified within the Bald Eagle-Otter Lake natural resource section of the 2019 Ramsey County Parks and Recreation System Plan.

Ramsey County is requesting this Acquisition Grant request move forward for approval. If you have any questions or require additional information, please do not hesitate to call me at 651-363-3786 or email me at scott.yonke@co.ramsey.mn.us.

Sincerely,

A handwritten signature in black ink that reads "Scott A. Yonke". The signature is written in a cursive style with a large, looped "Y" and "O".

Scott Yonke, PLA | Director of Planning and Development
Ramsey County
Parks and Recreation Department
2015 Van Dyke Street
Maplewood, MN 55109
651-363-3786
www.co.ramsey.mn.us

Exhibit 3: Grant application



Application

10851 - 2019 Parks Acquisition Opportunity Fund

13214 - Bald Eagle-Otter Lake Regional Park - 5600 Otter Lake Road Property Acquisition

Parks Grants Acquisition

Status: Under Review
Submitted Date: 04/13/2020 2:02 PM

Primary Contact

Name:* Mr. Scott Yonke
Salutation First Name Middle Name Last Name

Title: Director of Planning and Development

Department: Parks and Recreation

Email: scott.yonke@co.ramsey.mn.us

Address: 2015 Van Dyke St.

***** Maplewood Minnesota 55109
City State/Province Postal Code/Zip

Phone:* 651-363-3786
Phone Ext.

Fax:

What Grant Programs are you most interested in? Parks Legacy Fund

Organization Information

Name: RAMSEY COUNTY

Jurisdictional Agency (if different):

Organization Type: County Government
Organization Website: PARKS AND RECREATION
Address: PARKS AND RECREATION
 2015 N VAN DYKE ST

 * MAPLEWOOD Minnesota 55109
City State/Province Postal Code/Zip
County: Ramsey
Phone:* 651-748-2500
Ext.
Fax:
PeopleSoft Vendor Number 0000023983A2

Project description

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

Park or trail name Bald Eagle-Otter Lake RP-Ramsey 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 Bald Eagle-Otter Lake Regional Park Master Plan 06/01/1987
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**.*

This is a regular acquisition purchase for the property located at 5600 Otter Lake Road. As part of the purchase agreement, a lease agreement will be established to allow the current property owner to live at the property for a period up to two years. After the lease has ended, the County will begin stewardship tasks.

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

07/31/2020

Format: mmdyyy (Do not enter any punctuation.)

Type of agreement

purchase agreement

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

Date agreement expires

Format: mmdyyy (Do not enter any punctuation.)

Relocation costs

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

Does the requested grant amount include relocation costs?

Yes

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

06/24/2019

Appraised value

\$348,000.00

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

\$348,000.00

100.0%

% of appraised value

Who performed the appraisal?

Kelly Lindstrom, Certified General Appraiser

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

Ramsey County

Survey

Was a survey done? No

Quality of natural resources - is the property...

...undeveloped?

Fully Partially

...wooded?

Fully Partially Yes

...shoreline?

Fully Partially

Describe the existing natural resources it contains

The existing single family residential property is .61-acres with a residential dwelling built in 1968. The property has fairly level topography, mostly grass turf cover, with low-medium overstory tree cover. The property is directly adjacent to a upland prairie section within the Otter Lake section of the regional park.

Known opposition

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

If yes, explain:

Encumbrances

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

If yes, describe.

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

If yes, describe

Clear title

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

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

Suggested funding source

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

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

Anticipated funding source PTLF Legacy / Council match

Select as many as apply

Funding source comments, if desired

Structures currently on the property

Does the property contain ANY structures? Yes

If yes, are there any habitable structures? Yes

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

If yes, what is the plan for the structure(s)? The existing house structure, garage, and shed will be removed after the lease ends with the lessee.

If there are habitable structures, could they be relocated? If yes, how? If no, why not? It is not anticipated the structure would be relocated at this time due to the age and type of residential structure, however an option would be included within a proposal for structure removal for relocating the structure.

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

The habitable structure is a 1968 rambler with 1,744 SF of gross living area (1,144 sf above ground, and 600 sf below ground), 4 bedrooms, and a two-car attached garage.

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

Describe the stewardship plan.

The stewardship plan for the property will move forward in two phases. Phase 1 (short-term) improvements will be immediate site improvements for clearing the property and temporary revegetation. Phase 2 (long-term) improvements will consist of implementing the landcover changes to the property that is consistent with the 2019 Ramsey County Parks and Recreation System Plan.

How will the stewardship implementation be funded?

Initial site preparation and improvements activities are anticipated to be funded through the PTLF land acquisition grant and local match. Long-term improvements are anticipated to be completed through natural resource grant opportunities.

Are you requesting funds to provide minimal access to the property (prior to it being open to the public) as part of this grant request? No

If yes, how will those funds be used?

Site Description

Land Use History

Current land uses Park, Residential

Select as many as apply

Previous land uses Park, Residential

Select as many as apply

Adjacent land uses

Park

Select as many as apply

Inspection

Does the property contain any of the following?

Wells

Select as many as apply

Sellers and parcels

Seller name	Parcel addresses	PID	Acres (SF for easements)	Date PA signed	Habitable structures?	MN House district	City	County	Met Council district	MPOSC	Latitude	Longitude	
Steven and Dorthy Spencer	5600 Otter Lake Road, White Bear Township, MN	033022340006	0.61		Yes	38, 38B	White Bear Township	Ramsey		F	45.110320	-93.038160	
			1										

Local match

Source of local match

The source for the local match will be Ramsey County funds

Will you be requesting consideration for future reimbursement of any part of your local match?

Yes

If yes, how much?

\$97,320.00

Grant agreement signatories

Full name	Title	If this is an attorney, is the signature 'for form only'?
Ryan O'Connor	County Manager	No
Amy Schmidt	Assistant County Attorney	Yes
Mark McCabe	Director of Parks and Recreation	No

Acquisition Costs

Cost Items	Amount	State funds	Metro funds	Match funds
Purchase price				
Negotiated purchase price	\$348,000.00	\$156,600.00	\$104,400.00	\$87,000.00
Appraisal expenses				
Appraisal	\$1,500.00	\$675.00	\$450.00	\$375.00
Appraisal review	\$0.00	\$0.00	\$0.00	\$0.00
Environmental expenses				
Phase I environmental site assessment	\$3,000.00	\$1,350.00	\$900.00	\$750.00
Phase II environmental site assessment	\$0.00	\$0.00	\$0.00	\$0.00
Environmental contamination remediation	\$0.00	\$0.00	\$0.00	\$0.00
Holding expenses				
Interest	\$0.00	\$0.00	\$0.00	\$0.00
Land stewardship	\$30,000.00	\$13,500.00	\$9,000.00	\$7,500.00
Land development	\$0.00	\$0.00	\$0.00	\$0.00
Pro-rated share of all property taxes/assessments	\$0.00	\$0.00	\$0.00	\$0.00
Legal services and closing costs	\$2,770.00	\$1,246.50	\$831.00	\$692.50
Property tax equivalency payment-473.341	\$0.00	\$0.00	\$0.00	\$0.00
Relocation costs to seller	\$0.00	\$0.00	\$0.00	\$0.00
State deed tax/conservation fee	\$0.00	\$0.00	\$0.00	\$0.00
Title insurance	\$1,010.00	\$454.50	\$303.00	\$252.50
Well disclosure statement	\$0.00	\$0.00	\$0.00	\$0.00
Other holding	\$0.00	\$0.00	\$0.00	\$0.00
Other expenses				
Other expenses	\$3,000.00	\$1,350.00	\$900.00	\$750.00

