

Business Item

Metropolitan Parks and Open Space Commission



Community Development Committee Meeting: July 17, 2023

For the Metropolitan Council: July 26, 2023

Business Item: 2023-144

Lake Marion Greenway Regional Trail, Park Acquisition Opportunity Fund Award (Peterson), Dakota County

District(s), Member(s):	District H, Vacant District 16, Wendy Wulff
Policy/Legal Reference:	Minn. Const. art. XI, sec. 15; Minn. Stat. § 473.315; 2040 <i>Regional Parks Policy Plan</i> , Chapter 4, Siting and Acquisition Policy- Strategy 1; Chapter 5, Planning Policy- Strategy 1; Chapter 8, Finance Policy- Strategy 7. FM 15-2 Grant/Loan Approval Policy, FM 14-2 Expenditures for the Procurement of Goods and Services Policy.
Staff Prepared/Presented:	Jessica Lee, Senior Planner, 651-602-1621
Division/Department:	Community Development / Regional Planning

Proposed Action

That the Metropolitan Council:

1. Approve a grant of up to \$120,393 to Dakota County to acquire two parcels totaling 8.8 acres, and to acquire a 0.2-acre easement on the Peterson property, all located north of 220th Street West in Section 36 in Farmington, for the Lake Marion Greenway Regional Trail.
2. Authorize the Community Development Director to execute the restrictive covenant on behalf of the Council.

Background

Regional Park Implementing Agency and Project Request

Dakota County requested a Park Acquisition Opportunity Fund (PAOF) grant on June 5, 2023, to fund the acquisition of two parcels totaling 8.8 acres and a 0.2-acre easement for Lake Marion Greenway Regional Trail. A copy of the Agency's request is attached to this item as Exhibit 2 with application details in Exhibit 3. This acquisition is part of a larger acquisition, with the adjacent land being acquired for a County natural area (see Exhibit 1, Figure 6). The acquisition of the natural area is not part of this business item.

The Lake Marion Greenway Regional Trail is planned to travel 20 miles through Burnsville, Savage, Credit River Township, Lakeville, and Farmington (see Exhibit 1, Figures 2 and 3). Four miles of the trail will follow South Creek in Farmington, which is a designated trout stream and a main tributary of the Vermillion River. The trail also links the Minnesota River to Murphy-Hanrehan Park Reserve, along with 14 local parks. Currently Dakota County operates about 2 miles of the

planned trail, and another 6 miles of existing city trails will eventually be incorporated into and managed by the County. The subject property will add 0.5 miles of trail into County ownership.

Subject Property

The subject 8.8-acre property and 0.2-acre easement are within the Council-approved boundary of Lake Marion Greenway Regional Trail. The property is undeveloped with mostly uplands and floodplain grasslands. It is adjacent to a future 29-acre natural area with 2,800 feet of the South Creek tributary to the Vermillion River.

Park Acquisition Opportunity Fund (PAOF)

The Council’s Park Acquisition Opportunity Fund (PAOF) Program provides funding to purchase property and easements via two state sources: the Parks and Trails Legacy Fund (PTLF) and the Environment and Natural Resources Trust Fund (ENRTF). The Council contributes by matching every \$3 in state funds with \$2 in Council funds. The \$3 to \$2 match is required at the program level, not the individual project level.

State and Council funds contribute up to 75% of the purchase price and eligible costs; the Regional Park Implementing Agency (Agency) contributes the remaining 25% as local match.

Project Budget

The appraised value of the subject property and easement is \$133,200, and the Seller has agreed to a purchase amount of \$146,520, which is 110% of the appraised total value. Council policy allows for grants up to 110% of the certified appraised value. See Exhibit 4 for more information on the appraisal. The total project cost including legal fees, taxes, and appraisal is \$160,524, as shown in Table 1 below.

Table 1. Project Budget

Budget item	Requested amount
Purchase price	\$146,520
Appraisal, legal fees, taxes, closing costs	\$11,504
Environmental assessments	\$2,500
Total Costs	\$160,524
Grant structure	
Grant amount	\$120,393
Local match	\$40,131

Acquisition Details

This is a straightforward trail acquisition. The 8.8-acre Peterson property is split into two parcels because of a future right-of-way that is located in between. The two parcels will be acquired in fee title. The County will acquire 0.2 acres of the future right-of-way between the two parcels through easement in order to begin construction on the regional trail and ensure its use as a regional trail in the future.

Rationale

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

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

This acquisition is consistent with:

- The Parks and Trails Legacy Fund
- The *2040 Regional Parks Policy Plan*

- Planning Policy Strategy 1 requires that before an Agency can receive a grant for acquisition, the proposed project must be consistent with a Council-approved long-range plan. The Council approved the Lake Marion Greenway Regional Trail long-range plan in 2013. The proposed acquisition is within the boundaries of the approved long-range plan.
- Siting and Acquisition Strategy 1 prioritizes the acquisition of lands with natural resource features, access to water, and/or restoration potential for the Regional Parks System. The subject property is necessary to complete the Lake Marion Greenway Regional Trail, several portions of which are a habitat corridor connecting high-quality natural areas, including Lebanon Hills Regional Park and Whitetail Woods Regional Park. The subject property is adjacent to a future County natural area, which contains critical South Creek and Vermillion River habitat.
- 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.

Thrive Lens Analysis

This request is consistent with *Thrive MSP 2040's* Livability and Stewardship outcomes. The Council's investment in Lake Marion Greenway Regional Trail will provide additional access to nature and the outdoors and enhance quality of life.

Funding

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

Dakota County will provide a local match of \$40,131.

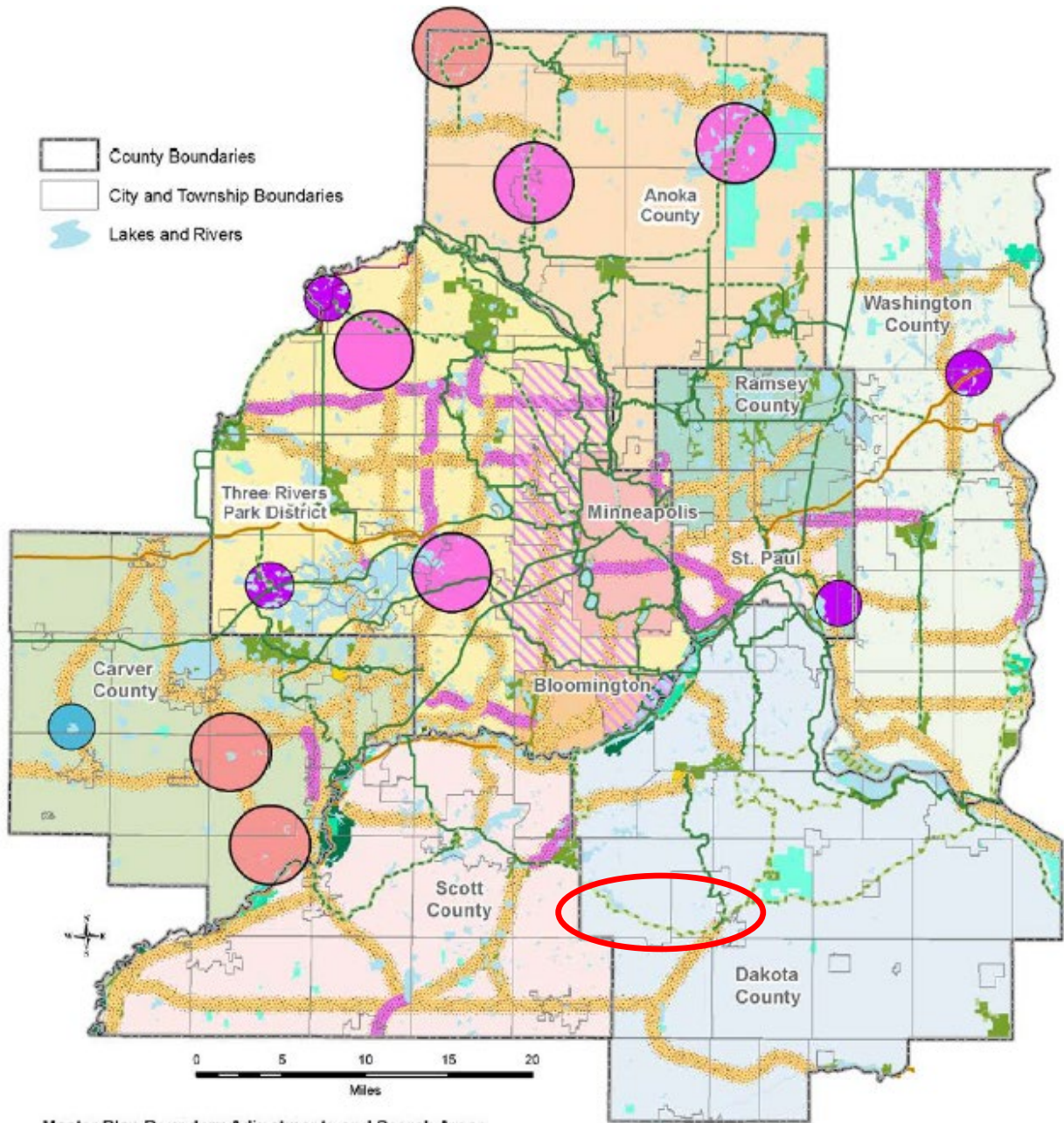
Exhibit List

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



Exhibit 1 – Images

Figure 1. Map of the Regional Parks System and the Lake Marion Greenway Regional Trail (circled in red)



Master Plan Boundary Adjustments and Search Areas

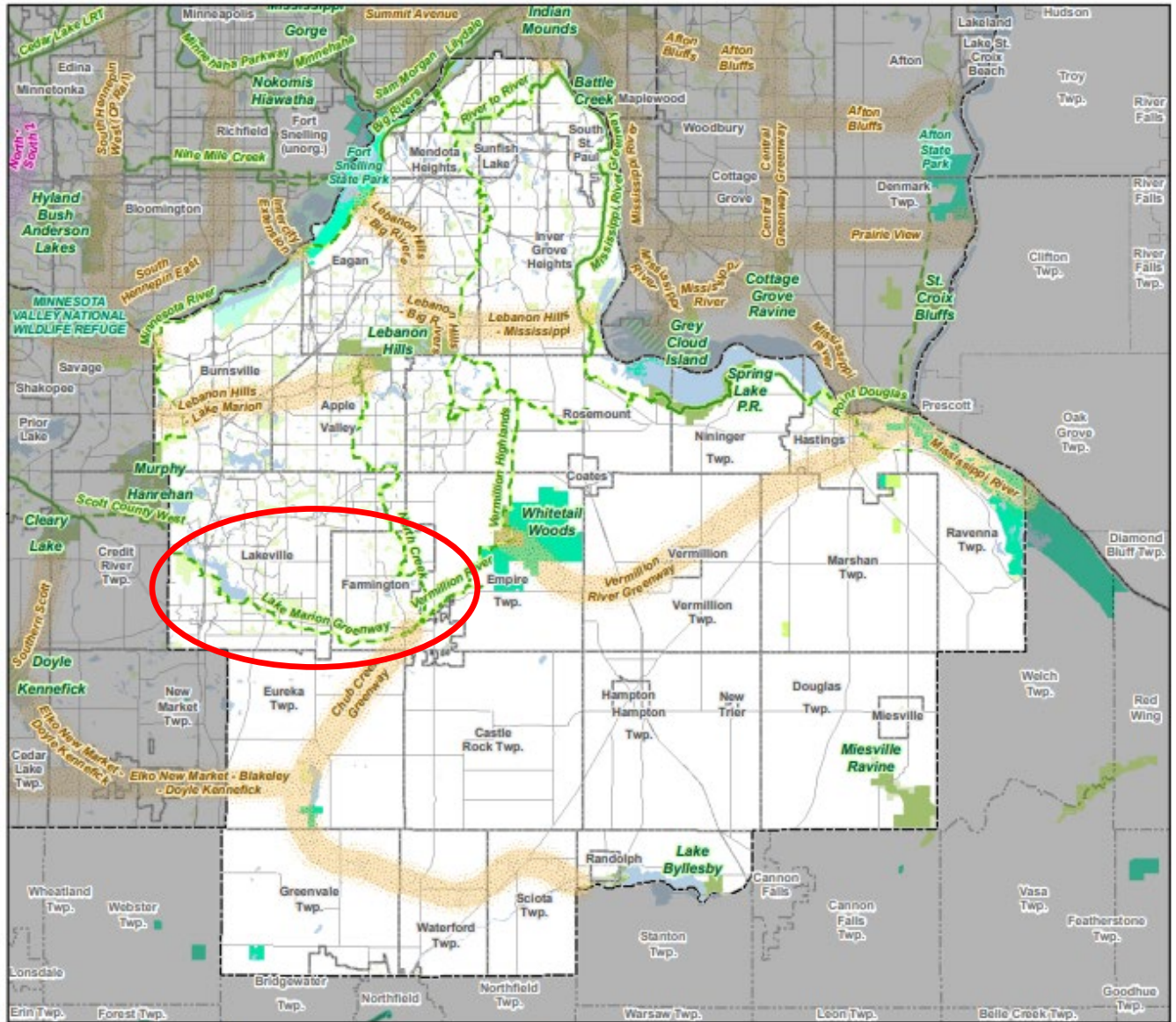
- | | |
|---|---|
| Existing: | 2020 Amendment: |
| Boundary Adjustment | Boundary Adjustment |
| Park Search Area | Park Search Area |
| | First-Ring City Bridging Facility Search Area |
| 2020 Amendment Regional Trail Search Corridor | |
| Regional Trail Search Corridors | |

- Regional Trails (Open to the Public)
- Regional Trails (Not Open to the Public)
- State Trails
- Regional Trail Planned (Not Open to Public)
- Regional Parks (Open to the Public)
- Regional Parks (Not Open to the Public)
- Planned Parks (Not Open to the Public)
- State Wildlife Management Areas
- State Parks
- MN Valley National Wildlife Refuge
- Minnesota Valley State Trail and Recreation Area
- Special State Recreation Features



Figure 2. Map of Dakota County and the Lake Marion Greenway Regional Trail circled in red.

Regional Parks System Dakota County



Regional Parks

- Existing
- In Master Plan
- ▨ Planned Parks and Reserves

Regional Trails

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

Regional Park Search Areas and Regional Trail Search Corridors

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

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

Figure 3. Excerpt from the Lake Marion Greenway Regional Trail long-range plan showing a map of the regional trail, with the approximate location of the subject property area circled in red.

Figure 29. Lake Marion Regional Greenway trail alignment and segments

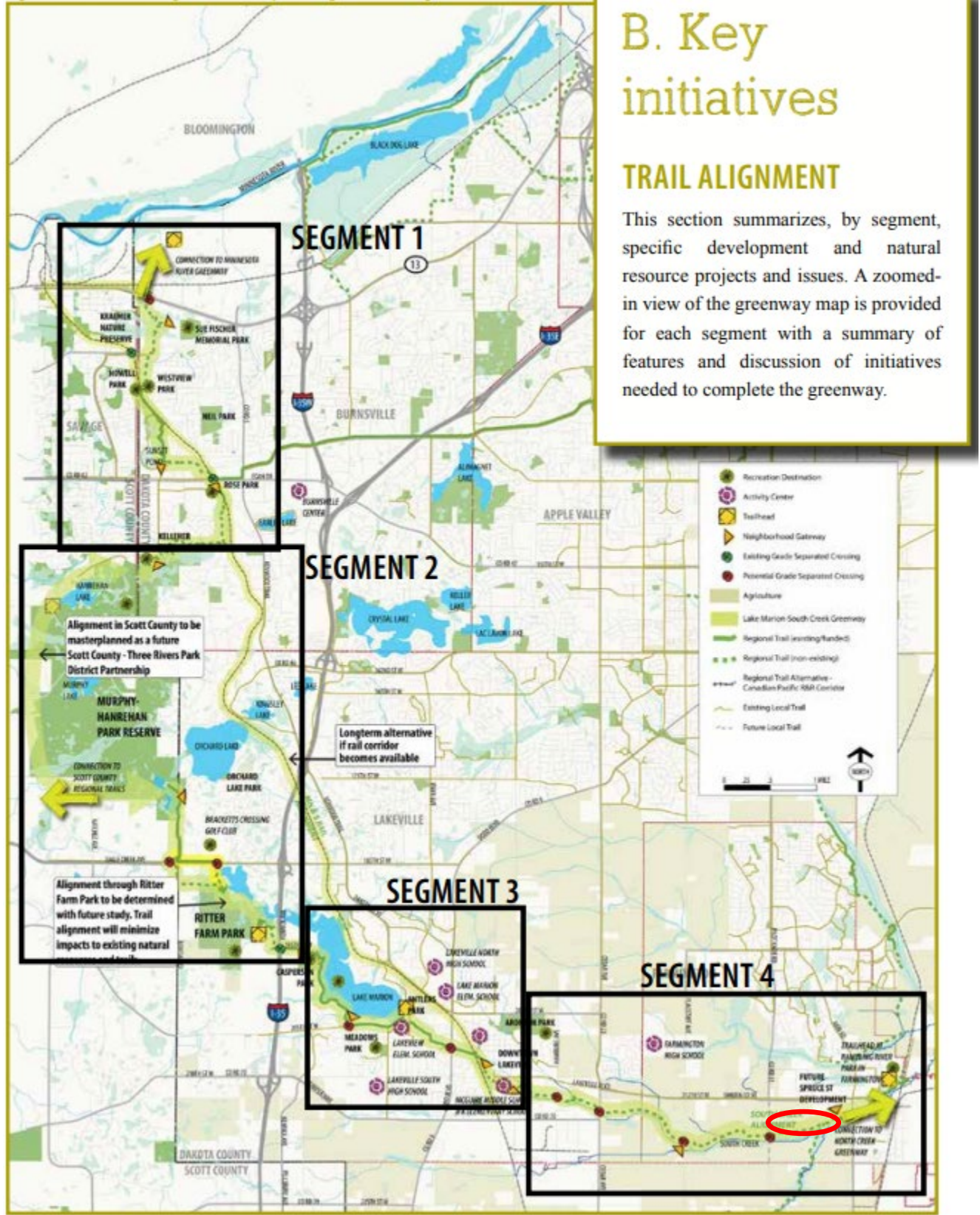
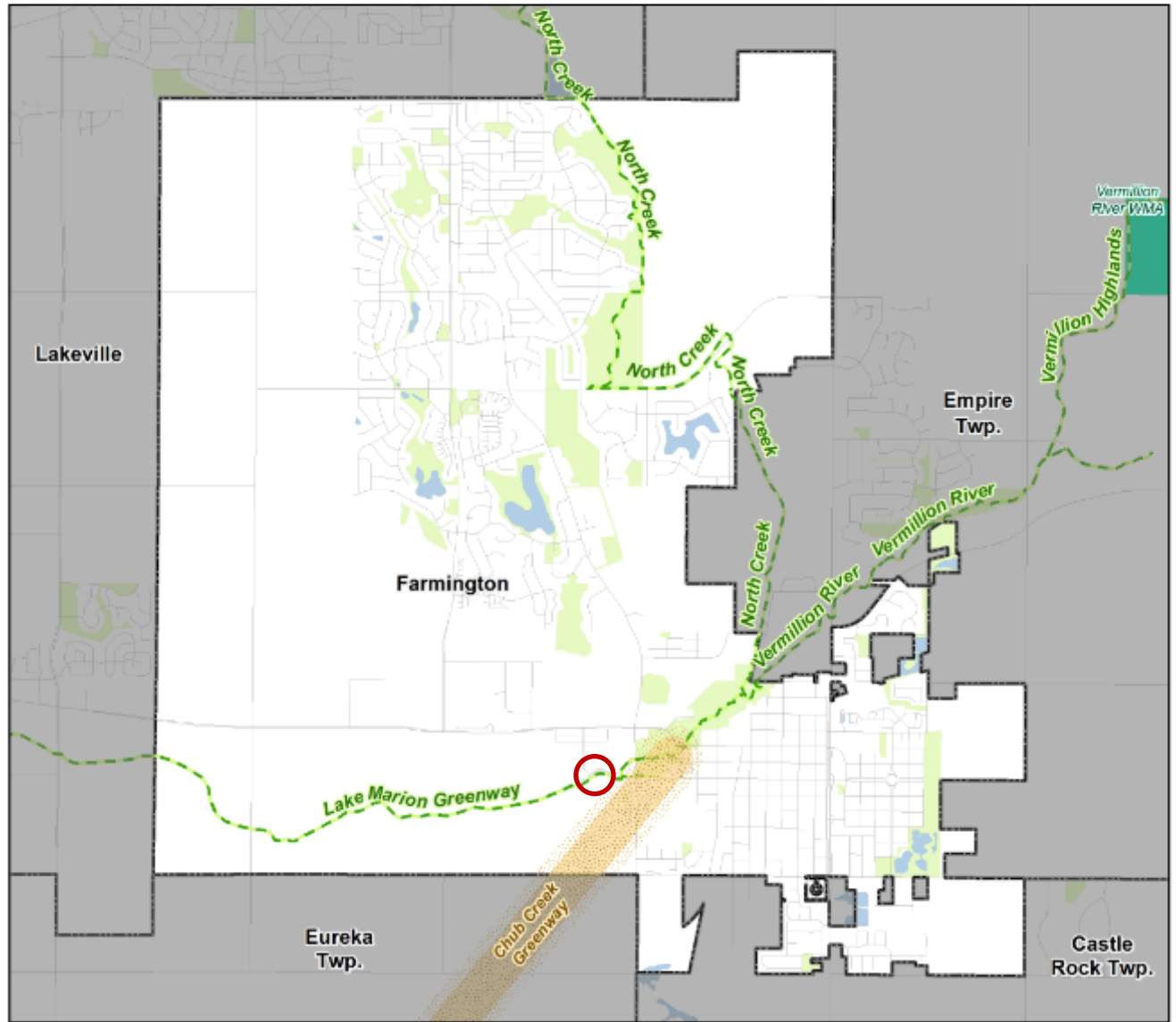


