

ENROLLED RESOLUTION 173-079

WAUKESHA COUNTY LAND CONSERVANCY, INC.
PARTNERSHIP ACQUISITION – MEYER PROPERTY

WHEREAS, the Waukesha County Development Plan, which incorporates the Waukesha County Park and Open Space Plan, was adopted and periodically updated by the Waukesha County Board of Supervisors; and

WHEREAS, the Plan identifies 80.081 acres of property located in the Southeast ¼ of Section 25, Town 5 North, Range 17 East in the Town of Eagle for preservation through acquisition by a non-profit agency (Attached as Exhibit A); and

WHEREAS, the Walter J. Tarmann Parkland Acquisition Fund was created in Enrolled Ordinance 150-28 for the purpose of acquiring park and open space lands consistent with the Waukesha County Board Adopted Park and Open Space Plan; and

WHEREAS, the Natural Areas and Critical Species Habitat Sites Acquisition Partnership Funding Program was created in Enrolled Ordinance 152-101 to assist cities, towns and villages in the acquisition and preservation of designated natural and critical species habitat sites in Waukesha County through the use of the Tarmann Fund, and has subsequently been extended to provide acquisition assistance to not-for-profit conservation agencies and lake management districts; and

WHEREAS, the Waukesha County Land Conservancy, Inc., a non-profit conservation organization, has requested Waukesha County's assistance to acquire the above-mentioned property; and

WHEREAS, the selling price of the property is six hundred thousand dollars (\$600,000.00); and

WHEREAS, in accordance with program requirements, the County financial contribution shall not exceed 25% of the selling price; and

WHEREAS, the Waukesha County Land Conservancy, Inc. has requested the County contribute forty four thousand, seven hundred and fifty dollars (\$44,750) of the total acquisition cost with the Waukesha County Land Conservancy, Inc. providing \$44,750, the State of Wisconsin granting \$248,500 and the U.S. Fish and Wildlife Service granting \$262,000; and

WHEREAS, the Waukesha County Land Conservancy, Inc. has agreed to execute the Buyout Option with Waukesha County (Attached as Exhibit B) and to abide by all other requirements of the program including those restrictions included with the applicable state and federal grants; and

WHEREAS, the Waukesha County Land Conservancy, Inc. will be responsible for the maintenance of the site.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the Waukesha County Department of Parks and Land Use is authorized to make a land acquisition grant to the Waukesha County Land Conservancy, Inc. in an amount not to exceed forty four thousand, seven hundred and fifty dollars (\$44,750) using available funds from the Walter J. Tarmann Acquisition Fund Budget for the acquisition of the Meyer property, described in the attached Exhibit A, for land preservation purposes.

BE IT FURTHER ORDAINED that the Department of Parks and Land Use and Corporation Counsel are authorized to finalize a Buy-out option for execution by the Waukesha County Executive and County Clerk in association with the acquisition.

FISCAL NOTE

WAUKESHA COUNTY LAND CONSERVANCY, INC. PARTNERSHIP ACQUISITION –
MEYER PROPERTY

This ordinance authorizes the County Parks and Land Use Development to provide a grant to the Waukesha County Land Conservancy of \$44,750 from the Walter J. Tarmann Parkland Acquisition Fund. This grant provides a portion of the \$600,000 necessary for the Conservancy to purchase about 80 acres in the Town of Eagle. The remaining land acquisition cost will be funded with \$262,000 from the U.S. Fish and Wildlife Service, \$248,500 from the State of Wisconsin, and \$44,750 from the Conservancy.

This ordinance also authorizes the execution of an agreement for a buyout option that allows the County to purchase the 80 acre parcel for \$44,750 if the Land Conservancy seeks to sell the property.

There currently is available expenditure appropriation authority in the 2019 Tarmann Fund expenditure budget to fund this purchase, resulting in no change to the 2019 budget. The Waukesha County Land Conservancy will be responsible for the maintenance of the site.

There is no direct tax levy impact.