Totals	\$389,280.00	\$175,176.00	\$116,784.00	\$97,320.00
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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)	\$389,280.00	\$175,176.00	\$116,784.00	\$97,320.00	\$291,960.00

Required Attachments - Acquisition



BOARD OF COMMISSIONERS

RESOLUTION

Presented by: Commissioner MatasCastillo Date: April 7, 2020 No. B2020-076
 Attention: Parks and Recreation

WHEREAS, Ramsey County has the opportunity to submit an application for Parks and Trails Legacy Amendment Land Acquisition Grant in support of the County's acquisition of the property located at 5600 Otter Lake Road, which is one of the two properties previously identified for potential acquisition in the 2008 Parks System Plan, the 2018 Parks System Plan and the Regional Park Master Plan; and

WHEREAS, Acquisition of 5600 Otter Lake Road will create additional park access opportunities in addition to providing natural resource restoration consistent with the Bald Eagle-Otter Lake Regional Park. Master Plan; and

WHEREAS, A Purchase Agreement for the amount of \$348,000.00, as established by an independent appraisal, was negotiated as well as a two-year Residential Lease Agreement with the current owners; and

WHEREAS, The Purchase Agreement obligates the County to pay for closing costs at an estimated total cost of \$3,779.00; and

WHEREAS, The purchase of this property is contingent on the award of the Parks and Trails Legacy Amendment Land Acquisition Grant funds to Ramsey County; and

WHEREAS, The County Board is being requested to authorize interim funding for the purchase of this property up to the amount of \$389,279.00 and would be reimbursed up to \$291,959.25 from the Parks and Trails Legacy Amendment Land Acquisition grant; and

WHEREAS, The remaining acquisition costs of \$97,319.75 is being requested of the County Board to be funded from the Ramsey County Open Space and Bond Fund; and

WHEREAS, Upon receiving the Parks and Trails Legacy Amendment Land Acquisition grant an Agreement and Restrictive Covenant would be recorded and the County would convey a Sanitary Sewer Easement to the Metropolitan Council; Now, Therefore Be It

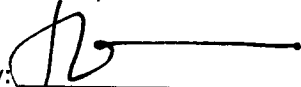
RESOLVED, The Ramsey County Board of Commissioners approves the acquisition of and agreement for the purchase of 5600 Otter Lake Road, White Bear Township, MN. 55110, in the amount of \$348,000.00; and Be It Further

RESOLVED, The Ramsey County Board of Commissioners authorizes submission of the Parks and Trails Legacy Amendment Land Acquisition grant application to the Metropolitan Council for reimbursable grant expenses at an estimated amount of \$291,959.25; and Be It Further

Ramsey County Board of Commissioners

	YEA	NAY	OTHER
Nicole Frethem	X		
Trista MatasCastillo	X		
Jim McDonough	X		
Mary Jo McGuire	X		
Rafael Ortega	X		
Victoria Reinhardt	X		
Toni Carter	X		

Toni Carter, Chair

By: 
 Janet M. Guthrie
 Chief Clerk – County Board



BOARD OF COMMISSIONERS

RESOLUTION

Presented by: Commissioner MatasCastillo Date: April 7, 2020 No. B2020-076
Attention: Parks and Recreation

RESOLVED, The Ramsey County Board of Commissioners approves payment for closing costs including real estate taxes, closing, and title insurance at an estimated total cost of \$3,779.00; and Be It Further

RESOLVED, The Ramsey County Board of Commissioners authorizes payment of up to \$97,319.75 from the Ramsey County Open Space Bond Fund to finance Ramsey County's share of acquisition costs; and Be It Further

RESOLVED, The Ramsey County Board of Commissioners authorizes the County Manager to approve and execute the purchase agreement and closing documents contingent upon receipt of the grant funds, grant contracts and contract amendments associated with the cost of acquisition of the property located at 5600 Otter Lake Road, White Bear Township, in a form approved by the County Attorney's Office; and Be It Further

RESOLVED, The Ramsey County Board of Commissioners authorizes the County Manager to make temporary cash loans as needed up to \$389,279.00 from the General Fund to the Parks department for acquisition costs of 5600 Otter Lake Road, White Bear Township until land acquisition funds are received with repayment of funds in the amount of \$291,959.25 to be made when grant funds are available; and Be It Further

RESOLVED, The Ramsey County Board of Commissioners authorizes the County Manager to accept the grant funds, if awarded; and Be it Further

RESOLVED, The Ramsey County Board of Commissioners authorizes the County Manager to approve and execute a Metropolitan Council Agreement and Restrictive Covenant and a Metropolitan Sanitary Sewer Easement, contingent on the award of grant funds, in a form approved by the County Attorney's Office; and Be it Further

RESOLVED, The Ramsey County Board of Commissioners approves the Residential Lease Agreement with Steven and Dorothy Spencer for the residence at 5600 Otter Lake Road, White Bear Township, to be effective after closing on the property; and Be It Further

RESOLVED, The Ramsey County Board of Commissioners authorizes the Chair and Chief Clerk to execute the Residential Lease Agreement.

Ramsey County Board of Commissioners

Table with 4 columns: Name, YEA, NAY, OTHER. Rows include Nicole Frethem, Trista MatasCastillo, Jim McDonough, Mary Jo McGuire, Rafael Ortega, Victoria Reinhardt, Toni Carter.

Toni Carter, Chair

Signature of Janet M. Guthrie, Chief Clerk - County Board

PURCHASE AGREEMENT

EFFECTIVE

DATE:

April 9, 2020 (See §12.2)

BETWEEN:

RAMSEY COUNTY,

a political subdivision of the State of Minnesota

(“Buyer”)

AND:

STEVEN AND DOROTHY SPENCER,

husband and wife

(“Seller”)

FOR VALUABLE CONSIDERATION, Seller and Buyer agree, subject to the terms and conditions of this Purchase Agreement (“Agreement”), Seller will sell and convey to Buyer, and Buyer will purchase and accept from Seller, the parcel of real property, improvements, fixtures, personal property defined herein (“Property”).:

I. PROPERTY

1.1 Description of Property. That parcel located at 5600 Otter Lake Road, White Bear Township, Minnesota, and legally described on **Exhibit A** attached hereto (the “**Property**”). The Property shall also include all of Seller’s right, title, and interest in and to:

- (a) all adjacent streets or alleys or rights of way;
- (b) all insurance proceeds payable because of any damage to or destruction of all or any portion of the Property;
- (c) all warranties and guaranties inuring to the benefit of Seller in connection with any of the Property;
- (d) all plans, specifications, drawings, and other architectural and engineering data relating to the Property to the extent the same are in the possession or control of Seller or any of its agents, employees or representatives; and
- (e) all rights, privileges, easements, licenses, appurtenances, and hereditaments relating to the Property.