Figure 4. Map of Farmington and most of Segment 4 of the Lake Marion Greenway Regional Trail, with the approximate location of the subject property circled in red.

Regional Parks System City of Farmington, Dakota County



Regional Parks

- Existing
- In Master Plan
- ▨ Planned Parks and Reserves

Regional Trails

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

Regional Park Search Areas and Regional Trail Search Corridors

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

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



Figure 5. Map of Segment 4 of the Lake Marion Greenway Regional Trail, with the approximate location of the subject property circled in red.

Figure 44. Lake Marion Greenway segment 4 concept plan

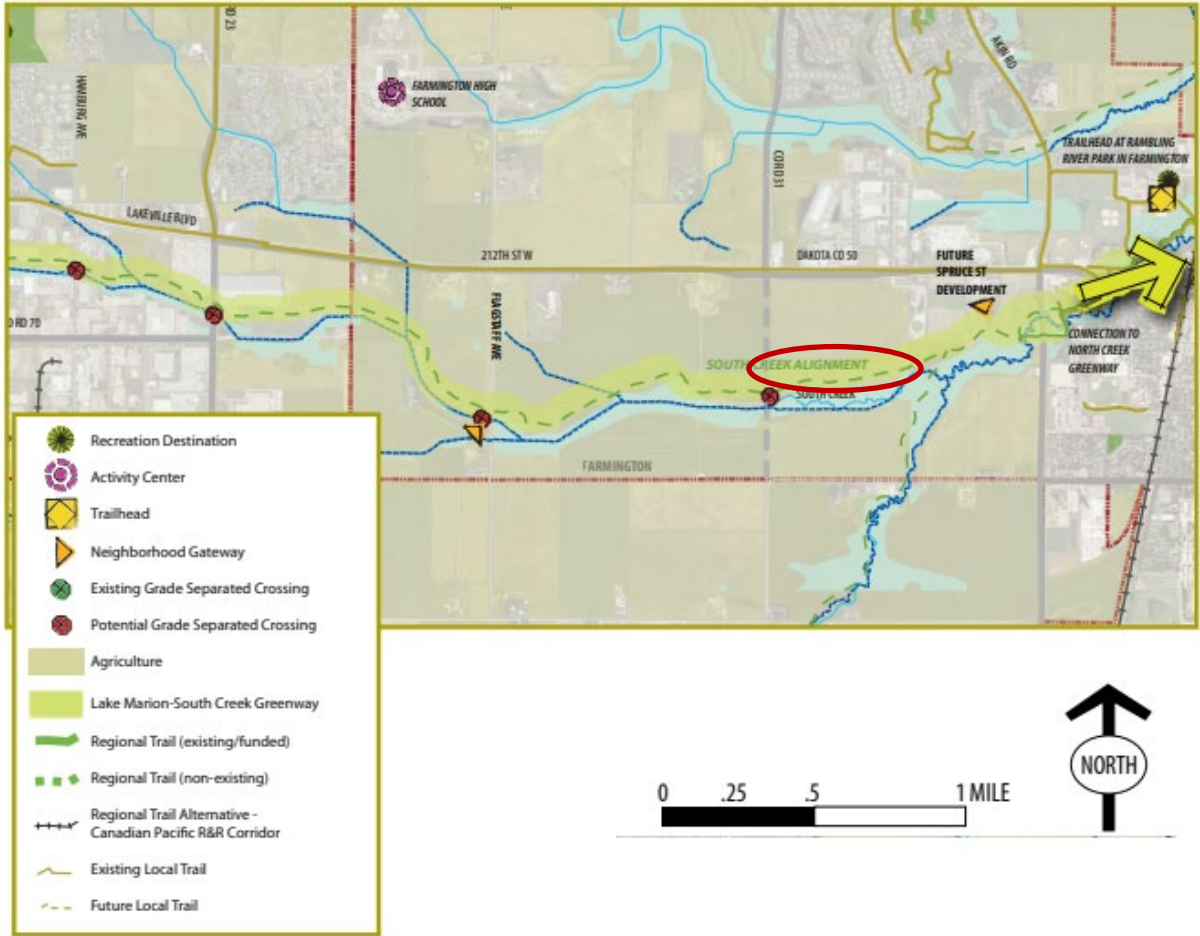


Figure 6. Map of the Peterson property for the Lake Marion Greenway Regional Trail.

Peterson Property Acquisition

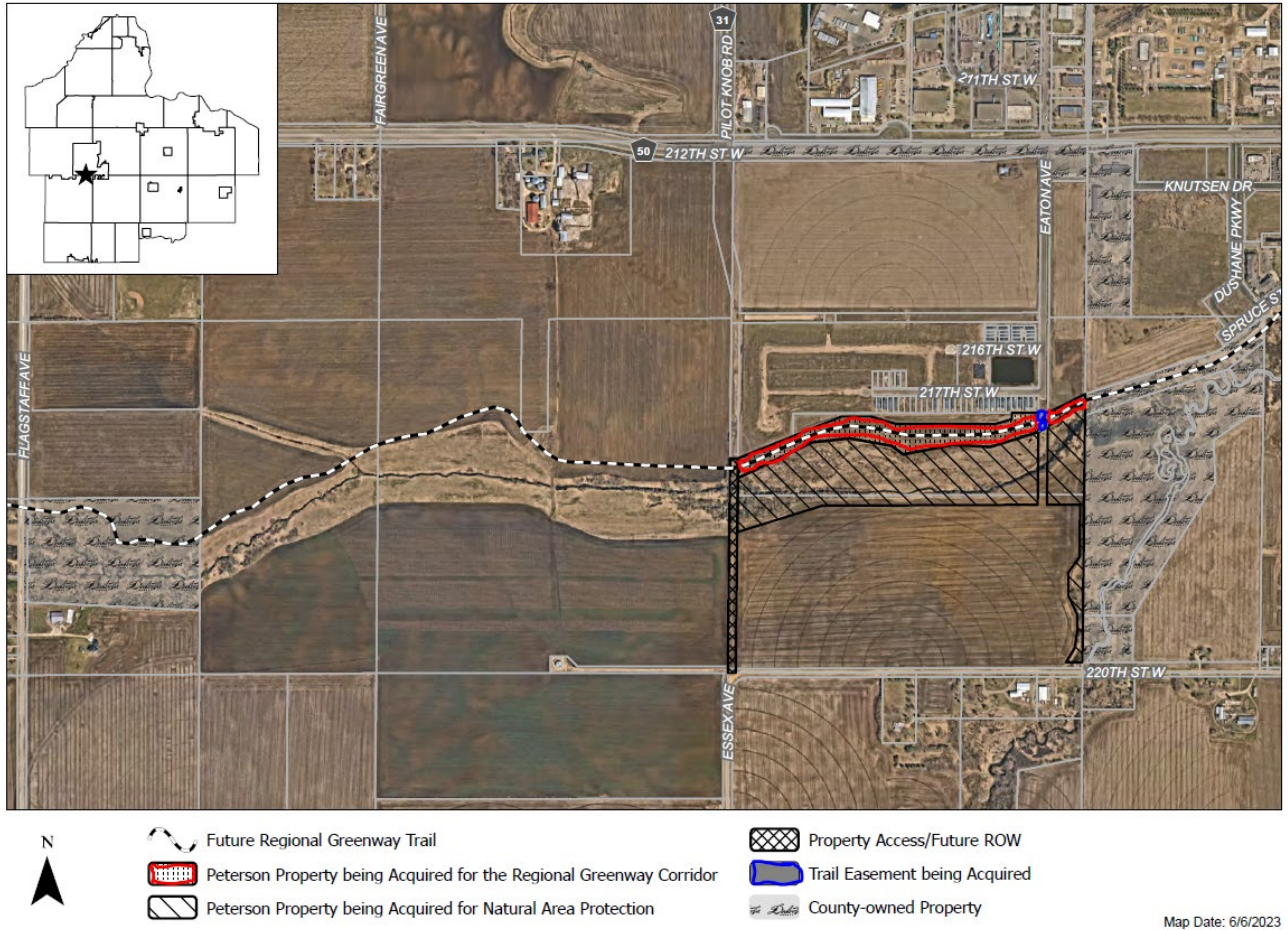


Exhibit 2: Grant request letter



June 5, 2023

Jessica Lee
Metropolitan Council
390 North Robert Street
St. Paul, MN 55101

Dear Jessica:

Dakota County requests Metropolitan Council consideration authorizing a \$120,393 Acquisition Opportunity Fund (AOF) grant for the purchase of 8.8 acres from the Donald I. Peterson limited Family Partnership (Peterson) property and an associated 0.20 acre easement on the Peterson property as an additional segment of the Lake Marion – South Creek Regional Greenway (Greenway).

The Greenway Master Plan was updated and approved by the Dakota County Board of Commissioners on August 20, 2013. The Master Plan included previously identified Trust property as a park in-holding, but also included additional Trust property to protect natural resources including shoreline of a shallow bay, invasive species removal, and restoration to native vegetation.

The County completed, reviewed, and accepted an independent appraisal to substantiate and to negotiate the final \$146,520 purchase price. The Phase 1 Environmental Assessment indicated no known or suspected conditions.

The Dakota County Board of Commissioners authorized acquisition of the Peterson property and an easement and submission of an AOF grant request at its May 23, 2023, meeting. The County and landowner executed the purchase agreement on May 31, 2023.

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

Expense Item	Amount
Purchase Price	\$146,520.00
Estimated Closing Costs, Deed Tax and Title Insurance	\$2034.00
Phase I Environmental Assessment	\$2500.00
Appraisal	\$8,667.00
PILT (1.8 x City of Farmington Property Tax)	\$650.00
Pro-rated Property Tax	\$153.00
Total	\$160,524
75 percent of total	\$120,393
25 percent of total	\$40,131

Environmental Resources



Thank you for considering this request.

Sincerely,



Nicki Geisler, Parks Director



Al Singer, Land Conservation Manager

C: Taud Hoopingarner, Parks, Facilities and Fleet Director
Tara Zgoda, Financial Analyst

Exhibit 3: Grant application



Application

18956 - FY2024 Park Acquisition Opportunity Fund Program - Final Application

19351 - Acquisition of Lake Marion-South Creek Greenway Corridor Segment
Parks Grants Acquisition

Status: Submitted

Submitted Date: 06/05/2023 9:06 AM

Applicant Information

Primary Contact:

Name:* He/him/his **AI** **Singer**
Pronouns First Name Middle Name Last Name

Title:* Real Estate Office Manager

Department: PDD Administration

Email:* al.singer@co.dakota.mn.us

Address:* 14955 Galaxie Avenue

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

952-891-7001 Phone Ext.

Fax:

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

Organization Information

Name:* DAKOTA COUNTY

Jurisdictional Agency (if different):

Organization Type: County Government

Organization Website:

Address:* 14955 GALAXIE AVE

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

952-891-7545 Phone Ext.

Fax:

PeopleSoft Vendor Number 0000002621A28

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 Lake Marion Greenway RT-Dakota 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 Lake Marion- South Creek Regional Greenway 10/16/2013

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**.

The acquisition also includes a 0.20-acre corridor easement

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 07/30/2023
Format: mmddyyyy (Do not enter any punctuation.)

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

Date agreement expires 07/30/2023
Format: mmddyyyy (Do not enter any punctuation.)

Relocation costs

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

Does the requested grant amount include relocation costs? No

Appraisal

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

Appraisal effective date 07/06/2022
Appraised value \$133,200.00
Amount being offered the seller (net of closing and other costs) \$146,520.00 110.0%
% of appraised value

Who performed the appraisal? Hosch Appraisal and Consulting

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

Survey

Was a survey done? Yes

Quality of natural resources - is the property...

...undeveloped? Yes
Fully Partially
...wooded? Fully Partially
...shoreline? Fully Partially

Describe the existing natural resources it contains

Mostly uplands and floodplain grasslands adjacent to a future 29-acre natural area with 2,800 feet of the South Creek tributary to the Vermillion River that is planned to be re-meandered to provide better habitat for the existing trout population

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? Yes

If yes, describe

There is an existing Metropolitan Council EES wastewater sewer and associated easement on the property

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 ENRTF / Council match
Select as many as apply

Funding source comments, if desired

Structures currently on the property

Does the property contain ANY structures? No

If yes, are there any habitable structures? No

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

If yes, what is the plan for the structure(s)?

If there are habitable structures, could they be relocated? If yes, how? If no, why not?

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

For ENRTF funding only

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

NOTICE: ENRTF funding has specific requirements for disseminating information to the public when property is purchase through the Trust Fund. It is the agency's responsibility to meet those requirements and to provide documentation to the Council BEFORE payment will be made.

The County has identified this corridor and potential stream restoration in the 2008 park system masterplan as a property that has recreational, habitat and water quality benefits

Stewardship and minimal access

Describe the stewardship plan.

The County will complete a combined Natural Resource Management Plan that encompasses this greenway corridor an adjacent 29-acre natural area that will be acquired as part of this overall acquisition, an adjacent 52-acre acre parcel that will also be aquired from the same landowner and an adjacent 43-acre parcel already owned by the County.

How will the stewardship implementation be funded?

Parks Department operations with State grant/County match funds

Are you requesting funds to provide minimal access to the property (prior to it being open to No

the public) as part of this grant request?

If yes, how will those funds be used?

