

2021-2022 Biennial Report on

Potential Right of Way Conveyance Parcels

March 2023



Prepared by:

The Minnesota Department of Transportation
395 John Ireland Boulevard
Saint Paul, Minnesota 55155-1899

Phone: 651-296-3000

Toll-Free: 1-800-657-3774

TTY, Voice or ASCII: 1-800-627-3529

To request this document in an alternative format

Please call 651-366-4718 or 1-800-657-3774 (Greater Minnesota). You may also send an email to ADArequest.dot@state.mn.us.

August 9, 2023

The Honorable Frank Hornstein
Chair
House Transportation Finance & Policy Committee
563 State Office Building
Saint Paul, Minnesota 55155

The Honorable Scott Dibble
Chair
Senate Transportation Committee
3107 Minnesota Senate Building
Saint Paul, Minnesota 55155

The Honorable John Petersburg
GOP Lead
House Transportation Finance & Policy Committee
217 State Office Building
Saint Paul, Minnesota 55155

The Honorable John Jasinski
Ranking Minority Member
Senate Transportation Finance & Policy Committee
2227 Minnesota Senate Building
Saint Paul, Minnesota 55155

Re: 2021-2022 Report on Potential Right of Way Conveyance Parcels

Dear Legislators,

I am pleased to provide the report on Potential Right of Way Conveyance Parcels. This report is required under [Minnesota Statutes 161.44, Subdivision 1a](#).

The report describes the proactive process the Minnesota Department of Transportation implemented to efficiently locate and market unneeded parcels of land to the public for purchase. Included within the report is a list of parcels MnDOT has currently identified as potentially saleable right of way, and the report describes the ongoing efforts to improve this new process.

Please contact me if you have questions about this report, or you may contact Joe Pignato, Office Director, Office of Land Management, Minnesota Department of Transportation, at joseph.pignato@state.mn.us, or by telephone at 651-366-3502.

Sincerely,



Nancy Daubenberger, P.E.
Commissioner

Contents

Cover Letter	3
Contents	4
Legislative Request.....	5
Summary	6
Background.....	7
Approach.....	7
The Current List.....	8
Methodology	8
Bicycle and Pedestrian Facility Protection.....	10
Conveyance Activity.....	10
Continuing Process Improvement.....	11
Appendix A: Current List of Potential Sale Properties	12

Legislative Request

This report is issued to comply with [Minn. Stat. 161.44, subd. 1a](#).

161.44 RELINQUISHMENT OF LAND NO LONGER NEEDED.

Subd. 1a. Periodic review.

(a) The commissioner is encouraged to examine all real property owned by the state and under the custodial control of the department to decide whether any real property may be suitable for sale or some other means of disposal.

(b) The commissioner may not sell or otherwise dispose of property under this subdivision unless: (1) an analysis, which must consider any relevant nonmotorized transportation plans or in the absence of such plans, demographic and development factors affecting the regions, demonstrates that (i) the property or a portion of it is not reasonably suitable for bicycle or pedestrian facilities, and (ii) there is not a likelihood of bicycle or pedestrian facility development involving the property; or (2) the use of the property for bicycle or pedestrian facilities is protected by deed restriction, easement, agreement, or other means.

(c) The commissioner shall report the findings under paragraph (a) to the House of Representatives and Senate committees with jurisdiction over transportation policy and finance by March 1 of each odd-numbered year. The report may be submitted electronically.

The cost of preparing this report is under \$5,000. This does not include the cost of identifying the potential conveyance parcels.

Summary

The Minnesota Department of Transportation historically used a reactive approach to dispose of unneeded right of way. Land was not usually sold until a prospective buyer inquired about its availability. This approach resulted in some available parcels going unsold while staff time and effort were expended on parcels that ultimately were not available to sell.

To better handle the disposal of unneeded right of way and save taxpayer dollars, MnDOT adopted a proactive approach to identifying potential saleable parcels to market to the public. This report includes a list of potential saleable parcels in Appendix A. This list is provided to the Legislature in response to changes in [Minn. Stat. 161.44](#) enacted during the 2013 and 2014 legislative sessions.