II. PURCHASE PRICE

- 2.1 Payment of Purchase Price. The purchase price (the “**Purchase Price**”) for the Property will be **THREE HUNDRED FORTY-EIGHT THOUSAND AND NO/100 Dollars (\$348,000.00)**. The Purchase Price includes all moving and relocation costs.
- 2.2 Method of Payment. All cash payments by Buyer will be in U.S. Dollars and in the form of wire transfer, certified checks or other immediately available funds.

III. TITLE

- 3.1 Title Commitment. Within twenty (20) days after the Effective Date, Buyer obtain a commitment for an owner’s policy of title insurance (ALTA Form 06/17/06 Revised 8/1/16) covering the Property (the “**Commitment**”), issued by Burnet Title , as agent for such title insurer as determined by the Buyer (the “**Title Company**”), with standard exceptions for mechanic’s liens, survey and parties in possession deleted, with searches for special assessments, and with an amount of coverage equal to the Purchase Price, and subject only to those matters not objected to and/or waived by Buyer pursuant to Sections 3.3 or 3.4 (collectively, the “**Permitted Exceptions**”). The Commitment will include a copy of each instrument listed as an exception to title or referred to therein.
- 3.2 Survey. Buyer, if desired by Buyer and at Buyer’s sole cost, may have prepared a new or updated survey of the Property made by a registered land surveyor (the “**Survey**”).
- 3.3 Examination of Title. Buyer will be allowed thirty (30) days after receipt of the Commitment and Survey (the “**Due Diligence Period**”) for examination of title to the Property and making of objections. Any matters Buyer does not object to within such thirty (30) day period shall be deemed Permitted Exceptions.
- 3.4 Corrections to Title. If any objections to title to the Property are made as provided in Section 3.3, Seller will be allowed ten (10) business days after receipt of Buyer's notice of such objections to notify Buyer in writing regarding which objections to title Seller, in the exercise of its sole discretion, agrees to cure and, if Seller does not agree to cure all of Buyer’s objections, Buyer may elect to either (i) terminate this Agreement by written notice to Seller, in which case the parties will have no further rights, duties or obligations hereunder, except those obligations that expressly survive termination, (ii) if the objection can be cured after closing, Buyer may elect to escrow sufficient funds necessary to cure the objection from the Purchase Price which will only be released from escrow to reimburse actual third party costs related to curing the objection which are submitted within one year, and all remaining funds in escrow returned to Seller, and all uncured objections shall be deemed to have become Permitted Exceptions, (iii) accept title to the Property subject to the objections Seller has elected not to cure, without

reduction in the amount of the Purchase Price, in which case such objections to title will be deemed to have become Permitted Exceptions. On or before the Closing, Seller will cure the objections to title which Seller has notified Seller in writing that Seller will cure, if any.

IV. REVIEW OF THE PROPERTY

- 4.1 Documents. Within ten (10) days after the Effective Date, Seller, at Seller's sole cost, will provide to Buyer: (i) any abstract of title in Seller's possession or which Seller as access; (ii) Seller's most recent title insurance policy for the Property, and copies of all exception documents shown thereon that are in Seller's possession or control; (iii) Seller's most recent survey(s) pertaining to the Property; (iv) all development approvals and permits that have been issued by any governmental authorities and/or private utility companies with respect to the Property that are in Seller's possession or control, if any (and with respect to any development approvals or permits that have been applied for but not yet issued, a copy of the application materials and all correspondence relating thereto), including without limitation, any development orders, plat approvals, site plan approvals, permits for installation of water and sewer facilities, and also any conditions, restrictions, obligations, covenants, declarations or agreements that may have been submitted, received by, entered into or accepted by Seller pertaining to the development of the Property; (v) all permits, reports, surveys, and other documents that are in Seller's possession or control that evidence the location, capacity, and/or availability of utilities to the Property; (vi) all environmental assessment reports, remediation plans, soil tests, wetland delineation reports, endangered species reports and other engineering reports and materials pertaining to the physical condition, suitability and desirability of the Property that are in the possession of Seller or control of Seller; and (vii) all agreements to which Seller is a party that affect the Property, including, but not limited to, documents creating reciprocal easements and leases (collectively, the "**Documents**").
- 4.2 Due Diligence. Buyer will be allowed the Due Diligence Period to review the Documents, inspect the Property, perform such inventories, observations, tests and investigations as Buyer may reasonably deem appropriate, and otherwise satisfy itself regarding the condition, suitability and desirability of the Property. If Buyer in its sole discretion is not satisfied with the Property, Buyer may on or before the expiration of the Due Diligence Period terminate this Agreement by giving written notice to Seller. Upon such termination neither party will have any further obligations under this Agreement except for those obligations that expressly survive such termination.
- 4.3 Environmental Inspection. Buyer may provide its environmental consultant with a copy of any other environmental reports included in the Documents made available by Seller

and, pursuant to Section 4.4, may at its cost conduct additional investigations of the environmental condition of the Property.

- 4.4 Inspection. During the period from the Effective Date to Closing, Buyer and its representatives may, upon 24 hours prior notice, enter the Property to inspect the Property and perform such inventories, observations, tests and investigations as Buyer may reasonably deem appropriate and upon reasonable advance notice. Buyer will at Buyer's cost repair any resulting damage to the Property and will indemnify and hold harmless Seller from any injury or damage to persons or property. Notwithstanding anything in this Agreement to the contrary, this obligation and indemnity survive termination of this Agreement. Before making any invasive inspections, Buyer shall provide Seller with evidence of adequate insurance. Seller shall have the right during any invasive inspections of the Property to accompany Buyer, and Buyer shall provide Seller with copies of the results. Buyer will not suffer or permit any mechanic's liens to attach to or be filed against or upon the Property or any part thereof by reason of any of the foregoing inspections, tests, reviews or audits.

V. CONDITIONS TO CLOSING

- 5.1 Buyer Conditions. The obligation of Buyer to perform and to purchase the Property under this Agreement is subject to the following contingencies which must be met to the sole satisfaction and discretion of Buyer, within the time provided for herein:
- (a) Buyer successfully obtains approval from the Metropolitan Council for reimbursement for the Purchase Price from Legacy Amendment Park Acquisition Opportunity Fund Grant;
 - (b) the representations and warranties of Seller contained in Section 8.1 are true and correct in all material respects as of Closing;
 - (c) Seller has in all material respects performed and observed all covenants, agreements and conditions of this Agreement to be performed or observed by it on or before the times for such performance set forth herein, including without limitation the obligations set out in Sections 9.1, 9.2 and 9.3;
 - (d) Buyer has received a certificate or certificates dated the day of Closing and signed by a responsible official of Seller certifying as to the matters set forth in item (a) of this Section;
 - (e) no action or proceeding has been instituted or threatened by any third party unaffiliated with Buyer to enjoin or delay purchase or obtain material damages

from Buyer with respect to the purchase which Buyer in good faith believes presents a significant risk of succeeding;

- (f) as of Closing, the Title Company shall have committed to issue an ALTA fee owner's policy of title insurance issued by the Title Company in the amount of the Purchase Price with the premium paid by Buyer and subject only to those exceptions approved by Buyer pursuant to Sections 3.3 and 3.4; and
- (g) Seller has delivered to Buyer all of the items required to be delivered to Buyer pursuant to Section 6.4.

