




**DEPARTMENT OF  
NATURAL RESOURCES**

Division of Lands and Minerals    500 Lafayette Road    St. Paul, Minnesota    55155

TO:            Legislative-Citizen Commission on Minnesota Resources  
                  Becca Nash, Director

FROM:        Luke Skinner, Director      
                  Ecological and Water Resources Division

DATE:        May 14, 2018

RE:            Conservation Easement Release

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The City of Cottage Grove and the South Washington Watershed District (SWWD) have approached the Minnesota Department of Natural Resources (DNR) for the release of 0.33 acres of a Metro Greenways conservation easement for the construction of Ravine Parkway, which will cross the southeastern corner of the easement. DNR is the grantor of the easement, and SWWD is the grantee.

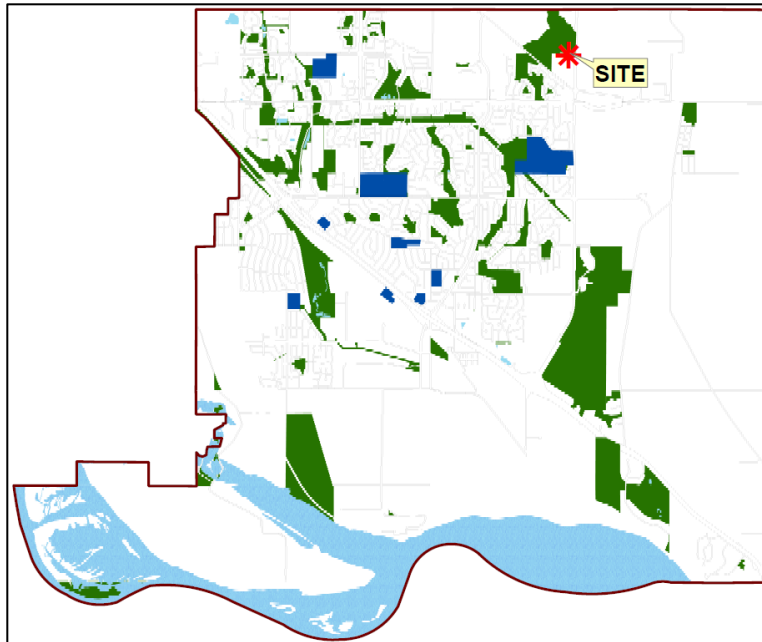
The DNR has reviewed the proposed partial easement release and is directing the process of obtaining the approval of the Legislative-Citizen Commission on Minnesota Resources (LCCMR) and the Management and Budget Office (MMB). Both of these entities supplied funding for the Metro Greenways easement in question, as explained below.

The original grant was for \$250,000 for a 51-acre conservation easement. Environment and Natural Resources Trust Funds (ENTRF) supplied \$85,000 (34 percent) toward the purchase, and a general obligation bond supplied \$165,000 (66 percent).

The funding for this easement was authorized by the legislature under the following statute: M.L. 2001, 1<sup>st</sup> Special Session Chap. 2, Sec. 14, Subd. 04(g) Metro Greenways (MN DNR).

The City and the SWWD are requesting that 0.33 acres be permanently released from the Metro Greenways easement. The certified fair market value of the 0.33-acre easement is \$19,140.00. Repayment to the ENTRF and MMB would be made accordingly: \$6,507.60 (34 percent) to ENTRF; and \$12,632.40 (66 percent) to MMB.

The City and the SWWD are also requesting that the LCCMR, MMB, and DNR consent to a temporary construction easement of 0.75 acres, which will be conveyed by the SWWD to the City. Value of the temporary easement is \$1,413. Payment to the ENTRF and MMB of (total \$1,413.00) would be made accordingly: \$480.42 (34 percent) to ENTRF; and \$932.58 (66 percent) to MMB. The easement release and temporary construction easement will facilitate a new parkway project.



Project location in reference to other open lands in Cottage Grove

## Summary

The proposed permanent release of the 0.33 acres from conservation easement, as it relates to bonding, is permitted under Minnesota State Statute 16A.695 Subd. 3, and the release is permitted as it relates to the ENTRF under Minnesota State Statute 116P.15, Subd. 2(b).

The requested conservation easement release area does not negatively affect the intended use of the remaining easement area (approximately 50.6 acres).

The value of the proposed conservation easement area to be released has been certified by the Commissioner of the Department of Natural Resources.