The list in Appendix A represents MnDOT's progress to date. Ongoing improvements to the process will add more property to the list. MnDOT's intent is to increase property sales by more actively marketing the identified parcels.

Background

The Minnesota Department of Transportation’s focus is to preserve existing transportation infrastructure while seeking opportunities to expand the infrastructure to meet current and emerging needs. Activities that do not contribute to those goals, either directly or by providing additional resources, tend to receive less emphasis. Such activities are carried out as resources become available. The disposal of property (right of way) no longer needed for the operation or enhancement of the transportation system is one of the activities traditionally dealt with as an opportunity presents itself, rather than in a proactive manner.

Approach

In the past, the sale of unneeded right of way almost always started with an inquiry to MnDOT from an interested outside party. MnDOT then conducted an internal review to determine if the property would be needed for current or future transportation use. This review included multiple functional areas such as planning, design, traffic and safety, and maintenance. The agency identified any legal constraints, such as the interested party did not own the fee underlying the highway easement, the interested party was not an eligible direct sale party or there was a right of first refusal available to another party. If the property was available for sale, it was appraised to determine fair market value and negotiations took place with the interested party.

In some cases, a requested property was not available because MnDOT needed to retain it for transportation purposes. Even when a parcel was available to sell, a sale did not always occur. The prospective buyer may not have been eligible for a direct sale, may have been unwilling to pay the appraised fair market price or may have lost interest during the time it took MnDOT to conduct the review and obtain an appraisal.

The Initial List

MnDOT’s Right of Way Electronic Acquisition Land Management System, or REALMS database, which details the current right of way holdings, was queried for all parcels that were either acquired as “excess” ([Minn. Stat. 161.23](#)) or that had some prior or existing possible sale activity. The resulting list was examined to remove any properties that were already disposed of or not held in fee. The remaining properties were sent to the districts for final determination as to availability. If the district knew of any additional potential sale properties, they were added to the list.

In 2014 and 2015, a contractor further examined the right of way in MnDOT’s District 8 (Willmar) and District 4 (Detroit Lakes) to identify potential sale properties that did not fall within the selection criteria used to create the REALMS list. The lists were sent to the districts for review and approval.

In 2015 and 2016, Metro District identified potential surplus parcels. The list was reviewed and approved.

The Current List

MnDOT uses this new proactive approach to help promote better management of these public resources. The method described in this section was used to develop the list attached as Appendix A and is current as of Dec. 31, 2022. This approach is subject to continuous improvement as described in the next section.

From Jan. 1, 2021, to Dec 31, 2022, the list in Appendix A decreased from 247 available properties to 122 properties. Activity on Appendix A is as follows:

- 5 additional properties were identified.
- 41 properties were sold.
- 10 properties have a sale pending.
- 9 properties are available for immediate sale over-the-counter.
- 20 additional properties continue to be needed for right of way and the sales were denied.

Methodology

The new methodology identifies and actively markets available properties that can be returned to productive use and the tax rolls. The attached list of potential saleable properties is the result of this process.

The following assumptions guide the current approach:

1. The intent of the legislation is to return property to economic productivity and the tax rolls.
2. Only fee-held right of way is considered for this report.
3. Properties currently under consideration for possible sale due to an individual request are not included because it may be determined that the parcel:
 - a. Is still a necessary asset and not available for sale
 - b. Is not needed and will be sold as part of a current negotiation, making the parcel unavailable for sale
 - c. Is not needed but the current negotiation will not end in a sale, at which time the parcel will be added to the available parcel list

Statute Changes Affecting the Sale of Property

The Legislature again revised [Minn. Stat. 161.44](#) in 2021 to allow MnDOT to sell property from the unsold property list or through the services of a real estate broker with an up to 20 percent discount. This discount requires the Commissioner of Transportation's approval. This 20 percent discount for the unsold property list was determined to be cost effective in lieu of a stale property needing another appraisal and costly, lengthy sealed-bid sale. The up-to-20 percent discount for real estate brokers was determined to be an industry standard. Without the availability of a larger discount, brokers were unwilling to entertain taking a MnDOT conveyance contract. The previous statute version allowed a 10 percent discount. These changes in Subd. 6a and 6b give MnDOT the option to sell land when the market changes without incurring additional costs. Subd. 6a and 6b are below, with the relevant changes bolded and italicized.

