

Business Item

Metropolitan Parks and Open Space Commission



Community Development Committee Meeting: October 7, 2024 For the Metropolitan Council: October 23, 2024

Business Item: 2024-273

Miesville Ravine Park Reserve, Park Acquisition Opportunity Fund Award (Schwamb), Dakota County

District(s), Member(s):	District H, Amanda Duerr District 12, Susan Vento
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, Planning Analyst, 651-602-1621
Division/Department:	Community Development / Regional Planning

Proposed Action

That the Metropolitan Council:

1. Approve a grant of up to \$388,910 from the Park Acquisition Opportunity Fund to Dakota County to acquire a 5-acre parcel located at 26287 Miesville Trail in Douglas Township, MN, for the Miesville Ravine Park Reserve.

Background

Regional Park Implementing Agency and Project Request

Dakota County requested a Park Acquisition Opportunity Fund (PAOF) grant on July 26, 2024, to fund the acquisition of a 5-acre parcel for the Miesville Ravine Park Reserve. A copy of the Agency's request is attached to this item as Exhibit 2 with application details in Exhibit 3.

Miesville Ravine Park Reserve is located in the southeast corner of Dakota County, at the confluence of Trout Brook and the Cannon River near Miesville. The park reserve offers over 1500 acres of county-owned natural resources land and miles of wooded hiking and snowshoeing trails (see Exhibit 1, Figures 2 and 3).

Subject Property

The subject 5-acre property is an inholding within the Council-approved boundary of Miesville Ravine Park Reserve (see Exhibit 1, Figure 1). The property is mostly a mix of grasslands and woodlands located within the upper reaches of the ravine itself. It contains a home built around 1900, a manufactured home, and several outbuildings. The home and outbuildings will be removed, and the land restored to native vegetation. The manufactured home will be transported to another location for park operation purposes.

Park Acquisition Opportunity Fund (PAOF)

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

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

Project Budget

The appraised value of the subject property is \$420,000, and the Seller has agreed to sell for \$440,000, or 105% of the appraised value. See Exhibit 4 for more information on the appraisal. The total project cost including legal fees, taxes, and appraisal is \$518,546 as shown in Table 1 below.

Table 1. Project Budget

Budget item	Requested amount
Purchase price	\$440,000
Appraisal, legal fees, taxes, closing costs	\$8,596
Stewardship	\$64,000
Environmental assessment	\$5,950
Total Costs	\$518,546
Grant structure	
Grant amount	\$388,910
Local match	\$129,636

Acquisition Details

This is a straightforward fee title acquisition.

Rationale

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

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

This acquisition is consistent with:

- The Parks and Trails Legacy Fund
- The *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 Miesville Ravine Park Reserve long-range plan on August 14, 2024 ([Business Item 2024-168](#)). 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 Miesville Ravine Park Reserve and contains a mix of grasslands and woodlands.
 - 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 the Miesville Ravine Park Reserve 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 \$129,636.

