

# GOODHUE COUNTY DEPARTMENT OF PUBLIC WORKS



**Gregory Isakson, P.E.**  
**Public Works Director/County Engineer**

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TO: Honorable County Commissioners  
Scott Arneson, County Administrator

FROM: Greg Isakson, Public Works Director

RE: 04 Jun 19 County Board Meeting  
**Purchase Land from the Trust for Public Lands for the Cannon Valley Trail**

Date: 29 May 19

## Summary

It is requested that the County Board approve the attached agreement for the purchase of land from the Trust for Public Lands for the Cannon Valley Trail, and approve the attached resolution authorizing the purchase of this property.

## Background

As discussed at a Committee of the Whole earlier in the day, the Trust for Public Lands is in the process of purchasing property from Lutheran Social Service with the intent of then selling a portion this property to Goodhue County for use and control by the Cannon Valley Trail.

The Cannon Valley Trail manager, Scott Reopke, also explained why the Cannon Valley Trail is interested in the property proposed to be sold to the County for their use.

## Alternatives

- Approve the attached agreement for the purchase of land from the Trust for Public Lands for the Cannon Valley Trail, and approve the attached resolution authorizing the purchase of this property.
- Request revisions to the attached agreement for this land purchase, and then approve the resolution authorizing the purchase of lands from the Trust for Public Lands for the Cannon Valley Trail.
- Take no action.

## Recommendations

It is the recommendation of staff that the Board approve the attached agreement for the purchase of land from the Trust for Public Lands for the Cannon Valley Trail, and approve the attached resolution authorizing this purchase.

**AGREEMENT OF PURCHASE AND SALE**

THIS AGREEMENT OF PURCHASE AND SALE (“Agreement”), having an Effective Date as provided below, is entered into by and between **THE TRUST FOR PUBLIC LAND**, a nonprofit California public benefit corporation authorized to do business in Minnesota as The Trust for Public Land, Inc. (“Seller”) and **GOODHUE COUNTY, MINNESOTA**, a Public Subdivision under the laws of the State of Minnesota (“Buyer”).

**RECITALS:**

A. The addresses and telephone numbers of the parties to this Agreement are as follows. Telephone numbers are included for information only.

**SELLER:**

The Trust for Public Land  
2610 University Avenue, Suite 300  
St. Paul, MN 55114  
Attn: DJ Forbes, Project Manager  
Tel: (651) 999-5325  
Email: dj.forbes@tpl.org

With copies to:

The Trust for Public Land  
306 North Monroe Street  
Tallahassee, Florida 32301  
Attn: Pete Fodor, Legal Director  
Tel: (850) 222-7911 x 29  
Email: pete.fodor@tpl.org

**BUYER:**

Goodhue County  
509 West 5<sup>th</sup> St.  
Red Wing, MN 55066  
Attn: Scott Arneson  
Tel: (651) 385-3250  
Email: scott.arneson@co.goodhue.mn.us

With copies to:

Goodhue County  
509 West 5<sup>th</sup> St.  
Steve O’Keefe  
Attn: Steve O’keefe  
Tel: (651) 267-4950  
Email: Steve.Okeefe@co.goodhue.mn.us

B. Lutheran Social Service of Minnesota, a Minnesota nonprofit corporation (“Current Owner”) is the owner of certain real property in Goodhue County, Minnesota comprising of approximately 8.78 acres, legally described on **Exhibit A** attached hereto and incorporated herein by this reference. Said real property, and any and all improvements, fixtures, timber, water and/or minerals located thereon and any and all rights appurtenant thereto including but not limited to timber rights, water rights, grazing rights, access rights and mineral rights, shall be referred to in this Agreement as the “Property” or the “Subject Property.”

C. Seller has proposed to acquire the Property from Current Owner.

D. Buyer wishes to purchase the Property from Seller and Seller wishes to sell the Property to Buyer upon Seller’s acquisition of the Property from Current Owner in accordance

with the terms and conditions set forth in this Agreement.

THE PARTIES AGREE AS FOLLOWS:

1. **Purchase and Sale.** In consideration of an earnest money deposit by Buyer to Seller in the amount of One Thousand Dollars and No/100 (\$1,000.00) (the “Earnest Money”) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller agrees to sell to Buyer and Buyer agrees to buy from Seller the Subject Property on the terms and conditions set forth herein.