Linda Witkowski

Linda G. Witkowski
Budget Manager
11/20/2018
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WAUKESHA COUNTY LAND CONSERVANCY, INC.
PARTNERSHIP ACQUISITION – MEYER PROPERTY

Presented by: Land Use, Parks and
Environment Committee

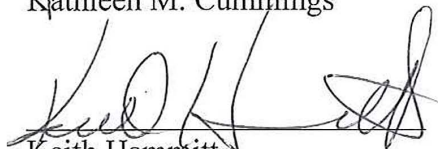
Approved by:
Finance Committee


David D. Zimmermann, Chair


James A. Heinrich, Chair

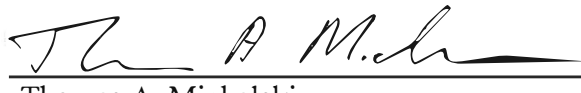

Kathleen M. Cummings


Timothy Dondlinger


Keith Hammitt


Tyler J. Foti

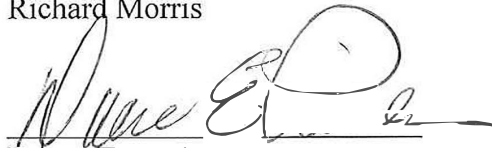

William A. Mitchell



Thomas A. Michalski

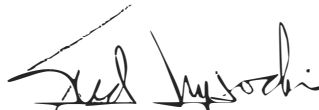

Thomas J. Schellinger

absent
Richard Morris

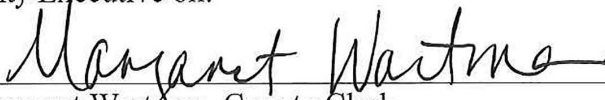

Steve Whittow


Duane E. Paulson


Chuck Wood


Ted Wysocki

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, was presented to the County Executive on:

Date: January 22 2019, 
Margaret Wartman, County Clerk

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, is hereby:

Approved: X
Vetoed: _____

Date: 1/29/19

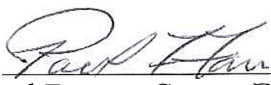

Paul Farrow, County Executive


Exhibit A




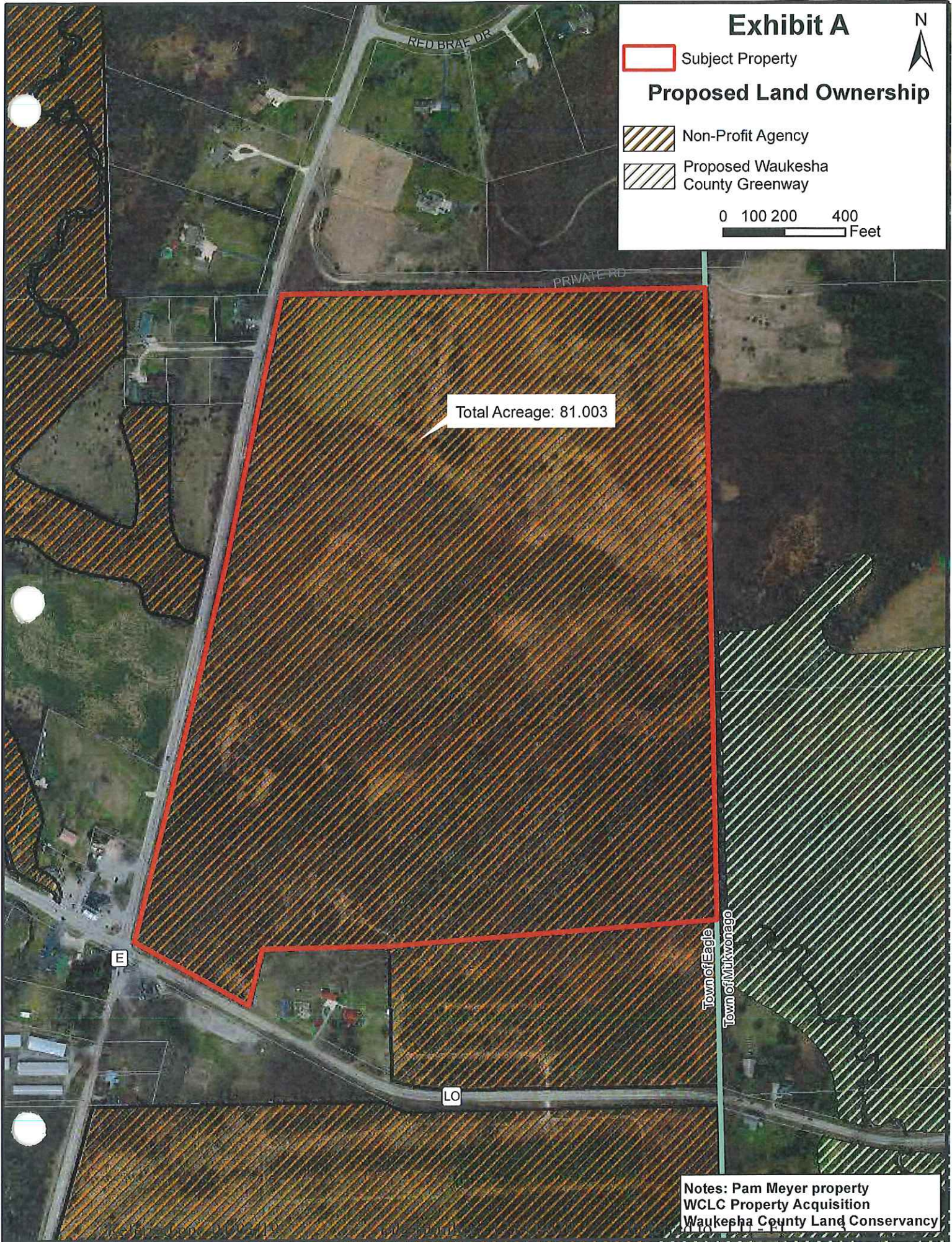
 Subject Property

Proposed Land Ownership

 Non-Profit Agency

 Proposed Waukesha County Greenway

0 100 200 400
 Feet



Total Acreage: 81.003

Notes: Pam Meyer property
WCLC Property Acquisition
Waukesha County Land Conservancy

BUYOUT OPTION

With the written approval of the Wisconsin Department of Natural Resources, (hereinafter "Department"), and other applicable agencies, (hereinafter "Agencies"), which provided grant funds used for the acquisition by the Waukesha County Land Conservancy, Inc. a non-profit organization, (hereinafter "Grantor"), the undersigned Steve Schmuki as President for the Grantor does hereby grant to Waukesha County, a political subdivision of the State of Wisconsin, (hereinafter "County"), this day of January XX, 2019 an option to purchase Grantor's "Property" being approximately 80.081 acres in the Town of Eagle as further described in Exhibit "A" attached hereto and made a part hereof.

WHEREAS, Grantor and County wish to address the disposition of said property,

NOW, THEREFORE, in consideration of the mutual agreements and other good and valuable consideration, receipt of which is hereby acknowledged, the Grantor and County do hereby agree to the Buyout Option upon the terms and conditions as set forth below.

If Grantor, with prior written approval from the Department, intends to sell, transfer, convey or enters into a bona fide offer to purchase for the sale of the property, or any part thereof; or agrees to the lease, exchange, dedication or other transfer, (hereinafter "Offer"), then Grantor shall give the County written notice of such, including a copy of said Offer setting forth the material terms and conditions.

Upon receipt of the above notice, the County shall have 60 days to exercise its Buyout Option. If the County elects to exercise the Buyout, it shall give written notice to the Grantor of its intention to close upon the terms and conditions as set forth below. Further, closing shall be 90 days from receipt of Grantor's notice.

The purchase price shall be forty four thousand, seven hundred and fifty dollars and 00/100 (\$44,750.00). Closing shall be held at the Waukesha County Administration Center.

Grantor states that this is a conveyance at an agreed price and that Wis. Stats. Chap. 32 is not applicable to this property.

Grantor shall obtain an ALTA owner's policy in the amount of the purchase price, together with GAP coverage, at Grantor's expense, by a title insurer licensed in Wisconsin. Grantor shall provide title commitment to County, by actual delivery, within 10 days of Grantor's notice of Offer/intent to sell. If Grantor fails to comply with this provision, the closing date may be delayed, at County's sole discretion, by the same number of days the title commitment is late. The Property shall remain subject to the terms, conditions and requirements of the recorded Stewardship Grant and Management Contract in perpetuity. Prior to the conveyance of the Property by the Grantor to the County, the Grantor, the County and the Department shall execute an Assignment of Stewardship Grant and Management Contract that shall be recorded against the Property.

Upon payment of the purchase price, Grantor shall convey the Property by warranty deed, free and clear of all liens and encumbrances, except the recorded Stewardship Grant and Management Contract, the recorded Assignment of Stewardship Grant and Management Contract to Waukesha County, municipal and zoning ordinances, recorded easements for the distribution of utility and municipal services and general taxes levied in the year of closing,

(provided none of the foregoing prohibit present use of the Property), which constitutes merchantable title for purposes of this transaction. Notwithstanding the foregoing, the County shall only use the Property for its original conservation purposes. The County's further sale of the property for other than open space preservation, or other like conservation purposes shall be prohibited.

This Buyout Option is contingent upon obtaining the written approval of the Department, Waukesha County Executive and Waukesha County Board of Supervisors for the purchase of the Property, contained in Exhibit "A", prior to closing.

Grantor shall notify County, in writing, of any condition affecting the Property or defect not previously disclosed through the closing of this transaction. Grantor shall cure said defect(s) by closing, or County may, at County's option declare this Offer null and void. Said defects to include any and all waste or debris, including but not limited to abandoned vehicles, machinery, scrap metal, cylinders, drums, tires and all other materials not occurring naturally on the Property.