5.2 Seller's Conditions. The obligation of Seller to perform and to convey the Property under this Agreement is subject to the following contingencies which must be met to the sole satisfaction and discretion of Seller, within the time provided for herein:

- (a) The representations and warranties of Buyer contained in Section 8.2 are true and correct in all material respects as of Closing;
- (b) Buyer has in all material respects performed and observed all covenants, agreements and conditions of this Agreement to be performed or observed by it on or before the times for such performance set forth herein;
- (c) Buyer has delivered to Seller all of the items required to be delivered to Seller pursuant to Section 6.3.

5.3 Unsatisfied Conditions. If any condition set out in Section 5.1 or 5.2 is unsatisfied on the date scheduled for Closing, the party for whose benefit the condition is made may at its option:

- (a) waive the condition and proceed with Closing;
- (b) delay Closing for up to 60 days to allow the condition to be satisfied; or
- (c) declare default, at which time the parties shall have the remedies available in Article XII.

VI. CLOSING

6.1 Closing. The closing of the sale and purchase of the Property ("**Closing**") will occur on a date mutually agreed upon by the parties following receipt by Buyer of the Purchase Price from the Metropolitan Council Legacy Amendment Park Acquisition Opportunity

Fund Grant, but not sooner than July 1, 2020, at 10:00 a.m. local time at the offices of the Ramsey County Attorney, 4500 Metro Square, 121 East 7th Place, St. Paul, MN 55101, or other time and location designated by the Ramsey County Attorney, and provided to Seller at least seven days in advance. Buyer and Seller may mutually agree to change the time or location of the closing. Buyer and Seller are not required to attend Closing and may submit the documents required of it by courier, mail, Federal Express or other overnight delivery service.

6.2 Closing Company: The closing shall be conducted by such third party designated by the Ramsey County Attorney.

6.3 Buyer Closing Documents. Buyer will deliver to Seller at Closing:

- (a) the Purchase Price specified in Section 2.1;
- (b) a resolution of Buyer authorizing and approving the transaction contemplated by this Agreement, certified as true and correct by an authorized representative of Buyer;
- (c) a certificate or certificates dated the day of Closing certifying as to the matters set forth Section 5.2(a);
- (d) a closing statement duly executed by Buyer; and
- (e) any other items required by this Agreement.

6.4 Seller Closing Documents. Seller will deliver to Buyer at Closing:

- (a) a warranty deed duly executed by Seller conveying the Property to Buyer, subject to the Permitted Exceptions;
- (b) a well disclosure statement as required under Minnesota Statutes section 103I.235;
- (c) an affidavit reasonably satisfactory to Buyer and Title Company that at Closing there are no outstanding, unsatisfied judgments, tax liens, or bankruptcies against Seller, no labor, services, materials, or machinery furnished to the Property for which mechanics' liens could be filed, and no unrecorded interests in the Property which have not been fully disclosed to Buyer;

- (d) a certificate or certificates dated the day of Closing certifying as to the matters set forth Section 5.1(a);
- (e) a certificate of non-foreign status pursuant to Section 1445 of the U.S. Internal Revenue Code and the regulations thereunder;
- (f) a closing statement, duly executed by Seller; and
- (g) any other items required by this Agreement and such other documents as may be reasonably and customarily required in connection with the transaction contemplated by this Agreement.

6.5 Delivery of Possession. Seller will deliver possession of the Property to Buyer at Closing in the condition set forth in Article XI below.

6.6 Further Actions. At Buyer's request from time to time after Closing, Seller will execute and deliver such further documents of conveyance and take such other action as Buyer may reasonably require to convey the Property to Buyer. This section shall survive closing.

VII. CLOSING COSTS AND PRORATIONS

7.1 Closing Costs.

- (a) Buyer and Seller will each be responsible for its legal, accounting, and other expenses associated with the transaction contemplated by this Agreement up to and including the date final adjustments are made pursuant to this Agreement.
- (b) The service charge for the Commitment required by Section 3.1 will be paid by Buyer.
- (c) The premium for any title insurance policy issued at the request of Buyer and pursuant to such Commitment will be paid by Buyer.
- (d) Buyer will be responsible for any fees or taxes relating to the deed, or the correction of title, required in connection with the transaction; including without limitation, document recording fees, conservation fees, document preparation fees, state deed tax, or environmental response fund tax.
- (e) Buyer will pay all other document recording fees, document preparation fees, mortgage registry taxes, and any sales or use taxes required in connection with the transaction.

- (f) Buyer will pay the closing fee and any escrow fees imposed by the Closing Company in connection with this transaction.

7.2 Taxes and Assessments.

- (a) Real estate taxes with respect to the Property due and payable in the year in which Closing occurs will be prorated, on a per diem basis using a calendar year, to Closing, provided Seller will be responsible for any penalties and interest thereon.
- (b) Seller will pay all such taxes, and any penalties and interest thereon, due and payable in years prior to the year in which Closing occurs.
- (c) Seller will pay all such taxes due and payable in years following the year in which Closing occurs during the lease period. The Property is expected to be exempt from property taxes following the termination of the lease. Buyer will pay any taxes that are due in the year following termination of the lease,
- (d) Seller will pay all special assessments assessed, levied, pending or constituting a lien against the Property as of Closing, including special assessments certified for payment with the current year's real estate taxes. Seller will also pay any other deferred real estate taxes and assessments now or hereafter due by virtue of the sale of the Property or otherwise accruing for the period prior to Closing.

VIII. WARRANTIES AND REPRESENTATIONS

8.1 Seller Warranties. Seller warrants and represents to Buyer that:

- (a) Seller is the fee owner of the Property and such title will be marketable as of Closing and subject only to the Permitted Exceptions;
- (b) Seller has not received any notice of a violation of any building codes, fire codes, health codes, zoning codes, environmental laws, or other laws and regulations affecting the Property or the use thereof;
- (c) Seller has not received any notice of a condemnation, environmental, zoning or other regulation or proceeding being instituted or planned which would detrimentally affect the use and operation of the Property;
- (d) Seller has not received any notice of hearing of a public improvement project from any governmental assessing authority, the costs of which may be assessed against the Property;