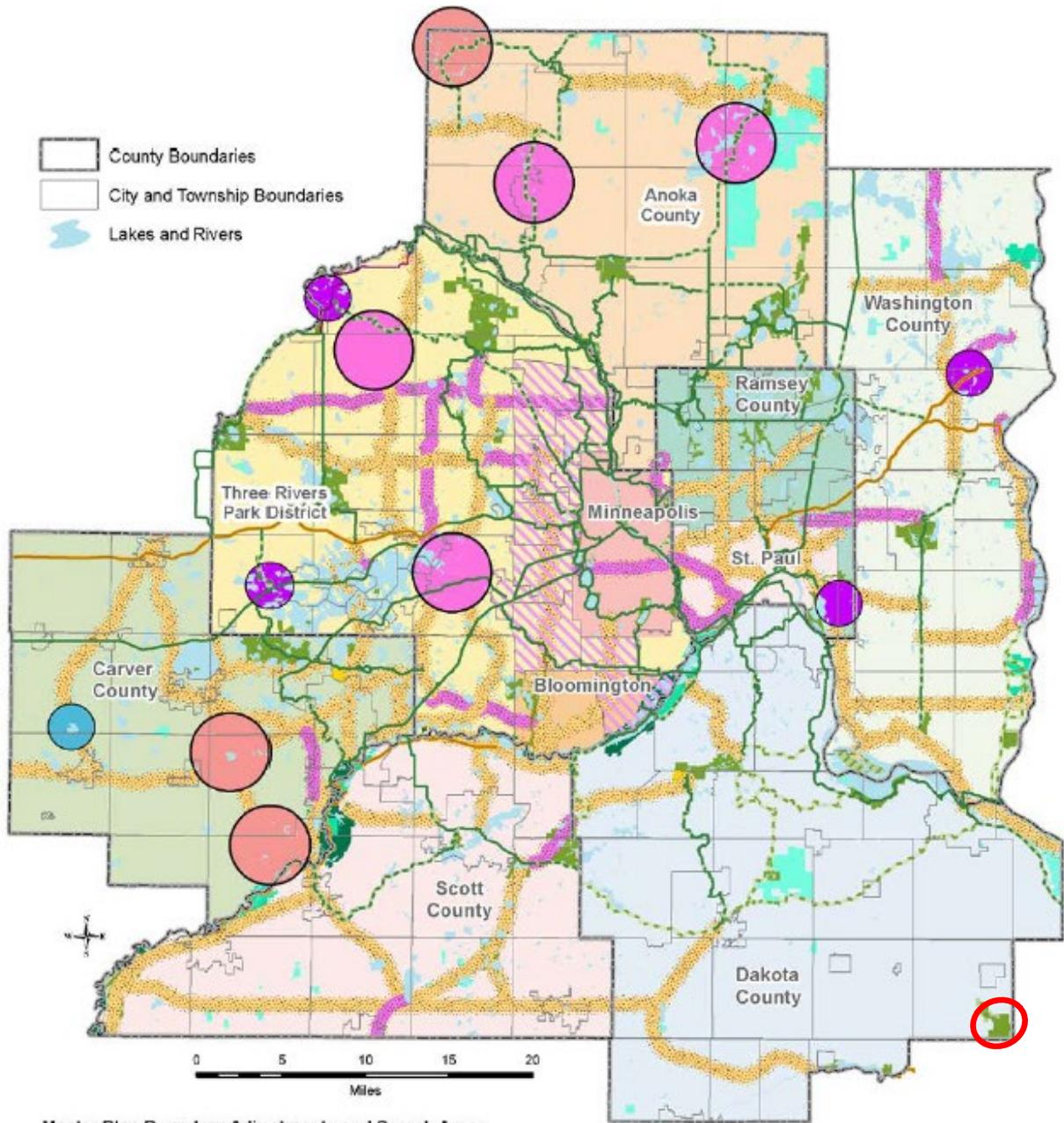
Exhibit List

- 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 Miesville Ravine Park Reserve (circled in red)



