

METROPOLITAN COUNCIL
390 North Robert Street, St. Paul, MN 55101
Phone (651) 602-1000 TDD (651) 291-0904

DATE: December 3, 2012

TO: Metropolitan Parks and Open Space Commission

FROM: Arne Stefferud, Manager—Regional Parks and Natural Resources Unit (651) 602-1360

SUBJECT: (2012-260) Public Hearing Report and Recommendations to Adopt Amendment to *2030 Regional Parks Policy Plan* regarding changes to Park Acquisition Opportunity Fund grant rules and System Protection Strategy 3

INTRODUCTION:

In 2001, the Metropolitan Council established a Park Acquisition Opportunity Fund grant program to assist regional park agencies in acquiring land for the Metropolitan Regional Park System. Land that is acquired must be within Metropolitan Council approved master plan boundaries for that particular park or trail unit. Grants are awarded under a set of rules.

The Metropolitan Parks and Open Space Commission, with input from the regional park implementing agencies considered and developed proposed revisions to the rules for awarding grants from the Park Acquisition Opportunity Fund and revisions to System Protection Strategy 3 in the *2030 Regional Parks Policy Plan*. Revisions to the rules and System Protection Strategy 3 are substantial changes to the *2030 Regional Parks Policy Plan*, and consequently a public hearing on them must be conducted.

A public hearing on this matter was conducted on November 19, 2012 before the Community Development Committee. The hearing record closed on November 30. This memorandum contains the hearing report summarizing the testimony received on this matter. All testimony received was in support of the proposed revisions. Subsequently staff recommends that the Metropolitan Council adopt the revisions as an amendment to the *2030 Regional Parks Policy Plan*.

AUTHORITY TO REVIEW:

Minnesota Statute 473.147, Subdivision 1, requires that the Metropolitan Council, after consultation with the Parks and Open Space Commission, municipalities, park districts and counties in the metropolitan area, and after appropriate public hearings, prepare and adopt a long-range system policy plan for regional recreation open space as part of the council's Metropolitan Development Guide (i.e., the *2030 Regional Development Framework*).

Minnesota Statute 473.147, Subdivision 2, indicates that an amendment to the policy plan may be proposed by the Council or the parks and open space commission. Before adopting the policy plan, the Council shall submit the proposed plan to the parks and open space

commission for its review and the commission shall report its comments to the Council within 60 days. The Council is required to hold a public hearing on the proposed policy plan.

BACKGROUND:

The proposed revisions to the Park Acquisition Opportunity Fund grant rules and System Protection Strategy 3 were considered by the Metropolitan Parks and Open Space Commission (MPOSC) at its meetings in June, August, and September, 2012. The MPOSC unanimously recommended the revisions for public hearing consideration on September 11, 2012.

The Metropolitan Council's Community Development Committee conducted a public hearing regarding the revisions on November 19, 2012. The public record was held open until 4:30 pm on November 30, 2012. Oral and written testimony was submitted by persons representing Dakota County, Three Rivers Park District, Scott County, Ramsey County and Anoka County. All but Dakota County submitted testimony in favor of the revisions as proposed at the public hearing. Dakota County supported dropping a rule requiring a 10% local benefit contribution beyond the 25% local match. That rule was dropped by the MPOSC on September 11 and not proposed for public hearing.

The Public Hearing Report is included as Attachment 1. The recommended amendment to the *2030 Regional Parks Policy Plan* is depicted in Attachment 2.

CONCLUSIONS:

1. The Metropolitan Council held a public hearing on November 19, 2012 regarding the proposed changes to Park Acquisition Opportunity Fund grant rules and System Protection Strategy 3 as an amendment to the *2030 Regional Parks Policy Plan* in accordance with the Council's official procedures for public hearings.
2. Written and oral testimony was received in support of the proposed amendment to the *2030 Regional Parks Policy Plan*. There is no known opposition.

RECOMMENDATION:

That the Metropolitan Council adopt the changes to Park Acquisition Opportunity Fund grant rules and System Protection Strategy 3 depicted in Attachment 2 as an amendment to the *2030 Regional Parks Policy Plan*.

ATTACHMENT 1

Public Hearing Report: Revisions to Rules for Park Acquisition Opportunity Fund Grants and System Protection Strategy 3 as an amendment to the *2030 Regional Parks Policy Plan*