Subd. 6a. Services of licensed real estate broker.

If the lands are withdrawn from sale under subdivision 6b, the commissioner may retain the services of a licensed real estate broker to find a buyer. The sale price may be negotiated by the broker but must not be less than **80** percent of the appraised market value as determined by the commissioner. The broker's fee must be established by prior agreement between the commissioner and the broker, and must not exceed ten percent of the sale price for sales of \$10,000 or more. The broker's fee must be paid to the broker from the proceeds of the sale

Subd. 6b. Unsold lands.

If lands remain unsold after being offered for sale to the highest bidder, the commissioner may offer the remaining lands to any person who agrees to pay **at least 80 percent of** the minimum bid established for the public sale. **Any offers less than 100 percent of the minimum bid must be approved by the commissioner prior to a sale.** The sale must continue until all eligible lands have been sold or the commissioner withdraws the remaining lands from sale. The lands to be sold must be listed on the department's Unsold Property Inventory list.

[Minn. Stat. 161.23](#) Subd. 2, was revised in 2021 to allow MnDOT to sell excess real estate under the same terms and conditions as surplus right of way. Excess real estate is acquired at the request of the landowner and under statute must be sold by sealed bid sale within one year of completion of the construction, reconstruction, or improvement of the highway. The sealed bid sale was required in all instances. This change for the conveyance of excess real estate will align with the process, cost effectiveness and ease of selling surplus right of way.

The changes allow MnDOT to sell excess real estate to the owner of abutting lands and allows MnDOT to place the excess real estate on the unsold property inventory list if it remains unsold after a sealed bid sale offering. [Minn. Stat. 161.23 Subd 2](#) is below.

Subd. 2. Conveyance of excess.

(a) On acquiring real estate in excess of what is needed for trunk highway purposes as authorized in subdivision 1, the commissioner of transportation shall, within one year after the completion of the construction, reconstruction, or improvement of the highway for which a portion of the real estate was needed and required, convey and quitclaim the excess real estate.

(b) The excess real estate may be sold and conveyed to the owner of the land abutting upon the excess real estate in the same manner and under the same terms provided under section [161.44, subdivision 2](#), or to the highest responsible bidder, after receipt of sealed bids following mailed notice to adjacent landowners and published notice of the sale for three successive weeks in a newspaper or trade journal of general circulation in the territory from which bids are likely to be received. All bids may be rejected and new bids received upon like advertisement.

(c) If the lands remain unsold after being offered for sale, the commissioner may offer the remaining lands to any person who agrees to pay the minimum bid established for the public sale. The sale must continue until all eligible lands have been sold or the commissioner withdraws the remaining lands from the sale. The lands to be sold must be listed on the department's unsold property inventory list.

(d) The deed may contain restrictive clauses limiting the use of such real estate in the interests of safety and convenient public travel when the commissioner finds that the restrictions are reasonably necessary.

Bicycle and Pedestrian Facility Protection

Prior to being offered for sale, each parcel is examined to determine its suitability for potential bicycle or pedestrian facilities. If the examination shows the property has the potential to support bike or pedestrian use per [Minn. Stat. 161.44, subd 1a \(b\) \(1\)](#), then a suitability worksheet is completed. If the property is suitable for such use, measures are taken to protect that use and become a part of the condition of sale per [Minn. Stat. 161.44, subd 1a \(b\) \(2\)](#).

Conveyance Activity

The reporting period is from Jan. 1, 2021, to Dec. 31, 2022. Including the 51 completed sales shown in Appendix A, there were a total of 126 conveyances completed. Currently 103 other conveyances are in various stages of investigation, review or negotiation – this number includes both fee-owned property and highway easement property. These other conveyances were requested by an outside interested party, local government authority or underlying fee owner of the highway easement.