Master Plan Boundary Adjustments and Search Areas

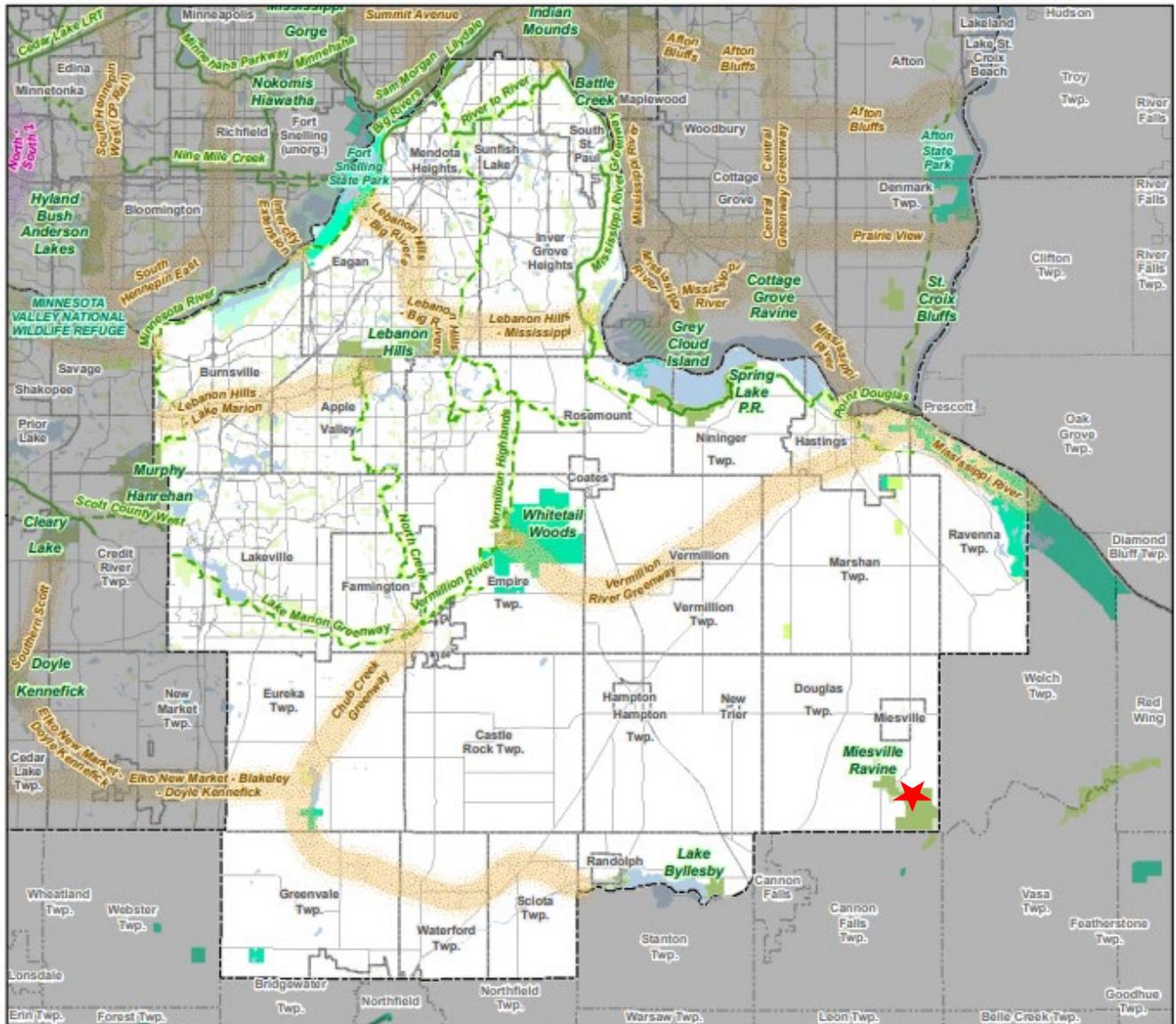
- | | |
|---|---|
| Existing: | 2020 Amendment: |
| Boundary Adjustment | Boundary Adjustment |
| Park Search Area | Park Search Area |
| | First-Ring City Bridging Facility Search Area |
| 2020 Amendment Regional Trail Search Corridor | |
| Regional Trail Search Corridors | |

- 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 Regional Parks and Trails System with the approximate subject property location starred.

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. Map of Miesville Ravine Park Reserve with the subject location circled in red.