ID	Name/ Organization	Comment	Staff Response
1	Nancy Schouweiler/ Dakota County	<p>Ms. Schouweiler submitted a letter dated October 2, 2012 (Exhibit 1). To paraphrase the letter,</p> <ul style="list-style-type: none"> • Dakota County supports the rule changes for Park Acquisition Opportunity Fund grants other than a rule that proposed a 10% local benefit contribution of park agencies if the entire 25% local match was financed via a land value donation or park land dedication value. • Under Rule 3, Dakota County supports an "Option 1" method to calculate the 25% match when the grant is financing soil remediation costs. That results in a lower amount required of the park agency compared to the "Option 2" method. 	<p>The MPOSC concurred with the County's opposition to this rule. The MPOSC did not recommend it be considered for the hearing. Consequently, there is no basis to change what is proposed for adoption. It should be noted that if a donation is more than 25% of the appraised value, the additional donation value is applied to the Metro Council grant and thus reduces the grant amount.</p> <p>Rule 3 applied to land that has contaminated soils. The "Option 1" method results in the grant financing more than 75% of costs. This is not consistent with the principle of the grant financing up to 75% of costs. Consequently the "Option 2" method as proposed for public hearing should be used to calculate the grant and match amounts. It results in the grant financing 75% of costs and treats this situation in the same manner as a grant for land that is not contaminated.</p>
2	Jonathan Vlaming/ Three Rivers Park District	<p>Oral testimony. Three Rivers Park District supports the grant rule changes and changes to System Protection Strategy 3 because:</p> <ul style="list-style-type: none"> • The Park Acquisition Opportunity Fund plays a critical role in acquiring land for the Regional Park System. • The rule changes are fiscally responsible. 	<p>Support for the changes is appreciated. No revision to what has been proposed for adoption is necessary.</p>

ID	Name/ Organization	Comment	Staff Response
3	Mark Themig/ Scott County	<p>Oral testimony. Scott County supports the grant rule changes and changes to System Protection Strategy 3 because:</p> <ul style="list-style-type: none"> • There is about 1,000 acres within park boundaries available to purchase • The grant rule changes provide more tools to provide to finance the 25% match via a combination of cash and land value donation. • This proposal has support of all the Regional Park Implementing Agencies 	Support for the changes is appreciated. No revision to what has been proposed for adoption is necessary.
4	Greg Mack/ Ramsey County	<p>Oral testimony. Ramsey County supports the grant rule changes and changes to System Protection Strategy 3 because:</p> <ul style="list-style-type: none"> • These changes allow land that is contaminated to be acquired and the contamination remediated when the cost of the remediation is less than the appraised value of the land • This would be the case in obtaining land from the Twin Cities Army Ammunition Plant (TCAAP) for a regional trail. • A resolution of support by the Ramsey County Board will be submitted (See Exhibit 2) 	Support for the changes is appreciated. No revision to what has been proposed for adoption is necessary.
5	John VondeLinde/ Anoka County	<p>Mr. VondeLinde submitted a letter dated November 27, 2012 (Exhibit 3). To paraphrase the letter,</p> <ul style="list-style-type: none"> • The grant rule changes and changes to System Protection Strategy 3 allow the 25% match to be reimbursed as part of a park agency's share of future Regional Parks Capital Improvement Programs. • Recognizes the value of land donations as part of the match and potential reduction in the Council's grant. • Allows minimal access development under certain conditions which provides immediate public benefit from the acquired land 	Support for the changes is appreciated. No revision to what has been proposed for adoption is necessary.

Exhibit 1: Letter from Nancy Schouweiler, Dakota County, dated October 2, 2012



October 2, 2012

Office of the
County Board

Dakota County
Administration Center
1590 Highway 55
Hastings, MN 55033-2343

651.438.4418
Fax: 651.438.4405
www.dakotacounty.us

Arne Stefferud, Acting Manager
Metropolitan Council
Regional Parks and Natural Resource Unit
390 North Robert Street
St. Paul, Minnesota 55101

Dear Mr. Stefferud:

Dakota County appreciates the Metropolitan Council working with the regional park implementing agencies to establish new Park Acquisition Opportunity Fund rules that use available funds to acquire more park inholdings, encourage property purchases with donations and parks dedication, and clean up contaminated properties. These rule changes will help Dakota County purchase remaining park and greenway inholdings, assuring protection of natural resources, and providing the public with natural resource based recreation.

The Dakota County Board of Commissioners reviewed the proposed rules changes for Park Acquisition Opportunity Fund grants as prepared for the September 11, 2012 Metropolitan Parks and Open Space Commission, and have the following comments to be included as part of the public record for the November 19, 2012 public hearing at the Metropolitan Council Community Development Committee:

- The County Board supports Rules 1,2,3,5,6,7,8 meeting the objectives to use available funds to acquire more park inholdings, encourage property purchases with donations and parks dedication, and clean up contaminated properties.
 - The County Board does not support Rule 4 that requires a 10% reimbursable local cash match from the regional park agency even when donated or municipal parks dedication value meets or exceeds the required 25% local match. The County Board agrees that the 25% local match has historic precedence and fits with the new rules, but an additional 10% above a 25% equivalent donation or parks dedication changes the intent of the local match. The rationale that the acquisition has a local benefit and therefore 10% local match is reasonable doesn't recognize other benefits and investments by the regional park agency.
- Rule 4:

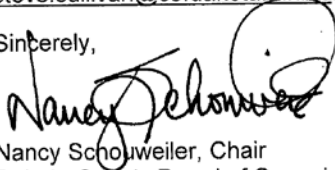
Arne Stefferud
October 2, 2012
Page 2

1. Reduces the incentive for regional park agencies to work with landowners to promote donation and saving public dollars.
2. Reduces incentive for regional park agencies to work with cities to promote use of its land use authority and parks dedication saving public dollars.
3. Fails to recognize the precedence of a 25% local match.
4. Increases the complexity of the rules that establish local match.
5. Fails to recognize the regional park agencies on-going investment funding the operations, maintenance and stewardship of the acquired property.