Continuing Process Improvement

As mentioned previously, this process is under continuous revision and improvement. The short-term goals were and continue to be:

1. Perform an in-depth analysis of the remainder of MnDOT's right of way holdings.
Outcome: Appendix A grew by 22 properties
Continuing: Older denied or dropped excess, fee-owned properties are being reviewed and researched
2. Identify surplus right of way as part of the construction project close-out process.
Outcome: Districts have been asked to identify any potential properties that may be sold when construction is finished.
Continuing: Districts have been asked to identify any potential properties that may be sold when construction is finished.
3. Move potential lease properties to the proper district authority.
Outcome: If a property is denied a sale, there is a process in place to investigate if that same property would be approved for a lease.
Continuing: If a property is denied a sale, there is a process in place to investigate if that same property would be approved for a lease.
4. Review current leased properties for potential sales.
Outcome: Several leased properties were converted to saleable land.
Continuing: Review leases with each district to consider converting to a sale.
5. Create a graphic display allowing potential purchasers to easily locate the available properties on a web-based map.
Outcome: An in-house GIS application has been developed for the Property Sales website.
Continuing: Review and continue to add properties as they become available and adapt the mapping application as necessary.
6. Actively market the identified properties
Outcome: Established GIS application on website, added embedded QR code to the For Sale signs, publish advertisements in papers that fit the neighborhood demographics.
Continuing: Add additional sales support by contracting a licensed real estate broker for the over-the-counter sales properties listed.
7. Research property previously deemed unavailable due to upcoming construction.
Outcome: Property will be vetted and added to Appendix A.
Continuing: Property will be vetted and added to Appendix A.

Appendix A: Current List of Potential Sale Properties

List is current as of December 2022

County	Trunk Highway	Location	Parcel	Status	District
Anoka	35W	Ramp from Lake Dr to I-35W S	0280-901-1	In Progress	M
Anoka	10	US 10, MN 610, MN 47	0214-901-8	Denied	M
Beltrami	197	TH 197 in Bemidji	0416-904-35	In Progress	2
Becker	34	MN 34 @ Shell River Trail	0303-303-56	Completed	4
Big Stone	28	TH 28 & 10 th Street	0605-824-23	In Progress	4
Big Stone	28	TH 28 & 10 th Street	0605-824-24	In Progress	4
Big Stone	28	TH 28 & 10 th Street	0605-824-27	Potential	4
Big Stone	28	TH 28 & 10 th Street	0605-824-28	Potential	4
Brown	14	18th St. N & TH 14	0804-391-243	Pending	7
Carver	7	MN 7 @ Bayview Drive	1004-901-210	Completed	M
Chippewa	7	Intersection TH 7 & TH 29	1206-902-11	Completed	8
Chisago	8	W Intersection of Crescent Rd at US 8	1301-621-330A	Denied	M
Chisago	8	W Intersection of Crescent Rd at US 8	1301-621-330B	Denied	M
Chisago	8	Lincoln Rd at US 8	1301-901-53	Completed	M
Clay	10	US 10 @ 260th Street North	1401-902-314A	Completed	4
Crow Wing	210	At Ash Ave.	1806-304-216G	Denied	3
Crow Wing	371	Court Street & Estate Drive	1809-901-63	Completed	3
Crow Wing	371	Court Street & Estate Drive	1809-901-63A	Completed	3
Dakota	35W	Gravel Pit on 235 th West of Dodd Road	1919-000-4	Completed	M
Dakota	52	MN 13 @ Sibley Memorial Hwy	1901-903-241A	Completed	M
Dakota	52	US 52 @ Upper 55 th	1928-904-28	Completed	M
Dakota	52	US 52 @ Lewis St (west)	1928-902-264	Completed	M
Dakota	77	Ramp from MN 77 to MN 13 S	1925-901-1	Completed	M
Dakota	494	I-494 @ 60 th Street West	1985-903-17	Dropped	M
Dakota	494	I-494 @ US 52	1985-902-232	Dropped	M
Dakota	494	I-494 @ Dodd Road	1985-903-6	Dropped	M
Dakota	494	I-494 @ 5 th Avenue South	1985-902-405E	Dropped	M
Dakota	494	On Horseshoe Lake and I-494	1985-903-18	Dropped	M
Dakota	494	On Horseshoe Lake and I-494	1985-903-18A	Dropped	M
Dakota	494	Intersection of MN 110 and I-494	1985-903-50A	Dropped	M
Dakota	494	Delaware Ave at I-494	1985-903-9	Denied	M
Dakota	35E	I-35E @ Blackhawk Road	1982-904-40	Dropped	M