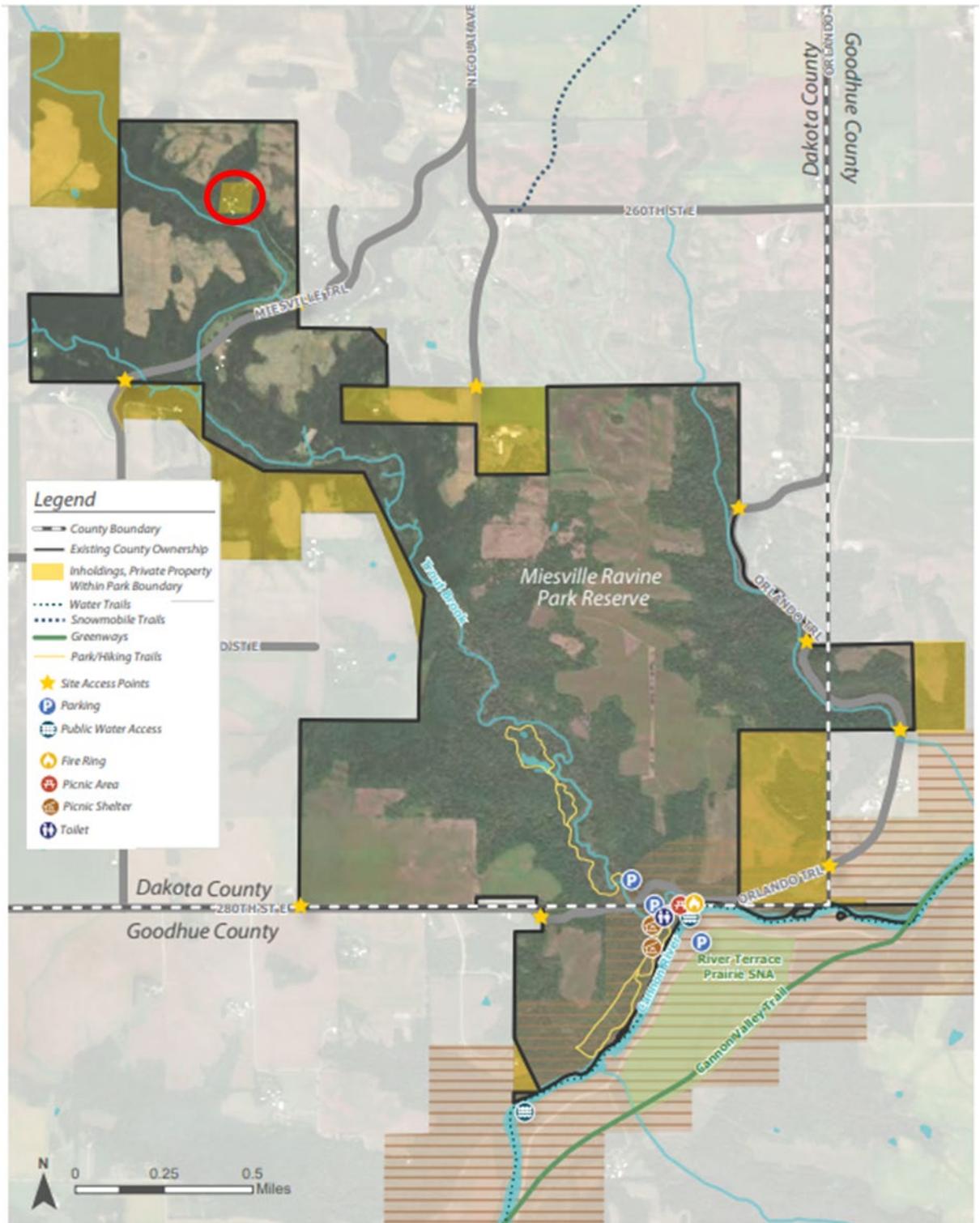


Figure 4. Image of the subject property.



Location within Miesville Ravine Park Reserve



Exhibit 2: Grant request letter



July 26, 2024

Emmett Mullen
Metropolitan Council
390 North Robert Street
St. Paul, MN 55101

Dear Emmett:

Dakota County requests Metropolitan Council consideration in authorizing a \$388,910 Parks Acquisition Opportunity Fund grant to acquire the 5.0-acre Peter and Linda Schwamb (Schwamb) property located within Miesville Ravine Park Reserve MRPR.

The Dakota County Board (County Board) of Commissioners adopted the updated MRPR Master Plan (Plan) in 2005 and approved a ten-year vision and Natural Resources Management Plan on February 27, 2024, with anticipated approval by the Metropolitan Council in August. The Master plan identified the Schwamb property as a private in-holding within the northern portion of the park reserve surrounded by previously acquired park land. The Schwamb property is a mix of grasslands and woodlands and includes a 1-1/2 story, 1,342-square-foot house built circa 1900; manufactured home; detached garage; and multiple outbuildings.

The County, appraised, reviewed and accepted an independent appraised value of \$420,000. The Schwambs requested an additional \$20,000 (4.8 percent of the appraised value) in lieu of receiving eligible relocation expenses.

The Dakota County Board authorized acquisition of the Schwamb property and submission of an AOF grant request by Resolution No. 24-340 at its June 25, 2024, meeting. The PAOF grant request is based on the following expenses:

Expenses	Amount	
Purchase Price	\$440,000	
Legal services and closing costs, title insurance	\$2,360	
Stewardship	\$64,000	
Estimated Warranty Deed and Conservation Fee	\$1,459	
Title insurance	\$1,012	
Appraisal	\$2,500	
Estimated Phase I Environmental Assessment	\$5,950	
PILT (1.8 x \$602 of Township Property Tax)	\$1,084	
Pro-rated Property Taxes (\$602 x 2/12)	\$181	
Total	\$518,546	
	75 percent of total	\$388,910
	25 percent of total	\$129,636

Thank you for considering this request.

Sincerely,

Handwritten signature of Nicki Geisler in cursive script.

Nicki Geisler, Parks Director

Handwritten signature of Al Singer in cursive script.

Al Singer, Real Estate Manager

C: Tony Wotzka, Parks

Tara Zgoda, PD Administration



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Application

Instructions

Print to PDF will convert the application plus any PDF attachments into a single PDF file. Release for Review will change the status of the application to Under Review and move it on to the evaluation process. Negotiation will allow you to unlock one or more sections of the application and route the application back to the applicant for further editing. Annotations allow internal staff to add notes that are visible to internal staff only and possibly also reviewers if they have a special security privilege. The applicant cannot see these notes. Versions will display all component versions that were created as a result of the negotiation process. Feedback allows staff to enter feedback about the application to the applicant. The feedback text will appear at the bottom of the application and will be visible to anyone who has access to the application. Withdraw changes the status of the application to Withdrawn and removes the app from the evaluation process.