- The County Board supports funding Option 1 for Rule 3 and System Protection Strategy 3 that results in a 25% local match amount.

Thank you for including these comments as part of the public record. If you need additional information please contact Steve Sullivan, Dakota County Parks Director, at 952.891.7088 or steve.sullivan@co.dakota.mn.us.

Sincerely,



Nancy Schouweiler, Chair
Dakota County Board of Commissioners

cc: Dakota County Board of Commissioners
Brandt Richardson, County Administrator

Exhibit 2: Resolution from Ramsey County, dated November 20, 2012

Resolution

Board of

Ramsey County Commissioners

Presented By: Commissioner Carter Date: November 20, 2012 No. 2012-324

Attention: Parks and Recreation

Page 1 of 2

WHEREAS, Ramsey County is an implementing agency for the Metropolitan Regional Park System; and

WHEREAS, The Metropolitan Council's 2030 Regional Parks Policy Plan stipulates that land acquisition grants from the Metropolitan Council's Park Acquisition Opportunity Fund requires a 25% match from regional park implementing agencies that is not eligible for reimbursement in future Regional Park Capital Improvement Programs; and

WHEREAS, The existing Metropolitan Council's 2030 Regional Parks Policy Plan prohibits the use of regional park funds for soil contamination clean-up (remediation); and

WHEREAS, The implementing agencies have requested amendments to the Policy Plan that will allow additional flexibility in order to satisfy the 25% match requirement and recognizes remediation as an eligible land acquisition expense; and

WHEREAS, The Metropolitan Parks and Open Space Commission (MPOSC), has recommended policy amendments that will enable implementing agencies to satisfy all or a portion of the 25% match requirement through land donation and allow implementing agencies to include reimbursement of the land acquisition match in future Regional Park Capital Improvement Programs; and

WHEREAS, MPOSC has recommended policy amendments that recognizes remediation as an eligible land acquisition expense provided the aggregate cost of the land acquisition and remediation does not exceed the certified appraised value of the land at the time of purchase; and

Ramsey County Board of Commissioners

Table with 3 columns: YEA, NAY, OTHER and 7 rows of commissioner names with 'X' marks in the YEA column.

Rafael E. Ortega, Chair

By: [Signature] Bonnie C. Jackelen Chief Clerk - County Board

Resolution

Board of

Ramsey County Commissioners

Presented By: Commissioner Carter Date: November 20, 2012 No. 2012-324

Attention: Parks and Recreation

Page 2 of 2

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WHEREAS, The Metropolitan Council has incorporated the policy amendments recommended by the MPOSC into a Public Hearing Document for a public hearing held on November 19, 2012; and

WHEREAS, Written comments on the public policy amendments will be accepted by the Metropolitan Council until 4:30 p.m., November 30, 2012; Now, Therefore, Be It

RESOLVED, The Ramsey County Board of Commissioners supports amendments to the Metropolitan Council's 2030 Regional Parks Policy Plan to: 1) Replace rules for park acquisition opportunity grants found in Chapter 4, Finance, of the 2030 Regional Parks Policy Plan; 2) Replace System Protection Strategy 3 of the 2030 Regional Parks Policy Plan as proposed in the Metropolitan Council Public Hearing Document dated October 2, 2012.

Ramsey County Board of Commissioners

	YEA	NAY	OTHER
Tony Bennett	X		
Toni Carter	X		
Jim McDonough	X		
Jan Parker	X		
Victoria Reinhardt	X		
Janice Rettman	X		
Rafael Ortega	X		

Rafael E. Ortega, Chair

By: 
Bonnie C. Jackelen
Chief Clerk – County Board

Exhibit 3: Letter from John VondeLinde, Anoka County, dated November 27, 2012



Anoka County Parks and Recreation

550 Bunker Lake Boulevard NW, Andover, MN 55304

November 27, 2012

Mr. Guy Peterson
Director of Community Development
c/o Metropolitan Council Data Center
390 North Robert St.
St. Paul, MN 55101-1805

Re: Proposed Changes to Regional Park Acquisition Opportunity Fund Policies –
Public Hearing Record

Dear Mr. Peterson:

I want to extend a thank you to the Metropolitan Council and the Metropolitan Parks and Open Space Commission for considering structural changes to the Regional Parks Policy Plan to better accommodate the land acquisition process and funding options under the Acquisition Opportunity Fund Program (AOF).

The Anoka County Parks and Recreation Department is in full support of the proposed replacement of the rules in Chapter 4 Finance, and System Strategy 3, of the 2030 Regional Parks Policy Plan, as detailed in the Public Hearing Document.