County	Trunk Highway	Location	Parcel	Status	District
Dodge	14	TH 56 & TH 14	2001-451-227A	Denied	6
Fillmore	43	TH 43 in Tawny	2306-901-42	Denied	6
Fillmore	52	US 52 @320 th St (SW)	2311-025-215	Denied	6
Fillmore	52	US 52 @320 th St (SW)	2311-025-215A	Denied	6
Goodhue	61	TH 61 & 130th Ave.	2514-601-203A	In Progress	6
Goodhue	61	Red Wing	2514-602-331	In Progress	6
Hennepin	7	Ramp from I-494 to MN 7 W	2706-81A-367	In Progress	M
Hennepin	12	US 12 @ Crosby Road	2714-901-25	Completed	M
Hennepin	12	US 12 @ Crosby Road	2714-056-407C	Completed	M
Hennepin	35W	35W @ W 28th Street	2782-903-18C	In Progress	M
Hennepin	35W	35W & 1 st Ave S (E 62 nd St)	2782-916-30C	In Progress	M
Hennepin	55	MN 55 @ East 42nd Street	2724-905-8	Completed	M
Hennepin	55	MN 55 @ 42nd Avenue South	2724-902-12	Completed	M
Hennepin	47	MN 47 @ 27th Avenue NE	2726-622-2	Completed	M
Hennepin	100	MN 100 @ Golden Valley Road	2735-023-230G	Completed	M
Hennepin	100	MN 100 @ Duluth Street	2735-023-321K	Completed	M
Hennepin	100	MN 100 @ Lindsay Street	2735-023-14B	Completed	M
Hennepin	100	MN 100 @ MN 55	2735-023-9C	In Progress	M
Hennepin	610	MN 610 & US 169	2771-903-47	Pending	M
Hennepin	94	40th Ave N at I-94	2781-928-42	Pending	M
Hennepin	169	Ramp from I-494 E to US 169 S	2776-903-206A	Completed	M
Hennepin	169	MN 610 & US 169	2750-903-204A	Completed	M
Itasca	38	SE Quad at Fern Leaf Lane	3108-903-78	In Progress	1
Itasca	38	SE Quad at Fern Leaf Lane	3108-903-79	In Progress	1
Itasca	38	MN 38 @ County Road 262	3108-905-15	Completed	1
Kandiyohi	71	Blomkest Wayside Rest	3402-901-209	Completed	8
Kandiyohi	23	MN 23 @Woodcock Drive	3413-902-18	Completed	8
McLeod	212	TH 212 & Grove Street	4309-263-201	Completed	8
Mille Lacs	47	East of TH 47 north of Oak Street	4815-302-15	Completed	3
Mille Lacs	47	East of TH 47 north of Oak Street	4815-302-16	Completed	3
Mille Lacs	47	East of TH 47 north of Oak Street	4815-302-17	Completed	3
Morrison	10	TH 10 @Jct of MN 115	4903-901-201K	Completed	3
Nicollet	14	Co Rd 26 & TH 14	5202-28C-204	Pending	7
Olmstead	52	TH 52 near E1/4 32-108-14, in Rochester	5508-036-426A	Completed	6
Olmstead	52	West frontage Road, south of 19th St NW	5508-901-3	Completed	6
Olmstead	52	West frontage Road, south of 19th St NW	5508-901-4	Completed	6
Olmstead	52	West frontage Road, south of 19th St NW	5508-901-6	Completed	6