Application Details

Map | Print to PDF | Negotiation | Annotations(0) | Versions | Feedback | Withdraw

21274 - FY2025 Park Acquisition Opportunity Fund Program - Final Application

22066 - Schwamb Acquisition within Miesville Ravine Park Reserve Parks Grants Acquisition

Status: Under Review

Submitted Date: 08/21/2024 11:55 AM

Submitted By: Lisa Mary West

Applicant Information

Primary Contact:

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

Name:* Lisa Mary West
Pronouns Lisa Mary West
Title:* Senior Project Manager
Department: Dakota County Environmental Resources
Email:* lisa.west@co.dakota.mn.us
Address:* 14955 Galaxie Avenue

* Apple Valley Minnesota 55124
City State/Province Postal Code/Zip
Phone:* 952-891-7018 Phone Ext.
Fax: 952-891-7031

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:* PARKS
14955 GALAXIE AVE

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

Phone:* 952-891-7991

Ext.

Fax:

PeopleSoft Vendor Number 0000026855A13

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 Miesville Ravine PR-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 Miesville Ravine Park Reserve Master Plan

Name of master plan

Council approval date - Format: mmddyyyy (Do not enter any punctuation.)

If no, has a master plan amendment been submitted to the Council for review and approval?

Acquisition method

Acquisition method Fee title

If the acquisition method is anything other than routine, provide more detail.

This question seeks a general description of the acquisition method - is this a routine purchase, or does it involve a land donation, park dedication fees, condemnation, or some combination? Please use this space to describe the overall acquisition project.

Does this acquisition involve eminent domain? No

Eminent domain

If eminent domain is being used:

(1) you must upload a copy of the notice your Agency provided to the Council that the petition to the Court was filed.

(2) Include documentation of your governing body's authorization (on the Other Acquisition Attachments web page).

When was the Council notified of your intention to use eminent domain?

Date the petition was filed.

Settlement date

Public domain

Note that ENRTF funding cannot be used for acquisitions of property already in the public domain unless a minimum of 12 LCCMR commissioners approve the transaction. If this is a public domain acquisition and if you propose using ENRTF, be sure your closing schedule accommodates planning to be included on a future LCCMR agenda.

Is any portion of the property currently in the public domain? No

If yes, describe/name the entity and the portion of the property it owns, as well as why this public-to-public transfer is necessary.

Closing date

The Council will process all acquisition requests expeditiously, but we do not guarantee that the approval process will be completed to meet your requested closing date. This date will be considered an estimate only. However, the acquisition must be completed during the standard one-year grant term unless prior approval is obtained from the Council or the grant term is amended.

Estimated closing date 10/15/2024
Format: mmddyyyy (Do not enter any punctuation.)

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

Date agreement expires 10/31/2024
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	12/04/2023	
Appraised value	\$420,000.00	
Amount being offered the seller (net of closing and other costs)	\$440,000.00	104.76%
		<small>% of appraised value</small>

Who performed the appraisal? Patchin Messner Valuation Counselors

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

Survey

Was a survey done? No

Quality of natural resources - is the property...

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

Describe the existing natural resources it contains

Mix of grasslands and woodlands, surrounding a farmstead.

Known opposition

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

If yes, explain:

Encumbrances

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

If yes, describe.

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

If yes, describe

Clear title

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

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

Suggested funding source

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

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

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

Funding source comments, if desired

Structures currently on the property

Does the property contain ANY structures?	Yes
If yes, are there any habitable structures?	Yes
Does the property currently contain any revenue-generating businesses?	No
If yes, what is the plan for the structure(s)?	The main house and unusable outbuildings will be demolished. A manufactured home, also located on the property, is in good condition and the County is considering repurposing options.
If there are habitable structures, could they be relocated? If yes, how? If no, why not?	The main house cannot be relocated; however, the manufactured home is movable and could/may be relocated.

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

See responses to the two previous questions.

For ENRTF funding only

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

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

Stewardship and minimal access

Describe the stewardship plan.

The County will be responsible for ongong management, along with the surrounding park land.

How will the stewardship implementation be funded?

Park Operations funding will be used.

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

If yes, how will those funds be used?