Site Description

Land Use History

Current land uses Wetland
Select as many as apply

Previous land uses Agricultural, Wetland
Select as many as apply

Adjacent land uses Agricultural, Residential
Select as many as apply

Inspection

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

Sellers and parcels

Seller name	Parcel address	PID	Acres (SF for easements)	Date PA signed	Habitable structures?	MN House district	City	County	Met Council district	MPOSC	Latitude	Longitude
Donald L. Peterson Limited Family Partnership	North of 220th Street and west of Denmark Avenue	14-82900-00-010 and 14-82900-00-070	8.8 8.27	05/31/2023	No	58B	Falcon Heights	Dakota			-93.1717013	44.6350382
Donald L. Peterson Limited Family Partnership	North of 220th Street and west of Denmark Avenue	14-82900-00-070	0.53 8.8 9.33	05/31/2023	No	58B	Farmington	Dakota			93.1717013	44.6350382

Local match

Source of local match

Dakota County

Grant agreement signatories

Full name	Title	If this is an attorney, is the signature 'for form only'?
-----------	-------	---

Acquisition Costs

Cost Items	Amount	State funds	Metro funds	Match funds
Purchase price				
Negotiated purchase price	\$146,520.00	\$65,934.00	\$43,956.00	\$36,630.00
Appraisal expenses				
Appraisal	\$8,667.00	\$3,900.00	\$2,600.00	\$2,167.00
Appraisal review	\$0.00	\$0.00	\$0.00	\$0.00
Environmental expenses				
Phase I environmental site assessment	\$2,500.00	\$1,125.00	\$750.00	\$625.00
Phase II environmental site assessment	\$0.00	\$0.00	\$0.00	\$0.00
Environmental contamination remediation	\$0.00	\$0.00	\$0.00	\$0.00
Holding expenses				
Interest	\$0.00	\$0.00	\$0.00	\$0.00
Land stewardship	\$0.00	\$0.00	\$0.00	\$0.00
Land development	\$0.00	\$0.00	\$0.00	\$0.00
Pro-rated share of all property taxes/assessments	\$153.00	\$69.00	\$46.00	\$38.00
Legal services and closing costs	\$1,125.00	\$506.00	\$338.00	\$281.00
Property tax equivalency payment-473.341	\$650.00	\$293.00	\$195.00	\$162.00
Relocation costs to seller	\$0.00	\$0.00	\$0.00	\$0.00
State deed tax/conservation fee	\$486.00	\$219.00	\$145.00	\$122.00
Title insurance	\$423.00	\$190.00	\$127.00	\$106.00
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	\$0.00	\$0.00	\$0.00	\$0.00
Totals	\$160,524.00	\$72,236.00	\$48,157.00	\$40,131.00

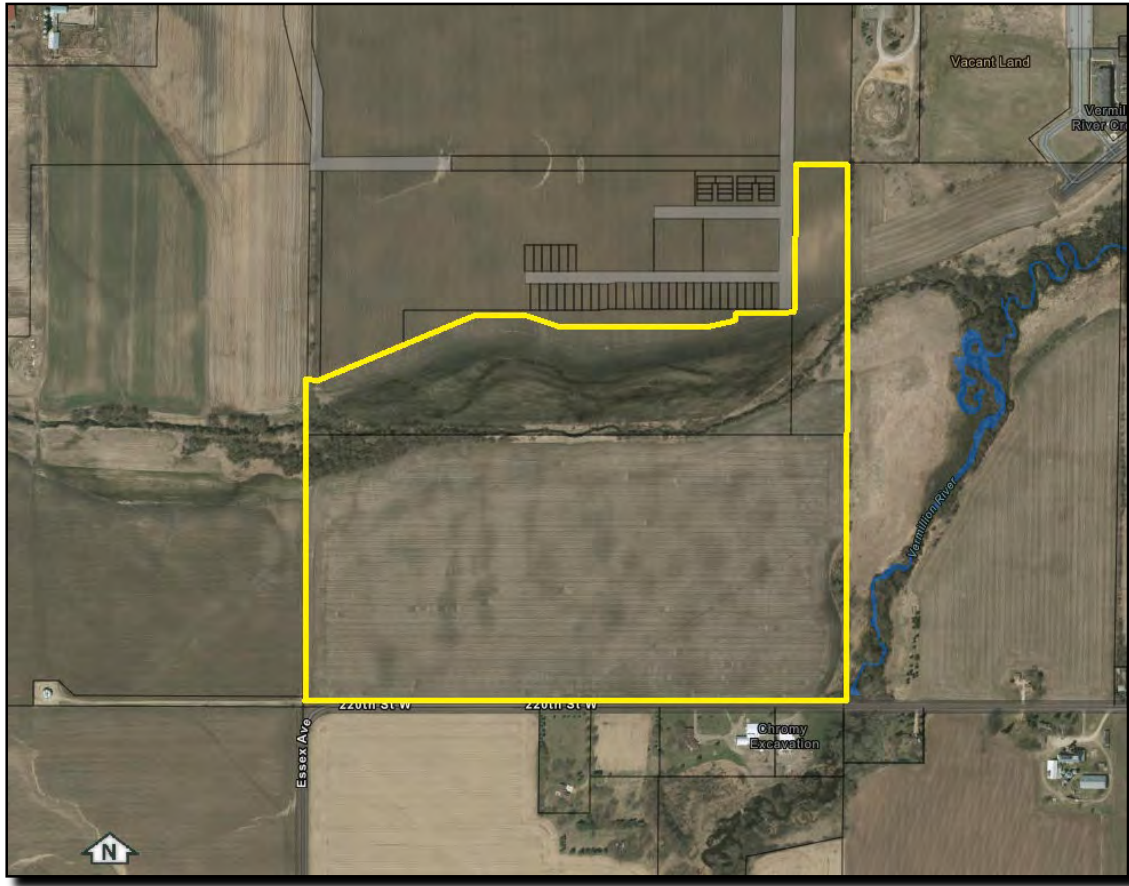
Total Estimated Acquisition Costs

Totals	Total acquisition cost	Total paid with state funds	Total paid with metro funds	Total paid by agency	Total grant amount
Total Estimated Acquisition Cost (calculated after costs above are entered)	\$160,524.00	\$72,236.00	\$48,157.00	\$40,131.00	\$120,393.00

Required Attachments - Acquisition

Attachment	Description	File Name	Type	File Size
SECTION 1 - All of the following are required to BEGIN review unless otherwise indicated				
1.0 Grant request letter (REQ'D)	Grant Request Letter	1.0 AOF Submission Letter.docx	docx	807 KB
2.0 Master plan documentation (REQ'D)	Master Plan Documentation	2.0 Master Plan Documentation.pdf	pdf	292 KB
3.0 RECORDED Governing Board action authorizing grant request (REQ'D)	County Board Resolution	3.0 County Board Resolution No. 23-213.pdf	pdf	82 KB
4.0 Signed purchase agreement/instrument (REQ'D)				
5.1 Appraisal report (REQ'D)				
5.2 Appraisal review report (NOT req'd)				
5.3 Client's instructions to appraiser (REQ'D)				
5.4 Title documentation (Req'd before finalization)				
6.1 Phase 1 ESA (if land may be contaminated or have abandoned wells)				
6.2 Phase II environmental assessment report (required if indicated in Phase I)				
7.0 Survey report (NOT req'd)				

SUMMARY OF IMPORTANT FACTS AND CONCLUSIONS



(Boundaries are approximate)

Highest and Best Use of Subject
Larger Parcel:

Future low/medium, medium and high-density
development as zoning allows and demand warrants and
recreational use in limited utility land

Highest and Best Use of Subject
Remainder Parcel:

Future low/medium, medium and high-density
development as zoning allows and demand warrants and
recreational use in limited utility land

Location:

North of 220th Street West in Section 36 in Farmington,
Dakota County, Minnesota

Date of Inspection:

July 6, 2022

Effective Date of Appraisal:

July 6, 2022

Date of the Report:

October 17, 2022

Property Rights Appraised:

Fee Simple Interest

Summary of Important Facts and Conclusions - Continued

Total 2022 Property Taxes:	\$6,874.00
Land Size Before the Acquisition:	114.2 acres net of existing two-acre road right-of-way (per Dakota County)
Land Size After the Acquisition:	71.6 acres in fee net of road right-of-way with additional access and greenway permanent easements encumbering 0.25 acre
Estimated Potential Acquisition Size:	44.6 acres in fee with 0.25 acre in easement. Two acres of the fee acquisition are currently encumbered by existing road right-of-way easement along 220 th Street West.

Final Estimated Values:

Before Acquisition Value ("as is", effective July 6, 2022)	\$4,562,300
After Acquisition Value ("as is", effective July 6, 2022)	<u>\$4,028,700</u>
Total Loss in Value due to Acquisition	\$533,600
<u>Allocation of Loss in Value</u>	
Future Pilot Knob Road - Fee Title (2.2 Acres)	\$92,400
Existing and Additional 220th Street ROW - Fee Title (4.4 Acres)	\$132,700
Regional Greenway Corridor - Fee Title (8.8 Acres)	\$132,500
Greenway Easement (0.2 Acre)	\$700
Natural Area - Fee Title (29.2 Acres)	\$172,400
Natural Area - Access Easement (0.05 Acre)	\$2,900

As requested by our client, the allocated amounts for loss in value are further broken down into separate components for each land use category within the Summary of Before and After Values on page 81 of this report.

Exhibit 5: Board approval to purchase property

BOARD OF COUNTY COMMISSIONERS
DAKOTA COUNTY, MINNESOTA

May 23, 2023

Resolution No. 23-213

Motion by Commissioner Hamann-Roland

Second by Commissioner Slavik

Acquisition Of Greenway Corridor, Greenway Corridor Easement, Natural Area, Access Easement, And Future Transportation Right Of Way From Donald L. Peterson Limited Family Partnership

WHEREAS, the Donald L. Peterson Limited Family Partnership (Peterson) owns six contiguous parcels totaling 184.3 acres (Property) in the City of Farmington (City); and

WHEREAS, the County and Peterson have been in negotiations over several years to acquire a segment of the Lake Marion Regional Greenway (Greenway) and to protect and restore important habitat along 2,400 feet of the South Creek tributary to the Vermillion River; and

WHEREAS, the County re-engaged with Peterson in 2022 to develop a different acquisition scenario that would allow an administrative subdivision of existing tax parcels by the City that includes fee title acquisition of 8.8 acres for the Greenway corridor, 29.3 acres of adjacent natural area, 2.2 acres for extending future Pilot Knob Road /County State Highway 31, which would provide needed interim access to the natural area south of South Creek, and 4.4 acres for expanding County Road 70-74, including 2.0 acres of existing ROW; and

WHEREAS, the acquisition proposal also includes a 0.20-acre Greenway easement on the portion of the retained Peterson property that is platted for a future city street to ensure the ability for the County to construct the Greenway trail prior to future local street construction and a 0.05-acre natural area access easement across the future city street to provide contiguous access for natural resource management; and

WHEREAS, the County contracted with an independent appraiser who determined the total \$533,600 appraised value and separate value allocations for each of the acquisition components; and

WHEREAS, during subsequent negotiations with Peterson, Peterson agreed sell fee title and easement interests for all of the acquisition elements at 14 percent below the appraised value or \$458,370; and

WHEREAS, the total estimated closing costs is \$4,500; and

WHEREAS, the estimated natural resource restoration costs within the acquired Greenway corridor and natural area are estimated to be \$76,000; and

WHEREAS, the acquisition of the Greenway corridor (fee title and easement) is eligible for an Acquisition Opportunity Fund (AOF) grant through the Metropolitan Council; and

STATE OF MINNESOTA
County of Dakota

Table with 4 columns: Name, YES, Name, NO. Rows include Slavik, Atkins, Halverson, Droste, Workman, Holberg, Hamann-Roland.

I, Jeni Reynolds, Clerk to the Board of the County of Dakota, State of Minnesota, do hereby certify that I have compared the foregoing copy of a resolution with the original minutes of the proceedings of the Board of County Commissioners, Dakota County, Minnesota, at their session held on the 23rd day of May 2023, now on file in the Office of the County Manager Department, and have found the same to be a true and correct copy thereof.

Witness my hand and official seal of Dakota County this 23rd day of May 2023.

Jeni Reynolds (Handwritten signature)

Clerk to the Board

WHEREAS, the 2023 Parks Capital Improvement Program (CIP) budget includes County funds to match AOF funding for this project; and

WHEREAS, acquisition of the natural area and restoration are eligible for state Outdoor Heritage (OH) funding appropriated to the County by the Minnesota Legislature in 2022 (ML22); and

WHEREAS, the 2023 Environmental Resources (ER) CIP budget includes adequate fund balance from ML22 OH funds and County grant-match funds for this project; and

WHEREAS, expenditure of OH funds by the County requires the County Board Chair to sign and the County to record a Notice of Funding Restriction for the acquisition of a portion of the Property for habitat protection if the acquisition is partially funded with OH funds; and

WHEREAS, the 2023 Transportation CIP includes adequate funds to purchase land for future ROW for this project; and

WHEREAS, the Physical Development Director is required to sign the purchase agreement to acquire fee title and easements and the agricultural lease on the Property; and

WHEREAS, acquisition of the Greenway and easement easements requires the signature of the County Board Chair; and

WHEREAS, the final acquisition costs of the Property will be determined after the settlement statements are finalized and all associated acquisition expenses have been invoiced.

NOW, THEREFORE, BE IT RESOLVED, That the Dakota County Board of Commissioners hereby authorizes the expenditure of up to \$538,870, including \$458,370 for the acquisition of a fee title and easements on the Property, \$4,500 in estimated closing costs, and \$76,000 in estimated natural resource restoration costs; and

BE IT FURTHER RESOLVED, That the Dakota County Board of Commissioners hereby authorizes the Physical Development Director to execute the purchase agreement with Peterson to acquire fee title and the Greenway and access easement, subject to approval by the County Attorney's Office as to form; and

BE IT FURTHER RESOLVED, That the Dakota County Board of Commissioners hereby authorizes the Physical Development Director to execute a five-year, no-cost, renewable agricultural lease on 3.1 acres of the future right of way for up to 15 years or until the retained Property is no longer being used or planned for agriculture, subject to approval by the County Attorney's Office as to form; and

BE IT FURTHER RESOLVED, That the Dakota County Board of Commissioners hereby authorizes the Board Chair to execute the Greenway easement and a Notice of Funding Restriction as required for the use of 2022 Minnesota Legislature Outdoor Heritage funds for acquiring the natural area on the Property, subject to approval by the County Attorney's Office as to form; and

STATE OF MINNESOTA
County of Dakota

	YES		NO
Slavik	<u> X </u>	Slavik	_____
Atkins	<u> X </u>	Atkins	_____
Halverson	<u> X </u>	Halverson	_____
Droste	<u> X </u>	Droste	_____
Workman	<u> X </u>	Workman	_____
Holberg	<u> X </u>	Holberg	_____
Hamann-Roland	<u> X </u>	Hamann-Roland	_____

I, Jeni Reynolds, Clerk to the Board of the County of Dakota, State of Minnesota, do hereby certify that I have compared the foregoing copy of a resolution with the original minutes of the proceedings of the Board of County Commissioners, Dakota County, Minnesota, at their session held on the 23rd day of May 2023, now on file in the Office of the County Manager Department, and have found the same to be a true and correct copy thereof.

Witness my hand and official seal of Dakota County this 23rd day of May 2023.



Clerk to the Board

BE IT FURTHER RESOLVED, That following acquisition of the Greenway on the Peterson property, staff will submit the necessary forms and documentation to the Metropolitan Council to receive approximately \$111,015 in reimbursement funds; and

BE IT FURTHER RESOLVED, That such reimbursement from the Metropolitan Council will be returned to the 2023 Parks Capital Improvement Program; and

BE IT FURTHER RESOLVED, That following the acquisition of the natural area on the Peterson property and restoration of the natural area and Greenway corridor on the Peterson property, staff will submit the necessary forms and documentation to the State of Minnesota to receive approximately \$203,122 in reimbursement funds; and

BE IT FURTHER RESOLVED, That such reimbursement from the State of Minnesota will be returned to the 2023 Environmental Resources Capital Improvement Program.

STATE OF MINNESOTA
County of Dakota

	YES		NO
Slavik	<u> X </u>	Slavik	<u> </u>
Atkins	<u> X </u>	Atkins	<u> </u>
Halverson	<u> X </u>	Halverson	<u> </u>
Droste	<u> X </u>	Droste	<u> </u>
Workman	<u> X </u>	Workman	<u> </u>
Holberg	<u> X </u>	Holberg	<u> </u>
Hamann-Roland	<u> X </u>	Hamann-Roland	<u> </u>

I, Jeni Reynolds, Clerk to the Board of the County of Dakota, State of Minnesota, do hereby certify that I have compared the foregoing copy of a resolution with the original minutes of the proceedings of the Board of County Commissioners, Dakota County, Minnesota, at their session held on the 23rd day of May 2023, now on file in the Office of the County Manager Department, and have found the same to be a true and correct copy thereof.

Witness my hand and official seal of Dakota County this 23rd day of May 2023.



Clerk to the Board

Exhibit 6: Purchase agreement

DocuSign Envelope ID: 1A640721-E4AA-43DE-9C04-204899F80A54

Dakota County Contract #DCA20490

**AGREEMENT FOR THE PURCHASE OF FEE TITLE AND A GREEWAY CORRIDOR
EASEMENT FROM THE DONALD L. PETERSON FAMILY LIMITED PARTNERSHIP
BY THE COUNTY OF DAKOTA**

This Purchase Agreement (hereinafter called the "Agreement"), made and entered into on the 31st day of MAY 2023, by and between the Donald L. Peterson Family Limited Partnership, 460 Lantana VW, Spring Branch, TX 78070 (hereinafter called the "Seller"), and the COUNTY OF DAKOTA, 1590 Highway 55, Hastings, MN 55033, a political subdivision of the State of Minnesota, (hereinafter called the "Buyer").

WITNESSETH

WHEREAS, Seller is the owner of certain real property situated in Dakota County, Minnesota identified by Parcel Identification Numbers 14-82900-010, 14-82900-00-070 and 14-03600-50-010; and

WHEREAS, Seller agrees to sell, and Buyer agrees to buy the property defined below and all improvements thereon, including any mineral rights and access or other easements benefiting the property.

NOW, THEREFORE, in consideration of the mutual promises, 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 Buyer, Seller and Title Company execute all necessary documents for Seller to sell and Buyer to buy the property, together with any other documents required by the Buyer and the Title Company.
 - c. "**Closing Date**" shall mean the date on which the Buyer acquires the Property and the terms of this Agreement are fulfilled. For this Agreement, the date shall be no later than July 31, 2023.
 - d. "**Corridor Easement**" shall mean an Regional Greenway Corridor Easement (hereinafter referred to as the "Corridor Easement") encumbering the Easement Area to preserve it primarily in its present state for the conservation purpose of protection of a relatively natural habitat of fish, wildlife, or plants, or similar ecosystem as that phrase is used in Section 170(h)(4)(A)(ii) of the Internal Revenue Code, or as that section may be amended from time to time, and in the regulations promulgated thereunder; and to allow a paved recreational trail and associated trail amenities, substantially in form and content as the attached **Exhibit C**.
 - e. "**Due Diligence Deadline**" shall mean no less than two weeks prior to closing.

- f. "Easement Area" shall mean that certain real estate encumbered by the Corridor Easement situated in Dakota County, Minnesota, as legally described in **Exhibit A** and generally depicted in **Exhibit A-1** attached hereto.
- g. "Effective Date" shall mean the last date of execution by either of the Parties to this Agreement.
- h. "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.
- i. "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).
- j. "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.
- k. "Parties" shall mean Buyer and Seller, as defined above, collectively.
- l. "Property" shall mean that certain real estate situated in Dakota County, Minnesota being conveyed from Seller to Buyer, as legally described in **Exhibit A**, and generally depicted in **Exhibit A-1** attached hereto.
- m. "Retained Property" shall mean that certain real estate situated in Dakota County, Minnesota, adjacent to the Property, excepted from this Agreement, retained by Seller, and generally depicted in **Exhibit A-1**.
- n. "Purchase Price" shall mean the sum of **Four Hundred Fifty-Eight Thousand Three Hundred Seventy Dollars (\$458,370)**, including **Seven Hundred Seventy Dollars (\$770)** for the Corridor Easement.
- o. "Title Company" shall mean DCA Title Company at 7373-147th Street West, Suite 161, Apple Valley, Minnesota 55124.
- p. "Warranty Deed" shall mean a deed 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. Other 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 by Seller.