2. **Purchase Terms.**

(a) **Price.** The purchase price (the “Purchase Price”) for the Subject Property shall be Seventeen Thousand Six Hundred Dollars and No/100 \$(17,600).

(b) **Method of Payment.** The Purchase Price shall be payable in cash, at Closing (as defined below), subject to any credits, prorations and adjustments provided elsewhere in this Agreement.

3. **Contingencies.**

(a) Buyer acknowledges that Seller does not presently own the Subject Property and that Seller’s duties hereunder and Buyer’s rights hereunder are both expressly contingent upon the acquisition by Seller of the Subject Property. In the event Seller does not acquire the Subject Property from Current Owner this Agreement shall terminate, and thereafter neither party shall have any further obligations hereunder.

(b) That period of time from the effective date of this Agreement through August 31, 2019, shall constitute Buyer’s inspection period (the “Inspection Period”). During the Inspection Period, Buyer, through its employees, agents and contractors may enter upon the Property for the purpose of making any inspections and investigations, as Buyer deems appropriate in order to assess the condition of the Property. During the Inspection Period, Buyer, may in its sole discretion terminate this Agreement if it deems the survey, status of title, physical or environmental condition to be unacceptable to Buyer, or if the Buyer determines in its sole discretion that that the Property is unsuitable for Buyer’s purposes.

4. **Closing.** Final settlement of the obligations of the parties hereto shall occur on or before August 31, 2019 (the “Closing”), place and time as the parties may agree. The parties agree that Seller may arrange a simultaneous closing with the Current Owner, and Buyer will cooperate in coordinating such a simultaneous closing. The parties may arrange to close by mail. At Seller's request, all closing documents and the title insurance commitment referred to above shall be prepared naming Buyer as insured.

(a) Seller shall deliver to Buyer at Closing the following documents: i) a limited warranty deed to the Property meeting the requirements as to title set forth herein, together with a bill of sale for the personal property appurtenant to the Property, if any; ii) an owner's affidavit attesting to the absence of mechanic's or materialmen's liens, boundary line disputes, proceedings involving Seller which might affect title to the Property, or parties in possession other than Seller and such lessees or licensees as may be in possession pursuant to ground leases or licenses meeting the requirements as to title set forth above; iii) a Foreign Investment and Real Property Tax Act (FIRPTA) affidavit, and such other instruments and documents as Buyer's counsel or the title insurer may reasonably request for the purpose of confirming proper and lawful execution and delivery of closing documents and conveyance of the Property to Buyer in accordance with this Agreement; iv) a closing statement; v) If required, an affidavit with respect to storage tanks pursuant to Minn. Stat. § 116.48; vi) If there is a well located on the Property, a well disclosure certificate in form and substance true to form for recording; and vii) All other documents reasonably determined by either party or the title insurance company to be necessary to transfer and provide title insurance for the Property.

(b) At closing Seller shall pay: i) transfer or documentary taxes on the deed of conveyance, if any; ii.) recording fees and the cost of preparing all documents necessary to satisfy the requirements of the title insurance commitment or remove encumbrances on Seller's title; iii) recording fee for the deed(s) of conveyance, and iv) one half the cost of any closing fee charged by the escrow closing agent.

(c) At closing Buyer shall pay: i) the cost of the title search, examination, preparation and issuance of the title insurance commitment and premium; and ii) one half the cost of any closing fee charged by the escrow closing agent.

(d) Real estate taxes due and payable in the year of Closing will be prorated between the Seller and Buyer as of the date of Closing based on a calendar year and the latest available tax bill. Special assessments, levied, pending or constituting a lien against the Subject Property, if any, will be paid by Current Owner. Current Owner is responsible for paying any additional taxes, penalties and interest, including but not limited to compensatory or roll back taxes, on the Subject Property arising from the termination of a preferential tax classification of the Subject Property.

5. **Title Insurance.** Buyer may, at its option, and its cost and expense procure a standard owner's policy of title insurance from the Escrow Holder insuring that Seller's interest in the Subject Property is vested in Buyer upon Closing, subject to the exceptions which are deemed acceptable to Buyer.