After the temporary construction easement expires, SWWD will restore the affected area to the native plant community identified in the CD-P86 Natural Resources Management Plan (NRMP). The NRMP is a reference document that is specifically referenced within the conservation easement document and identifies easement restoration recommendations for site preparation, seeding and planting, wildlife improvement, and monitoring.

## Background

The Metro Greenways conservation easement was conveyed by the SWWD to DNR on June 30, 2004. This easement was one of two adjacent easements acquired from the SWWD with the intent of protecting the area from development and ensuring that the site be conserved and managed as a natural area.

The easement covers all areas on the identified parcels in Diagram 1 (attached) that are 100 feet distance parallel to and northeast of the 906-foot elevation line on the SWWD land. The easement was

conveyed to DNR by SWWD as part of a collaborative conservation project in July 2004 (Doc. #3453207). The easement document is attached to this report.

The Woodbury and Cottage Grove conservation easements are a major part of SWWD's Greenway Corridor Plan which connects northern parts of the district to the Mississippi River while linking up land that forms the SWWD's central storm water management and conveyance route known as the Central Draw Storage Facility and Overflow project CD-P86. These two easements are now under the management of the Ecological and Water Resources Division (EWR).

The Metro Greenways easements are located at ecologically significant locations in the seven-county metro area, total about 669 acres, and were acquired by the LCCMR and bonding dollars between 1997 and 2007.

## **The Ravine Parkway Project**

The City of Cottage Grove is currently in the design and implementation process for the planned 2018 Ravine Parkway Construction Project. This project is located in the northeast corner of the community within the Upper Ravine Neighborhood in the East Ravine Planning District and is included in the Metropolitan Urban Service Area (MUSA). The location is identified on the attached Diagram 2.

Ravine Parkway is a key design element of the East Ravine Master Plan (approved in 2006), which was incorporated into the City's 2030 Comprehensive Plan (2011). The parkway will link the developing local neighborhood transportation networks.

## **Proposed Action**

### ***Easement Release Area***

The proposed easement release area is located at the intersection of the planned Ravine Parkway and Keats Avenue South (CSAH 19) between an Xcel Energy high-energy power transmission line easement that diagonally bisects the adjacent residential neighborhood and land owned in fee by the South Washington Watershed District (SWWD). The power line easement prohibits the construction of roadways, as does the conservation easement that encumbers the SWWD property. The Minnesota Department of Natural Resources (DNR) is the grantee of that easement. The City and the SWWD are requesting that LCCMR and MMB grant permission to release 0.33 acres of the DNR easement. The City and SWWD also request that DNR, LCCMR, and MMB consent to a temporary construction easement from SWWD to the City, adjacent to and north of the proposed easement release area. This 0.75 acre parcel would be restored after construction with native plantings.

DNR staff reported that the area to be cleared and permanently released from the conservation easement includes a wooded area of green ash, box elder, and some black cherry, which have reached the canopy layer, while the understory is largely composed of buckthorn and a few saplings of the previously-named tree species. These are not consistent with the restoration objectives for the easement, which include enhancement of remnant prairie restoration of tilled acreage to a dry oak savanna woodland or dry oak forest.

In conjunction with Great River Greening, the SWWD has planted numerous oak trees throughout the easement, though none are located on the 0.33 proposed partial release area or the temporary construction easement area.

Therefore, the release of the 0.33 acres and construction activities in the 0.75-acre temporary construction easement are not significant to the ecological function of this easement. Ongoing native plant community restoration activities by the SWWD will continue to ensure the overall ecological function of the easement area is maintained or enhanced.

Additionally, the design that requires the 0.33 acres of easement release will positively impact safety because it will allow for the construction of a turn lane at the intersection of Keats Avenue South and the new Ravine Parkway.

The partnerships of the entities noted below have been instrumental in the restoration of oak and prairie restoration on the easement.