- (e) Seller discloses that there is an unsealed well on the Property (this statement being made pursuant to the disclosure requirements of Minnesota Statutes section 103I.235);
- (f) Seller discloses that there is a disconnected, filled, and non-operational individual sewage treatment systems on the Property or serving the Property (this statement being made pursuant to the disclosure requirements of Minnesota Statutes section 115.55);
- (g) Seller does not know of any underground or aboveground storage tanks currently on the Property, or any underground or aboveground storage tanks formerly on the Property that had a release for which no corrective action was taken (this statement being made pursuant to the disclosure requirements of Minnesota Statutes section 116.48);
- (h) to Seller's knowledge, no methamphetamine production has occurred on the Property;
- (i) this Agreement and the documents entered into pursuant hereto have been duly authorized, executed and delivered on behalf of Seller and constitute the valid and binding agreements of Seller, enforceable in accordance with their terms;
- (j) the execution, delivery and performance by Seller of this Agreement, and the documents entered into pursuant hereto, will not result in a breach or violation by Seller or constitute a default by Seller under any agreement, instrument or order to which Seller is a party or by which Seller is bound;
- (k) except as disclosed to Buyer by Seller in the Documents and herein, Seller and the Property are not subject to any commitment, obligation, or agreement, including, but not limited to, any lease, purchase agreement, contract for deed, right of first refusal, option to purchase, or easement with a third party, which prevents the consummation of the transaction contemplated herein or which might bind Buyer subsequent to consummation of this Agreement.
- (l) except as provided in the Permitted Exceptions, as of Closing, there will be no obligations or liabilities of any kind or nature whatsoever, including but not limited to, any tax liabilities, contract liabilities or tort liabilities for which or to which Buyer or the Property will be liable or subject, except for non-delinquent real estate tax obligations as provided for herein;

- (m) the Property will be free of any tenancies as of Closing and no party shall be in possession thereof.
- (n) the Documents delivered to Buyer are true and correct copies, have not been amended or modified (except as noted when provided to Buyer or as noted herein), and if currently in full force and effect are free from default or notice of default;
- (o) except as may be disclosed in the Existing Environmental Reports, to Seller's knowledge, no toxic or hazardous substances or wastes, pollutants or contaminants (including, without limitation, asbestos, urea formaldehyde, the group of organic compounds known as polychlorinated biphenyls, petroleum products including gasoline, fuel oil, crude oil and various constituents and such products, and any hazardous substance as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. Section 9601-9657, as amended) have been generated, treated, stored, released or disposed of, or otherwise placed, deposited in or located on the Property, nor has any activity been undertaken on the Property that would cause or contribute to (i) the Property to become a treatment, storage or disposal facility within the meaning of, or otherwise bring the Property within the ambit of, the Resource Conservation and Recovery Act of 1976 ("RCRA"), 42 U.S.C. Section 6901 et seq., or any similar state law or local ordinance, (ii) a release or threatened release of toxic or hazardous wastes or substances, pollutants or contaminants, from the Property within the ambit of, CERCLA, or any similar state law or local ordinance, or (iii) the discharge of pollutants or effluents into any water source or system, the dredging or filling of any waters or the discharge into the air of any emissions, that would require a permit under the Federal Water Pollution Control Act, 33 U.S.C. Section 1251 et seq., or the Clean Air Act, U.S.C. Section 7401 et seq., or any similar state law or local ordinance. To Seller's knowledge, no substances or conditions exist in or on the Property that may support a claim or cause of action under RCRA, CERCLA or any other federal, state or local environmental statutes, regulations, ordinances or other environmental regulatory requirements, including without limitation, the Minnesota Environmental Response and Liability Act, Minn. Stat. Section 115B ("MERLA") and the Minnesota Petroleum Tank Release Cleanup Act, Minn. Stat. Section 115C; and
- (p) Seller is not aware of any action, proceeding or investigation pending or threatened which might materially adversely affect the Property or the ability of

Seller to perform its obligations under this Agreement, and the documents entered into pursuant hereto.

- (q) Seller is not aware of any non-operational fixtures or any major repairs necessary on the property. Seller makes no warranty as to the functionality or operation of any buildings or fixtures, mechanical or otherwise, located on the property.

8.2 Buyer Warranties. Buyer warrants and represents to Seller that:

- (a) Buyer is a political subdivision of the state of Minnesota and has all requisite power and authority to carry on its business as conducted, to execute and deliver this Agreement, and the documents entered into pursuant hereto, and to carry out its obligations under this Agreement and such documents, subject to the approval of the Board of Commissioners required herein;
- (b) the execution, delivery and performance by Buyer of this Agreement, and the documents entered into pursuant hereto, will not result in a breach or violation by Buyer or constitute a default by Buyer under any agreement, instrument or order to which Buyer is a party or by which Buyer is bound; and
- (c) Buyer is not aware of any action, proceeding or investigation pending or threatened which might materially adversely affect the ability of Buyer to perform its obligations under this Agreement, and the documents entered into pursuant hereto.

IX. MAINTENANCE AND OPERATIONS PRIOR TO CLOSING

- 9.1 Operation. During the period from the Effective Date to Closing, Seller will cause the Property to be maintained and operated in substantially the manner in which it has been maintained and operated prior to the Effective Date and in accordance with applicable law. Seller will not without Buyer's prior written consent amend, modify, terminate, surrender, or waive any of Seller's easements or rights or grant or convey any new easement, lease, license, permit or other legal or beneficial interest in or encumbrance on the Property) or any other agreement that will survive Closing. Seller will keep and comply with all requirements of the encumbrances and will pay or cause to be paid, as and when due, all maintenance costs and other costs payable under such encumbrances.
- 9.2 Removal of Debris. At least two days prior to Closing and as of Closing, Seller shall remove from the Property any and all debris on the Property.
- 9.3 Risk of Loss. Risk of loss to the Property shall be borne by Seller until title has been conveyed to Buyer or Buyer's designee at Closing.

X. CASUALTY AND CONDEMNATION

- 10.1 Notice of Damage or Taking. Seller will give Buyer prompt notice of any fire or other casualty occurring between the Effective Date and Closing which involves damage to the Property and of any actual or threatened taking in condemnation affecting the Property of which Seller has knowledge.
- 10.2 Effect on Closing. If prior to closing, the Property suffers any form of casualty or condemnation, of any kind, this Agreement and the obligations of Seller and Buyer under this Agreement will remain in full force and effect except that:
- (a) Buyer will accept the Property with such damage or condemnation; and
 - (b) Seller will at Closing, pay over to Buyer any insurance proceeds and condemnation awards received prior to Closing which have not been applied to repairs and restoration, and assign to Buyer Seller's interest in all unpaid insurance proceeds, rights of recovery, and condemnation awards.

XI. REMEDIES

- 11.1 Default by Buyer. If Buyer defaults under this Agreement, Seller shall have the right as its sole and exclusive remedy to terminate this Agreement by giving written notice to Buyer. Upon such termination, and provided Seller is not in default of this Agreement, Buyer and Seller will have no further rights or obligations under this Agreement. This is the sole remedy available to Seller for such default by Buyer, and Buyer will not be liable for damages or specific performance.
- 11.2 Default by Seller. If Seller defaults under this Agreement, Buyer may elect to: (i) enforce the specific performance of this Agreement, or (ii) terminate this Agreement and be relieved of its obligations hereunder, in which event Buyer shall be entitled to the reimbursement by Seller of Buyer's actually incurred out-of-pocket expenses, including without limitation, reasonable attorney's fees and other consultant fees incurred by Buyer in connection with this Agreement or the Closing contemplated herein, obtaining funding commitments, investigating the Property, seeking governmental approvals, and other similar and reasonable out-of-pocket costs and expenses, in an amount not to exceed \$25,000.00.
- 11.3 Survival. This Article 11 shall survive Closing and/or the expiration or termination of this Agreement.