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, exceptions and encumbrances and except as hereinafter identified below:

- a. Building and zoning laws, ordinances, State and Federal regulations; and
- b. Utility, drainage, and public road easements of record.

Seller agrees to convey Seller's interest in the Property to Buyer pursuant to the terms herein.

3. FIXTURES AND PERSONAL PROPERTY. None.

4. TITLE EXAMINATION. Within twenty (20) days after the Effective Date, Seller shall deliver to Buyer an abstract of title or registered property certificate for the Property or at Seller's election, a commitment from the Title Company to issue to Buyer an ALTA policy of title insurance for the Property. Buyer shall pay the entire cost for updating the abstract or registered property certificate or the full charge for a title insurance commitment/binder. Buyer shall be allowed up to twenty (20) days after receipt for examination of the title documents and to make any objections to title. Buyer shall make any such objection in writing or the objection shall be deemed to be waived. If any objections are made, Seller shall have one hundred twenty (120) days to make title marketable. Pending correction of title, the payments required by this Agreement shall be postponed, but upon correction of title, and within twenty (20) days of written notice to Buyer, the Parties shall perform this Agreement according to its terms.

If title is not marketable and is not made so within one hundred twenty (120) days from the date of written objection as provided above, this Agreement shall, at Buyer's option, be void and neither party shall be liable for damages or costs to the other party.

If Buyer obtains title insurance, Buyer is not waiving the right to obtain a good and marketable title of record from Seller.

In any event, Seller shall satisfy and discharge all monetary liens and encumbrances (except any statutory liens for non-delinquent real property taxes) affecting the Property and Seller shall furnish whatever documents or evidence will be required by the Title Company in order to delete the "printed form" or standard exceptions to coverage, including, without limitation, rights of Parties in possession, unrecorded easements and mechanics or material men's liens or claims of lien, on or before Closing.

5. PAYMENT TERMS. As consideration for the covenants and agreements made herein, Buyer agrees to pay the Purchase Price to Seller for the Property, less closing costs, including any mortgage pay-off amounts, payable in cash or equivalent upon the execution and delivery of a Warranty Deed conveying the Property from Seller to Buyer and other necessary documents on the Closing.

6. CLOSING COSTS.

- a. Seller is responsible for fifty (50) percent of closing fees charged by the Title Company.
- b. Buyer is responsible for paying the costs for a title commitment and supplements, examination fee, name search, property inspection, updating abstract or Torrens title records, special assessment search, tax and judgment search, title insurance premium, property inspection, any recording fees for the Special Warranty Deed, and fifty (50) percent of closing fees charged by the Title Company.

7. SELLER'S CLOSING DOCUMENTS. Seller agrees to execute and deliver the following documents to Buyer on the date of closing:

- a. A Warranty Deed from Donald L. Peterson Limited Family Partnership conveying marketable title to the Property.
- b. Standard Seller's Affidavit regarding Parties in possession.
- c. Seller's Affidavit of no improvements made to the Property within the last 120 days.
- d. An accounting of property taxes owed on the Property up to the Closing and proof of payment or a deduction from the purchase price for such taxes, including any additional

property taxes resulting from any "Green Acres" reassessment pursuant to MINNESOTA STATUTES § 273.111.

- e. Well disclosure forms and a completed well disclosure certificate as required by MINNESOTA STATUTES § 1031.235.
- f. Any other document(s) requested by Buyer or Title Company to effectuate the closing and the terms of this Agreement.

8. UTILITIES. All utilities of any nature used in or about the Property shall be read and adjusted as of the date Seller actually vacates the premises and Seller will pay for all such utility charges through the date of Seller's vacation of the premises.

9. TAXES AND SPECIAL ASSESSMENTS. Seller will pay all past due property taxes and any installments of special assessments levied against the Property, and due at the date of closing, unless otherwise agreed in an attached addendum. The property taxes that are due and payable in the current year shall be prorated as of the Closing Date, with Seller obligated to pay taxes through the Closing Date and Buyer responsible for the taxes due after the Closing Date. Seller will pay any additional property taxes resulting from any "Green Acres" reassessment pursuant to MINNESOTA STATUTES § 273.111.

10. SELLER'S WARRANTIES. Seller warrants that:

- a. Seller has full power and authority to enter into this Agreement (and the person signing this Agreement for Seller has full power and authority to sign for Seller and to bind it to this Agreement) and to sell, transfer and convey all right, title and interest in and to the Property.
- b. The execution of this Agreement will not constitute a breach or default under any agreement to which Seller is bound and/or to which the Property is subject.
- c. There is no suit, action, arbitration, or legal, administrative or other proceeding or injury pending or threatened against the Property or any portion thereof or pending or threatened against Seller which could affect Seller's title to the Property or any portion thereof, affect the value of the Property, or any portion thereof, or subject an owner of the Property, or any portion thereof, to liability.
- d. There is no lease, license, permit, option, right of first refusal or other agreement, oral or written, which affects the Property or any portion thereof.
- e. Buildings, if any, are entirely within the boundary lines of the Property.
- f. There is a right of access to the Property from a public right of way, or that such right of access shall be provided by Seller to Buyer at the time of conveyance of the Property in a form acceptable to Buyer.
- g. There has been no labor or material furnished to the Property for which payment has not been made.
- h. There are no present violations of any restrictions relating to the use or improvement of the Property or any uncured notices which have been served upon Seller by any governmental agency notifying Seller of any violations of statute, order, ordinance, rule, requirement or regulation which would affect the Property or any portion thereof.
- i. The Property is not subject to a lien for Medical Assistance or other public assistance.
- j. Seller has no knowledge, nor does Seller have reason to know, of any condition at, on, under or related to the Property presently or potentially posing a significant hazard to human health or the environment (whether or not such condition constitutes a violation of Environmental Laws, as hereinafter defined).
- k. Seller has no knowledge, nor does Seller have reason to know, of any production, use, treatment, storage, transportation, or disposal of any Hazardous Substance (as hereinafter

defined) on the Property or under the Property, nor has there been any release or threatened release of any Hazardous Substance, pollutant or contaminant into, upon or over the Property or into or upon ground or surface water at the Property or within the immediate vicinity of the Property.

- l. Seller has no knowledge, nor does Seller have reason to know that any asbestos-containing materials incorporated into the buildings or interior improvements or equipment that are part of the Property, if any, nor is there any electrical transformer, fluorescent light fixture with ballasts or other PCB-containing item on the Property.
- m. Seller is in compliance with all laws and regulations in connection with any handling, use, storage or disposal of Hazardous Substances including the maintenance of all required permits and approvals.
- n. Seller has disclosed to Buyer in writing the location of any individual sewage treatment systems located on the Property.
- o. Seller has disclosed to Buyer in writing the location of any individual wells located on the Property.
- p. To the best of Seller's knowledge, there is no lead paint used in the construction or maintenance of any building(s) on the Property.
- q. To the best of Seller's knowledge, methamphetamine production has not occurred on the Property.

Each of the above representations is material and is relied upon by Buyer. Except insofar as Seller has advised Buyer in writing to the contrary, each of the above representations shall be deemed to have been made as of the Closing and shall survive the Closing. At the Closing, if Buyer so requests, Seller shall deliver to Buyer a certificate in a form satisfactory to Buyer stating that each of the above representations is true and correct as of the Closing.

If, before the Closing, Seller discovers any information or facts that would materially change these warranties and representations, Seller shall immediately give notice to Buyer of those facts and information. If any of the foregoing representations and warranties ceases to be true before the Closing, Seller will promptly remedy the problem, at Seller's sole cost and expense, upon receipt of notice by Buyer. If the problem is not remedied before Closing, Buyer may elect to either (a) terminate this Agreement in which case Buyer shall have no obligation to purchase the Property or (b) defer the Closing until such problem has been remedied. Buyer's election in this regard shall not constitute a waiver of Buyer's rights in regard to any loss or liability suffered as a result of a representation or warranty not being true nor shall it constitute a waiver of any other remedies provided in this Agreement or by law or equity

11. CONDITIONS PRECEDENT. In addition to the title examination, the purchase of the Property by Buyer is contingent upon:

- a. The Metropolitan Council (hereinafter referred as the "Council") approving a 75 percent Acquisition Opportunity Fund grant to the Grantee for fee title acquisition of the Greenway corridor and acquisition of the Corridor Easement.
- b. The City of Farmington approving subdivision of Outlot G Vitta Attiva and tax Parcel Identification Number 14-03600-50-010.
- c. The completion of due diligence by Buyer on or before the Due Diligence Deadline and Buyer determining in its sole discretion that the condition of the Property is acceptable to it. Seller agrees that Buyer shall have the right to inspect and investigate the Property at reasonable times and to perform any tests it deems necessary, including tests to evaluate

the environmental condition of the Property. Buyer shall coordinate any such inspection to accommodate the schedule of Seller, who shall not unreasonably withhold permission to inspect or investigate.

If the above contingencies are not satisfied, this Agreement shall, at Buyer's option, be void and neither party shall be liable for damages to the other party.

12. METROPOLITAN COUNCIL FUNDING RESTRICTIONS AND COVENANTS. The Grantor and Grantee acknowledge that the Grantee's purchase of this Property may be funded, in part, by a grant from the Council which requires the following additional restrictions on the Property for funding eligibility, and hereby place such restrictions and covenants on the Property in addition to the restrictions placed on the Property as follows:

- a. Conveyances. Grantee may not sell, lease, or mortgage the Property or any portion thereof, or otherwise convey or grant any easement or allow any other encumbrance to be placed against the Property or restrict the use thereof unless the written approval of the Council or its successors is duly filed and recorded at the time of the filing and recording of the instrument to which such approval pertains.
- b. Regional Purpose. The Property shall be used solely for regional recreational open space purposes as those purposes are from time to time defined by the Council or its successors, unless the Council or its successors shall consent to the other use or uses by written instrument duly filed and recorded and designating the nature, extent, and duration of the use for which such consent is given. Without limiting the foregoing, the Regional Trail and Wastewater Facilities (see below), together with uses such as benches, bike racks, local trail connections, information kiosks, retaining walls, drinking fountains, and tables, and fences are permitted uses for regional recreational open space purposes.
- c. Wastewater Facilities. The Grantor acknowledges that as a condition for the Grantee to receive funding from the Council, Grantee must grant the Council the option to construct, operate and maintain Wastewater Facilities in the Property. Grantor consents to and permits the Grantee to assign the rights necessary to accomplish the construction, operation and maintenance of the Wastewater Facility (hereinafter referred to as the "Wastewater Facility Rights") to the Council, its successors or assigns. Upon written request by and at no cost to the Council, Grantee will execute and deliver to the Council an assignment of rights in the Property allowing the Council to construct, install, operate and maintain the Wastewater Facilities over, under and across the Property substantially in the form of the assignment attached hereto and incorporated herein as the attached **Exhibit B** for the location or locations described by the Council in its written request to Grantee. The Parties acknowledge that pursuant to a Grant Agreement entered or to be entered between the Council and the Grantee, Council may exercise its contractual right to the Wastewater Facilities Rights on one or more occasions. The Grantee agrees that the Wastewater Facilities Rights may not be exercised unless assigned to the Council, its successors or assigns.

If the Grantee is eligible to receive Council funding for the Property, Grantor will allow the above-described, additional Council-required restrictions within the Property.

12. AGRICULTURAL LEASE. The Buyer will provide a no-cost, agricultural lease (hereinafter referred to as the "Lease") to the Seller for a portion of the future Transportation Right of Way being acquired by the Buyer generally depicted in the attached **Exhibit D**. Said Lease, which will also allow irrigation via the central pivot irrigator located on Retained Property, shall be in renewable increments of five years for a

total time not to exceed fifteen years or until such time that the cultivated land on the Retained Property is no longer used for agricultural purposes due to existing or planned changes in land use or other conditions, upon which the Lease shall be mutually terminated.

13. IRRIGATION WELL. The Seller is retaining a central pivot irrigation well and surrounding 0.02 acres of land north of 220th Street which is excluded from the Property being acquired by the Buyer and generally depicted in the **Exhibit D**, attached hereto. At such time that the cultivated land on the Retained Property is no longer used for agricultural purposes due to existing or planned changes in land use or other conditions, the Seller shall remove the central pivot irrigator, seal the irrigation well according to Minnesota Department of Health requirements, and Quit Claim the 0.02-acre area depicted in the attached **Exhibit D** to the Buyer at no cost.

14. CLOSING. The Closing shall occur on the Closing Date at the Title Company's office. The time of day will be scheduled by the Title Company so as to be mutually acceptable to Buyer and Seller. Seller and Buyer may mutually agree in writing to alter the Closing Date.

15. POSSESSION. Seller shall deliver possession of the Property no later than the time set by the Title Company for the Closing in the same condition as it was on the Effective Date, ordinary wear and tear excepted, free and clear of the rights or claims of any other party.

16. RISK OF LOSS. Until the completion of closing and delivery of possession of the Property, all risk of loss is on Seller. If the Property is damaged prior to closing, Seller shall give the Buyer notice within five (5) business days after such damage has occurred. The notice shall include Seller's proposal for repairing the damage. From the date that Buyer receives Seller's notice, Buyer shall have three (3) business days to inspect the Property and an additional two (2) business days to determine if the damages and Seller's proposal for repairs are acceptable to Buyer. If Buyer does not accept Seller's proposal for repairs within the five (5) business day period, this Agreement shall be void.

17. REMEDIES UPON DEFAULT. In the event that Seller defaults in the performance of any of its obligations under this Agreement, Buyer shall, in addition to any and all other remedies provided in this Agreement or at law or in equity, have the right of specific performance against Seller. Buyer shall have six (6) months to exercise its right of specific performance under this section. In the event that Buyer defaults in the performance of any of its obligations under this Agreement, Seller shall have, as its sole and exclusive remedy, the right to cancel this Agreement as permitted by MINNESOTA STATUTES §§ 559.21 and 559.217.

18. NO BROKER'S COMMISSION. Buyer has not used a real estate broker in connection with this Agreement or the transaction contemplated by this Agreement and the Parties agree that the Buyer is not responsible for any portion of a broker's commission or finder's fee related to Seller. In the event that Seller has used a broker or any person asserts a claim for a broker's commission or finder's fee related to Seller, that Seller will indemnify and hold Buyer harmless from and against the claim and this indemnification shall survive Closing or any earlier termination of this Agreement.

19. WAIVER OF DISCLOSURE. Unless otherwise required herein, Buyer waives the written disclosures required under MINNESOTA STATUTES §§ 513.52 to 513.60.

20. MISCELLANEOUS.

- a. Performance. The Parties hereto agree that time is of the essence in the performance of this Agreement.
- b. Notices. Notices to be given under this Agreement shall be in writing and sent by registered or certified mail, addressed to the Parties at the following addresses:

With respect to Buyer:

Alan Singer, Real Estate Office Manager, or Successor
Dakota County
14955 Galaxie Avenue
Apple Valley, MN 55124

With respect to Seller:

Donald L. Peterson
The Moments
16258 Kenyon Avenue
Lakeville, MN 55044

- c. Non-Joint Venture. The Parties agree that nothing contained herein shall be considered a partnership or joint venture undertaken by the Parties.
- d. Minnesota Law. This Agreement shall be governed by the laws of the State of Minnesota. Venue for all legal proceedings arising out of this Agreement, or breach thereof, shall be in the state or federal court with competent jurisdiction in Dakota County, Minnesota.
- e. Representation by Counsel. Seller understands that Buyer and the County Attorney's Office do not represent Seller in this matter. Seller has had an opportunity to review the terms of this Agreement with Seller's own legal counsel, whether Seller has elected to consult with counsel or not. Seller has read and understands the terms of this Agreement and agrees to be bound by the terms of this Agreement.
- f. Entire Agreement. This Agreement, along with any exhibits, appendices, addendums, schedules, and written amendments hereto, encompasses the entire agreement of the Parties, and supersedes all previous understandings and agreements between the Parties, whether oral or written.
- g. Amendments. Any amendments or modifications to this Agreement shall be in writing and shall be executed by the same Parties who executed the original Agreement or their successors.
- h. Severability. Each provision of this Agreement is severable from any other provision of this Agreement. Should any provision of this Agreement for any reason be unenforceable, the balance of the Agreement shall nonetheless be of full force and effect.
- i. Headings. The headings used in this Agreement are for convenience of reference only and shall not operate or be construed to alter or affect the meaning of any of the provisions in this Agreement.
- j. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original and which together shall constitute one and the same agreement.
- k. Deferred Exchange. It is the intent of the Seller to affect a tax-deferred exchange under the terms of Section 1031 of the Internal Revenue Code. Seller shall have the right to structure the sale of the property as a 1031 Tax Deferred Exchange and the Buyer agrees to accommodate this desire. This Agreement shall be assigned to CPEC1031, LLC, or an EAT formed by CPEC1031, to accommodate a 1031 Tax Deferred Exchange. This

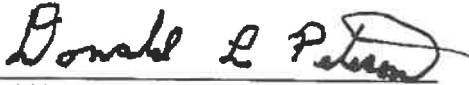
Agreement shall constitute notice within the meaning of Section 1.1031(k)-1(g) (4) (v) of the Income Tax Regulations.

21. TAX IMPLICATIONS. Seller shall consult with an attorney or tax consultant to discuss the tax implications that may result from the sale of the Property. The Buyer does not offer tax advice and encourages Seller to seek its own independent review of tax implications.

-This Space Intentionally Left Blank-

IN TESTIMONY WHEREOF, the Parties hereto have caused this instrument to be executed the day and year first recited herein.

SELLER

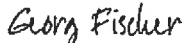


Donald L. Peterson,

Date of Signature May 21, 2023

BUYER

DocuSigned by:



Georg Fischer, Director
Physical Development Division

Date of Signature 05/31/2023 | 6:33 AM CDT

Approved as to form:

/s/ Joseph Marek
Assistant Dakota County Attorney

Date of Signature: May 26, 2023

KS-23-245

Contract Number DCA20490

Approved by Dakota County Board
Resolution No. 23-214

Dakota County Parks

Legal Descriptions of the Donald L. Peterson Limited Family Partnership Property being Acquired by the County of Dakota

I. Regional Greenway Corridor (Fee Title) Tract No. 369

A. PIN 14-82900-00-010 Outlot A

That part of Outlot A, Vita Attiva at South Creek First Addition, according to the recorded plat thereof, Dakota County, Minnesota, lying northerly of the following described line: Commencing at the southeast corner of said Outlot A; thence on an assumed bearing of North 00 degrees 35 minutes 56 seconds East along the east line of said Outlot A a distance of 511.06 feet to the point of beginning of the line to be described; thence South 58 degrees 10 minutes 34 seconds West a distance of 82.93 feet; thence South 72 degrees 46 minutes 23 seconds West a distance of 374.93 feet; thence North 86 degree 52 minutes 20 seconds West a distance of 278.05 feet; thence South 79 degree 10 minutes 52 seconds West a distance of 378.40 feet; thence North 53 degrees 19 minutes 54 seconds West a distance of 106.60 feet; thence North 79 degree 44 minutes 11 seconds West a distance of 320.45 feet; thence South 83 degree 37 minutes 50 seconds West a distance of 282.41 feet; thence South 64 degree 13 minutes 55 seconds West a distance of 677.87 feet to the west line of said Outlot A and said line there terminating, excepting therefrom the west 60.00 feet and the east 70.00 feet of said Outlot A.