Site Description

Land Use History

Current land uses Residential
Select as many as apply

Previous land uses Agricultural, Residential
Select as many as apply

Adjacent land uses Park, Residential
Select as many as apply

Inspection

Does the property contain any of the following? Wells, Septic, Power and/or utility lines
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
Peter H. and Linda J. Schwamb	26287 Miesville Trail, Cannon Falls, MN 55009	090260026015	5.0	07/25/2024	Yes	20A	Douglas Township	Dakota	12	H	44.572314	-92.826302
			5.00									

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'?
Georg T. Fischer	Physical Development Division Director	

Acquisition Costs

Cost Items	Amount	State funds	Metro funds	Match funds
Purchase price				
Negotiated purchase price	\$440,000.00	\$198,000.00	\$132,000.00	\$110,000.00
Appraisal expenses				
Appraisal	\$2,500.00	\$1,125.00	\$750.00	\$625.00
Appraisal review	\$0.00	\$0.00	\$0.00	\$0.00
Environmental expenses				
Phase I environmental site assessment	\$5,950.00	\$2,678.00	\$1,785.00	\$1,487.00
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	\$64,000.00	\$28,800.00	\$19,200.00	\$16,000.00
Land development	\$0.00	\$0.00	\$0.00	\$0.00
Pro-rated share of all property taxes/assessments	\$181.00	\$82.00	\$54.00	\$45.00
Legal services and closing costs	\$2,360.00	\$1,062.00	\$708.00	\$590.00
Property tax equivalency payment-473.341	\$1,084.00	\$488.00	\$325.00	\$271.00
Relocation costs to seller	\$0.00	\$0.00	\$0.00	\$0.00
State deed tax/conservation fee	\$1,459.00	\$656.00	\$438.00	\$365.00
Title insurance	\$1,012.00	\$455.00	\$304.00	\$253.00
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	\$518,546.00	\$233,346.00	\$155,564.00	\$129,636.00

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)	\$518,546.00	\$233,346.00	\$155,564.00	\$129,636.00	\$388,910.00

Required Attachments - Acquisition

SUMMARY OF SALIENT FACTS AND CONCLUSIONS

Fee Owner:	Peter H. & Linda J. Schwamb
Location:	26287 Miesville Trail Douglas Township, Minnesota
Dakota County Parcel ID:	09-02600-26-015
Date of Valuation:	December 4, 2023
Date of Inspection:	December 4, 2023
Property Appraised:	Real Property (Land and Buildings)
Rights & Interest Appraised:	Fee Simple Market Value
Zoning:	Agricultural Preservation
Guiding:	Public Park, Recreation and Open Space Agricultural
Property Description:	The subject is a square parcel, totaling 217,822 SF, or 5.00 acres, and is surrounded by Miesville Ravine Park in southeast Douglas Township, Dakota County, Minnesota. Vehicular access is gained via Miesville Trail to the southeast. The southerly portion of the property is generally level and partially wooded; however, the north portion of the property comprises a wooded hillside.
Building Description:	The subject is improved with a one and one-half-story home, which was originally built circa 1900 and contains approximately 1,342 SF of total finished area. There are three bedrooms and one full bathroom. The subject is also improved with a manufactured home, detached garage, and multiple outbuildings/sheds. The manufactured home was built in 1989 and measures 24 feet by 56 feet, which equates to 1,344 SF of total finished area.
Highest and Best Use:	
As Vacant	Rural residential use
As Improved	Continued use as improved
Final Conclusion of Market Value:	\$420,000

Exhibit 5: Board approval to purchase property

**BOARD OF COUNTY COMMISSIONERS
DAKOTA COUNTY, MINNESOTA**

June 25, 2024

Resolution No. 24-340

Motion by Commissioner Slavik

Second by Commissioner Halverson

Authorization To Acquire Schwamb Property In Miesville Ravine Park Reserve

WHEREAS, Peter and Linda Schwamb (Schwamb) own a five-acre property located within Miesville Ravine Park Reserve (MRPR) in Douglas Township; and

WHEREAS, the acquisition of this property would provide important access to the northern portion of MRPR; and

WHEREAS, County staff has been meeting with the Schwamb's for many years to explore acquisition options and timing, should the Schwamb's decided to move from the property; and

WHEREAS, an independent appraiser was contracted to appraise the Schwamb property; and

WHEREAS, during the appraisal process, it was determined that the portion of the long driveway located on two adjoining properties was never recorded; and

WHEREAS, the County Attorney's Office reviewed the driveway access issue and determined that the Schwamb's have prescriptive rights to use the driveway on the two adjoining properties, and those rights would transfer to the County, if the driveway is not used for open public access; and

WHEREAS, the appraisal was completed, reviewed, and approved by County staff; and

WHEREAS, a sale of a property with an occupied residence requires relocation expenses be offered to the property owner; and

