

AGENDA ADDITIONS
City Council Meeting
March 7, 2022
5:30 pm
Council Chambers

Consent Agenda

4. Licenses:
Right of Way Contractor: Morrison Well and Plumbing, Freeborn

Additional Backup

- (res) 9. Approving a purchase agreement with Troy Cunningham.

City of Austin
500 Fourth Avenue N.E.
Austin, Minnesota 55912-3773



Steven J. Lang, P.E.
City Engineer/P.W. Director
507-437-9950
Fax 507-437-7101
slang@ci.austin.mn.us

Memorandum

To: Mayor and Council
From: Mitch Wenum, PE
Date: March 4, 2022
Subject: 21st Avenue NE Property Acquisition 08.026.0120

As discussed at previous council meetings, the 21st Avenue NE reconstruction project requires the acquisition of a small portion of private property for the construction of the new road. Due to federal funding on the project, the acquisition of private property must comply with MnDOT requirements.

The property in need of acquisition is located at 2205 11th Street NE and is owned by Troy Cunningham. We have negotiated a purchase agreement with Mr. Cunningham.

The agreement includes the acquisition of all of the Cunningham property on the east side of County Road 16. This agreement also establishes a permanent easement for County Road 16 that will later be transferred to Mower County. With the purchase of this property, the City would own all of land on the east side of County Road 16 in this area.

Appraised Value – \$6,400.00

Purchase Agreement – \$6,400.00

Funding – \$1,200.00 State Aid Street Fund and \$5,200.00 Contingency Fund

We are requesting approval of the purchase agreement in order to continue moving the 21st Avenue NE project forward.

Let me know if you have any questions.

Attached:

- Purchase Agreement
- Exhibit A – Permanent Highway Easement & Legal Description
- Exhibit B – Property Acquisition & Legal Description

PURCHASE AGREEMENT

Austin, Minnesota

Date: March 4, 2022

The undersigned, the Troy Cunningham, a single person, hereinafter referred to as "Seller" hereby commits to Sell, and the City of Austin, a municipal corporation, hereinafter referred to as "Purchaser," hereby commits to buy the real property located in Austin, Mower County, Minnesota and legally described as shown on the attached **Exhibit B**, along with a perpetual easement for public right-of-way and highway purposes legally described as shown on the attached **Exhibit A**. Said easement to be expressly assignable by Grantee to another public entity for its stated use.

All of which property Seller has this day sold to Purchaser for the sum of Six Thousand Four Hundred Dollars (\$6,400.00), which Purchaser agrees to pay to Seller on the date of closing. Closing to occur as soon as practicable.

Subject to performance by Purchaser, Seller agrees to execute and deliver a Warranty Deed conveying marketable title to said premises subject to the following exceptions:

- (a) Building and zoning laws, ordinances, State and Federal regulations.
- (b) Restrictions relating to use or improvement of premises without effective forfeiture provision.
- (c) Reservation of any minerals or mineral rights to the State of Minnesota.
- (d) Utility and drainage easements which do not interfere with present improvements.

Payment of real estate taxes attributable to the premises, due and payable in 2022 and any prior years, shall be paid by Seller.

Seller covenants that buildings, if any, are entirely within the boundary lines of the property and agrees to remove all personal property not included herein and all debris from the premises prior to the possession date.

Purchaser shall be allowed 30 days after the date hereof for examination of said title and the making of any objections thereto, said objections to be made in writing or deemed to be waived. If any objections are so made, Seller shall be allowed 120 days to make such title marketable. Pending correction of title the payments hereunder required shall be postponed, but upon correction of title and within 10 days after written notice to Purchaser, the parties shall perform this agreement according to its terms.

If said title is not marketable and is not made so within 120 days from the date of written objections thereto as above provided, this agreement shall be null and void, at option of Purchaser, and neither party shall be liable for damages hereunder to the other party. All money heretofore paid by Purchaser shall be refunded. If the title to said property be found marketable or be so made within said time, and said Purchaser shall default in any of the agreements, then, and in that case, Seller may terminate this contract and on such termination all the payments made upon this contract shall be retained

by said Seller and said agency, as their respective interests may appear, as liquidated damages, time being of the essence herein. This provision shall not deprive either party of the right of enforcing the specific performance of this contract provided such contract shall not be terminated as aforesaid, and provided action to enforce such specific performance shall be commenced within six months after such right of action shall arise.

Purchaser will pay all costs of closing and recording not otherwise covered elsewhere in this agreement. Without limiting the foregoing, this would include title examination, document preparation, closing services, deed taxes, and recording costs.

This contract contains the entire agreement between the parties, and neither party has relied upon any verbal or written representations, agreements, or understandings not set forth herein, whether made by any agent or party hereto.


The delivery of all papers and monies shall be made at the office of:

HOVERSTEN, JOHNSON, BECKMANN & HOVEY, LLP
807 West Oakland Avenue
Austin, MN 55912
(507)-433-3483

I, the undersigned, owner of the above land, do hereby approve the above agreement and the sale thereby made.