Sub-total Area: 8.24 acres

B. PIN 14-82900-00-070 Outlot G

That part of Outlot G, Vita Attiva at South Creek First Addition, according to the recorded plat thereof, Dakota County, Minnesota, described as follows: Commencing at the southwest corner of said Outlot G; thence on an assumed bearing of North 00 degrees 35 minutes 56 seconds East along the west line of said Outlot G a distance of 511.06 feet to the point of beginning of the property to be described; thence continue North 00 degrees 35 minutes 56 seconds East along said west line a distance of 99.65 feet; thence North 63 degree 14 minutes 27 seconds East a distance of 310.73 feet to the east line of said Outlot G; thence South 00 degree 35 minutes 56 seconds West along said east line a distance of 67.15 feet; thence South 58 degrees 10 minutes 34 seconds West a distance of 326.94 feet to the point of beginning.

Sub-total Area: 0.53 acres

Total Fee Title Area being Acquired for Regional Greenway Corridor: 8.77 acres

II. Natural Area (Fee Title Purchase)

Tract No. 364

A. PIN 14-036000-50-010 South Half of the Southwest Quarter

That part of the South Half of the Southwest Quarter of Section 36, Township 114 North, Range 20 West, Dakota County, Minnesota, described as follows: Commencing at the southwest corner of said south Half of the Southwest Quarter; thence on an assumed bearing of North 00 degrees 38 minutes 44 seconds East along the west line of said South Half of the Southwest Quarter a distance of 1030.26 feet to the point of beginning of the property to be described; thence continue North 00 degrees 38 minutes 44 seconds East along said west line a distance of 291.24 feet to the northwest corner of said South Half of the Southwest Quarter; thence North 89 degrees 52 minutes 06 seconds East along the north line of said South Half of the Southwest Quarter a distance of 2295.63 feet; thence South 00 degree 35 minutes 56 seconds West a distance of 75.01 feet; thence South 89 degree 52 minutes 06 seconds West a distance of 1597.81 feet; thence South 72 degrees 43 minutes 22 seconds West a distance of 733.40 feet to the point of beginning, excepting therefrom the west 60.00 feet of said South Half of the Southwest Quarter.

Together with that part of the South Half of the Southwest Quarter of Section 36, Township 114 North, Range 20 West, Dakota County, Minnesota, described as follows: Beginning at the southeast corner of said south Half of the Southwest Quarter; thence on an assumed bearing of South 89 degrees 53 minutes 58 seconds West along the south line of said South Half of the Southwest Quarter a distance of 165.61 feet; thence North 30 degrees 27 minutes 42 seconds East a distance of 216.51 feet; thence North 08 degrees 12 minutes 46 seconds East a distance of 140.33 feet; thence North 02 degree 15 minutes 38 seconds West a distance of 106.67 feet; thence North 24 degree 46 minutes 30 seconds West a distance of 147.81 feet; thence North 01 degrees 25 minutes 47 seconds West a distance of 175.55 feet; thence North 35 degrees 32 minutes 22 seconds East a distance of 146.71 feet; thence North 00 degree 36 minutes 18 seconds East a distance of 386.89 feet; thence South 89 degree 52 minutes 06 seconds West a distance of 245.99 feet; thence North 00 degrees 35 minutes 56 seconds East a distance of 75.01 feet to the north line of said South Half of the Southwest Quarter; thence North 89 degrees 52 minutes 06 seconds East along said north line a distance of 276.00 feet to the northeast corner of said South Half of the Southwest Quarter; thence South 00 degrees 35 minutes 56 seconds West along the east line of said South Half of the Southwest Quarter a distance of 1322.92 feet to the point of beginning, excepting therefrom the south 75.00 feet of said South Half of the Southwest Quarter.

Sub-total Area: 7.41 Acres

B. PIN 14-82900-00-010 Outlot A

That part of Outlot A, Vita Attiva at South Creek First Addition, according to the recorded plat thereof, Dakota County, Minnesota, lying southerly of the following described line: Commencing at the southeast corner of said Outlot A; thence on an assumed bearing of North 00 degrees 35 minutes 56 seconds East along the east line of said Outlot A a distance of 511.06 feet to the point of beginning of the line to be described; thence South 58 degrees 10 minutes 34 seconds West a distance of 82.93 feet; thence South 72 degrees 46 minutes 23 seconds West a distance of 374.93 feet; thence North 86 degree 52 minutes 20 seconds West a distance of 278.05 feet; thence South 79 degree 10 minutes 52 seconds West a distance of 378.40 feet; thence North 53 degrees 19 minutes 54 seconds West a distance of 106.60 feet; thence North 79 degree 44 minutes 11 seconds West a distance of 320.45 feet; thence South 83 degree 37 minutes 50 seconds West a distance of 282.41 feet; thence South 64 degree 13 minutes 55 seconds West a distance of 677.87 feet to the west line of said Outlot A and said line there terminating, excepting therefrom the west 60.00 feet and the east 70.00 feet of said Outlot A.

Sub-total Area: 18.04 Acres

C. PIN 14-82900-00-070 Outlot G

That part of Outlot G, Vita Attiva at South Creek First Addition, according to the recorded plat thereof, Dakota County, Minnesota, lying southerly of the following described line: Commencing at the southwest corner of said Outlot G; thence on an assumed bearing of North 00 degrees 35 minutes 56 seconds East along the west line of said Outlot G a distance of 511.06 feet to the point of beginning of the line to be described; thence North 58 degrees 10 minutes 34 seconds East a distance of 326.94 feet to the east line of said Outlot G and said line there terminating.

Sub-total Area: 3.78 Acres

Total Fee Title Area being Purchased for Natural Area: 29.23 acres

III. Future County Road ROW (Fee Title Purchase)

A. PIN 14-82900-00-010 Access (Pilot Knob Road / CSAH 31 ROW)

The west 60.00 feet of Outlot A, Vita Attiva at South Creek First Addition, according to the recorded plat thereof, Dakota County, Minnesota.

Sub-total Area: 0.38 Acres

B. PIN 14-036000-50-010 Access (Pilot Knob Road /CSAH 31 ROW)

The west 60.00 feet of the South Half of the Southwest Quarter of Section 36, Township 114 North, Range 20 West, Dakota County, Minnesota.

Sub-total Area: 1.82 Acres

C. PIN 14-036000-50-010 (22^{0th} Street/ County Road 70-74)

The south 75.00 feet of the South Half of the Southwest Quarter of Section 36, Township 114 North, Range 20 West, Dakota County, Minnesota excepting therefrom the west 60.00 of said South Half and excepting therefrom the north 35.00 feet of the south 75.00 feet of the east 20.00 feet of the west 1335.00 feet of said South Half of the Southwest Quarter.

Sub-total Area: 4.43 Acres

Total Fee Title Area being Purchased for Future County Road ROW : 6.63 acres

Total Fee Title Area: 44.63 acres

**Legal Description of the Regional Greenway Easement being
Acquired from the Donald L. Peterson Limited Family
Partnership by the County of Dakota**

Tract No. 390

14-82900-00-010 Outlot A

A permanent Greenway Corridor Easement over the east 70.00 of Outlot A, Vita Attiva at South Creek First Addition, according to the recorded plat thereof, Dakota County, Minnesota, lying northerly of the following described line: Commencing at the southeast corner of said Outlot A; thence on an assumed bearing of North 00 degrees 35 minutes 56 seconds East along the east line of said Outlot A a distance of 511.06 feet to the point of beginning of the line to be described; thence South 58 degrees 10 minutes 34 seconds West a distance of 82.93 feet; thence South 72 degrees 46 minutes 23 seconds West a distance of 374.93 feet; thence North 86 degree 52 minutes 20 seconds West a distance of 278.05 feet; thence South 79 degree 10 minutes 52 seconds West a distance of 378.40 feet; thence North 53 degrees 19 minutes 54 seconds West a distance of 106.60 feet; thence North 79 degree 44 minutes 11 seconds West a distance of 320.45 feet; thence South 83 degree 37 minutes 50 seconds West a distance of 282.41 feet; thence South 64 degree 13 minutes 55 seconds West a distance of 677.87 feet to the west line of said Outlot A and said line there terminating.

Total Area: 0.20 acres

**Legal Description of the Natural Area Access Easement
being Acquired by the County of Dakota on the Donald L.
Peterson Limited Family Partnership Property**

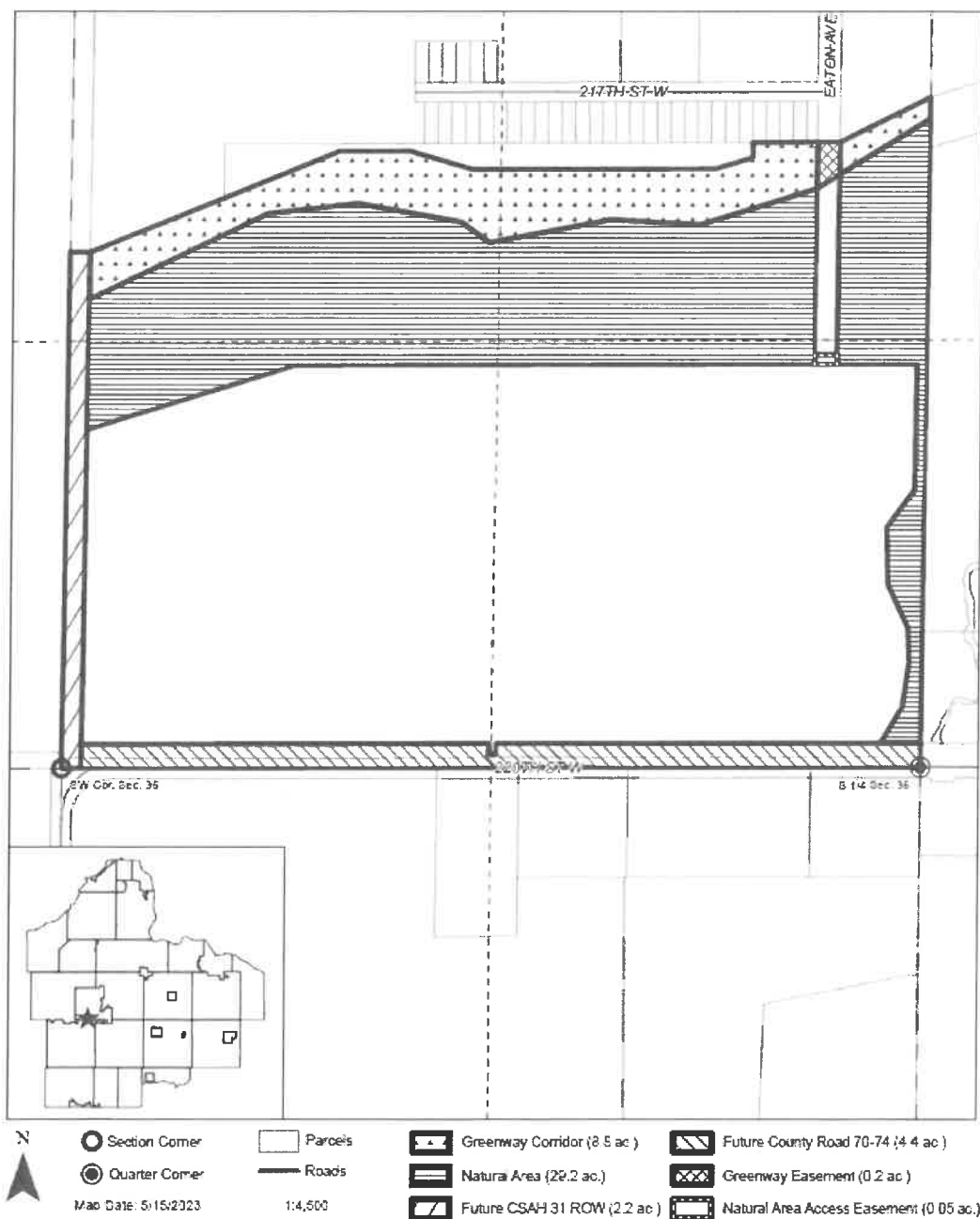
A permanent access easement over the south 20.00 feet of the north 75.00 feet of the west 70.00 feet of the east 346.00 of the South Half of the Southwest Quarter of Section 36, Township 114 North, Range 20 West, Dakota County, Minnesota.

Total Area: 2,187 square feet

Dakota County Parks

General Depiction of the Donald L. Peterson Limited Family Partnership Property and Easements being Acquired by the County of Dakota

Tract No. 369, 390 and 364



Dakota County Parks

AGREEMENT AND RESTRICTIVE COVENANT

THIS AGREEMENT AND RESTRICTIVE COVENANT is made and entered into this _____ day _____, 202_, by and between **COUNTY OF DAKOTA** (the "Grantee") and the Metropolitan Council, a political subdivision of the State of Minnesota (the "Council").

RECITALS

1. The Grantee has acquired the following described real property, to-wit:
See attached **Exhibit A**, hereinafter referred to as the "Property."
2. The Council has contributed funds toward the acquisition of the Property pursuant to its grant program authorized by chapter 563, Laws of Minnesota, 1974.
3. The grant program was established pursuant to the law to provide for the acquisition, preservation, protection, development, and betterment of regional recreational open space for public use.
4. The grant agreement under which the Council contributed funds towards the acquisition of the Property is identified as **SG-_____**.

NOW, THEREFORE, in consideration of the grant made by the Council to the Grantee and in consideration of the mutual agreements and covenants contained in this Agreement, the parties agree as follows:

1. No sale, lease, mortgage, or other conveyance, nor the creation of any easement, restriction, or other encumbrance against the Property shall be valid for any purpose unless the written approval of the Council or its successors is duly filed and recorded at the time of the filing and recording of the instrument to which such approval pertains, nor shall the Property be used for any purpose except regional recreational open space purposes as those purposes are from time to time defined by the Council or its successors, unless the Council or its successors shall consent to the other use or uses by written instrument duly filed and recorded and designating the nature, extent, and duration of the use for which such consent is given.
2. As a condition to this Grant, and provided that conveyance of such easement or easements is consistent with the Approved Master Plan, the Grantee agrees to convey to the Council, its successors or assigns, a permanent easement or easements, hereinafter referred to as "Wastewater Facilities Easement[s]" for future regional wastewater conveyance corridors on the Property. Upon written request by and at no cost to the Council, Grantee will execute and deliver to the Council the Wastewater Facilities Easement[s] substantially in

the form of the Easement attached hereto and incorporated herein for the location or locations described by the Council in its written request to Grantee. The Council may exercise this contractual right to the Wastewater Facilities Easement[s] on one or more occasions.

The Council agrees to work cooperatively with Grantee to locate the Wastewater Facilities Easement[s] and the regional wastewater conveyance facilities on the Property in a manner which minimizes the impact on existing and planned park system facilities on the Property and natural resources. As further consideration for the conveyance of the Wastewater Facilities Easement[s], the Council agrees to waive the Sewer Availability Charge for the Property.

As a further condition for this Grant, the Council may, at any time after execution of this Grant, provide to Grantee written notification of the proposed location of a future regional wastewater conveyance corridor on the Property. Grantee agrees not to place or allow to be placed any restrictions, conditions, or encumbrances on the Property within the proposed future regional wastewater conveyance corridor without the written consent of the Council.

This Agreement and Restrictive Covenant may be enforced by the Council or its successors, as then defined, by appropriate action in the courts of the State of Minnesota.

-This Space Intentionally Left Blank-

COUNTY OF DAKOTA

Name, Chair
Board of Commissioners

Attested to By:

Name, Clerk to the Board

Approved by Dakota County
Board Resolution No. 2_ - ____

Approved as to Form:

Assistant County Attorney

Date: _____

KS-2_ - _____

Contract No. _____

STATE OF MINNESOTA)
) SS
COUNTY OF _____)

On the _____ day of _____, 202_, before me a notary public within and for the County of Dakota, personally appeared _____ *Name* _____, Chair of the Board of Commissioners and acknowledged that s/he executed said instrument on behalf of the County by authority of its Board.

Notary Public

THIS INSTRUMENT WAS DRAFTED BY:
Peter A. Hanf, Associate General Counsel
License No. 0268124
Metropolitan Council 390 Robert Street No
St. Paul, MN 55101

EXHIBIT A TO AGREEMENT Project Description

Acquisition of 8.77 acres of fee title and 0.20 acres of permanent easement for a segment of the Lake Marion Regional Greenway Corridor

Legal Description

PIN 14-82900-00-010 Outlot A (Fee Title)

That part of Outlot A, Vita Attiva at South Creek First Addition, according to the recorded plat thereof, Dakota County, Minnesota, lying northerly of the following described line: Commencing at the southeast corner of said Outlot A; thence on an assumed bearing of North 00 degrees 35 minutes 56 seconds East along the east line of said Outlot A a distance of 511.06 feet to the point of beginning of the line to be described; thence South 58 degrees 10 minutes 34 seconds West a distance of 82.93 feet; thence South 72 degrees 46 minutes 23 seconds West a distance of 374.93 feet; thence North 86 degree 52 minutes 20 seconds West a distance of 278.05 feet; thence South 79 degree 10 minutes 52 seconds West a distance of 378.40 feet; thence North 53 degrees 19 minutes 54 seconds West a distance of 106.60 feet; thence North 79 degree 44 minutes 11 seconds West a distance of 320.45 feet; thence South 83 degree 37 minutes 50 seconds West a distance of 282.41 feet; thence South 64 degree 13 minutes 55 seconds West a distance of 677.87 feet to the west line of said Outlot A and said line there terminating, excepting therefrom the west 60.00 feet and the east 70.00 feet of said Outlot A.

