

# SUPPLEMENTAL PACKET

1. CONSERVATION PURPOSE. The Conservation Purpose of this Easement is to provide significant public benefit by preserving and protecting in perpetuity the Conservation Values of the Protected Property identified above as those values exist at the time of this conveyance and as they may evolve in the future.

This Conservation Purpose is accomplished by confining the development, management and use of the Protected Property to activities and improvements that are consistent with the preservation of these Conservation Values, by prohibiting activities and improvements that significantly impair or interfere with these Conservation Values, and by providing for remedies in the event of any violation of this Easement.

2. RESTRICTIONS. Any activity or improvement on or use of the Protected Property in a manner that may significantly impair or interfere with a Conservation Value of the Protected Property or that is inconsistent with the terms or the Conservation Purpose of this Easement is prohibited.

This specifically prohibits any future development that would interfere with or intrude upon the essential scenic quality of the Protected Property or the visual enjoyment of the open and natural character of the Protected Property by the general public.

Except as specifically permitted in section 3 of this Easement and without limiting the general prohibition above, restrictions imposed upon the Protected Property expressly include the following:

- 2.1. Industrial and Commercial Activity. No industrial or commercial use of the Protected Property is allowed.
- 2.2. Agricultural Use. Except as specifically provided in this section, no agricultural use of the Protected Property is allowed. This includes and prohibits tilling, plowing, commercially cultivating row crops, keeping or grazing livestock, haying, feedlots, tree farms, orchards or nurseries. This does not include or prohibit vegetation management activities allowed in section 2.13 of this Easement or vegetation management activities allowed in accordance with an approved habitat management plan as provided in section 3.2 of this Easement.
- 2.3. Residential Use and Development. No residential use or development of the Protected Property is allowed.
- 2.4. Division of the Protected Property. The Protected Property may not be divided, subdivided, or partitioned. The Protected Property may be conveyed only in its entirety as a single parcel under single ownership (joint or undivided) regardless of whether it now consists of separate parcels, was acquired as separate parcels, or is treated as separate parcels for property tax or other purposes.

The general prohibition set out above does not prohibit the following:

- a. The division of the Protected Property when a portion of the Protected Property is being conveyed to a conservation entity defined in section 7.1 of this Easement.
  - b. The correction or adjustment of boundary lines to resolve a bona fide ownership dispute.
- 2.5. Density. No portion of the Protected Property may be used to satisfy land area requirements for other property not subject to this Easement for purposes of calculating building density, lot coverage or open space under otherwise applicable laws, regulations, or ordinances controlling land use other than the plat of *Afton Creek Preserve*, recorded prior to this Easement. No development rights that have been encumbered or extinguished by this Easement may be transferred to any other property.
- 2.6. Rights of Way. No right of way shall be granted across the Protected Property by the Owner in conjunction with any industrial, commercial, or residential use or development of other land not protected by this Easement without the prior approval of the Co-Holders under the provisions of section 7.6 of this Easement.
- 2.7. Structures and Improvements. No temporary or permanent buildings, structures, utilities, roads or other improvements of any kind may be placed or constructed on the Protected Property except as specifically permitted in section 3 of this Easement or as set forth below:
- a. Utilities. Utility systems and facilities may be installed, maintained, repaired, extended and replaced to serve only uses and activities specifically permitted by this Easement or to serve the overall residential development of *Afton Creek Preserve*. This includes, without limitation, any systems and facilities necessary to provide and maintain on-site power, fuel, water, storm water drainage, waste disposal, and communication, but does not permit communication towers, wind turbines, or similar structures without the prior approval of the Co-Holders as provided in section 7.6 of this Easement.
  - b. Signs. No billboards or other signs may be placed or erected on the Protected Property except for small, unlighted signs for informational or interpretive purposes, and those signs required or authorized under this section. The Owner agrees to place and maintain appropriate signs along the boundaries of the Protected Property as designated by the Co-Holders and as provided in section 2.7.e below. Additionally, the Owner agrees that the Co-Holders may place signs on the Protected Property identifying the land as protected.