XII. GENERAL

12.1 Notices. Any notice, demand or document which any party is required or any party desires to give or deliver to or make upon any other party shall, in the case of a notice or demand, be in writing, and may be personally delivered, delivered by Federal Express or other nationally recognized courier service guaranteeing overnight delivery, or given or made by United States registered or certified mail, return receipt requested, with postage prepaid, addressed as follows:

(a) if to Buyer: County of Ramsey
c/o Scott Yonke, Parks and Recreation Department
2015 Van Dyke St.
Maplewood, MN 55109
Scott.yonke@co.ramsey.mn.us

with a copy to: Ramsey County Attorney's Office
4500 Metro Square
121 East 7th Place
St. Paul, MN 55101
Attn: Amy Schmidt, Asst. County Attorney

(b) if to Seller: Steven and Dorothy Spencer
5600 Otter Lake Road
White Bear Township, MN 55110

subject to the right of any party to designate a different address for itself by notice similarly given. Any such notice, demand or document so given, delivered or made by registered or certified mail as aforesaid, shall be deemed to be given, delivered or made (a) upon receipt of the same by the party or parties to whom the same is to be given, delivered or made, if delivered personally, (b) upon deposit with Federal Express or other nationally recognized courier service guaranteeing overnight delivery, (c) upon deposit in the United States mail, certified or registered mail, postage prepaid, or (d) upon delivery by e-mail.

12.2 Effective Date. The effective date of this Agreement will be the date first set forth above (the "**Effective Date**").

12.3 Broker Commissions. Buyer and Seller each represents that no salesperson, broker, or agent has been retained by it in connection with this transaction. Either party shall be responsible for paying any applicable commission to any agent retained. Except as so

specified, Buyer and Seller each indemnifies the other from any real estate or other sales commissions arising out of any claim of any salesperson, broker or agent acting or claiming to have acted on behalf of the indemnifying party in connection with this transaction.

- 12.4 Entire Agreement. This Agreement and the Exhibits referenced herein embodies the entire agreement and understanding between Buyer and Seller relating to the transaction contemplated by this Agreement and may not be amended, waived or discharged except by an instrument in writing executed by the party against whom enforcement of such amendment, waiver or discharge is sought. No warranties or representations have been given by either party to the other which are not fully embodied in this Agreement. If any term or provision of this Agreement is invalid or unenforceable, the remainder of this Agreement will not be affected and will remain in full force and effect.
- 12.5 Survival. Except as may otherwise be expressly provided in this Agreement, all covenants, agreements, obligations and undertakings made by Seller and Buyer in or pursuant to this Agreement will survive Closing, for a period of one (1) year after Closing, whether or not so expressed in the immediate context of any such covenant, agreement, obligation or undertaking.
- 12.6 Construction. This Agreement will be construed and enforced in accordance with the laws of the State of Minnesota without regard to or application of its conflicts of law rules or principles. If more than one person executes this Agreement as Buyer, each of them is jointly and severally liable for Buyer's obligations under this Agreement. Time is of the essence of this Agreement.
- 12.7 No Assignment. Buyer may not assign its interest in this Agreement without the prior written consent of Seller, which consent will not be unreasonably withheld. Seller's consent to any transfer or assignment of Buyer's rights or obligations hereunder shall not be construed as a consent to any other transfer or assignment of Buyer's rights or obligations hereunder. No transfer or assignment in violation of the provisions hereof shall be valid or enforceable.
- 12.8 Binding Agreement. This Agreement will be binding upon and inure to the benefit of Buyer and Seller and their respective heirs, representatives, successors and assigns.
- 12.9 Counterparts. This Agreement may be executed in any number of counterparts which together shall constitute the contract of the parties.
- 12.10 Section Headings. The section headings herein contained are for purposes of identification only and shall not be considered in construing this Agreement.

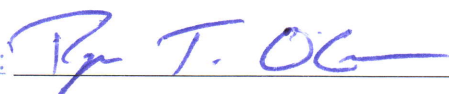
- 12.11 Exhibits. Any and all exhibits attached or to be attached hereto are hereby incorporated and made a part of this Agreement by reference.
- 12.12 Waiver. Except as herein expressly provided, no waiver by a party of any breach of this Agreement or of any warranty or representation hereunder by another party shall be deemed to be a waiver of any other breach of any kind or nature (whether preceding or succeeding and whether or not of the same or similar nature), and no acceptance of payment or performance by a party after any such breach by another party shall be deemed to be a waiver of any further breach of this Agreement or of any representation or warranty hereunder by such other party whether or not the first party knows of such a breach at the time it accepts such payment or performance. No failure on the part of a party to exercise any right it may have by the terms hereunder or by law upon the default of another party, and no delay in the exercise thereof by the first party at any time when such other party may continue to be so in default, shall operate as a waiver of any default, or as a modification in any respect of the provisions of this Agreement.
- 12.13 Announcements. Prior to and at Closing, Buyer and Seller will coordinate press releases and other public disclosures concerning the transaction contemplated by this Agreement.
- 12.14 Time Computations. In computing a period of days for performance or payment as provided hereunder, the first day shall be excluded and the last day shall be included. If the last day of any such period is a Saturday, Sunday or legal holiday, the period shall extend to include the next day which is not a Saturday, Sunday, or legal holiday. Any performance or payment which must be taken or made under this Agreement must be taken or made prior to 5:00 p.m. of the last day of the applicable period provided hereunder for such action, unless another time is expressly specified. All references to time shall be Minneapolis, Minnesota time.
- 12.15 Execution and Delivery. Seller and Buyer acknowledge that each of them and their counsel have had the opportunity to review this Agreement, and that this Agreement will not be construed against Buyer merely because Buyer's counsel has prepared it. This Agreement will be effective only upon execution and delivery by both parties.
- 12.16 The parties agree that Sellers may retain possession the Property for a period of up to two (2) years from the date of closing, pursuant to separate Lease Agreement to be executed simultaneous with Closing. A Form of Lease is attached hereto as Exhibit B.

[Signature Pages to follow.]

IN WITNESS OF this Agreement, the undersigned has duly executed it as of the Effective Date.

BUYER:

RAMSEY COUNTY,
a political subdivision of the State of Minnesota


By: 

Name: Ryan O'Connor

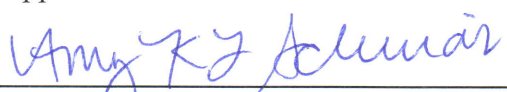
Title: County Manager

Date: April 9, 2020

Approval Recommended:


Director of Parks & Recreation

Approved as to form:


Assistant Co. Attorney

[BUYER'S SIGNATURE PAGE TO PURCHASE AGREEMENT]

IN WITNESS OF this Agreement, the undersigned has duly executed it as of the Effective Date.

SELLER:

STEVEN SPENCER

Steven Spencer

Date: March 9 2020, 2019

DOROTHY SPENCER

Dorothy Spencer

Date: March 9 2020, 2019

[SELLER'S SIGNATURE PAGE TO PURCHASE AGREEMENT]

EXHIBIT A

Legal Description of Property

That part of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 3, Township 30, Range 22, Ramsey County, Minnesota, described as follows: Commencing at the Southeast corner of said SW $\frac{1}{4}$; thence Westerly along the South line of said SW $\frac{1}{4}$ a distance of 331.9 feet to the centerline of Otter Lake Road; thence Northwesterly along said centerline 738.97 feet to the point of beginning; thence continuing Northwesterly along said centerline 100 feet; thence Northeasterly at right angles 210 feet; thence Southeasterly at right angles 100 feet; thence Southwesterly at right angles 210 feet to the point of beginning; subject to the Southwesterly 33 feet for Otter Lake Road, according to the U.S. Government Survey thereof.