We believe that the proposed rule changes will result in a number of enhancements to the AOF program that, taken together, will accelerate the acquisition of lands critical to the vision of the regional park system. In particular, we are most encouraged by the following changes:

1. **The ability to use the regional parks capital improvements program to finance the 25% local share of the AOF.** Allowing for reimbursement of the local share through future Metropolitan Council bond appropriations will provide another acquisition financing tool for the regional park implementing agencies. In some cases, the reimbursement option may also provide a more timely, reliable, and attractive method for generating the 25% local match requirement.
2. **Recognizing the value of a land donation by the seller.** This is a financing tool that has great appeal from the standpoint of leveraging private investment in the regional park system. Implementing agencies will be incentivized to negotiate reduced price land purchases in order to save their future funding allocations for purposes other than financing the 25% local match requirement. This policy may also serve as a catalyst for land owners to exploit the tax benefits associated with a reduced price sale (donation) of their land.

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3. **Allowing minimal access development as an eligible expense under the AOF.** This provision will accelerate the availability of newly added lands for public use. With many competing priorities, it is often difficult for an agency to keep up with capital projects for existing parks, let alone new additions to the regional park system. For a marginal investment of additional AOF dollars the metropolitan area will realize immediate gains in the use and public benefit of the newly acquired regional parks.

Again, we appreciate the opportunity to provide written comments on the proposed changes to the Regional Parks Policy Plan. I would also like to take this opportunity to thank Mr. Arne Stefferud, Manager – Regional Parks and Natural Resources Unit, for his excellent work in coordinating the policy amendment through the regional park implementing agencies and the Metropolitan Parks and Open Space Commission.

Should you have any questions, please feel free to contact me at 763.767.2860 or by e-mail at john.vondelinde@co.anoka.mn.us.

Sincerely,



John K. VonDeLinde
Director of Parks and Recreation

Cc: Commissioner Jim Kordiak, Chair, Parks and Recreation Committee
Kathy Tingelstad, Intergovernmental Relations Coordinator

ATTACHMENT 2—Recommended for Adoption as amendment to 2030 Regional Parks Policy Plan

Park Acquisition Opportunity Fund Grant Rules

Rule 1: The Park Acquisition Opportunity Fund grant may finance up to 75% of the costs to acquire land and related costs as described in Rule 2. The land must be within Metropolitan Council approved master plan boundaries for regional parks, park reserves, regional trails and special recreation features. The cumulative amount a park agency could be granted in a State fiscal year (July 1 to June 30) is:

\$1.7 million from the Environment and Natural Resources Trust Fund Acquisition Account for acquisitions of undeveloped land with high natural resource values to comply with State law.

\$1.7 million from the Parks and Trails Legacy Fund Acquisition Account for acquisition of land that does not qualify for funding from the Environment and Natural Resources Trust Fund Acquisition Account.

The acquiring regional park implementing agency must finance up to 25% of the acquisition costs as a local match. The match may be one or a combination of the following:

- a. Non-State funds and non-Metro Council funds provided by the regional park implementing agency. If the cash contribution is financed with regional park implementing agency money (i.e. the agency's general fund or other account, but not a grant from another entity such as a watershed district or local government aid provided by the State of Minnesota), that contribution is eligible for reimbursement with Metro Council bonds as part of that park agency's share of a future regional parks capital improvement program. Based on this rule, if the maximum grant of \$1.7 million was awarded and the park agency provided a match of \$567,000 any costs incurred by the park agency above the \$567,000 and paid for with park agency funds for grant eligible expenses as defined in Rule 2 is also eligible for reimbursement consideration from that park agency's share of future metropolitan regional parks capital improvement programs.
- b. The value of a land donation by the seller. The value of the donation is the difference between the agreed upon purchase price based on a certified appraised value of the property and the lower amount the seller agrees to accept as payment for the land. The certification of the appraised value of the property will be based on a third party review appraisal, where the third party appraiser will perform a field review of the appraisal and determine if the appraisal met the requirements of the Uniform Standards of Professional Appraising Practice (USPAP). Both the appraisal and the review appraisal must be submitted to the

Metropolitan Council as part of the grant request. The cost of the third party appraisal review is a grant eligible item.

- c. The value of land that is obtained by a municipality under its park land dedication ordinance and transferred to a regional park implementing agency under a fee title or permanent easement agreement at the same time that the regional park implementing agency acquires additional land for that park or trail from the same landowner. The value of the dedicated land is based on a certified appraisal of the property. The certification of the appraised value will be based on a third party review appraisal, where the third party appraiser will perform a field review of the appraisal and determine if the appraisal met the requirements the Uniform Standards of Professional Appraising Practice (USPAP). Both the appraisal and the review appraisal must be submitted to the Metropolitan Council as part of the grant request. The cost of the third party appraisal review is a grant eligible item.