County	Trunk Highway	Location	Parcel	Status	District
Olmstead	52	Elton Hills Dr. at 15th Ave. NW, in Rochester	5508-901-60	Completed	6
Olmstead	52	West frontage Road, south of 19th St NW	5508-901-7	Completed	6
Olmstead	52	TH 52 at 7th St NW in Rochester	5508-901-76	Denied	6
Olmstead	52	TH 52 at 7th St SW	5508-901-78	Dropped	6
Olmstead	52	West frontage Road, south of 19th St NW	5508-901-8	Dropped	6
Olmstead	52	TH 52 at 19th St. NW, in Rochester	5508-902-63	Completed	6
Olmstead	63	Between TH 63, 40th St. SW & Enterprise Dr.	5509-901-27	Completed	6
Ottertail	29	TH 29 near 240th Street	5608-241-263	Potential	4
Ramsey	5	MN 5 @ South Colborne Street	6201-902-29	Completed	M
Ramsey	5	MN 5 York & Hazelwood	6229-901-4B	Completed	M
Ramsey	5	MN 5 York & Hazelwood	6229-901-5	Completed	M
Ramsey	5	MN 5 York & Hazelwood	6229-901-5A	Completed	M
Ramsey	61	Point Douglas Rd at Maxwell Ave at US 61	6220-252-67	Completed	M
Ramsey	94	Gilbert Ave along I-94	6282-902-37	Denied	M
Ramsey	94	Gilbert Ave along I-94	6282-902-38	Denied	M
Ramsey	94	Gilbert Ave along I-94	6282-902-39	Denied	M
Ramsey	94	Gilbert Ave along I-94	6282-902-40	Denied	M
Ramsey	94	Gilbert Ave along I-94	6282-902-41	Denied	M
Ramsey	94	Gilbert Ave along I-94	6282-902-42	Denied	M
Ramsey	94	Gilbert Ave along I-94	6282-902-43	Denied	M
Ramsey	94	Gilbert Ave along I-94	6282-902-44	Denied	M
Ramsey	94	I-94 @ Howell Street	6282-903-47	Pending	M
Ramsey	94	I-94 @ Howell Street	6282-903-1	Pending	M
Ramsey	94	NE Quad I-94 & TH 61	6283-903-10	Denied	M
Ramsey	94	NE Quad I-94 & TH 61	6283-903-13	Dropped	M
Redwood	14	TH 14 & CSAH 5	6401-311-222A	In Progress	8
Renville	212	East of Bird Island	6511-341-229	Completed	8
Scott	169	US 169 @ Sharon Pkwy	7005-901-66	Completed	M
Scott	169	CSAH 69 at US 169	7005-901-43	Completed	M
St. Louis	33	SW Quad TH 33 & CSAH 56	6911-12A-204	Completed	1
St. Louis	33	SE Quad TH 33 & CSAH 56	6911-12A-206	In Progress	1
St. Louis	35	At 21st Ave	6982-912-19	Completed	1
St. Louis	35	At 21st Ave	6982-912-20	Completed	1
St. Louis	35	At 21st Ave	6982-912-21	Completed	1
St. Louis	35	Between 73rd and 65th Aves	6982-909-316RR	Completed	1
St. Louis	53	NW Quad Piedmont & 12th St	6915-906-20	Pending	1
St. Louis	53	NE Quad Piedmont & 13th St	6915-906-29	Pending	1

County	Trunk Highway	Location	Parcel	Status	District
St. Louis	53	NE Quad Piedmont & 13th St	6915-906-44	Pending	1
St. Louis	53	SE Quad Piedmont & 24th Ave	6915-906-46	Pending	1
Todd	10	NW of Downer Lake Rd	7702-322-322A	In Progress	3
Todd	210	Junction TH 210 & TH 71	7701-902-211	Potential	3
Todd	210	Junction TH 210 & TH 71	7701-902-211A	Potential	3
Washington	10	US 10 @ Point Douglas Road	8202-902-6	Denied	M
Washington	35	N of 220th St N at I-35	8280-901-4	In Progress	M