The County may obtain, at its expense, written environmental assessments (phase I and/or phase II) of the Property from independent environmental consultants of County's choice confirming that (i) the Property complies with all Environmental Laws; (ii) there are no liabilities (contingent or otherwise) affecting the Property arising under any Environmental Laws; (iii) there are no underground or above ground storage tanks, associated pipes or equipment located on or at the Property; and (iv) there are no Hazardous Substances on, under, at, in or migrating to or from the Property. If the assessment(s) reveal any condition that demonstrates a violation of applicable environmental laws, triggers reporting responsibilities, or other condition affecting the property in County's sole discretion, County may declare this option null and void.

The term "Environmental Laws" shall mean all federal, state and local laws including statutes, rules, regulations, common law doctrines and remedies and other governmental restrictions, codes, standards and requirements relating to the disposal, release, emission, dispersal, spilling, leaking, burial, migration, seeping, movement or discharge of air pollutants, chemicals, gases, vapors, waste pollutants, groundwater, effluents, storm water or surface water runoff, process wastewater, solid wastes or hazardous waste or otherwise relating to the protection of the environment. The term "Hazardous Substances" shall mean all hazardous or toxic substances, fumes, smoke, soot, acids, alkalis, chemicals, liquids, gases, vapors, fill, soils, wastes and materials; any pollutants, particulate matter, effluents or contaminants (including, without limitation, petroleum products, asbestos and raw materials which include hazardous or toxic constituents); and any other similar substances or materials which are regulated under Environmental Laws.

If the County fails or elects not to exercise its Buyout Option hereunder, and the Grantor, with the prior written approval of the Department, sells the Property, or portion thereof, to a party, then, in such instance, the County's Buyout Option shall terminate as to that portion of the Property so transferred. If the Buyout is not exercised, and the Grantor fails to close within 90 days of the time set to close upon the terms and conditions as set forth in the Offer, the County's Buyout Option shall be reinstated and be applicable to any subsequent offer.

The rights granted herein may not be assigned by the County without the written consent of the Grantor and the Department. The covenants and agreements contained herein shall bind and benefit the parties and their respective successors and, to the extent allowed, their assigns. This document represents the entire agreement of the parties and may not be modified except, in writing, signed by all parties. This document may be recorded.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed on their behalf by the following authorized signatories.

County of Waukesha:

Grantor:

By: _____
Paul F. Farrow
County Executive

By: _____
Steve Schmuki, President
Waukesha County Land Conservancy, Inc.

Subscribed and sworn to before me
this ____ day of _____, 2018.

Subscribed and sworn to before me
this ____ day of _____, 2018.

by _____
Notary Public, State of Wisconsin
My Commission _____

by _____
Notary Public, State of Wisconsin
My Commission _____

By: _____
Meg Wartman
Waukesha County Clerk

Subscribed and sworn to before me
this _____ day of _____, 2018.

by _____
Notary Public, State of Wisconsin
My Commission _____

State of Wisconsin
Wisconsin Department of Natural Resources

By _____
Mary Rose Teves, Director
Bureau of Community Financial Assistance

Subscribed and sworn to before me
this ____ day of _____, 2018

by _____
Notary Public, State of Wisconsin
My Commission _____

This document was drafted by and return to:
Kimberly K. Haines, Esq.
Principal Assistant Corporation Counsel
515 W. Moreland Blvd., AC330
Waukesha, WI 53188-3878



Voting Results for 173-O-079

Waukesha County Land Conservancy, Inc. Partnership Acquisition – Meyer Property

Passed By Majority Vote

AYE: 23 NAY: 0 ABSTAIN: 0 ABSENT: 2

D1 - Foti	AYE	D14 - Wood	AYE
D2 - Zimmermann	Motion	D15 - Mitchell	AYE
D3 - Morris	ABSENT	D16 - Crowley	AYE
D4 - Batzko	AYE	D17 - Paulson	AYE
D5 - Dondlinger	AYE	D18 - Nelson	AYE
D6 - Walz	AYE	D19 - Cummings	Second
D7 - Grant	AYE	D20 - Schellinger	AYE
D8 - Michalski	AYE	D21 - Gaughan	AYE
D9 - Heinrich	AYE	D22 - Wysocki	AYE
D10 - Swan	AYE	D23 - Hammitt	AYE
D11 - Howard	AYE	D24 - Whittow	ABSENT
D12 - Wolff	AYE	D25 - Johnson	AYE
D13 - Decker	AYE		