For example, the certified appraised value of the land and associated costs is \$1 million, but the seller donates \$50,000 of that value and thus the actual cost to obtain the land is \$950,000. The \$50,000 land value donation is credited towards the 25% match to the Park Acquisition Opportunity Fund grant. To be consistent in applying this policy regardless of a land value donation or not, the Park Acquisition Opportunity Fund grant and 25% match is calculated as follows:

\$1,000,000 purchase agreement price based on a certified appraised value of land and associated costs
Minus \$50,000 land donation by seller value, this is credited towards 25% match
Equals \$950,000 actual cost of acquisition

75% of \$1,000,000 total of purchase agreement price based on a certified appraised value of land and associated costs equals \$750,000 Park Acquisition Opportunity Fund Grant.

25% of \$1,000,000 purchase agreement price based on a certified appraised value of land and associated costs equals \$250,000 minus the \$50,000 documented land value donation equals \$200,000 cash match

Here's an example where land is obtained by a municipality via its park land dedication ordinance and transferred to the regional park implementing agency at the same time as the park agency obtains other land for that regional park or trail from the same landowner. Assume that the appraised value of the dedicated land is \$50,000 and the value and associated acquisition costs for other land is \$950,000 for a total of \$1 million. The \$50,000 appraised value of the dedicated land is credited towards the 25% match to the Park Acquisition Opportunity Fund grant. To be consistent in applying this policy regardless of a land dedication/transfer or not, the Park Acquisition Opportunity Fund grant and 25% match is calculated as follows:

\$1,000,000 total appraised value and associated costs of land obtained via parkland dedication ordinance and additional land purchased at the same time from the same landowner.

Minus \$50,000 certified appraised value land obtained via parkland dedication ordinance, which is credited towards 25% match.

Equals \$950,000 actual cost of acquisition

75% of \$1,000,000 total appraised value and associated costs of land obtained via parkland dedication ordinance and additional land purchased at the same time from the same landowner equals \$750,000 Park Acquisition Opportunity Fund Grant.

25% of \$1,000,000 total appraised value and associated costs of land obtained via parkland dedication ordinance and additional land purchased at the same time from the same landowner equals \$250,000 minus the \$50,000 documented land value of dedicated parkland equals \$200,000 cash match

Rationale for Rule 1: Allowing the cash match of regional park implementing agency money to be eligible for reimbursement with Metropolitan Council bonds from the park agency's share of future regional park capital improvement programs allows the park agency to recover its local cash contribution to the land acquisition. This is optional. Some park agencies may wish to seek reimbursement and some may not. Since the reimbursement is financed with a portion of that park agency's share of the regional parks capital improvement program, the reimbursement does not affect the amount granted to other park agencies.

Allowing the value of a land donation by the seller to be counted as part of the 25% local match to the Park Acquisition Opportunity Fund grant recognizes the donor's contribution, and treats that donation in the same way as a cash match to the grant. Land value donations are done voluntarily by sellers. Such donations provide tax benefits to the seller. Requiring a third party field appraisal review assures the Metropolitan Council that the purchase agreement price was determined at the highest standard of appraisal practice, and therefore the value of the land donation is legitimate. The cost of the appraisal review is a grant eligible expense because it helps the Metropolitan Council carry out due diligence in verifying the market value of the property and the value of the land donation as part of the 25% match.

Allowing the value of land obtained via parkland dedication and transferred to the regional park implementing agency at the same time other land is acquired by the park agency from the same landowner to be counted as part of the 25% local match to the Park Acquisition Opportunity Fund grant recognizes the dedicated land's value, and treats that dedicated land value in the same way as a cash match to the grant. Requiring a third party field appraisal review assures the Metropolitan Council that the value of the dedicated land was determined at the highest standard of appraisal practice, and therefore the value of the dedicated land is legitimate. The cost of the appraisal review is a grant eligible expense because it helps the Metropolitan Council carry out due diligence in verifying the market value of the property and the value of the dedicated land as part of the 25% match.

Rule 2: The following items are eligible in calculating the total costs of the acquisition:

- a. Appraisal cost for the acquiring regional park implementing agency
- b. Appraisal review cost needed to verify the value of a land donation, or the value of land obtained via parkland dedication ordinance and subsequently transferred to the regional park implementing agency when other land is obtained from the same landowner.
- c. Phase 1 environmental site assessment
- d. Environmental contamination remediation costs if consistent with the conditions in Rule 3.
- e. Legal services and closing costs to the park agency for costs associated with the purchase
- f. State deed tax/Conservation Fee
- g. Title Insurance
- h. Pro-rated share of all property taxes/assessments due on the parcel at the time of closing that is borne by the park agency
- i. 1.8 times the city or township property tax due on the parcel in the year the land is acquired. This is the property tax equivalency payment, which is paid to the city or township at closing (MS 473.341)
- j. Negotiated purchase price for the parcel
- k. Relocation costs to the seller under conditions of applicable State law
- l. Land stewardship costs as defined as follows: costs for boundary fencing or marking; stabilizing or rehabilitating natural resources to aid in the reestablishment of threatened natural resources or to prevent non-natural deterioration thereof; preventing the deterioration of structures that will be re-used for park purposes; removal of unneeded structures, dangerous land forms or attractive nuisances including capping abandoned wells as required under MS 103I.301; and closing unneeded road(s) which provided access to the acquired land.
- m. Development of the land to provide minimal access to it for public recreational use as reviewed and approved by the Metropolitan Council in consideration of the grant. Such development must be consistent with the applicable Metropolitan Council approved master plan and may include the cost of an access road and/or trail, parking lot, and signage.
- n. Other expenses not listed above that are directly related to the land acquisition.