And

That part of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 3, Township 30 N, Range 22 W, Ramsey County, Minn., described as follows: Commencing at the Southeast corner of said SW $\frac{1}{4}$; thence Westerly along the South line of said SW $\frac{1}{4}$ a distance of 331.9 feet to the centerline of Otter Lake Road; thence Northwesterly along said centerline 838.97 feet to the point of beginning; thence continuing Northwesterly along said centerline 50 feet; thence Northeasterly at right angles 210 feet; thence Southeasterly at right angles 50 feet; thence Southwesterly at right angles 210 feet to the point of beginning. Subject to 33 feet for Otter Lake Road.

REAL PROPERTY LEASE

This lease is between Steven and Dorothy Spencer, husband and wife (“Tenant”), and Ramsey County, a political subdivision of the State of Minnesota (“Landlord”) to rent the property described below.

RECITALS

- A. On _____, 2020 (the “Purchase Date”), Landlord purchased the Property defined herein from Tenant for future incorporation into the Ramsey County Regional Park system.
- B. Tenant wishes to continue residing at the Property subsequent to the conveyance to Landlord, pursuant to the terms and conditions herein.

NOW THEREFORE, Landlord and Tenant agree as follows:

LEASE

1. DESCRIPTION OF PROPERTY. Landlord hereby leases to Tenant real property (“Property”) legally described as:

That part of the SE¼ of the SW¼ of Section 3, Township 30, Range 22, Ramsey County, Minnesota, described as follows: Commencing at the Southeast corner of said SW¼; thence Westerly along the South line of said SW¼ a distance of 331.9 feet to the centerline of Otter Lake Road; thence Northwesterly along said centerline 738.97 feet to the point of beginning; thence continuing Northwesterly along said centerline 100 feet; thence Northeasterly at right angles 210 feet; thence Southeasterly at right angles 100 feet; thence Southwesterly at right angles 210 feet to the point of beginning; subject to the Southwesterly 33 feet for Otter Lake Road, according to the U.S. Government Survey thereof.

And

That part of the SE¼ of the SW¼ of Section 3, Township 30 N, Range 22 W, Ramsey County, Minn., described as follows: Commencing at the Southeast corner of said SW ¼; thence Westerly along the South line of said SW¼ a distance of 331.9 feet to the centerline of Otter Lake Road; thence Northwesterly along said centerline 838.97 feet to the point of beginning; thence continuing Northwesterly along said centerline 50 feet; thence Northeasterly at right angles 210 feet; thence Southeasterly at right angles 50 feet; thence Southwesterly at right angles 210 feet to the point of beginning. Subject to 33 feet for Otter Lake Road.

and commonly known as 5600 Otter Lake Road, White Bear Township, Ramsey County, Minnesota.

2. TERM / CANCELLATION. This lease shall be for a term not to exceed two (2) years from the Purchase Date (“Term”). Either party may cancel this lease upon ninety (90) days written notice to the other party.

3. RENT AND TAXES. In consideration of the on-going payment of property taxes during the Term, rent shall be zero (0) dollars. Tenant shall pay before delinquency every tax, assessment, license fee, excise, and other charge, however described, which is imposed, levied, assessed, or charged by any governmental or quasi-governmental authority.

4. QUIET ENJOYMENT. If Tenant pays the taxes and complies with all other terms of this lease, Tenant may use the property for the Term of this lease.

5. RIGHT OF ENTRY. Landlord and Landlord's agents may enter the Property at reasonable hours to inspect the Property and perform any work that Landlord deems necessary. In addition, Tenant will grant access to public utilities to perform such work as may be necessary on the Property.

6. RESTRICTIONS. Other than what currently exists on the Property, no buildings, structures, or trees are permitted on the Property, nor any temporary structure, material storage, fixture, or other objects that may affect access to utilities, except as authorized by Landlord. Any additional costs incurred by Landlord or the utility relating to damage to or removal, replacement, or repair of trees, buildings, or other structures, permitted to be on the Property will be borne by Tenant.

7. ASSIGNMENT AND SUBLETTING. Tenant may not sublet or assign this lease without the prior written consent of Landlord, which may be withheld in Landlord's sole discretion.

8. SURRENDER OF PREMISES. Tenant shall surrender the Property to Landlord upon termination of this Lease, the same condition as it was when the lease commenced, ordinary wear and tear excepted.

9. INSURANCE. Tenant shall purchase and maintain such insurance as will protect Tenant from claims which may arise out of, or result from, Tenant's operations under this Lease, whether such operations are by Tenant or by any subcontractor, or by anyone directly employed by them, or by anyone for whose acts or omissions anyone of them may be liable.

9.1 Tenant shall secure the following coverages and comply with all provisions noted. Certificates of Insurance shall be issued evidencing such coverage to the County throughout the term of this lease:

9.2 Fire and All-Risk Property Insurance

9.2.1 Coverage shall be written on a replacement cost basis for any personal property and/or improvements or betterments of the Tenant at the Premises.

9.2.2 Tenant hereby waives and releases Landlord, its employees, agents, officials, and officers from all claims, liability and causes of action for loss, damage to or destruction of Tenant's property resulting from fire or other perils covered in the standard property insurance coverage. Tenant agrees

that it will look to its own property insurance for reimbursement for any loss and shall have no rights of subrogation against the Landlord.

- 9.3 All Certificates of Insurance shall provide that the insurance company gives the Landlord thirty (30) days prior written notice of cancellation, non-renewal or any material changes in the policy.
- 9.4 The above subparagraphs establish minimum insurance requirements, and it is the sole responsibility of the Tenant to purchase and maintain additional insurance that may be necessary in connection with this lease agreement.
- 9.5 Certificate of Insurance must indicate if the policies are issued pursuant to these requirements. Tenant shall not occupy the premises until Tenant has obtained the required insurance and filed an acceptable Certificate of Insurance with the Landlord. Copies of insurance policies shall be submitted to the Landlord upon request.
- 9.6 Nothing in this lease agreement shall constitute a waiver by Ramsey County of any statutory or common law immunities, limits, or exceptions on liability.

10. DEFAULT. If Tenant does not pay the taxes or other amounts when due or violates any material provision of this lease, Landlord will provide written notice to Tenant of the default. Tenant will have 30 days from the date of the notice to cure the default. If Tenant fails to do so to the satisfaction of the Landlord, Landlord may take possession of the property.

Any failure or neglect by Landlord to assert or enforce any rights or remedies because of any breach or default by Tenant shall not prejudice or affect Landlord's rights or remedies with respect to any subsequent breaches or defaults, and shall not be construed as a waiver of its rights to assert and enforce any rights or remedies for subsequent breaches or defaults.