WHEREAS, the Schwamb's agreed to sell the property for \$20,000 more than the \$420,000 appraised value in exchange for their willingness to waive relocation expenses, resulting in net savings for the County; and

WHEREAS, the estimated closing costs are \$3,500; and

WHEREAS, the Physical Development Director (PDD) is required to sign the purchase agreement (PA) to acquire the Schwamb property; and

WHEREAS, the Schwamb property acquisition is eligible for a 75 percent Acquisition Opportunity Fund (AOF) grant through the Metropolitan Council (MC) and;

WHEREAS, an AOF grant can be submitted to the MC after a PA is signed by the PDD and the Schwamb; 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 25th day of June 2024, 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 25th day of June 2024.



Clerk to the Board

WHEREAS, if the County is awarded an AOF grant by the MC for the Schwamb property, the Chair of the County Board of Commissioners is required to sign an Agreement and Restrictive Covenant with the MC; and

WHEREAS, there are adequate County AOF matching funds in the approved 2024 Parks Capital Improvement Program budget for the proposed acquisition; and

WHEREAS, the final acquisition costs of the property will be determined after the settlement statement is 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 \$443,500 to acquire the Peter and Linda Schwamb property, including \$440,000 for acquisition and \$3,500 in estimated closing costs; and

BE IT FURTHER RESOLVED, That the Dakota County Board of Commissioners hereby authorizes the Physical Development Director to execute a purchase agreement with Peter and Linda Schwamb's to acquire their property, 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 staff to submit an Acquisition Opportunity Fund grant request to the Metropolitan Council to receive up to 75 percent of the Schwamb property acquisition costs; and

BE IT FURTHER RESOLVED, That the Dakota County Board of Commissioners hereby authorizes the Board Chair to execute an Agreement and Restrictive Covenant with the Metropolitan Council, which is required by the Metropolitan Council as part of an Acquisition Opportunity Fund grant agreement; and

BE IT FURTHER RESOLVED, That following the acquisition of the Schwamb property, staff will submit the necessary forms and documentation to the Metropolitan Council to receive approximately \$332,625 of reimbursement funds that will be returned to the 2024 Parks Capital Improvement Program.

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 25th day of June 2024, 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 25th day of June 2024.



Clerk to the Board

AGREEMENT FOR THE PURCHASE OF THE PETER H. AND LINDA J. SCHWAMB PROPERTY BY THE COUNTY OF DAKOTA

This Purchase Agreement (hereinafter called the "Agreement"), made and entered into on the 25th day of July 2024, by Peter H. and Linda J. Schwamb, 26287 Miesville Trail, Cannon Falls, MN 55009 (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 Number 09-02600-26-015 (hereafter called the "Property"); 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 Exhibits attached hereto, as executed 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 October 31, 2024.
- d. "Due Diligence Deadline" shall mean no less than two weeks prior to closing, and in any event, not later than October 17, 2024.
- e. "Effective Date" shall mean the last date of execution by either of the Parties to this Agreement.
- f. "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.
- g. "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).
- h. "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.
- i. "Parties" shall mean Buyer and Seller, as defined above, collectively.
- j. "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.
- k. "Purchase Price" shall mean the sum of **Four Hundred Forty Thousand Dollars (\$440,00.00)**.

- I. "Title Company" shall mean DCA Title – The Title Team at 1250 N. Frontage Road, Hastings, MN 55033.
 - m. "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 and encumbrances, 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. The Seller will retain the furniture, washing machine, wood stove, dining room ceiling fan, butcher block table, and reverse osmosis water filtration unit from the house; and the following personal property from the manufactured home: furniture, refrigerator, microwave, stove, clothes dryer, roof antenna, and patio stones. All other fixtures and personal property located on the Property, including without limitation any household items on the Property will be acquired by the Buyer.

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 not responsible for any 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 one-hundred (100) 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 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. Seller's Affidavit, in a form reasonably acceptable to Buyer, identifying Seller's history of use and possession of the ingress and egress access to the Property.
- e. 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.
- f. Well disclosure forms and a completed well disclosure certificate as required by Minnesota Statutes § 1031.235.
- g. 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 due as of the Closing Date. 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 at closing 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. Seller has continuously used the driveway on the Property and across adjacent properties for ingress and egress access from and to Miesville Trail for 15 years or more.
- 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 Property.
- b. 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 on or before the Due Diligence Deadline, Buyer may cancel this Agreement, at Buyer's option, and this Agreement shall be void and neither party shall be liable

for damages to the other party, further provided, however, that if Buyer does not cancel this Agreement on or before the Due Diligence Deadline, the above contingencies shall be deemed waived by the Buyer after the Due Diligence Deadline