All costs shall be documented with appropriate information/data and submitted to the Metropolitan Council with the grant request.

Rationale for Rule 2: The minimal access development costs would be evaluated by the Metropolitan Council to determine what costs would be grant-eligible. The premise is to primarily use the Park Acquisition Opportunity Fund to buy land—not to develop it for recreational use that could be financed from other sources. But in cases where new parks or trails are being created, it is reasonable to provide some access to land as it is acquired.

Documenting the grant eligible costs with the grant request allows the Metropolitan Council to determine the accuracy of any calculations that went into determining the size of the grant, the size of the local match, and it provides a paper trail for any audit of the grant beyond the reimbursement expenditure reports used to document the justification to disburse grant proceeds.

Rule 3: Soil contamination remediation necessary to correct pre-existing environmental contamination known at the time of purchase, and the remediation effort is to the level needed to allow the land to be used for park and recreation purposes, and/or capping abandoned wells that have contaminated their groundwater aquifer are grant eligible land acquisition expense under the following conditions:

- 1) The aggregate cost of acquiring the land and remediation does not exceed the certified appraised value of the land at the time of purchase. The certification of the market value of the property will be based on a third party field review of the appraisal. The appraisal review must determine that the appraisal followed Uniform Standards of Professional Appraising Practice (USPAP). The appraisal review must be submitted to the Metropolitan Council. The cost of the third party appraisal review is a grant eligible item. In addition to the certification of the market value of the parcel, the park agency must submit documentation of the costs for remediation as listed below. The difference between the actual acquisition and remediation costs compared to the certified market value of the land prior to clean up may be applied towards the park agency's local match requirement.
- 2) The regional park implementing agency has an agreement with the party that will remediate/clean up the contamination or cap an abandoned well that absolves the regional park implementing agency from any future liability of pollution caused by the contaminated soil or contaminated groundwater.

Grant eligible expenses for soil remediation and well capping include:

- a. Costs to prepare Phase 1, and Phase 2 Environmental Site Assessments, the Quality Assurance Project Plan, Remediation Action Plan and the Environment Engineer's Estimate.
- b. Minnesota Pollution Control Agency (MPCA) Voluntary Investigation Cleanup (VIC) service charges.
- c. Costs to implement the remediation action plan and secure appropriate assurances from the Minnesota Pollution Control Agency.

- d. Other costs not listed above which are directly related to soil remediation or well capping.

Documentation of these remediation costs plus other costs associated with the acquisition must be submitted to the Metropolitan Council as part of the grant request.

For example, the certified appraised value of the land is \$1 million, but the actual costs to obtain the land and remediation is \$900,000. The \$100,000 difference is credited towards the 25% match to the park agency. The grant is calculated as follows:

\$1,000,000 certified appraised value of land
Minus \$100,000 difference between certified appraised value and actual costs of remediation and acquisition that is credited towards park agency's 25% match
Equals \$900,000 actual costs of acquisition and remediation

75% of \$1,000,000 certified appraised value of land equals \$750,000 Park Acquisition Opportunity Grant.

25% of \$1,000,000 certified appraised value of land equals \$250,000 minus \$100,000 difference between appraised value and actual remediation and acquisition costs equals \$150,000 local match by the park agency

Rationale for Rule 3: This rule recognizes that funding for environmental contamination remediation of park lands may not be available because those programs (e.g. Tax Base Revitalization Account) require the land to be put back on the tax rolls. But, this rule limits the use of Park Acquisition Opportunity Fund grants for cases where the remediation costs and acquisition costs are less than the certified market value of the land. These conditions will allow the grant to buy contaminated land in a comparable way to land that has no contamination.

Documenting the grant eligible costs with the grant request allows the Metropolitan Council to determine the accuracy of any calculations that went into determining the size of the grant, the size of the local match, and it provides a paper trail for any audit of the grant beyond the reimbursement expenditure reports used to document the justification to disburse grant proceeds.

Rule 4: For parcels that can be subdivided into lots **and** the value of those lots is used to determine the fair market value of the parcel, such acquisitions may qualify for financing from both the Environment and Natural Resources Trust Fund (ENRTF) Account and qualify for funding from the Parks and Trails Legacy Fund (PTLF) Account. For example, lot(s) must contain high quality natural resources with no structures on them to qualify for ENRTF financing, and lot(s) that do not contain high quality natural resources or they have structures on them qualify for PTLF financing. The amount from each account shall be proportional to the appraised market value of the lots. However, the Metropolitan Council may grant additional funds from the PTLF Account to finance a portion of the costs of land that qualifies for financing from the ENRTF Account if there is not sufficient money in the ENRTF Account to fully fund the grant.

For example, a 40 acre lakeshore parcel containing one home, and the rest of the land could be legally subdivided into other lots, is considered for acquisition. The appraisal determines

the market value of each lot to determine the market value for the entire parcel. The value of the lot with the house on it and related acquisition costs is \$600,000, and the value of the other undeveloped lots and related acquisitions costs is \$400,000 for a total of \$1 million. The Park Acquisition Opportunity Grant is calculated as follows:

75% of \$600,000 cost of house lot equals \$450,000 which is financed from the PTLF account.

75% of \$400,000 cost of the undeveloped lots equals \$300,000 which is financed from ENRTF account for a combined grant total of \$750,000. If there was less than \$300,000 of ENRTF account money available, the PTLF account could be used to finance the remainder to reach the \$300,000 level for that portion of the grant.

Rationale for Rule 4: Some parcels can be subdivided into lots. And to determine the fair market value of the land, the value of each lot is determined in the appraisal process. In those cases, the lots that qualify for funding from the ENRTF account should be purchased with that account and the lots that qualify for funding from the PTLF account should be purchased with that account. Since the PTLF account is about twice as large as the ENRTF account and the PTLF account can be used to acquire any land and structures, it is reasonable to use PTLF account money to help fully fund a grant. This was done in the acquisition of a 43 acre parcel for Grey Cloud Island Regional Park in 2010 that had a total acquisition cost of \$1.96 million. There was no formal rule in place at the time, but the conclusion of the Metropolitan Council and permission by the Legislative Citizens Commission on Minnesota Resources that recommends appropriations from the ENRTF was that it was a reasonable approach to take since it was consistent with the purposes of both accounts. Creating this rule provides guidance for future acquisitions that meet these conditions.

Rule 5: If requests from several regional park implementing agencies are submitted for consideration by the 15th day of the month preceding the next Metropolitan Parks and Open Space Commission meeting, and the total requests exceeds the amount of grant funds available at that time, award grants to all requests that are proportional to the amount requested. For example, three regional park implementing agencies submit requests that total \$1 million, but there is only \$800,000 available. Three grants would be awarded with the amount proportional to the request. For example, if Agency 1's request was \$500,000 out of the \$1 million total (50%), the grant would be 50% of the available funds—in this example the grant would be \$400,000.

Rationale for Rule 5: This rule guides the Metropolitan Council in determining how to fund multiple grants that are considered at the same time when the amount requested exceeds the grant funds available. The deadline of the 15th of the month for submitting a request allows Council staff time to fully analyze the requests to verify the accuracy of each, and in turn the proportional amount of available grant funds that should be awarded.

Rule 6: The effective term of the Park Acquisition Opportunity Fund grant is no more than 12 months or the expiration date of the State appropriation which finances the grant, whichever is less. A grant may be extended beyond the initial term of 12 months for cause. However the length of the extension cannot exceed the availability of the State funds financing the grant.

Rationale for Rule 6: The time limit on the grant is to insure that actions to acquire the land and carry out other grant eligible activities is done in a timely manner and definitely before the expiration of the State appropriation that financed the grant. Since the grants are made on estimated as well as actual costs, and grant funds are not disbursed until actual costs are documented, there are situations where not all encumbered grant funds are needed. These remaining funds can then be unencumbered and used on other grants up until the applicable State appropriation expires. Since the grant is financing activities beyond the acquisition of land, there may be cases where additional time is needed to complete those activities. For example, if the grant is financing soil remediation costs and those remediation activities cannot be completed in 12 months due to bad weather, an extension to the grant's duration is appropriate. Consequently, the grant term may be extended for cause in these situations. However, the grant extension cannot exceed the availability of the State funds financing the grant.

Rule 7: One year prior to the expiration of the State appropriation to each Park Acquisition Opportunity Fund Grant account [i.e. the Park and Trails Legacy Fund Acquisition Account (PTLF) and the Environment and Natural Resources Trust Fund Acquisition Account (ENRTF)], the Metropolitan Council in consultation with the Regional Park Implementing Agencies and the Metropolitan Parks and Open Space Commission will conduct a review of these rules to determine if additional steps should be taken to increase the likelihood that the balance of the expiring State appropriation will be granted and spent before its expiration date. An example of such a step would be to allow a park agency which has received the maximum amount allowed [\$1.7 million from the ENRTF Account or \$1.7 million from the PTLF Account in a State Fiscal Year (July 1 to June 30)] to be eligible to receive an additional grant. Another step could be that 60 days prior to a State appropriation's expiration date, that grants are awarded to partially reimburse the local match of grants awarded from the applicable acquisition account that were initially financed with that State appropriation and matching Metro Council bonds. The total amount of these reimbursement grants would consume the remaining State appropriation and applicable Metro Council bond match. The amount of each reimbursement grant should be proportionate to the local match amount initially funded by each park agency—not with other funding sources the park agency used as their match. And these reimbursement grants would only be for grants initially financed from that soon-to-expire State appropriation and applicable Metro Council bond match. If there was still funds remaining, reimbursement grants for the local matches on other acquisitions could be considered that were initially financed from that acquisition account, but from an earlier appropriation.

Such variances to the rules for these situations would be considered by the Metropolitan Council without undertaking a public hearing process since the vetting of the changes is made by the park agencies affected by the proposed change, and the change is only in effect until the expiration of the applicable appropriation for that account.

Rationale for Rule 7: This rule allows the Metropolitan Council to collaborate with the regional park implementing agencies and Metropolitan Parks and Open Space Commission on proposing ways to spend the remaining State appropriations in each account before they expire. These variances to the rules would insure that the State appropriations that partially finance these accounts are fully utilized to meet the objective of acquiring as much land as possible with the funds available.

System Protection Strategy 3

System Protection Strategy 3: The Council will reimburse implementing agencies for contamination cleanup under certain conditions.

The Metropolitan Council will consider funding soil contamination cleanup (remediation) or capping abandoned wells that have contaminated their ground water aquifer on regional park land if the following criteria are met:

For lands already under regional park implementing agency control:

A regional park implementing agency may use its share of regional park capital improvement funds for financing soil contamination remediation or capping abandoned wells that have contaminated their ground water aquifer on regional park land if the following conditions are met:

1. The land is already under regional park implementing agency ownership or control via a joint powers agreement or lease, and was acquired or was under the park implementing agency's control before Phase 1 environmental audits were required.
2. The land is essential to make the regional park or trail function as intended according to a Council-approved master plan, and no reasonable alternative exists to relocate the park or trail facilities elsewhere.
3. The park or trail is essential in contributing to strengthening neighborhood vitality consistent with the *2030 Regional Development Framework*. The cost of cleanup is not eligible to receive federal or state soil contamination cleanup funds or abandoned well-capping funds from any other program, or funding has been denied.
4. The regional park implementing agency has an agreement with the party that will remediate/clean up the contamination or cap an abandoned well that absolves the regional park implementing agency from any future liability of pollution caused by the contaminated soil or contaminated groundwater.

For lands proposed to be acquired by a regional park implementing agency:

A regional park implementing agency may request a Park Acquisition Opportunity Fund grant to partially finance soil contamination clean up (remediation) or capping abandoned wells that have contaminated their ground water aquifer on land that is proposed for acquisition if the following conditions are met:

1. Soil remediation necessary to correct pre-existing environmental contamination known at the time of purchase, and the remediation effort is to the level needed to allow the land to be used for park and recreation purposes, and capping abandoned wells that have contaminated their groundwater aquifer are grant eligible land acquisition expense under the following condition: The aggregate cost of acquiring the land and remediation does not exceed the certified appraised value of the land at the time of purchase. The

certification of the market value of the property will be based on a third party field review of the appraisal. The appraisal review must determine that the appraisal followed Uniform Standards of Professional Appraising Practice (USPAP). The appraisal review must be submitted to the Metropolitan Council. The cost of the third party appraisal review is a grant eligible item. In addition to the certification of the market value of the parcel, the park agency must submit documentation of the costs for remediation as listed below. The difference between the actual acquisition and remediation costs compared to the certified market value of the land prior to clean up may be applied towards the park agency's local match requirement.

Grant eligible expenses for soil remediation and well capping include:

- a. Costs to prepare Phase 1, and Phase 2 Environmental Site Assessments, the Quality Assurance Project Plan, Remediation Action Plan and the Environment Engineer's Estimate.
- b. Minnesota Pollution Control Agency (MPCA) Voluntary Investigation Cleanup (VIC) service charges.
- c. Costs to implement the remediation action plan and secure appropriate assurances from the Minnesota Pollution Control Agency.

Documentation of these remediation costs plus other costs associated with the acquisition must be submitted to the Metropolitan Council as part of the grant request.

2. The regional park implementing agency has an agreement with the party that will remediate/clean up the contamination or cap an abandoned well that absolves the regional park implementing agency from any future liability of pollution caused by the contaminated soil or contaminated groundwater.

For example, the certified appraised value of the land is \$1 million, but the actual costs to obtain the land and remediation is \$900,000. The \$100,000 difference is credited towards the 25% match to the park agency. The grant is calculated as follows:

\$1,000,000 certified appraised value of land
Minus \$100,000 discounted value credit towards park agency's 25% match
Equals \$900,000 actual costs of acquisition and remediation

75% of \$1,000,000 certified appraised value of land equals \$750,000 Park Acquisition Opportunity Grant.

25% of \$1,000,000 certified appraised value of land equals \$250,000 minus \$100,000 difference between appraised value and actual remediation and acquisition costs equals \$150,000 local match by the park agency