6. **Survey.** Buyer, through its employees and agents, may in its sole discretion and at its sole expense, elect to enter upon the Property for the purpose of conducting survey work. The legal description set forth in Exhibit "A" shall be changed, if necessary, to conform to any survey that is prepared and to the requirements of the Title Commitment. Prior to the expiration of the Inspection Period, Buyer shall advise Seller of matters reflected in the survey which are unacceptable to Buyer (the "Survey Objections"). In the event Seller is unable or elects not to

remove any Survey Objections to which Buyer has objected prior to the Closing, Buyer may elect to terminate this Agreement, in which case Buyer shall have no obligation to purchase the Property.

7. **Seller's Promise not to Further Encumber.** Seller shall not, without the prior written consent of Buyer, make any leases, contracts, options or agreements whatsoever affecting the Subject Property which would in any manner impede Seller's ability to perform hereunder and deliver title as agreed herein.

9. **Seller's Representations.** Seller makes the following representations:

(a) At Closing, Seller will have the power to sell, transfer and convey all of Seller's right, title and interest in and to the Subject Property in accordance with the terms and conditions of this Agreement.

(b) No one other than Seller is, or will be, in possession of or own any portion of the Property.

(c) There is no suit, action, arbitration, or legal, administrative or other proceeding or injury pending or, to Seller's actual knowledge, threatened against the Property or any portion thereof or pending or, to Seller's actual knowledge, 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) Seller has disclosed to Buyer and which will be terminated prior to closing, there are no: (i) actual or, to Seller's actual knowledge, impending public improvements or private rights or actions which will result in the creation of any lien upon the Property or any portion thereof; (ii) 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; or (iii) notices or other information giving Seller reason to believe that any conditions existing on the Property or in ground or surface waters associated with the Property may have a material effect on the value of the Property or subject the owner of the Property to potential liabilities under environmental laws.

(e) There is no unrecorded lease, license, permit, option, right of first refusal or other agreement, oral or written, which affects the Property or any portion thereof.

(f) Seller is not named on any list of persons, entities and governments issued by the Office of Foreign Assets Control of the United States Department of the Treasury ("OFAC") pursuant to Executive Order 13224 – Blocking Property and Prohibiting Transactions with persons Who Commit, Threaten to Commit or Support Terrorism, as in effect on the date hereof, or any similar list issued by OFAC or any other department or agency of the United States (collectively, the OFAC Lists), or included in, owned by, controlled by, acting for or on behalf

of, providing assistance, support, sponsorship, or services of any kind to, or otherwise associated with any persons or entities referred to or described in any OFAC Lists.

Each of the above representations is material and is relied upon by Buyer. Seller will not cause or permit any action to be taken which will cause any of its representations or warranties to be untrue as of a Closing.

10. **Notices.** All notices pertaining to this Agreement shall be in writing delivered to the parties hereto personally by hand, telecopier, courier service or Express Mail, by first class mail, postage prepaid, or email at the addresses set forth in Recital A. All notices shall be deemed given when deposited in the mail, first class postage prepaid, addressed to the party to be notified; or if delivered by hand, telecopier, email, courier service or Express Mail, shall be deemed given when delivered. The parties may, by notice as provided above, designate a different address to which notice shall be given.

11. **Attorneys' Fees.** If any legal action is brought by either party to enforce any provision of this Agreement, each party shall be responsible for their own attorneys' fees and court costs.

12. **Remedies Upon Default.** In the event that Seller defaults in the performance of any of its obligations under this Agreement, Buyer shall have, as its sole and exclusive remedy hereunder, the right to \$1,000.00 as full liquidated damages for such default. It is hereby agreed that Buyer's damages in the event of a default by Seller hereunder are uncertain and difficult to ascertain, and that \$ 1,000.00 constitutes a reasonable liquidation of such damages and is intended not as a penalty, but as full liquidated damages. Buyer covenants not to bring any action or suit, whether legal or equitable, against Seller for additional damages or other redress in the event of Seller's default hereunder. In the event Buyer defaults in the performance of any of its obligations under this Agreement, Seller shall have, as its sole and exclusive remedy hereunder, the right to the sum of \$1,000.00 as full liquidated damages for such default.

13. **Time of the Essence.** Time is of the essence of this Agreement.