11. ABANDONED PERSONAL PROPERTY. Upon termination of this lease, Landlord may consider Tenant's personal property remaining on or in the Property to have been abandoned. Landlord may then dispose of the personal property as authorized by law.

12. HEIRS AND ASSIGNS. The terms of this lease apply to Tenant and Landlord and to their heirs, representatives, or assigns.

13. MECHANIC LIENS. Tenant shall pay before delinquency all costs for work on or caused to be done by Tenant in the premises which could result in any lien or encumbrance on Landlord's interest in the land or any part thereof, shall keep the title to the land and every party thereof free and clear of any lien or encumbrance with respect to such work, and shall indemnify and hold harmless Landlord against any claim, loss, cost, demand, and legal or other expense, whether in respect of any lien or otherwise, arising out of the supply of material, services, or labor for such work.

Tenant shall immediately notify Landlord of any such lien, claim of lien, or other action of which it has or reasonably should have knowledge and which affects the title to the land or any part thereof, and shall cause the same to be removed within five (5) days (or such additional time as Landlord may consent to in writing). Failing which Landlord may take such action as Landlord deems necessary to remove the same and the entire cost thereof shall be immediately due and payable to tenant by Landlord.

14. TOXIC OR HAZARDOUS MATERIAL. Tenant shall not cause or permit to be brought upon or kept or used in, on, or about the premises by Tenant, its employees, agents, contractors, or invitees any toxic or hazardous waste or material or any other material which may adversely affect the environment, except those substances normally used in the operation of motor vehicles, such as gasoline, diesel oil, lubricating oils, and anti-freeze without the prior written consent of the County, which consent the County may grant or withhold in its sole discretion.

If the presence of any such material or any motor vehicle related substances results in any contamination of the Property, then Tenant shall promptly take all actions at its sole expense as are necessary to return the Property to the condition existing prior to the introduction of any material, substance, or waste.

15. INDEMNITY. Tenant shall indemnify and hold harmless Landlord, and if Landlord requests, defend Landlord with Counsel reasonably acceptable to Landlord, from and against all liabilities, obligations, losses, damages, fines, penalties, demands, claims, causes of action, judgments, costs and expenses including, without limitation, attorneys fees, which may be imposed upon Landlord for any injury to persons or property which may be imposed upon or incurred, suffered, or paid by or asserted against Landlord arising from or by reason of or in connection with:

- a. the use, non-use, possession, occupation, condition, operation, maintenance, or management of the premises by Tenant;
- b. any negligent or tortuous act on the part of Tenant or Landlord or by any of their agents, contractors, servants, employees, licensees, or invitees;
- c. any accident, injury death or damage to any person or property occurring in, on, or about the premises;
- d. any loss or damage, however caused, to books, records, data or information (computer generated or otherwise), files, money, securities, negotiable instruments, papers, or personal property in or about the premises;
- e. any loss or damage resulting from interference with or obstruction of deliveries to or from the premises;
- f. any pollutant, toxic or hazardous material, substance to waste, or any other material which may adversely affect the environment, whether or not now recognized to have such adverse effect, which Tenant, its employees, agents, contractors, or invitees bring upon, keep, use, or locate in, on, or about the premises, or any release or disposal of any such material, substance or waste in, on, about, or from the premises by any of the foregoing;

- g. any failure on the part of Tenant to perform or comply with any of the covenants, agreements, terms, provisions, conditions, or limitations contained in this lease on its part to be performed or complied with.

Nothing in this agreement shall be construed to, or operate as, a waiver by the Landlord of any of its statutory or common laws immunities or limitations of liability.

16. SNOW REMOVAL. If, in the sole opinion of the Landlord, the Tenant has caused snow to be stored on the premises in such fashion that the storage of snow is causing drainage problems for adjacent landowners, including Landlord, the Tenant, upon written request of the Landlord shall remove or caused to be removed all such stored snow on such portion thereof as is requested by Landlord to restore drainage within two (2) working days of notification by Landlord. The decision by Landlord that the snow must be removed is wholly within the Landlord's discretion and may not be appealed to any court of law or other tribunal. Failure of Tenant to comply with the provisions shall constitute a breach of this agreement and result in termination of this lease.

17. CONDITION OF THE PROPERTY; ON-GOING MAINTENANCE. Tenant accepts the Property AS IS, WHERE IS. At all times and at Tenant's sole expense, Tenant shall keep the Property in good condition and repair, and shall comply with all federal, state, and local regulations. Landlord is not responsible for any repairs or maintenance required for the Property.

18. RELOCATION ASSISTANCE. Persons, businesses, farms, non-profit organizations, and other entities (hereinafter collectively referred to as Tenant) displaced by cancellation or termination of this lease, or by moving out prior to cancellation or termination of this lease, are not classified as "displaced persons" and are not eligible for relocation assistance under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and its amendments. By signing this agreement, Tenant affirms that they are not a displaced person.

LANDLORD

TENANT

By: _____
Toni Carter, Chair, Board of
Ramsey County Commissioners

Steven Spencer

By: _____
Janet Guthrie, Chief Clerk,
Board of Ramsey County Commissioners

Dorothy Spencer

Recommending Approval:

Mark McCabe
Director, Parks and Recreation

Approved as to Form:

Amy Schmidt
Assistant County Attorney

STATE OF MINNESOTA)
)
COUNTY OF RAMSEY)

The foregoing instrument was acknowledged before me personally appeared Steven and Dorothy Spencer, husband and wife, to be the persons described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

Notary Public

STATE OF MINNESOTA)
)
COUNTY OF RAMSEY)

The foregoing instrument was acknowledged before me this _____ day of _____, 2020, by Toni Carter, Chair of the Ramsey County Board of Commissioners, on behalf of Ramsey County, Minnesota.

Notary Public

STATE OF MINNESOTA)
)
COUNTY OF RAMSEY)

The foregoing instrument was acknowledged before me this _____ day of _____, 2020, by Janet Guthrie, Chief Clerk of the Ramsey County Board of Commissioners, on behalf of Ramsey County, Minnesota.

Notary Public

This instrument was drafted by:
Ramsey County Attorney's Office
121 7th Place East, Suite 4500
St. Paul, MN 55101

Valuation Summary & Conclusions

Project:	<u>Voluntary Acquisition for Bald Eagle-Otter Lake Regional Park</u>	Parcel:	<u>5600 Otter Lake Road</u>
County:	<u>Ramsey</u>	Owner:	<u>Steven and Dorothy Spencer</u>
Property Address:	<u>5600 Otter Lake Road White Bear Township, MN</u>		
Valuation Date:	<u>June 21, 2019</u>	Inspection Date:	<u>June 21, 2019</u>
Rights & Interests:	<u>Fee Simple</u>		
Zoning:	<u>OS – Open Space District</u>	Present Use:	<u>Residential Single Family</u>
Highest & Best Use Before:	<u>Single-Family Residential</u>		
Land Area Before:	<u>0.61 deeded acres*</u>		
Type of Building:	<u>Single-Family Residential Dwelling</u>	*Per Ramsey County	

ALLOCATION OF ACQUISITION

Indicated Value (Sales Comparison Approach): **\$348,000.00**

Appraised by: Kelly Lindstrom Date: June 21, 2019