(Easement)

A permanent Greenway Corridor Easement over the east 70.00 of Outlot A, Vita Attiva at South Creek First Addition, according to the recorded plat thereof, Dakota County, Minnesota, lying northerly of the following described line: Commencing at the southeast corner of said Outlot A; thence on an assumed bearing of North 00 degrees 35 minutes 56 seconds East along the east line of said Outlot A a distance of 511.06 feet to the point of beginning of the line to be described; thence South 58 degrees 10 minutes 34 seconds West a distance of 82.93 feet; thence South 72 degrees 46 minutes 23 seconds West a distance of 374.93 feet; thence North 86 degree 52 minutes 20 seconds West a distance of 278.05 feet; thence South 79 degree 10 minutes 52 seconds West a distance of 378.40 feet; thence North 53 degrees 19 minutes 54 seconds West a distance of 106.60 feet; thence North 79 degree 44 minutes 11 seconds West a distance of 320.45 feet; thence South 83 degree 37 minutes 50 seconds West a distance of 282.41 feet; thence South 64 degree 13 minutes 55 seconds West a distance of 677.87 feet to the west line of said Outlot A and said line there terminating.

PIN 14-82900-00-070 Outlot G (Fee Title)

That part of Outlot G, Vita Attiva at South Creek First Addition, according to the recorded plat thereof, Dakota County, Minnesota, described as follows: Commencing at the southwest corner of said Outlot G; thence on an assumed bearing of North 00 degrees 35 minutes 56 seconds East along the west line of said Outlot G a distance of 511.06 feet to the point of beginning of the property to be described; thence continue North 00 degrees 35 minutes 56 seconds East along said west line a distance of 99.65 feet; thence North 63 degree 14 minutes 27 seconds East a distance of 310.73 feet to the east line of said Outlot G; thence South 00 degree 35 minutes 56 seconds West along said east line a distance of 67.15 feet; thence South 58 degrees 10 minutes 34 seconds West a distance of 326.94 feet to the point of beginning.

[EXAMPLE]
EASEMENT

THIS INSTRUMENT, MADE THIS ____ day of _____, 202_, by and between the County of Dakota, Grantor, and the Metropolitan Council, a public corporation and political subdivision of the state (successor to the Metropolitan Waste Control Commission), Grantee;

WITNESSETH, that Grantor(s), in consideration of One Dollar and other good and valuable consideration to _____ in hand paid by Grantee, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell, and convey to Grantee, its successors and assigns, the following described easement for sanitary sewer and utility purposes:

[Insert Legal Description of EASEMENT]

Said temporary easement to expire on or before _____.

The above described easement includes the rights of grantee, its contractors, agents and employees to do whatever is necessary for enjoyment of the rights granted herein including the right to enter the easement for purposes of constructing, operating, maintaining, altering, repairing, replacing, and/or removing said sewers and utilities.

Grantor(s), _____ heirs, successors and assigns, will not erect, construct, or create any building, improvement, obstruction or structure of any kind, either above or below the surface, or stockpile soils, construction debris, or construction equipment or change the grade thereof, without the express written permission of the Grantee.

Notwithstanding the aforementioned provision, the following improvements by Grantor(s), heirs, successors, and assigns do not require Grantee's written approval: fences, parking lots, street

and/or roadways, landscaping, bushes, shrubs. However, Grantor(s) hereby agree(s) that Grantee will not be responsible for and will not pay for the loss of or any damage to or replace or restore the following items within the easement area: fences, trees, shrubs, bushes or other plantings, other than grass or sod.

Grantor(s) covenant(s) that it is has acquired the above described Easement and has a lawful right and authority to convey and grant the easement described herein.

-This Space Intentionally Left Blank-

IN WITNESS WHEREOF, the said Grantor(s) has/have caused this Easement to be executed as of the date noted above.

GRANTOR

COUNTY OF DAKOTA

Name, Chair
Board of Commissioners

Attested to By:

Name, Clerk to the Board

Approved by Dakota County
Board Resolution No. 2_ - ____

Approved as to Form:

Assistant County Attorney

Date: _____

KS-2_ - _____

Contract No. _____

STATE OF MINNESOTA)
) SS
COUNTY OF DAKOTA)

On the _____ day of _____, 202_, before me a notary public within and for the County of Dakota, personally appeared _____ *Name* _____, Chair of the Board of Commissioners and acknowledged that he/she executed said instrument by authority of the Board.

Notary Public

GRANTEE

METROPOLITAN COUNCIL, a public corporation and political subdivision of the State of Minnesota

Name, Regional Administrator

Date: _____

STATE OF MINNESOTA)
) SS.
COUNTY OF RAMSEY)

The foregoing instrument was acknowledged before me this ____ day of _____, 202_, by _____ *Name* _____, Regional Administrator of the METROPOLITAN COUNCIL, a public corporation and political subdivision of the State of Minnesota, on its behalf.

Notary Public

THIS INSTRUMENT WAS DRAFTED BY:

Peter A. Hanf
Associate General Counsel
License No. 0268124
Metropolitan Council
390 Robert Street North
St. Paul, MN 55101

DAKOTA COUNTY PARKS

Regional Greenway Corridor Easement Being Acquired by the County of Dakota from the Donald L. Peterson Family Partnership

Tract No. 390

This permanent Regional Greenway Corridor Easement (hereinafter referred to as the "Corridor Easement") is granted this ____ day of _____, 2023, by the Donald L. Peterson Limited Family Partnership (hereinafter referred to as the "Grantor"), having a mailing address to the County of Dakota (hereinafter referred to as the "Grantee"), a political subdivision of the State of Minnesota, having a mailing address at 1590 Highway 55, Hastings, Minnesota 55033, as set forth herein.

1.0 RECITALS.

1.1. **Land Ownership.** Grantor is the owner in fee simple of 27.64 acres of real property (Tax Parcel Identification Number 14-82900-00-010) located in Dakota County, Minnesota (hereinafter referred to as the "Property").

1.2. **Protected Property.** Grantor is willing to grant a Corridor Easement on 0.20 acres of the Property, legally described in **Exhibit A**, and generally depicted in **Exhibit A-1** attached hereto (hereinafter referred to as the "Protected Property").

The Property and this Corridor Easement are subject to the following encumbrances:

- A. Building and zoning laws, ordinances, State and Federal Regulations
- B. Utility, drainage, and other easements, documents, instruments, restrictions, and reservations of record, if any.
- C. Matters that would be disclosed by an accurate survey.

1.3. **Conservation Values.** The Protected Property, as outlined above, has significant natural, scenic, aesthetic, scientific, and educational values (individually and collectively, referred to as the "Conservation Values"), that provides "relatively natural habitat of fish, wildlife, or plants or similar ecosystem," as that phrase is used in Section 170(h) (4) (A) (ii) of the Internal Revenue Code and in the regulations promulgated thereunder. These Conservation Values have not been and are not likely to be significantly impaired by the continued use of the Protected Property as described above or as authorized in this Corridor Easement; or by the use, maintenance of any structures and improvements that presently exist on the Protected Property; or that are authorized below. Preservation and protection of these Conservation Values will provide significant benefit to the public. Grantor and Grantee are committed to protecting and preserving the Conservation Values of the Protected Property in perpetuity for the benefit of this and future generations. Accordingly, it is their intent to create and implement a conservation easement that is binding upon the current landowner and all future owners of the Protected Property.

1.4. **Conservation Intent.** Grantor and Grantee are committed to protecting and preserving the Conservation Values of the Protected Property in perpetuity for the benefit of this and future generations. Accordingly, it is their intent to create and implement this Corridor Easement that is binding upon the current landowner and all future owners of the Protected Property.

1.5. **Qualified Organization.** Grantee is a qualified political subdivision under the laws of the State of Minnesota and is authorized by Minnesota Statute §375.18, subd.12 to acquire development rights in the form of a conservation easement under Minnesota Statute Chapter 84C; and is an organization qualified under Section 170(h) of the Internal Revenue Code, as that section may be amended from time to time, and in the regulations promulgated there under, to receive qualified conservation contributions.

2.0 GRANT OF EASEMENT.

For and in consideration of the facts recited above, the mutual covenants, terms, conditions, and restrictions herein contained, and pursuant to the laws of the State of Minnesota, in particular Minn. Stat. Chapter 84C, and in consideration of the payment of Seven Hundred Seventy **Dollars (\$770)** to Grantor, Grantor hereby grants and conveys unto Grantee, and its successors and assigns forever a Corridor Easement in perpetuity that runs with the Protected Property consisting of specific terms and conditions as set forth herein.

3.0 PURPOSE OF CORRIDOR EASEMENT.

It is the purpose of this Corridor Easement to ensure that the Protected Property will be retained as open space with a multi-purpose, paved recreational trail and amenities and to prevent any use that will significantly impair or interfere with the Conservation Values of the Protected Property. Grantor intends that this Corridor Easement will confine the use of the Protected Property to activities that are consistent with the purpose of this Corridor Easement. However, more restrictive applicable Federal, State or local laws shall prevail in determining permitted uses of the Protected Property.

4.0 PROHIBITED USES AND RESTRICTIONS.

All activities on or uses of the Protected Property must be consistent with the purpose of this Corridor Easement. The following activities and uses are expressly prohibited, except as provided in each of the respective sub-sections of this Corridor Easement:

4.1. **Industrial Use and Development.** No industrial use, development or right of ingress or egress across or upon the Protected Property for industrial use is allowed.

4.2. **Commercial Use and Development.** No commercial use, development or right of ingress or egress across or upon the Protected Property for commercial use is allowed.

4.3. **Residential Use and Development.** No residential use, development or right of ingress or egress across or upon the Protected Property for residential use is allowed.

A. Grantor shall not divide, subdivide, or partition, either legally or physically, the Protected Property. The Protected Property may be conveyed only in its entirety as a single ownership (joint or undivided) regardless of whether it now consists of separate parcels, was acquired as separate parcels, or is treated as separate parcels for property tax or other purposes.

This general provision described above does not prohibit boundary line adjustments in the case of technical errors made in the survey or legal description. Any correction or adjustment to the Protected Property boundary must be reviewed and approved by the Grantee.

- B. The Parties believe that there are no development rights currently allowed on the Property by local ordinance. Notwithstanding this belief, and to the extent set forth in this Corridor Easement and a separate NA Easement on the Property, to be delivered by Grantor to the grantee at a simultaneous closing, Grantor agrees to convey all existing development rights, if any, and future development rights which may inure to the Property after execution to Grantee pursuant to the express terms of this Corridor Easement and the separate NA Easement on the Property. Upon a simultaneous closing, no development rights shall remain within the Easement Area as expressly set forth in the easements. No portion of the Protected Property shall be used to satisfy land area requirements for other property not subject to this Corridor Easement for purposes of calculating building density, transferring development rights, lot coverage or open space under otherwise applicable laws, regulations or ordinances controlling land use.

4.4. **Natural Resource Management Plan.** All natural resource management practices on the Protected Property prior to anticipated future street construction shall be in accordance with a jointly developed and approved Natural Resources Management Plan (hereinafter referred to as the "NRMP") which must be completed and approved by Grantee and Grantor within six months of the Closing Date. Grantee and Grantor agree to consult with one another periodically with respect to updating the NRMP, and further agree that the NRMP may be revised or modified as necessary to reflect changed conditions or circumstances, so as to assure that the original intent and purpose of this Corridor Easement are carried out in perpetuity. Grantee shall be responsible for any modifications to the NRMP, which shall not contradict the terms of this Corridor Easement, and which shall take effect only upon written agreement by both Grantee and Grantor. Grantee and Grantor will each retain an updated copy of the NRMP.

4.5. **NRMP Implementation.** Implementation of the NRMP shall be in accordance with a Management Agreement developed and approved by the Grantee. Said Management Agreement shall include a three-year work plan, which describes the priority management activities, responsibilities, estimated costs, and schedule for implementing the NRMP during a defined time period. Grantor is not required to contribute cash or in-kind services for implementation of the Management Agreement.

4.6. **Buildings, Structures and Improvements.** There shall be no temporary or permanent buildings, structures or improvements of any kind placed or constructed on the Protected Property, except as set forth below or specifically provided for in the NRMP.

- A. **Utility Services and Septic Systems –** Maintenance, repair, replacement, removal, and relocation of existing electric, gas, and water facilities, sewer lines and/or other public or private utilities, including telephone or other communication services over or under the Protected Property for the purpose of providing electrical, gas, water, sewer, or other utilities to serve improvements outside of the Protected Property for such purposes, is permitted. Grantor shall not permit or grant easements for new utility transmission or distribution facilities or systems without the written consent of Grantee. Maintenance, repair or improvement of a septic system(s) or other underground sanitary system that exists on the Protected Property at the time of this Corridor Easement is conveyed, or the construction of a new septic, other underground sanitary system or other utility, for the benefit of an existing residence and any improvements permitted herein, is permitted. Notification and written approval by Grantee is required for any excavation. All other utilities are prohibited on the Protected Property. Following installation and construction, the surface and vegetation shall be restored to a condition consistent with the conservation purposes of this Corridor Easement in a timely and appropriate manner.
- B. **Streets –** Grantor and Grantee acknowledge that Eaton Avenue will likely be extended south from its current terminus as a City of Farmington (hereinafter referred to as the "City") street to serve the multi-modal needs of existing and future residential development. At such time when an Eaton Avenue extension is being planned, Buyer and Seller agree to work with the City to safely incorporate the Greenway trail in the street design which may include a below grade crossing and local trail connections. No other roads or other rights-of-way may be established or constructed on the Protected Property without the prior written approval of Grantee. Upon

completion of future street construction, adjacent areas shall be landscaped and restored to primarily native vegetation in accordance with the NRMP.

- C. Trails – Grantor and Grantee acknowledge the future construction of the Lake Marion Regional Greenway Trail within the Easement Area. Design construction and maintenance of a new, ten-foot wide, paved regional trail shall be permitted in accordance with the approved Lake Marion Greenway Master Plan and with written approval of Grantor, Grantee and the City. Construction and maintenance of trails linking the neighborhood to the regional trail or to providing other paved access shall be allowed with written approval of Grantor, Grantee and the City. Upon completion of future trail construction, adjacent areas shall be landscaped and restored to primarily native vegetation in accordance with the NRMP.
- D. Greenway Amenities - Construction, installation and maintenance of greenway amenities such as picnic tables or shelter, benches, portable toilets, informational kiosks, lighting, drinking fountains, paths, and associated landscaping shall be allowed with the written approval of the Grantor, Grantee and the City.

4.7. **Public Access.** No public access right existed prior to the conveyance of this Corridor Easement. With planned simultaneous acquisition of adjacent Grantor property by Grantee and the future construction of the greenway trail within the Easement Area public access and use of the Protected Property will be allowed by the Grantor. and

4.8. **Water.** No hydrological modifications, including alteration or manipulation of natural rivers, creeks and streams, surface or subsurface springs, and shorelines of lakes, ponds, or wetlands, or other surface or sub-surface water bodies on the Protected Property is allowed. Alteration or manipulation to restore or enhance water quality, wildlife habitat, native biological communities or ecological functions, which are approved in writing by Grantee and consistent with the NRMP described in Section 4.4 of this Easement, if applicable, is allowed. Increased storm water volumes or flow rates to the Protected Property due to changes in the topography, land use, buildings, or drainage systems on and from adjacent or nearby properties after the date of this Corridor Easement is not allowed unless it improves the Conservation Values of the Protected Property and is approved in the NRMP. No activities or uses of the Protected Property that cause soil erosion or are detrimental to water quality are allowed. Grantor is responsible for notifying Grantee if Grantor obtains actual knowledge that there are new storm water or erosion issues on the Protected Property and is responsible for enforcing this provision.

4.9. **Topography, Surface Alteration, Mining, and Extraction.** There shall be no change to the topography of the Protected Property in any manner including ditching, trenching, draining, diking or filling except as reasonably required in the course of activities or uses in accordance with the NRMP as described in Section 4.4. Removal of subsoil or topsoil and the extraction of subsurface or deep mined minerals from the Protected Property, including natural gas and oil, and the commercial and non-commercial extraction of minerals, including limestone, shale, gravel, sand, and all other minerals through mining, drilling, exploring or other methods are prohibited.

Alterations to the topography and surface of the Protected Property for the purpose of maintaining, restoring or enhancing wildlife habitat or native biological communities as included in the NRMP described in Section 4.4 of this Corridor Easement shall be allowed with prior written approval of Grantee.

Surface alterations incidental to any construction or other activities or uses specifically allowed by this Corridor Easement shall be allowed provided there is minimal disturbance to the topography, soils and vegetation and shall utilize proper erosion control practices. At the conclusion of any allowed activity, the surface shall be restored in a timely manner to a condition consistent with the Conservation Intent of this Corridor Easement.

4.10. **Vegetation Management.** Grantor shall maintain the vegetation as permanent vegetative land cover within the Protected Property in compliance with the NRMP as described in Section 4.4 of this Corridor Easement. There shall be no removal, destroying, burning, cutting, mowing or altering of trees,

shrubs and other vegetation on the Protected Property except as reasonably required to maintain existing improvements, and as provided in the NRMP as described in Section 4.4 of this Corridor Easement, or as follows:

- A. **Control of Harmful Insects and Invasive Species** - There shall be no plant or animal species knowingly and willfully introduced on the Protected Property except those native species that are appropriate with the Conservation Values of this Corridor Easement and consistent with the NRMP. Activities to prevent or control harmful insects, invasive species, noxious weeds, diseases, personal injury, or property damage are permitted, if provided for in the NRMP as described in Section 4.5 of this Corridor Easement.

- B. **Herbicides and Pesticides** - There shall be no application of herbicides or systemic insecticides, neonicotinoids, seeds coated with neonicotinoids or other agricultural inputs that would negatively affect water quality and wildlife, including pollinators, on the Protected Property, except those that are necessary as part of approved practices specified in the NRMP. Herbicide and pesticide use must comply with all applicable Federal and State regulations and Best Management Practices. Labeled and approved herbicides and pesticides may be used by spot applications to control State/County-designated noxious weeds, invasive woody species or pest insect infestations, provided their use is designed to minimize the impact on the Conservation Values of the Protected Property. Broadcast spraying of herbicides or pesticides, including aerial applications, is permitted, if known infestation is determined to be a threat to human, animal and/or plant community health, provided that, at a minimum, the following conditions are met: (a) spot treatment is not practical because of the severity of the infestation; (b) the timing of application is scheduled to minimize damage to non-target species; and (c) the type of herbicide or pesticide used has the least impact on non-target species while still being effective in controlling target species.

4.11. **Animals.** Domestic dogs and other domesticated animals are permitted on the Protected Property in accordance with County and City ordinances.