The Owner may, during the construction and development of *Afton Creek Preserve*, erect and maintain necessary promotional signs advertising lots and homes for sale within *Afton Creek Preserve*. Such signs shall be removed by the Owner from the Protected Property upon completion of the initial build-out of

*Afton Creek Preserve.*

- c. Roads. Currently, no roads or other rights of way exist on the Protected Property. No new roads, driveways or parking areas may be established or constructed on the Protected Property without the prior approval of the Co-Holders under the provisions of section 7.6 of this Easement.
  - d. Trails. Currently, no trails exist on the Protected Property. A generally circular, mowed hiking trail may be established and maintained in Outlot B of the Protected Property, with approval of the Co-Holders under the provisions of section 7.6 of this Easement; the trail may be used by pedestrians, but not bicycles or motorized vehicles. Any additional trails on the Protected Property will be subject to the approval of the Co-Holders under the provisions of section 7.6 of this Easement. Permitted trails may be established, maintained and used only in a manner that does not result in significant erosion and that does not impair or interfere with the natural habitat, water quality or scenic quality of the Protected Property.
  - e. Fences. Prior to beginning construction on the first residential lot in *Afton Creek Preserve*, the Owner shall permanently stake with iron monuments the corners of all residential lots that have a common boundary with the Protected Property. Also at that time, the Owner shall post small permanent signs near these monuments that state the Protected Property is permanently protected with a conservation easement in favor of the Co-Holders.
  - f. Removal of Existing Structures. At present, culverts, interior fences and remains of an old wooden bridge over Trout Brook exist in Outlot A of the Protected Property. In addition, a foundation from a historic building and remains of a root cellar are present in Outlot B. The Owner shall remove these structures and restore surface conditions to match adjacent lands prior to October 1, 2019.
- 2.8. Dumping. No trash, non-compostable garbage, debris, unserviceable vehicles or equipment, junk, other unsightly material or hazardous or toxic substances may be dumped or accumulated on the Protected Property. Remnant debris and junk from historic farming operations on the Protected Property, including among other things, old farm equipment, shall be removed by the Owner prior to October 1, 2019.
- 2.9. Mining and Extraction. No mining, drilling, exploring for, or removing any minerals, sand, gravel, rock, or fossil fuels from the Protected Property is allowed.
- 2.10. Topography and Surface Alteration. After the grading of *Afton Creek Preserve* is completed, no alteration or change in the topography or the surface of the Protected Property is allowed. This includes no ditching, draining or filling and no excavation or removal of soil or other material, except as incidental to the development of *Afton Creek Preserve* or activities or uses specifically permitted by this Easement.

This provision does not include or prohibit creation, maintenance, restoration or enhancement of wildlife habitat or native biological communities otherwise permitted under section 3 of this Easement.

An existing historic borrow pit is located in Outlot A and the remains of a root cellar is located in Outlot B. The Owner shall fill and contour, and restore vegetation onto these areas by October 1, 2019.

- 2.11. Water. With the exception of drainage easements reserved on the plat of *Afton Creek Preserve* and other drainage systems put in place on the residential Lots 1, 2, 4, 5, 6, 7 and 8 of Block 2, *Afton Creek Preserve*, no alteration, manipulation or diversion of natural watercourses, lakes, shorelines, wetlands or other surface or subsurface bodies of water or creation of new wetlands or water bodies is allowed except to restore or enhance wildlife habitat or native biological communities, to improve or enhance the function and quality of existing wetlands or water bodies or as specifically permitted in section 3 of this Easement.

Any alteration or creation of wetlands, watercourses or water bodies must be undertaken in accordance with a habitat management plan and detailed action plan approved by the Co-Holders under section 3 of this Easement.

No activities on or uses of the Protected Property that cause significant erosion or that significantly impair water quality or quantity are allowed.