SELLER:

March 4, 2022


Troy Cunningham, a single person

Purchaser hereby agrees to purchase the said property for the price and upon the terms above mentioned, and subject to all conditions herein expressed.

PURCHASER:

City of Austin

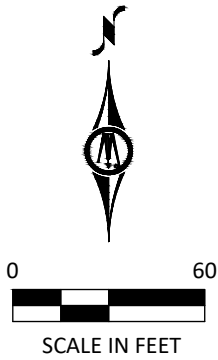
March __, 2022

Steve King, Mayor

March __, 2022

Tom Dankert, City Recorder

EXHIBIT A SHEET 1 OF 2



SW 1/4
SEC. 26 - 103 - 18

EAST LINE OF THE RIGHT OF WAY OF THE
CHICAGO, MILWAUKEE, ST. PAUL AND
PACIFIC RAILROAD COMPANY
--- (DEED 395.8 FEET) ---

POINT OF
BEGINNING

--- (DEED BEARING N 84°23' W) ---

N 81°25'24" W
8.38

PARCEL AREA
0.61 ACRES

33.12

10.93

86.79

CH=366.81 CB=S 30°13'04" W
L=374.25 R=539.96 Δ=39°42'45"

CH=431.46 CB=S 30°41'42" W
L=442.37 R=572.96 Δ=44°14'12"

CH=348.74 CB=N 34°47'48" E
L=353.74 R=605.96 Δ=33°26'51"

(DEED - 133.9 FEET)

(DEED - 166.9 FEET)

(DEED - 231.4 FEET)

(DEED - 172.2 FEET)

(DEED - 370.5 FEET)

(DEED - 385.00)

(DEED - 395.8 FEET)

(DEED - 395.8 FEET)

(DEED - 395.8 FEET)

(DEED - 395.8 FEET)

S 52°48'48" W
30.84

POINT OF
TERMINATION

EXCEPTION

(DEED - 133.9 FEET)

(DEED - 166.9 FEET)

(DEED - 231.4 FEET)

(DEED - 172.2 FEET)

(DEED - 370.5 FEET)

(DEED - 385.00)

(DEED - 395.8 FEET)

(DEED - 395.8 FEET)

(DEED - 395.8 FEET)

(DEED - 395.8 FEET)

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EASEMENT EXHIBIT
CITY OF AUSTIN, MOWER COUNTY, MINNESOTA



2900 43RD STREET NW, SUITE 100
ROCHESTER, MINNESOTA 55901
(507) 208-4332

PART OF THE SW 1/4
SECTION 26-103-18

FOR: CITY OF AUSTIN

JOB NUMBER: 0H1125335

FIELD BOOK:

DRAWN BY: RK

SEC. 26-103-18 (30)

H:\AUST\0H1125335\CAD\C3D\125335V201 - Easement Exhibit A.dwg 2/1/2022 3:48 PM

EXHIBIT A SHEET 2 OF 2

PREMISES:

The following portion of the Southeast Quarter of the Southwest Quarter of Section 26, Township 103, Range 18, to-wit: Beginning at the Southeast corner of said quarter section, then North 370.5 feet along the East line of the said quarter section, thence North 84° 23' West to a point on the East line of the right of way of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, 395.8 feet Northerly from the intersection of said line with the South line of said quarter section, thence Southerly 395.8 feet along the East line of said right of way of the South line of said quarter section, thence East 231.4 feet along said South line to the place of beginning; except the following described premises, to-wit:

Beginning 166.9 feet west and 33 feet north of the Southeast corner of the Southwest Quarter of Section 26, Township 103 North, Range 18 West, Mower County, Minnesota, this point also being on the easterly right-of-way line of 8th Drive NE (C.S.A.H. 16), thence easterly on a line parallel with the south line of said Quarter a distance of 133.9 feet thence northerly at a right angle a distance of 172.2 feet this point also being on the easterly right-of-way line of 8th Drive NE thence southwesterly along this easterly right-of-way line of 8th Drive NE to the point of beginning.

EASEMENT AREA:

A 66.00 foot wide strip of land across that part of the hereinbefore described PREMISES and being part of the Southeast Quarter of the Southwest Quarter of Section 26, Township 103 North, Range 18 West, Mower County, Minnesota, the centerline of said strip being 33.00 feet to the left (Easterly) and 33.00 feet to the right (Westerly) of the following described line:

Commencing at the Southeast corner of the Southwest Quarter corner of said Section 26; thence North 00 degrees 41 minutes 26 seconds West, bearing based on Mower County Coordinate System NAD83(11) on the east line of said Southwest Quarter of Section 26, a distance of 385.00 feet; thence North 81 degrees 25 minutes 24 seconds West, a distance of 8.38 feet to the point of beginning of the line to be described; thence Southwesterly 442.37 feet on a non-tangential curve to the right having a radius of 572.96 feet and a central angle of 44 degrees 14 minutes 12 seconds and a chord bearing of South 30 degrees 41 minutes 42 seconds West and a cord distance of 431.46 feet; thence South 52 degrees 48 minutes 48 seconds West tangent to said curve, a distance of 30.84 feet to the south line of the Southwest Quarter of said Section 26 and there terminating.