4.12. **Motorized Vehicles.** The use of motorized vehicles is permitted under this Corridor Easement in conjunction with construction or maintenance of existing or permitted trails, other improvements, and for natural resource management. All other motorized vehicle use is prohibited, except for administrative, habitat management, law enforcement, public safety, and emergency purposes.

4.13. **Waste Disposal.** There shall be no storage, accumulation, processing or disposal of mixed municipal solid waste, demolition debris, industrial waste, unused equipment, hazardous or toxic substances or other unsightly or offensive material on the Protected Property. Use of the Protected Property for dumping, storing, processing or landfilling solid or hazardous wastes is prohibited.

4.14. **Signs.** Commercial signs, billboards, and outdoor advertising structures may not be displayed on the Protected Property. Informational signage is permitted and is limited to the following purposes:

- A. Displaying the name of the Protected Property;
- B. Announcing the existence of this Corridor Easement;
- C. Providing interpretive and directional information;
- D. Providing the name and address of Grantor, Grantee, project partners, and/or funding sources;
- E. Delineating the boundaries of the Protected Property in order to prohibit trespass or hunting or other non-permitted activities;

- F. Providing information with regard to on-site uses and activities permitted by this Corridor Easement, for which approval will not be unreasonably withheld, conditioned, or delayed.

For all signs permitted by this section, the location, number, size, and design must not significantly diminish the Conservation Values of the Protected Property and must be approved by the Grantor and Grantee.

4.15. **Outdoor Lighting.** Permanent outdoor lighting may be allowed on the Protected Property with written approval by the Grantee.

4.16. **Inspection and Noncompliance.** An annual inspection of the Protected Property shall be conducted by Grantee, or its designated representative, to assure Corridor Easement, NRMP and/or Management Agreement compliance and to make changes as necessary. Grantee shall have the right to enter the Protected Property, with advance notice to Grantor, in order to monitor compliance.

In the event of noncompliance with the Corridor Easement, NRMP and/or Management Agreement, Grantee, or its designated representative, shall work with Grantor to explore methods of compliance and if Grantor is the cause of the noncompliance, give Grantor a reasonable amount of time, not to exceed twelve months, to take corrective action. If there is a substantial, ongoing event or circumstance of non-compliance with the Corridor Easement, NRMP or Management Agreement, Grantee shall notify Grantor in writing of such noncompliance caused by the Grantor. Grantee shall take all reasonable steps (including efforts at securing voluntary compliance) to secure compliance with the Corridor Easement, NRMP and/or Management Agreement. If Grantee has worked with Grantor to correct such noncompliance caused by the Grantor and Grantor's corrective actions are not acceptable to the Grantee, Grantee may undertake, if necessary, appropriate legal action to ensure compliance.

5.0 GRANTOR'S RESERVED RIGHTS.

Grantor reserves for itself, its heirs, successors and assigns all rights to use the Protected Property for all purposes that are not expressly restricted or prohibited herein and are not inconsistent with this Corridor Easement. Grantor agrees to notify Grantee in writing before exercising any reserved right that may have a materially adverse impact on the natural characteristics, and the ecological and aesthetic features of the protected Property. Without limiting the applicability of the foregoing, Grantor reserves the following rights:

5.1. **Conveyance.** Grantor may sell, give, mortgage, lease, bequeath or otherwise encumber or convey all of the Protected Property. This right to convey the Protected Property is subject to the following provisions:

- A. Any deed, lease or other conveyance or encumbrance of the Protected Property, is subject to this Corridor Easement.
- B. Grantor will reference or insert the terms of this Corridor Easement in any deed or other document by which Grantor conveys title to or any interest in the Protected Property. Grantor will also specify to what extent any rights included in this Corridor Easement have been exercised, if at all, and are no longer available for use by the new owner, and which reserved rights are specifically allocated to the property or interest being conveyed.
- C. Grantor shall notify Grantee of any proposed conveyance of title or encumbrance at least fourteen (14) days before closing. Grantor shall also provide Grantee with the name and address of the new owner of the Protected Property and a copy of the deed transferring title within fourteen (14) days of closing in accordance with Section 7.6.
- D. If the Protected Property is owned by a trust, business entity or any common or jointly held ownership, Grantor shall designate a representative authorized to receive notice on behalf of Grantor and provide Grantee with the new name, address and other contact information.

Grantor shall notify Grantee of any change in the designated representative and provide Grantee with the new name, address and other contact information within fourteen (14) days after the change.

- E. Grantor will also notify Grantee of any proposed condemnation, or any claim, legal proceeding, foreclosure or other legal action that might affect the title to the Protected Property or the validity or enforceability of this Corridor Easement.

5.2. Recreational and Educational Activities. Grantor expressly reserves the right to engage in low impact, recreational and educational activities requiring no significant surface alteration of the land and posing no threat to the Conservation Values set herein, such as hiking, cross-country skiing, nature observation or study, bird watching, and other non-intensive recreational activities, and to control access of all persons for these purposes; provided that these activities do not impact the protection and conservation of any animal habitat or other Conservation Values of the Protected Property as determined by Grantee. Use of motorized vehicles shall also be permitted on the Protected Property, so long as the same does not significantly alter or degrade the natural features and ecological functions of the Protected Property or contradict the provisions of the NRMP described in Section 4.4 or use of motorized vehicles included in Section 4.12 of this Corridor Easement, as determined by the Grantee.

5.3. Natural Resource Management. The Protected Property may be used to create, maintain, restore or enhance natural resources in accordance with the NRMP described in Section 4.4 of this Easement, as jointly approved by Grantor and Grantee.

6.0. RIGHTS AND REMEDIES OF GRANTEE.

In order to accomplish the conservation purposes of this Corridor Easement, Grantee shall have the following rights and remedies:

6.1. Remedies and Enforcement. In the event that Grantee becomes aware that Grantor is not in compliance with this Corridor Easement or the NRMP, Grantee shall give notice to Grantor, at Grantor's last known post office address, of such violation via certified mail, return receipt requested, and request corrective action sufficient to abate such violation and restore the Protected Property to its previous condition. Grantor shall work with Grantee to explore and conduct voluntary methods of compliance. Failure by Grantor to cause discontinuance, abatement or such other corrective action as may be requested by Grantee within thirty (30) days after receipt of such notice shall entitle Grantee to enforce by proceedings at law or in equity the provisions of this Corridor Easement including, but not limited to, the right to require the restoration of the Protected Property to its condition at the date of this Corridor Easement, subject to the reserved rights of Grantor set forth herein. Grantee, or its successors or assigns, shall not waive or forfeit the right to take action as may be necessary to ensure compliance with the terms and conditions of this Corridor Easement by any prior failure to act. If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values of the Protected Property, Grantee may pursue its remedies under this section without prior notice to Grantor or without waiting for the period for cure to expire.

Nothing herein shall be construed to entitle Grantee to institute any enforcement proceeding against Grantor for any changes to the Protected Property due to causes beyond Grantor's control, such as changes caused by fire, flood, storm, infestations, natural deterioration, the acts of third parties legally authorized to act by recorded document or other legally established rights or the unauthorized wrongful acts of third persons; provided, however, that Grantor shall notify Grantee of any occurrence of which Grantor has actual knowledge which would materially and adversely affect or interfere with the conservation purpose of this Corridor Easement, whether caused by the acts or omissions of Grantor or third parties.

Grantee shall be entitled to seek expedited injunctive relief to enforce its rights with respect to the Protected Property, and Grantor waives any bond requirement otherwise applicable to any petition for such relief. Grantee shall have the right to report to regulatory authorities any environmental conditions or

any potential or actual violations of environmental laws, including noxious weed laws, with respect to the Protected Property.

In the event either party becomes involved in legal proceedings against the other to enforce such party's respective rights or interests under this Corridor Easement, the prevailing party shall be entitled to receive from the non-prevailing party reasonable attorney's fees incurred in connection with any such proceedings, if the non-prevailing party's position is determined to be frivolous by the court.

Grantor shall notify Grantee of any occurrence which would materially and adversely affect or interfere with the purpose of this Corridor Easement, whether caused by the acts or omissions of Grantor or third parties.

6.2. **Right of Entry.** Grantee, or its designated representative, shall have the right to enter the Protected Property, in a reasonable manner, with advance notice to Grantor and at reasonable times, for the purpose of ensuring that this Corridor Easement and the NRMP required pursuant to Section 4.4 of this Corridor Easement are being implemented appropriately, and as needed to exercise its contingent rights, for the following purposes:

- A. Inspecting the Protected Property to determine if Grantor or Grantor's heirs, successors or assigns, are complying with the provisions of this Corridor Easement;
- B. Obtaining evidence for the purpose of seeking judicial enforcement of this Corridor Easement;
- C. With Grantor's approval, making scientific and educational observations and studies and taking samples in such a manner as will not disturb the quiet enjoyment of the Protected Property by Grantor. Grantor shall be allowed to participate in all such observations and studies;
- D. Posting signs for the purpose of promoting provisions of this Corridor Easement, with Grantor's approval as to the size and location of signs;
- E. Inspecting the Protected Property to determine if Grantor or Grantor's heirs, successors or assigns, are complying with the provisions of the NRMP and Management Agreement;
- F. Removing invasive plants or animals, as agreed on by Grantor and Grantee. Such activities by Grantee shall not relieve Grantor of the responsibility of removing and controlling invasive species in accordance with appropriate Federal, State, County, and City laws and regulations.

All notices to Grantor under this sub-section may be made either in writing or verbally, at the discretion of the party providing the notice.

6.3. **Limitation of Grantee's Rights.** Nothing contained herein shall give rise, in the absence of a judicial decree, to any right or ability of Grantee to become the owner, manager or operator of the Protected Property.

6.4. **Monitoring.** Upon written or verbal notice to Grantor, Grantee shall have the right, but not the obligation, to monitor the condition of the Protected Property, plant and animal populations, plant communities, and natural habitats on the Protected Property. A written summary of findings shall be provided to Grantor.

6.5. **Consent to Otherwise Prohibited Activities.** Grantee's consent for activities otherwise prohibited or for any activities requiring Grantee's consent under Sections 4 and 5 of this Corridor Easement may be given under the following conditions and circumstances: If, owing to unforeseen or changed circumstances, any of the activities listed in Sections 4 and 5 of this Corridor Easement are deemed desirable by Grantor and Grantee, Grantee may, in its sole discretion, give permission for such activities, subject to the limitations herein. Such requests for permission, and requests for permission for

activities requiring Grantee's consent under Sections 4 and 5 of this Corridor Easement, shall be in writing and shall describe the proposed activity in sufficient detail to allow Grantee to judge the consistency of the proposed activity with the purpose of this Corridor Easement. Grantee shall make reasonable efforts to respond to such written request within 60 days of receipt by Grantee. Grantee may give its permission only if it determines, in its sole discretion, that such activities: (a) do not violate the purpose of this Corridor Easement; and (b) either enhance or do not significantly impair any Conservation Values of the Protected Property. Notwithstanding the foregoing, Grantor and Grantee have no right or power to agree to any activities that would result in the termination of this Corridor Easement, that would allow residential, commercial, industrial or other activities not provided for above.

7.0 GENERAL PROVISIONS.

7.1. **Perpetual Burden.** This Corridor Easement shall run with and burden the Protected Property in perpetuity and shall bind Grantor, Grantor's heirs, successors and assigns.

7.2. **Corridor Easement Documentation.** Grantor and Grantee agree that the natural characteristics, the ecological and aesthetic features, the physical condition, the present uses, and the Conservation Values of the Protected Property at the time of this Corridor Easement conveyance are documented in the Property Report. The Property Report, including reports, maps, photographs and other documentation prepared by Grantee and signed and acknowledged by Grantor and representative of Grantee, establishes the condition of the Protected Property at the time of this Corridor Easement conveyance. The Property Report includes without limitation, the status of existing roads, trails, fences, utility systems, small structures, storm water conveyance, points of access, types of motorized vehicle use, other allowable uses that would otherwise be restricted by this Corridor Easement, and the planned location of signs (if any). The Property Report is not intended to preclude the use of other information and evidence to document the condition of the Protected Property in the event of any future enforcement issue. A copy of the Property Report shall be maintained at the office of Grantee and may be used by Grantee and Grantor in any enforcement action.

7.3. **Grantor Access.** Nothing in this Corridor Easement shall be construed to preclude Grantor's own right to access all portions of the Protected Property, provided this access does not significantly alter or degrade the natural features and ecological functions of the Protected Property or contradict the provisions of the NRMP described in Section 4.4 of this Corridor Easement.

7.4. **Assignment.** This Corridor Easement is in gross and may be assigned or transferred by Grantee, and such transfer shall be duly recorded. Grantee agrees that, if it transfers or assigns its interest in this Corridor Easement, the following requirements shall apply:

- A. The organization or entity receiving this interest will be a qualified organization as that term is defined in Section 170(h)(3) of the Internal Revenue Code, as that section may be amended from time to time, and in the regulations promulgated thereunder and which is organized and operated primarily for one of the conservation purposes specified in Section 170(h)(4)(A) of the Internal Revenue Code, as that section may be amended from time to time, and in the regulations promulgated thereunder.
- B. An approved transferee or assignee will be required to carry out in perpetuity the purpose that this Corridor Easement was originally intended to advance.
- C. Grantee will notify Grantor of any assignment within thirty (30) days of the assignment and will provide the Grantor with the name and address of the new holder.

7.5. **Dissolution of Grantee.** In the event of the dissolution of Grantee, Grantee's interest will be assigned to a governmental entity or to a private non-profit organization qualified to hold and monitor this Corridor Easement.

7.6. Subsequent Transfers by Grantor. Unless this Corridor Easement is extinguished, as set forth below, Grantor agrees that the terms, conditions, restrictions, and purposes of this Corridor Easement will either be incorporated by reference or inserted by Grantor in any subsequent deed or other legal instrument by which Grantor divests itself of any interest in all or part of the Protected Property. Grantor agrees to notify Grantee of such conveyance in writing by certified mail within fifteen (15) days after closing. If ownership of the Protected Property is transferred from Grantor to another family member or entity due to death, incapacitation or other reason, Grantee shall be notified of any such conveyance in writing by certified mail within thirty (30) days. Upon conveyance of the Protected Property, Grantor is released from all covenants, representations, warranties, and any obligations created by this Corridor Easement, save and except liabilities arising solely under Section 7.12 of this Corridor Easement herein for actions, conduct or conditions which existed or occurred prior to the date of the conveyance of the Protected Property.

7.7. Amendment. This Corridor Easement may be modified or amended by written agreement of the Grantee and Grantor, subject to Minnesota Statute Chapter Section 116P.15 and Grantee's right, in its sole discretion and exclusive judgment, to refuse to agree to any proposed amendment or modification of this Corridor Easement, including any amendment in which the following apply:

- A. The amendment is inconsistent with the purpose of this Corridor Easement.
- B. The amendment will impair or interfere with the Conservation Values of the Protected Property.
- C. The amendment affects the perpetual duration of this Corridor Easement.
- D. The amendment affects the validity of this Corridor Easement under Minnesota law or other law.
- E. The amendment creates/results in impermissible private benefit as prohibited by the Internal Revenue Code.
- F. Lienholders of existing liens and mortgages will not agree to subordinate their interests to the amended Corridor Easement.

Any amendment or modification of this Corridor Easement must be in writing and recorded in the same manner as this Corridor Easement.

7.8. Extinguishment. Grantor agrees that this grant of Corridor Easement gives rise to a property right, immediately vested in Grantee, with a fair market value that is equal to the proportionate value that this Corridor Easement, at the time of this conveyance, bears to the value of the Protected Property as a whole at the time of conveyance. The proportionate value of property rights shall remain a constant fractional share of the unrestricted value of the Protected Property.

If a subsequent unexpected change in the conditions of or surrounding the Protected Property makes impossible or impractical the continued use of the Protected Property for the conservation purposes described herein, and if the restrictions of this Corridor Easement are extinguished by judicial proceedings (including, but not limited to, eminent domain proceedings), then upon the sale, exchange or involuntary conversion of the Protected Property, Grantee shall be entitled to a share of the proceeds at least equal to the proportionate value of this Corridor Easement described above, as determined by an independent fair market appraisal using the Uniform Standards of Professional Appraisal Practices.

Grantee will use its share of any and all proceeds received for such sale, exchange or involuntary conversion in a manner consistent with the conservation purposes of this Corridor Easement or for the protection of a "relatively natural habitat of fish, wildlife, or plants or similar ecosystem," as that phrase is used in Section 170(h) (4) (A) (ii) of the Internal Revenue Code, as that section may be amended from time to time, and in regulations promulgated thereunder.

7.9. Title Warranty. Grantor hereby warrants and represents that Grantor is the fee simple owner of the Protected Property and has good right to grant and convey this Corridor Easement, that the Protected Property is free and clear of any and all encumbrances except those of record that have been approved by Grantee, and that Grantee and its successors and assigns shall enjoy all of the benefits derived from and arising out of this Corridor Easement. Any present or future mortgage on the Protected Property has been or will be subordinated to this Corridor Easement.

7.10. General Indemnification. To the greatest extent allowed by law, Grantor shall indemnify, and hold harmless the Grantee, its officers, agents, and employees, from and against any actual or alleged loss, litigation cost (including, but not limited to, reasonable attorney fees and costs and expenses of defense), costs, settlement, judgment, demands, damage, liability, injury, harm, fees, fines, penalties, interest, expenditure, diminution in value, disbursement, action, claim, proceeding, or dispute of any sort (collectively "Losses"), whether or not involving a third party, which are attributable to Grantor, or Grantor's agents, independent contractors, employees, invitees or delegates, actual or alleged:

- A. intentional, willful, or negligent acts or omissions; or
- B. actions or omissions that give rise to strict liability; or
- C. breach of any representation, warranty, or covenant,

whether or not well-founded in fact or in law, known or unknown, foreseen or unforeseen, fixed or contingent and howsoever originating or existing, and whether or not based upon statute, common law, or equity; except to the extent that the same may be contributed to by the gross negligence or willful misconduct of Grantee, its employees, agents or contractors.

7.11. General Liability Insurance. Grantor will name Grantee as an additional insured on any general liability insurance policy carried by Grantor with respect to the Protected Property. If Grantor provides general liability insurance policy covering the Protected Property that is at least equal to the municipal tort liability limits as defined in state statute as of the date of any insurable claim or loss, with Grantee named as an additional insured, and with proof of said insurance provided to Grantee, Grantor's liability under this section shall be limited to such policy for matters covered by the policy. The municipal tort liability limit is currently found in Chapter 466, which sets the limit at \$1,500,000 and is subject to future increases by the legislature.