- 2.12. Vegetation Management. No removal, cutting, pruning, trimming or mowing of any trees or other vegetation, living or dead, and no introduction of non-native species is allowed except as follows:
- a. In conjunction with the habitat management as specifically required in section 3.2 of this Easement.
  - b. As reasonably required to construct and maintain structures, trails and other improvements specifically permitted under this Easement and provided that following any construction disturbed vegetation shall be restored in a timely manner to a condition consistent with the Conservation Purpose of this Easement.
  - c. As minimally required to prevent or control insects, noxious weeds, invasive vegetation, disease, fire, personal injury or property damage.
  - d. Harvesting naturally occurring plant products (i.e. mushrooms, berries, nuts, herbs, prairie seed, etc.) in a manner that maintains a sustainable growth and reproduction cycle for the harvested plant populations and the surrounding vegetation.

Nothing in this section allows the intentional introduction of recognized invasive vegetation on the Protected Property. Section 2.12.c is intended to permit only

limited, small scale activities. Any larger scale activities on the Protected Property require an approved habitat management plan and an approved detailed action plan in accordance with section 3.2 of this Easement.

2.13. Vehicles. After the grading of *Afton Creek Preserve* is completed, no use of motorized vehicles on the Protected Property is allowed except in conjunction with habitat management or restoration or enhancement, or in conjunction with the creation or maintenance of permitted trails or structures, or the maintenance of utility and drainage systems on the Protected Property, provided that any resulting erosion or soil compaction is repaired and replanted after such vehicle use. This provision is not intended to prohibit the use of any emergency vehicle on the Protected Property.

3. **RESERVED RIGHTS**. The Owner retains all rights associated with ownership and use of the Protected Property that are not expressly restricted or prohibited by this Easement. The Owner may not, however, exercise these rights in a manner that impairs or interferes with the Conservation Values of the Protected Property. Additionally, the Owner must give notice to the Co-Holders before exercising any reserved right that might impair or interfere with a Conservation Value of the Protected Property.

Without limiting the generality of the above, the following rights are expressly reserved and the Owner may use and allow others to use the Protected Property as follows:

- 3.1. Right to Convey. The Owner may sell, give, lease, bequeath, devise, mortgage or otherwise encumber or convey the Protected Property. This right to convey the Protected Property is subject to the following provisions.
- a. Covered Transactions. Any lease, deed or other conveyance or any encumbrance of the Protected Property is subject to this Easement.
  - b. Notice to New Owner. The Owner will reference this Easement in any deed or other document by which the Owner conveys title to or any interest in the Protected Property.
  - c. Notice to Co-Holders. The Owner will notify the Co-Holders of any proposed conveyance of title to the Protected Property at least fifteen (15) days before closing. The Owner will also provide the Co-Holders with the name and address and telephone number of the new owner of the Protected Property and a copy of the deed transferring title within fifteen (15) days after closing. Notice and documents shall be sent to the Co-Holders in accordance with section 7.6 of this Easement.
  - d. Designated Representative. If the Protected Property is owned by an association of homeowners, the Owner shall provide the Co-Holders with the name and address of the contact person for the association. Additionally, the Owner shall provide the Co-Holders, on an annual basis, with a list of the current homeowners in *Afton Creek Preserve* with their mailing addresses.

- e. Notice of Action Affecting Easement. The Owner will also notify the Co-Holders of any proposed condemnation or any claim, legal proceeding, foreclosure or other legal action that might affect title to the Protected Property or the validity or enforceability of this Easement.

The enforceability or validity of this Easement will not be impaired or limited by any failure of the Owner to comply with this section 3.1.

- 3.2. Habitat Management. The Protected Property shall be used to create, maintain, restore, or enhance habitat for wildlife and native biological communities in accordance with a habitat management plan approved by the Co-Holders under the provisions of section 7.6 of this Easement. Specific habitat management, restoration or enhancement activities are permitted in accordance with an additional detailed action plan approved by the Co-Holders under the provisions of section 7.6 of this Easement that is consistent with the approved habitat management plan. The Owner may actively manage, enhance or restore the vegetation on the Protected Property only in accordance with this approved detailed action plan, or as otherwise permitted under section 2.12 of this Easement.
- 3.3. Recreational and Educational Uses. The Protected Property may be used for hiking, nature observation or study, and other non-intensive recreational and educational programs or activities that have no more than minimal impact on the Conservation Values of the Protected Property.