14. **Binding on Successors.** This Agreement shall be binding not only upon the parties hereto, but also upon their heirs, personal representatives, assigns, and other successors in interest.

15. **Assignment.** Buyer may not assign its interests under this Agreement without the written consent of Seller.

20. **Entire Agreement; Modification.** This Agreement constitutes the entire agreement between Buyer and Seller pertaining to the subject matter contained in it and supersedes all prior and contemporaneous agreements, representations, and understandings. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by all the parties. .

21. **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. In addition, facsimile, .pdf transmitted by email or photocopied signatures of or on behalf of either Buyer or Seller shall be satisfactory to both Buyer and Seller.

22. **Severability.** Each provision of this Agreement is severable from any and all other provisions of this Agreement. Should any provision(s) of this Agreement be for any reason unenforceable, the balance shall nonetheless be of full force and effect.

23. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota.

24. **Buyer's Representation.** Buyer represents that it has full power and authority to enter into this Agreement and the person signing this Agreement for Buyer has full power and authority to sign for Buyer and to bind it to this Agreement.

25. **Signage.** The parties agree that permanent signage on the Property shall provide for recognition of the role of Seller and its funding sources in this acquisition, said signage being subject to the approval of Seller. This section shall survive the delivery of the deed.

IN WITNESS of the foregoing provisions the parties have executed and delivered this Agreement as of the date set forth below. The effective date (the "Effective Date") of this Agreement shall be the last date of execution by either of the parties to this Agreement.

**SELLER:**

**THE TRUST FOR PUBLIC LAND**, a nonprofit California public benefit corporation authorized to conduct business in Minnesota as The Trust For Public Land, Inc.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**BUYER:**

**GOODHUE COUNTY**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT A**  
**(Legal Description)**

The following real property located in the County of Goodhue, State of Minnesota, legally described as follows:

That part of the Southeast Quarter of the Southwest Quarter, Section 21, Township 113 North, Range 15 West, Goodhue County, Minnesota, lying southerly of the southerly right of way of the Minnesota Central Railroad Company (later the Wisconsin, Minnesota and Pacific Rail Road Company, the Chicago Great Western Railway Company, now the Chicago and North Western Transportation Company) as said main track centerline was originally located and established over an across said Section 21.

**BOARD OF COUNTY COMMISSIONERS  
GOODHUE COUNTY, MINNESOTA**

Date: 04 Jun 2019

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WHEREAS: The Cannon Valley Trail Joint Powers Board is the operator of the Cannon Valley Trail.

WHEREAS: Goodhue County is a member of the Cannon Valley Trail Joint Powers Board and also owns the property that the Cannon Valley Trail uses for operations.

WHEREAS: The Cannon Valley Trail Master Plan has several parcels identified for potential acquisition to meet the long term goals of the Trail.

WHEREAS: One such Parcel is Parcel 557210290 which is adjacent to the Trail and Camp Pearson.

WHEREAS: The Trust for Public Lands is working to acquire property from Lutheran Social Services, including Parcel 557210290.

WHEREAS: The Trust for Public Lands is working with the DNR to accept all of the Lutheran Social Services properties, except for Parcel 557210290.

WHEREAS: The Trust for Public Lands has been working with County and Cannon Valley Trail staff to sell Parcel 557210290 to Goodhue County for use and control by the Cannon Valley Trail Joint Powers Board.

THEREFORE, LET IT BE RESOLVED, That the Goodhue County approve the purchase of Parcel 557210290 for use and control by the Cannon Valley Trail Joint Powers Board, and authorize the County Chair to sign the Agreement of Purchase and Sale with the Trust for Public Lands as presented (and finalized) at the Goodhue County Board meeting on June 4<sup>th</sup>, 2019.

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State of Minnesota  
County of Goodhue

Anderson	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
Nesseth	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
Majerus	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
Drotos	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>

I, Scott Arneson, duly appointed, qualified and County Administrator of the County of Goodhue, 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, Goodhue County, Minnesota at their session held on the 4<sup>th</sup> day of June 2019, now on file in my office, and have found the same to be a true and correct copy thereof.

Witness my hand and official seal at Red Wing, Minnesota, this 4<sup>th</sup> day of June 2019.

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Scott Arneson  
County Administrator