12. COUNCIL FUNDING RESTRICTIONS AND COVENANTS. The Seller and Buyer acknowledge that the Buyer's purchase of this Property may be funded, in part, by a grant from the Council which requires the following additional restrictions and covenants on the Property for funding eligibility:

- a. Conveyances. Buyer (hereinafter called "Buyer/Grantee" for Council-grant funding purposes) 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 Seller acknowledges that as a condition for the Buyer/Grantee to receive funding from the Council, Buyer/Grantee must grant the Council the option to construct, operate and maintain Wastewater Facilities in the Property. Seller consents to and permits the Buyer/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, Buyer/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 Buyer/Grantee. The Parties acknowledge that pursuant to a Grant Agreement entered or to be entered between the Council and the Buyer/Grantee, Council may exercise its contractual right to the Wastewater Facilities Rights on one or more occasions. The Buyer/Grantee agrees that the Wastewater Facilities Rights may not be exercised unless assigned to the Council, its successors or assigns.

13. 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.

14. 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.

15. 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, Buyer shall send Seller written notice, within five (5) business days, as to whether Buyer will continue to negotiate with Seller for an acceptable repair plan, or whether Buyer is terminating this Agreement. Any such termination shall be without cost to either Party.

16. REMEDIES UPON DEFAULT. In the event that a party defaults in the performance of any of its obligations under this Agreement, the other party 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 said

defaulting party. Said party shall have six (6) months to exercise its right of specific performance against the defaulting party under this section.

17. 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.

18. WAIVER OF DISCLOSURE. Unless otherwise required herein, Buyer waives the written disclosures required under Minnesota Statutes §§ 513.52 to 513.60.

19. WAIVER OF RELOCATION RIGHTS. Seller acknowledges that the Purchase Price includes \$20,000.00 in lieu of any relocation expenses to which Seller may have been entitled. Seller therefore waives any relocation assistance, services, payments and benefits required under Minnesota Statutes chapter 117 or other applicable law.

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 Manager, or Successor
Dakota County
14955 Galaxie Avenue
Apple Valley, MN 55124

With respect to Seller:

Peter H. and Linda J. Schwamb
26287 Miesville Trail
Cannon Falls, MN 55009

- 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.

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.

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

SELLER
DocuSigned by:

Peter Schwamb
59BDD424F99421...
Peter H. Schwamb

Date of Signature 07/24/2024 | 3:41 PM CDT

DocuSigned by:

Linda Schwamb
59BDD424F99421...
Linda J. Schwamb

Date of Signature 07/24/2024 | 3:58 PM CDT

BUYER

DocuSigned by:

Georg Fischer
A29C8B8168944C4...
Georg T. Fischer, Director
Physical Development Division

Date of Signature 07/25/2024 | 7:14 AM CDT

Approved as to form:

/s/Tim Sime
Assistant Dakota County Attorney
Date of Signature: 07/18/2024
KS-24-421
Contract Number: DCA21847

Approved by Dakota County Board
Resolution No. 24-340

Dakota County Parks

Legal Description of the Peter H. and Linda J. Schwamb Property being Acquired by the County of Dakota

Tract No. 462

Property Identification Number 09-02600-26-015

That part of the Northwest Quarter of Section 26, Township 113 North, Range 17 West and part of the Southwest Quarter of Section 23, Township 113 North, Range 17 West, Dakota County, Minnesota described as follows:

Commencing at the northeast corner of the Northwest Quarter of Section 26; thence North 89 degrees 33 minutes 20 seconds West, assumed bearing, along the north line of said Northwest Quarter a distance of 689.88 feet to the point of beginning; thence North 7 degrees 07 minutes 18 seconds East a distance of 391.16 feet; thence North 89 degrees 33 minutes 20 seconds West, parallel with said north line of the Northwest Quarter a distance of 475.00 feet, thence South 7 degrees 07 minutes 18 seconds West a distance of 461.66 feet, thence south 89 degrees 33 minutes 20 seconds East, parallel with said north line of the Northwest Quarter a distance of 475.00 feet; thence North 7 degrees 07 minutes 18 seconds East, a distance of 70.50 feet, to said north line of the Northwest Quarter and the point of beginning.

Area: 5.0 acres

Dakota County Parks

General Depiction of the Peter H. and Linda J. Schwamb Property being Acquired by the County of Dakota

Tract No. 462



Location within Miesville Ravine Park Reserve