Minor rustic structures such as trail barriers, benches, picnic tables and informational kiosks that do not impair or interfere with the natural habitat (and the management thereof) or scenic qualities of the Protected Property may be placed on the Protected Property in conjunction with these activities.

- 4. CO-HOLDER'S RIGHTS AND REMEDIES. In order to accomplish the Conservation Purpose of this Easement to preserve and protect the Conservation Values of the Protected Property, the Co-Holders have the following rights and remedies:

- 4.1. Right to Enter. The Co-Holders have the right to enter the Protected Property at reasonable times and in a reasonable manner for the following purposes:
  - a. To inspect the Protected Property and to monitor compliance with the terms of this Easement.
  - b. To obtain evidence for use in seeking judicial or other enforcement of this Easement.
  - c. To survey or otherwise mark the boundaries of all or part of the Protected Property if necessary to determine whether there has been or may be a violation of this Easement.

## SECTION TWO

# LAND AND WATER LEGACY PROGRAM

### Program Description

Through the Land and Water Legacy Program, the county works with landowners and organizations to purchase land or interests in land to keep in natural condition. The county purchases or accepts donated interests in land directly or in partnership with cities, townships, public agencies and nonprofit conservation organizations. Generally, for land protection purposes, the county acquires the fee title to land only when it is located within an established county or regional park. Elsewhere, the county purchases or accepts donated partial interests in the property in the form of a conservation easement. A conservation easement is a legal agreement between the landowner and a conservation organization, whereby the landowner agrees to limit or prohibit development and other activities on the land for the purposes of protecting the natural characteristics of the land. The land remains in private ownership and future landowners are bound by the terms of the conservation easement. Washington County is the holder of the conservation easement.

### Competitive Program

Periodically, Washington County issues a request for proposals to solicit applications from landowners who are interested in permanently protecting their property. All applications are evaluated using the project evaluation criteria adopted specifically for the program and are ranked according to which properties best meet the goals of the program. (See Appendix B for a complete list of the criteria.) The County Board makes the final determinations as to which projects to accept and the conditions to place on each project.

### Local Match Program

Washington County contributes funds to other organizations to acquire parkland, open space and conservation easements. Payment is made on a reimbursement basis. The following criteria must be met for an organization to receive funds:

- The request must be for a specific parcel of land; the county does not provide general program funding.
- The land must be identified in or be consistent with an approved land protection plan or policy.
- The county requires organizations to provide at least 50% of the project cost, including the real estate transaction costs as well as the value of the property.
- The owner of the property must be willing to grant the county a perpetual conservation easement.

### Opportunity Purchase

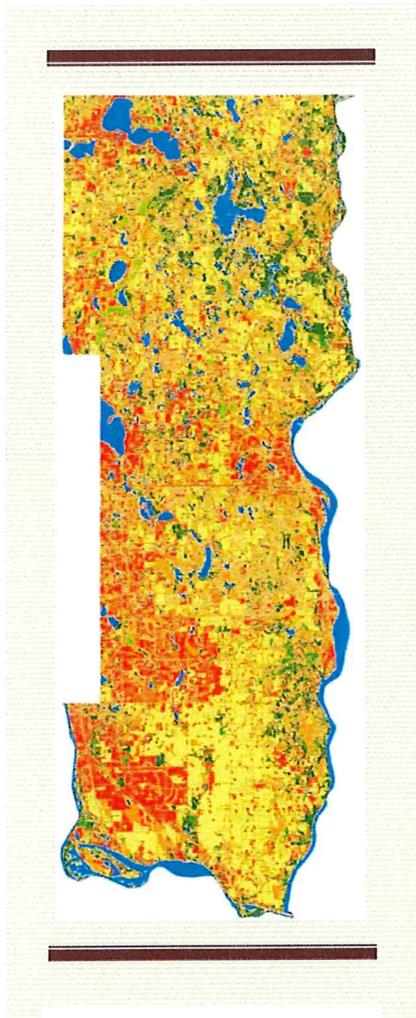
Although the Competitive Program is only open for applications on a periodic basis, Washington County considers requests for funding on an ongoing basis. These requests, known as Opportunity Purchases, are projects that receive a high project evaluation score and whose sale is imminent. Imminent sales result from such things as a pending estate sale, a pending sheriff's sale, an impending financial hardship, or a natural disaster.