7.12. Environmental Condition and Compliance with Environmental Laws. Grantor represents that to the best of its knowledge, no hazardous substance or materials or toxic waste exists or has been generated, treated, stored, used, disposed of, or deposited in or on the Protected Property, and that there are not now any underground storage tanks located on the Protected Property.

Subject to the limitations of Grantor's liability contained in Section 7.10 or Section 7.11 of this Easement, Grantor, and Grantor's heirs, successors and assigns shall indemnify, defend and hold Grantee harmless from any liability related to Grantor's representations and warranties in this paragraph or related to the use, deposit or release of any hazardous substance or material or toxic waste on the Protected Property after the date of this Corridor Easement.

Grantor represents that to the best of its knowledge, it is in compliance with, and shall remain in compliance with, all applicable Environmental Laws. "Environmental Law" or "Environmental Laws" means any and all Federal, State, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, guidelines, policies or requirements of any governmental authority regulating or imposing standards of liability or standards of conduct (including common law) concerning air, water, solid waste, hazardous materials, worker and community right-to-know, hazard communication, noise, radioactive material, resource protection, subdivision, inland wetlands and watercourses, health protection and similar environmental health, safety, building and land use as may now or at any time hereafter be in effect.

Grantor represents that to the best of its knowledge, there are no notices by any governmental authority of any violation, or alleged violation, of non-compliance or alleged non-compliance with or any liability under any environmental law relating to the operations or conditions of the Protected Property.

Grantor represents that to the best of its knowledge that it has no actual knowledge of a release or threatened release of any hazardous materials on, at, beneath or from the Protected Property. Hazardous materials means any petroleum, petroleum products, fuel oil, waste oils, explosives, reactive materials, ignitable materials, corrosive materials, hazardous chemicals, hazardous wastes, hazardous substances, extremely hazardous substances, toxic substances, toxic chemicals, radioactive materials, infectious materials and any other element, compound, mixture, solution or substance, which may pose a present or potential hazard to human health or the environment.

Grantor hereby promises to defend and indemnify Grantee against all litigation, claims, demands, penalties and damages, including reasonable attorneys' fees, arising from or connected with the use, deposit, release or threatened release of any hazardous materials before, on or after the date of this Easement, on, at, beneath or from the Protected Property, or arising from or connected with a violation of any Environmental Laws by Grantor or any other prior owner of the Protected Property. Grantor's indemnification obligation shall not be affected by any authorizations provided by Grantee to Grantor with respect to the Protected Property or any restoration activities carried out by Grantee at the Protected Property; provided, however, that Grantee shall be responsible for any hazardous materials contributed after this date to the Protected Property by Grantee.

In the event that the successor or assign of the Grantor is a political subdivision of the state covered by Minnesota Tort Claims Act, Minnesota Statutes, Chapter 466, the provisions of said Chapter, as may be amended, shall apply to the successor or assign.

7.13. **Real Estate Taxes.** Grantor agrees to pay any and all real estate taxes due and payable for the Protected Property in the year 2022, for all prior years and thereafter so long as the Grantor is the fee owner of the Protected Property and will pay all assessments levied by competent authority on the Protected Property.

7.14. **Costs and Liabilities.** Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep and maintenance of the Protected Property, including the maintenance of adequate comprehensive general liability insurance coverage. Grantee shall have no duty or responsibility to manage or maintain the Protected Property. If, however, the Protected Property is damaged by causes beyond Grantor's control, such as changes caused by fire, flood, storm, infestations, natural deterioration, the acts of third parties legally authorized to act by recorded document or other legally established rights or the unauthorized wrongful acts of third persons, Grantor and Grantee will meet and seek to arrive at an equitable solution to restore the Protected Property. Grantor shall keep Grantee's interest in the Protected Property free of any liens arising out of any work performed for, materials furnished to or obligations incurred by Grantor.

7.15. **Recording.** Grantee is authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this Corridor Easement. Without limiting the foregoing, Grantor agrees to execute any such reasonable instruments upon written request.

7.16. **Definitions of Grantor and Grantee.** The terms "Grantor" and "Grantee" as used herein shall be deemed to include, respectively, Grantor, Grantor's heirs, successors, and assigns; and Grantee, its successors and assigns.

7.17. **Notices.** Excepted as provided below, any notice required by or sent pursuant to this Corridor Easement shall be sent by registered or certified mail, return receipt requested, to the following addresses or such addresses as may be specified in writing:

GRANTOR

Donald I. Peterson
The Moments, Room 223
16258 Kenyon Avenue
Lakeville, MN 55044

GRANTEE

Alan Singer, Real Estate
Manager, or successor
Dakota County
14955 Galaxie Avenue
Apple Valley, MN 55124
al.singer@co.dakota.mn.us

However, notice provided by Grantee, or Grantee's designated representative, in exercising its right of entry under Section 6.2 of this Corridor Easement may be made to the Grantor either in writing or verbally, at the discretion of Grantee. Grantor shall provide notice of any subsequent transfer in accordance with the provisions of Section 7.6 of this Corridor Easement.

7.18. **Severability.** Each provision of this Corridor Easement is severable from any other provision of this Easement. If any provision of this Easement or the application thereof to any person or circumstance is found to be invalid, the remainder of the provisions of this Corridor Easement and the application of such provisions to persons or circumstances other than those as to which it is found to be invalid shall not be affected thereby.

7.19. **Liberal Construction.** Any general rule of construction to the contrary notwithstanding, this Corridor Easement shall be liberally construed in favor of the grant to affect the purpose of this Corridor Easement and the policy and purpose of Minnesota Statutes Chapter 84C and Section 116P.15. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Corridor Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

7.20. **Future Economic Condition.** A change in the potential economic value of any use that is prohibited by or inconsistent with this Corridor Easement, or any change in any current or future uses of adjacent or nearby properties, shall not constitute a change in the conditions that make it impossible or impractical for preserving and protecting the Conservation Values of the Protected Property and fulfilling the intent of this Corridor Easement, and shall not constitute grounds for extinguishing this Corridor Easement.

7.21. **Entire Agreement.** This instrument sets forth the entire agreement of the parties with respect to this Corridor Easement and supersedes all prior discussion, negotiations, understandings, or agreements relating to this Easement, all of which are merged herein. The Grantor agrees to execute or provide any additional documents reasonably needed by Grantee to carry out in perpetuity the provisions and the intent of this Corridor Easement, including but not limited to any reasonable documents needed to correct any error or mutual mistake, legal description or title matter or to comply with any Federal, State, or local law, rule or regulation.

7.22. **Opportunity to Review with Legal Counsel.** Grantor has had an opportunity to review the terms of this Corridor Easement with Grantor's own legal counsel, whether Grantor has elected to consult with counsel or not. Grantor has read and understands the terms of this Corridor Easement and agrees to be bound by its terms.

7.23. **Termination of Rights and Obligations.** A party's rights and obligations under this Corridor Easement terminate upon transfer of the party's interest in this Corridor Easement or Protected Property, except that liability for acts or omissions prior to transfer shall survive transfer.

7.24. **No Merger.** Should Grantee acquire fee title to the Protected Property, no merger shall occur and this Corridor Easement and the fee shall continue to be managed as separate estates.

7.25. **Counterparts.** This Corridor Easement may be executed in one or more counterparts and will become effective when one or more of the counterparts have been signed by each of Grantees and Grantors.

IN WITNESS WHEREOF, Grantor and Grantee have executed this Permanent Regional Greenway Corridor Easement this _____ day of _____, 2023.

GRANTOR

Donald I. Peterson Limited Family Partnership

By: _____

Donald L. Peterson

STATE OF MINNESOTA)

) SS.

COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2023, by Donald L. Peterson, on behalf of the Partnership,

Notary Public

Dakota County Parks

Legal Description of the Regional Greenway Corridor Easement on the Donald L. Peterson Limited Family Partnership Property

Tract. No. 390

14-82900-00-010 Outlot A

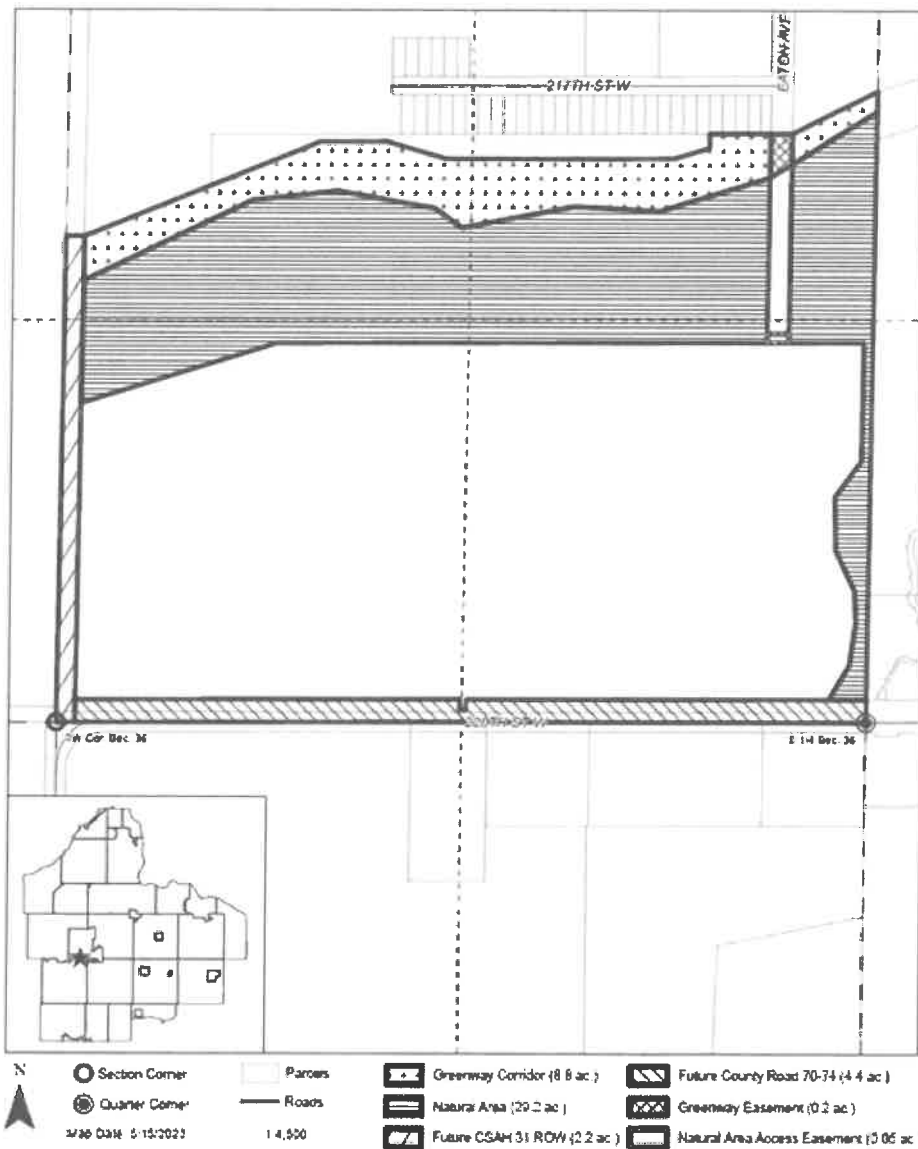
A permanent Greenway Corridor Easement over the east 70.00 of Outlot A, Vita Attiva at South Creek First Addition, according to the recorded plat thereof, Dakota County, Minnesota, lying northerly of the following described line: Commencing at the southeast corner of said Outlot A; thence on an assumed bearing of North 00 degrees 35 minutes 56 seconds East along the east line of said Outlot A a distance of 511.06 feet to the point of beginning of the line to be described; thence South 58 degrees 10 minutes 34 seconds West a distance of 82.93 feet; thence South 72 degrees 46 minutes 23 seconds West a distance of 374.93 feet; thence North 86 degree 52 minutes 20 seconds West a distance of 278.05 feet; thence South 79 degree 10 minutes 52 seconds West a distance of 378.40 feet; thence North 53 degrees 19 minutes 54 seconds West a distance of 106.60 feet; thence North 79 degree 44 minutes 11 seconds West a distance of 320.45 feet; thence South 83 degree 37 minutes 50 seconds West a distance of 282.41 feet; thence South 64 degree 13 minutes 55 seconds West a distance of 677.87 feet to the west line of said Outlot A and said line there terminating.

Total Area: 0.20 acres

DAKOTA COUNTY PARKS

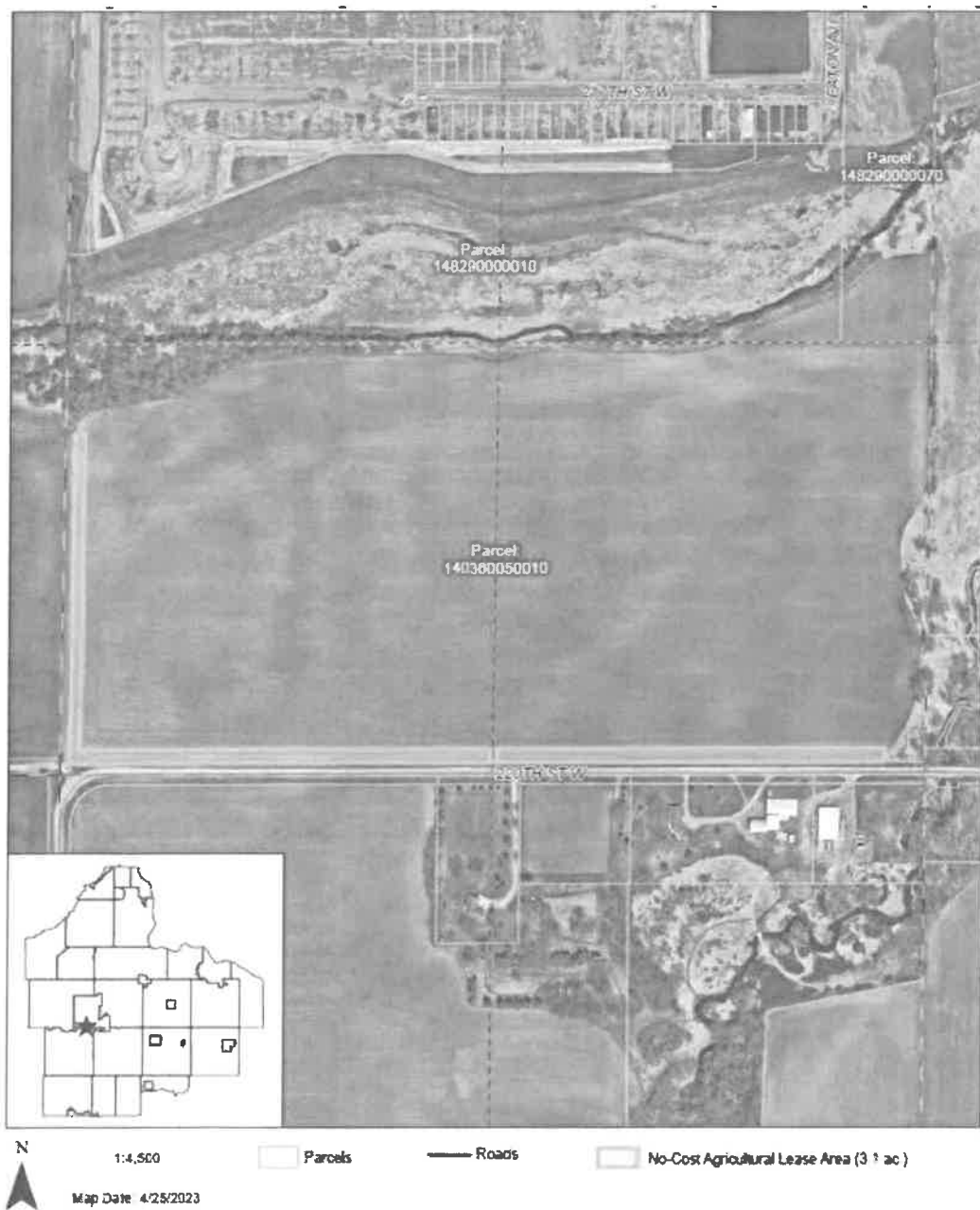
General Depiction of the Regional Greenway Corridor Easement Being Acquired by the County of Dakota from the Donald L. Peterson Family Partnership

Tract No. 390



Dakota County Parks

General Depiction of No-Cost Agricultural Lease Area and Excluded Central Pivot Irrigation Well in Future 220th / County Road 70-74 Right of Way



Certificate Of Completion

Envelope Id: 1A640721E4AA43DE9C04204899F80A54	Status: Completed
Subject: Complete with DocuSign: Peterson North Property in Farmington PA Approved Contract DCA20490.pdf	
Source Envelope:	
Document Pages: 42	Signatures: 1
Certificate Pages: 1	Initials: 0
AutoNav: Enabled	Envelope Originator:
Envelope Stamping: Enabled	Joan Cooksey
Time Zone: (UTC-06:00) Central Time (US & Canada)	1590 Highway 55
	Hastings, MN 55033
	Joan.cooksey@co.dakota.mn.us
	IP Address: 76.17.187.154

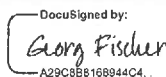
Record Tracking

Status: Original	Holder: Joan Cooksey	Location: DocuSign
5/30/2023 3:58:50 PM	Joan.cooksey@co.dakota.mn.us	
Security Appliance Status: Connected	Pool: StateLocal	
Storage Appliance Status: Connected	Pool: Dakota County	Location: DocuSign

Signer Events

Georg Fischer
georg.fischer@co.dakota.mn.us
Director, Physical Development Division
Dakota County
Security Level: Email, Account Authentication (None)

Signature



DocuSigned by:
Georg Fischer
A29C8B8168944C4...

Signature Adoption: Pre-selected Style
Using IP Address: 97.92.88.159
Signed using mobile

Timestamp

Sent: 5/30/2023 3:59:51 PM
Viewed: 5/31/2023 6:32:58 AM
Signed: 5/31/2023 6:33:07 AM

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

In Person Signer Events

Signature

Timestamp

Editor Delivery Events

Status

Timestamp

Agent Delivery Events

Status

Timestamp

Intermediary Delivery Events

Status

Timestamp

Certified Delivery Events

Status

Timestamp

Carbon Copy Events

Status

Timestamp

Witness Events

Signature

Timestamp

Notary Events

Signature

Timestamp

Envelope Summary Events

Status

Timestamps

Envelope Sent	Hashed/Encrypted	5/30/2023 3:59:51 PM
Certified Delivered	Security Checked	5/31/2023 6:32:58 AM
Signing Complete	Security Checked	5/31/2023 6:33:07 AM
Completed	Security Checked	5/31/2023 6:33:07 AM

Payment Events

Status

Timestamps