Contains 0.61 acres of land.

SURVEYOR'S CERTIFICATION

I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

Janele Fowlds

Janele Fowlds

License Number 26748

02/01/2022

Date

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EASEMENT EXHIBIT
CITY OF AUSTIN, MOWER COUNTY, MINNESOTA

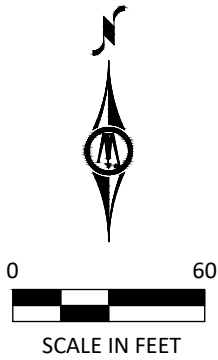


1960 PREMIER DRIVE
MANKATO, MINNESOTA 56001
(507) 625-4171

PART OF THE SW 1/4
SECTION 26-103-18

FOR: CITY OF AUSTIN

EXHIBIT B SHEET 1 OF 2



SW 1/4
SEC. 26 - 103 - 18

L=77.81
R=605.96
 $\Delta=7^{\circ}21'25''$
CB=S 21°45'05" W
CH=77.75

POINT OF BEGINNING

PARCEL AREA
0.28
ACRES

87TH DRIVE NE (COUNTY RD. 16)

CH=348.74 CB=S 34°47'48" W
L=353.74 R=605.96 $\Delta=33^{\circ}26'51''$
(DEED SOUTHWESTERLY)
EXCEPTION

(DEED - 172.2 FEET)
S 00°45'46" E 178.88

--- N 00°41'26" W 283.70 ---
EAST LINE OF SW 1/4, SEC. 26

L=51.21
R=605.85
 $\Delta=4^{\circ}50'34''$

N 89°14'14" E 133.90
(DEED - 133.9 FEET)

N 89°14'14" E 29.46

SOUTH LINE OF SW 1/4, SEC. 26
(DEED - 166.9 FEET)

--- S 89°14'14" W 202.45 ---
(DEED - 231.4 FEET)

POINT OF TERMINATION

SE CORNER
SW QUARTER
SECTION 26-103-18

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ACQUISITION EXHIBIT
CITY OF AUSTIN, MOWER COUNTY, MINNESOTA



2900 43RD STREET NW, SUITE 100
ROCHESTER, MINNESOTA 55901
(507) 208-4332

PART OF THE SW 1/4
SECTION 26-103-18

FOR: CITY OF AUSTIN

JOB NUMBER: 0H1125335

FIELD BOOK:

DRAWN BY: RK

H:\AUST\0H1125335\CAD\C3D\125335V201 - Acquisition Exhibit C.dwg 3/1/2022 3:43 PM

SEC. 26-103-18 (30)

EXHIBIT B SHEET 2 OF 2

Legal Description

All that part of the Southeast Quarter of the Southwest Quarter of Section 26, Township 103 North, Range 18 West, Mower County, Minnesota, lying East and Southeasterly of the following described line:

Commencing at the Southeast corner of the Southwest Quarter of said Section 26; thence North 00 degrees 41 minutes 26 seconds West, bearing based on Mower County Coordinate System NAD83(11) on the east line of said Southwest Quarter of Section 26, a distance of 283.70 feet to the point of beginning of the line to be described; thence Southwesterly 353.74 feet on a non-tangential curve to the right having a radius of 605.96 feet and a central angle of 33 degrees 26 minutes 51 seconds and chord bearing of South 34 degrees 47 minutes 48 seconds West and a chord distance of 348.74 feet to the south line of said Southwest Quarter and there terminating.

Excepting therefrom the below described parcel:

Beginning 166.9 feet west and 33 feet north of the Southeast corner of the Southwest Quarter of Section 26, Township 103 North, Range 18 West, Mower County, Minnesota, this point also being on the easterly right-of-way line of 8th Drive NE (C.S.A.H. 16), thence easterly on a line parallel with the south line of said Quarter a distance of 133.9 feet thence northerly at a right angle a distance of 172.2 feet this point also being on the easterly right-of-way line of 8th Drive NE thence southwesterly along this easterly right-of-way line of 8th Drive NE to the point of beginning.

Contains 0.28 acres of land.

SURVEYOR'S CERTIFICATION

I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

Janile Fowlds

Janile Fowlds
License Number 26748

03/01/2022
Date

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ACQUISITION EXHIBIT
CITY OF AUSTIN, MOWER COUNTY, MINNESOTA



**BOLTON
& MENK**

1960 PREMIER DRIVE
MANKATO, MINNESOTA 56001
(507) 625-4171

PART OF THE SW 1/4
SECTION 26-103-18

FOR: CITY OF AUSTIN