### Parkland Projects

Land and Water Legacy Program funds are used to acquire high quality natural areas within county parks. The Washington County Parks Acquisition Plan assigns an A-D priority to each parcel within county park boundaries. (See Appendix B for a description of the priorities.) Generally, the Land and Water Legacy Program funds will be used to acquire lands within the county or regional parks that are classified as A or B priority. Lands classified as C or D priority may be acquired if they receive a high Land and Water Legacy project evaluation score.

# SECTION ONE

## EXECUTIVE SUMMARY



**MLCCS**

Washington County, through its Land and Water Legacy Program (LWLP), works with landowners and organizations to purchase land or interests in land to keep them in their natural condition. The county began its land protection program as the Purchase of Development Rights Program in 2000 after receiving a small grant from the State of Minnesota to preserve corridors of green space in the county. After passage of a \$20 million bond referendum on November 7, 2006, for the preservation of water quality, woodlands and other natural areas, the county rebranded the program as the Washington County LWLP.

To use the referendum funds, projects must:

- Improve water quality of rivers, lakes and streams;
- Protect drinking water sources;
- Purchase parkland including trail corridors;
- Preserve wetlands and woodlands; or
- Protect land along water bodies from development.

The county gives priority to projects that best meet the 2006 referendum objectives and the following priorities established by the Washington County Board of Commissioners; these are not listed in priority order:

- County parkland, including recreational trails.
- Lands adjacent to waterways, recreational trails, parks, and other public facilities.
- Lands adjacent to already protected lands.
- Lands serving multiple public purposes and allowing public access.
- Projects that leverage additional dollars from other sources.

Washington County prepared this Land and Water Legacy Program Conservation Priorities plan to guide the implementation of the program. The plan will help the county to be more strategic in its project selection and to direct the program's efforts to land protection that is most critical and that maximizes the ecological benefits of the program expenditures.

The plan contains a set of maps that identify lands to target for the conservation purposes. Each map shows the greatest opportunities for land protection that address each objective contained in the 2006 referendum: drinking water, surface water, ecological patches, and connectivity among the ecological patches. The Priority Land Protection Areas map identifies the land protection opportunities that best meet all four objectives. The Appendices contain a set of special topic maps to assist the reader in interpreting the significance of protecting the high priority lands identified on each map.

### Findings

- Over 45,000 acres, or 16.7 percent of the county's total land area, ranked high and very high for conservation purposes.
- Of the highest priority lands, 10,581 or 3.9% ranked very high and 34,538 or 12.8% ranked high.

WASHINGTON COUNTY  
LAND & WATER LEGACY  
PROGRAM- CONSERVATION PLAN

PRIORITY LAND  
PROTECTION AREAS

JULY 2010

KEY TO FEATURES

PRIORITY RANKING FOR LAND PROTECTION

- 3 - 6 Low
- 6 - 9 Medium
- 9 - 15 High
- 15 - 30 Very High

- STREAMS
- LAKES
- MUNICIPALITIES
- US Interstate Highway
- US Highway
- County Road

Digital Elevation Model  
High: 264  
Low: 0

CRITERIA LAYERS:

1. Surface Water Module
2. Drinking Water (Ground Water) Module
3. Ecological Patches Module
4. Connectivity Module



Map Prepared By:

