

# Legislative-Citizen Commission on Minnesota Resources

**MEMO:** Agenda Item #9

**DATE:** September 13, 2018

**SUBJECT:** Revision to LCCMR's June 6, 2018 approval to remove land from conservation easement

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## Background

At its June 6, 2018 meeting, the LCCMR approved a request by the City of Cottage Grove, South Washington Watershed District, and Minnesota Department of Natural Resources (MN DNR) to release land from a conservation easement acquired with M.L. 2001, 1<sup>st</sup> Special Session, Chp. 2, Sec 14, Subd.04g "Metro Greenways."

Due to a survey error, the City of Cottage Grove has revised its original request for a 0.33-acre permanent easement release and 0.75-acre construction easement release. The revised request is for a 0.90- acre permanent easement release and 0.82-acre construction easement release.

The previous total payment to the ENRTF would have been \$6,988.00; the revised total payment would be \$18,131.80.

In compliance with statute 116P.15, the chairs and ranking minority members of House and Senate Environment Committees have been notified. In compliance with 116P.10, the appraisal for the released lands has been updated to reflect the revised acreage and the value certified by the DNR.

## Attachments

- A revised version of the memo from DNR previously submitted to LCCMR on May 11, 2018. The number of acres, the values, and reimbursement amounts have been adjusted accordingly
- Two revised diagrams of the affected area

## Action


If acceptable to the commission, the following motion could be considered:

Move to revise the commission's June 6, 2018 approval to adjust for the updated acres, values, and reimbursement amounts.



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

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

FROM:         Steve Colvin, Director   
                  Ecological and Water Resources Division

DATE:         August 20, 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 0.90 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.

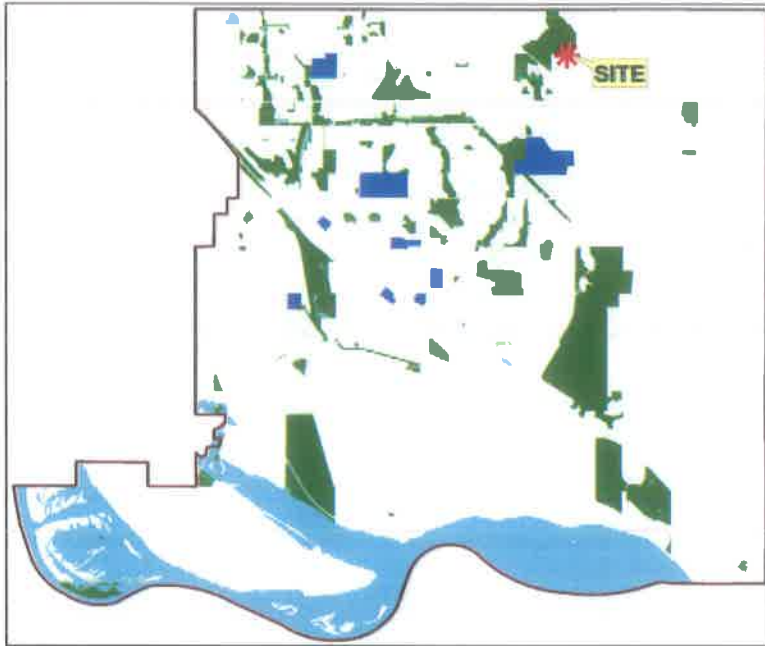
The original grant was for \$250,000 for a 51-acre conservation easement. Environment and Natural Resources Trust Funds (ENTRF) supplied \$85,000 (34 percent) toward the purchase, and a general obligation bond supplied \$165,000 (66 percent).

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).

This memo is a revision of one filed May 14, 2018. The city revised its original request to a larger acreage amount compared to the original request of 0.33 acres permanent easement release and 0.75 acres construction easement. This is due to a survey error by the city of Cottage Grove.

The City and the SWWD are requesting that 0.90 acres (0.895 acres according to the appraiser's rounding) be permanently released from the Metro Greenways easement. The certified fair market value of the 0.90-acre easement is \$51,910.00. Repayment to the ENRTF and MMB would be made accordingly: \$17,649.00 (34 percent) to ENTRF; and \$34,261.00 (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 0.82 acres, which will be conveyed by the SWWD to the City. Value of the temporary easement is \$1,420.00. Payment to the ENTRF and MMB of (total \$1,420.00) would be made accordingly: \$482.80 (34 percent) to ENTRF; and \$937.20 (66 percent) to MMB.



Project location in reference to other open lands in Cottage Grove

## **Summary**

The proposed permanent release of the 0.90 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 50.1 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, totaling 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 0.90 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 0.90 proposed partial release area or the temporary construction easement area.

Therefore, the release of the 0.90 acres and construction activities in the 0.82-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 0.90 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 0.90 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 0.82 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.

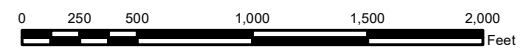
### **Attachments:**

- Diagrams 1 and 2 (revised)
- DNR original conservation easement Doc #3453207
- Appraisal (revised, date 7/23/18)
- Certified value of land to be removed from easement and of land to be temporary construction easement (date 8/20/18)
- City resolution, amended 8/15/18
- Memo re: land no longer needed for easement
- Draft amended conservation easement, revised 8/15/18
- Draft temporary construction easement, revised 7/28/18





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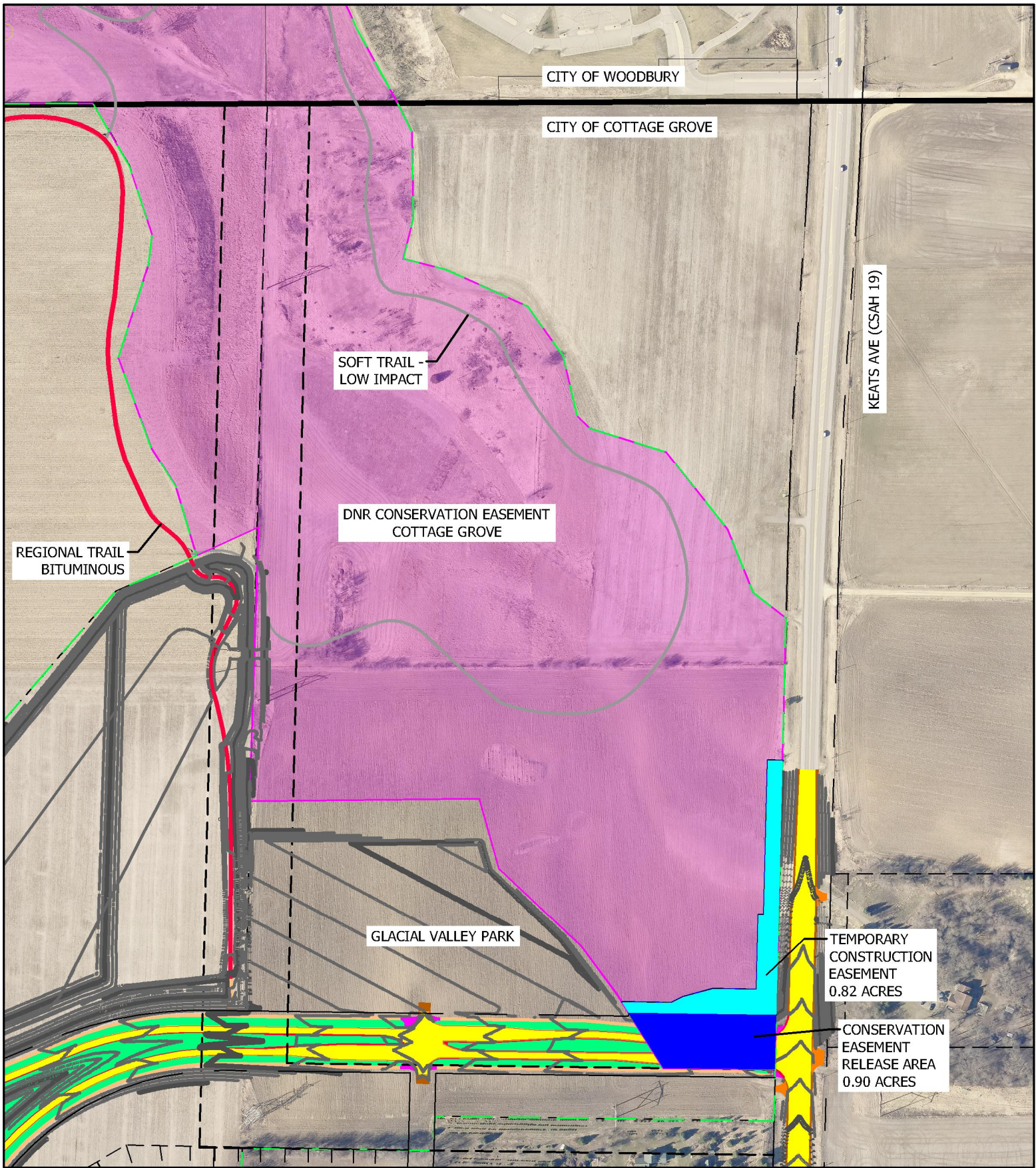
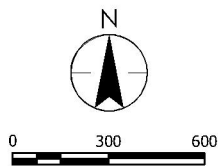


DIAGRAM 2



INFRASTRUCTURE NEEDS	
<span style="color: cyan;">■</span>	TEMPORARY CONSTRUCTION EASEMENT
<span style="color: blue;">■</span>	CONSERVATION EASEMENT RELEASE AREA

LEGEND	
<span style="color: green;">---</span>	SWWD PROPERTY
<span style="color: pink;">■</span>	DNR EASEMENT
<span style="color: red;">■</span>	REGIONAL TRAIL

**Agenda Item: 09**