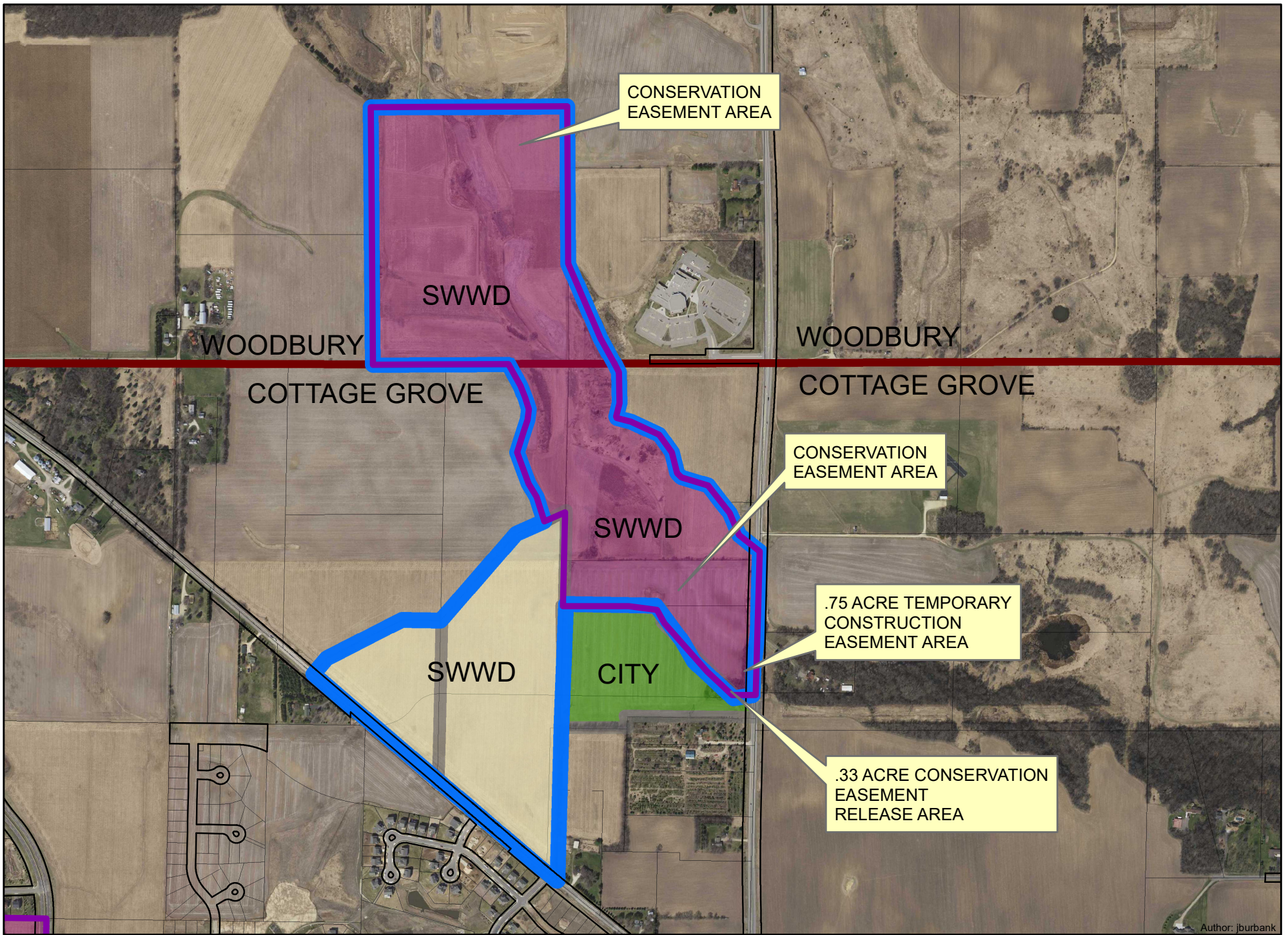
- City of Cottage Grove
- City of Woodbury
- Washington County
- South Washington Watershed District
- Dodge Nature Center
- Friends of the Mississippi
- Great River Greening

## **Recommendation**

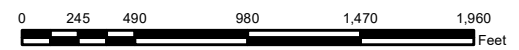
That the Legislative-Citizen Commission on Minnesota Resources approve the release of 0.33 acres of the South Washington Watershed District/2004 DNR Conservation Easement (Doc. #3453207) for an amount equal to 34 percent of the fair market value as certified by the Commissioner of the Department of Natural Resources. Furthermore, that the Legislative Commission on Minnesota Resources approve the temporary construction easement on 0.75 acres, provided that the City of Cottage Grove restores the property to the native plant community identified in the CD-P86 NRMP, and subsequent recommendations by the DNR Ecological and Water Resources regional manager.

### **Attachments:**

- Diagrams 1 and 2
- Doc #3453207
- Appraisal
- Certified value
- City resolution
- Memo re: land no longer needed for easement
- Draft amended conservation easement
- Draft temporary construction easement



Author: jburbank



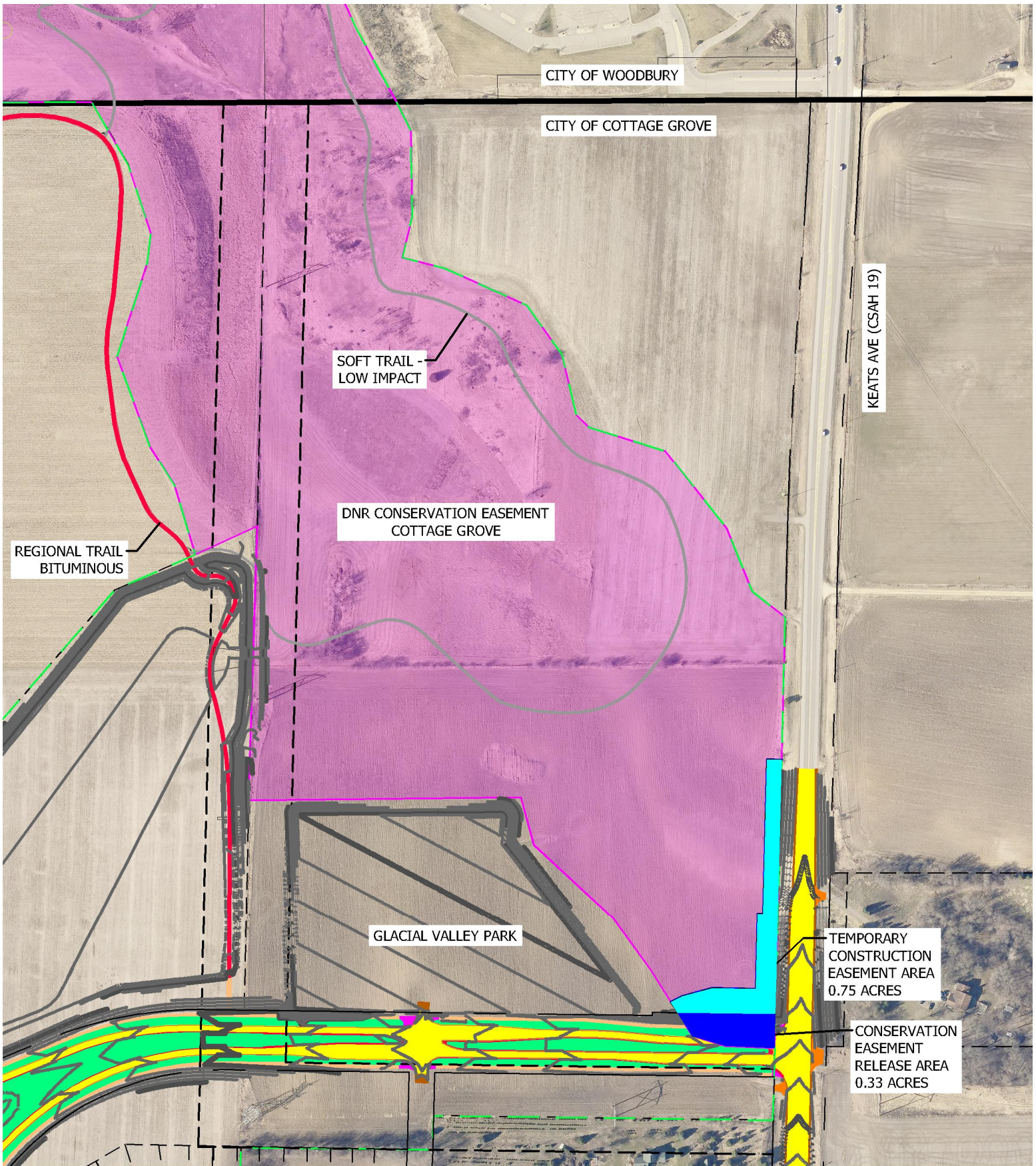
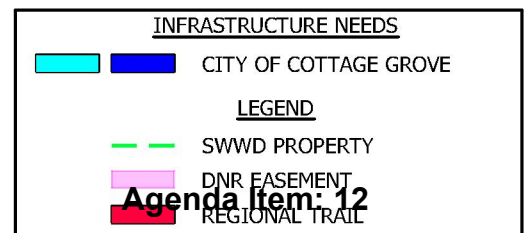
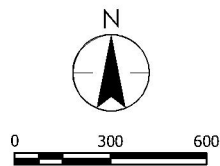


DIAGRAM 2



## **116P.15 LAND ACQUISITION RESTRICTIONS.**

### **Subdivision 1. Scope.**

A recipient of an appropriation from the trust fund or the Minnesota future resources fund who acquires an interest in real property with the appropriation must comply with this section. For the purposes of this section, "interest in real property" includes, but is not limited to, an easement or fee title to property.

### **Subd. 2. Restrictions; modification procedure.**

(a) An interest in real property acquired with an appropriation from the trust fund or the Minnesota future resources fund must be used in perpetuity or for the specific term of an easement interest for the purpose for which the appropriation was made. The ownership of the interest in real property transfers to the state if: (1) the holder of the interest in real property fails to comply with the terms and conditions of the grant agreement or work plan; or (2) restrictions are placed on the land that preclude its use for the intended purpose as specified in the appropriation.

(b) A recipient of funding who acquires an interest in real property subject to this section may not alter the intended use of the interest in real property or convey any interest in the real property acquired with the appropriation without the prior review and approval of the commission or its successor. The commission shall notify the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over the trust fund or Minnesota future resources fund at least 15 business days before approval under this paragraph. The commission shall establish procedures to review requests from recipients to alter the use of or convey an interest in real property. These procedures shall allow for the replacement of the interest in real property with another interest in real property meeting the following criteria:

(1) the interest must be at least equal in fair market value, as certified by the commissioner of natural resources, to the interest being replaced; and

(2) the interest must be in a reasonably equivalent location, and have a reasonably equivalent useful conservation purpose compared to the interest being replaced, taking into consideration all effects from fragmentation of the whole habitat.

(c) A recipient of funding who acquires an interest in real property under paragraph (a) must separately record a notice of funding restrictions in the appropriate local government office where the conveyance of the interest in real property is filed. The notice of funding agreement must contain:

(1) a legal description of the interest in real property covered by the funding agreement;

(2) a reference to the underlying funding agreement;

(3) a reference to this section; and

(4) the following statement:

"This interest in real property shall be administered in accordance with the terms, conditions, and purposes of the grant agreement controlling the acquisition of the property. The interest in real property, or any portion of the interest in real property, shall not be sold, transferred, pledged, or otherwise disposed of or further encumbered without obtaining the prior written approval of the Legislative-Citizen Commission on Minnesota Resources or its successor. The ownership of the interest in real property transfers to the state if: (1) the holder of the interest in real property fails to comply

with the terms and conditions of the grant agreement or work plan; or (2) restrictions are placed on the land that preclude its use for the intended purpose as specified in the appropriation."

History:

1Sp2001 c 2 s 141; 2002 c 225 s 4; 2006 c 243 s 21; 2013 c 52 s 6

**116P.10 ROYALTIES, COPYRIGHTS, PATENTS, AND SALE OF PRODUCTS AND ASSETS.**

(a) This section applies to projects supported by the trust fund and the oil overcharge money referred to in section 4.071, subdivision 2, each of which is referred to in this section as a "fund."

(b) The fund owns and shall take title to the percentage of a royalty, copyright, or patent resulting from a project supported by the fund equal to the percentage of the project's total funding provided by the fund. Cash receipts resulting from a royalty, copyright, or patent, or the sale of the fund's rights to a royalty, copyright, or patent, must be credited immediately to the principal of the fund. Receipts from Minnesota future resources fund projects must be credited to the trust fund. The commission may include in its legislative bill a recommendation to relinquish the ownership or rights to a royalty, copyright, or patent resulting from a project supported by the fund to the project's proposer when the amount of the original grant or loan, plus interest, has been repaid to the fund.

(c) If a project supported by the fund results in net income from the sale of products or assets developed or acquired by an appropriation from the fund, the appropriation must be repaid to the fund in an amount equal to the percentage of the project's total funding provided by the fund. The commission may include in its legislative bill a recommendation to relinquish the income if a plan is approved for reinvestment of the income in the project or when the amount of the original grant or loan, plus interest, has been repaid to the fund.

History:

1988 c 690 art 1 s 14; 1993 c 172 s 79; 2003 c 128 art 1 s 151; 2008 c 367 s 3; 2009 c 143 s 5