
JOHNSON FARMS REQUEST FOR PROPOSALS

*Request for Low-Density, Residential Development
Partially Serviced, City-Owned Land located in Johnson Farms Addition*

Proposals Due: July 8, 2015 at Noon

CITY GOALS FOR PROJECT

- Promote quality housing types with architectural appeal that complements the nature and character of the neighborhood.
- Development that expands the City's property tax base, provides a market rate return on land, and minimizes the City's risk and exposure pursuant to any aspect of the development proposal.
- Development consistent with the 2004 Comprehensive Plan and 2009 Update of the Comprehensive Plan (www.cityofmoorhead.com/housing/zoning.asp)

NOTE: The City is offering the property in "as is" condition and makes no representations or warranties regarding geology, soil stability, or environmental conditions.

PROJECT SCOPE

LAND AREA

The development area includes approximately 6.9 acres of land.

DENSITY

Maximum density is 29 units. The land is currently platted in 23 lots – of which six lots are intended for twin homes or duplexes.

ZONING

The proposed residential development area has three separate zoning districts, see zoning map on page 8.

INFRASTRUCTURE

- A significant portion of the trunk infrastructure servicing this area is currently installed and has been assessed to the benefiting area.
- The selected developer will be expected to petition to install the streets, curb, and gutter in 2016 at an estimated cost of \$270,980.
- Special assessment information is outlined in the following section.



LAND COST & SPECIAL ASSESSMENTS

- The base purchase price for the land is \$285,000.
 - Up to 60% (\$170,000) of the purchase price may be spread as uncertified special assessments to be amortized over 20 years at the existing project interest rates. First payable year will be 2016.
 - The remaining 40% (\$115,000) of the sales price will be due as cash at closing.
- Development terms will be negotiated within the Purchase Agreement.
- Below is a table outlining the portion of the purchase price to be respread as a special assessment, as well as pending and future special assessment amounts and the applicable assessment timelines and first payment dates:

Project Description	Amount to be Assessed	Construction Year	Assessment Year	Payable Year
60% of Purchase Price*	\$170,000	Previous	Previous	2016
36th Ave S Paving	\$98,450	2014	2015	2016
20th Street S Paving	\$40,250	2015	2016	2017
Underground Utilities	\$250,820	2015	2016	2017
17th Street S Paving	\$270,980	2016	2017	2018
Total Assessments	\$830,500			

**Based on a purchase price of \$285,000*

- A letter of credit or other acceptable form of security will be required in an amount totaling the first five (5) years of all special assessment installments to include specials to be respread, pending, and future special assessments. Based on a purchase price of \$285,000 with 60% being reassessed the letter of credit requirement would be \$365,000.

CITY INCENTIVES

- **Make Moorhead Home Property Tax Rebate** – The City will provide a rebate of property taxes to a new property owner for the first two years after construction under current terms of the program. NOTE: This program is currently set to expire December 31, 2016; however, the possibility does exist that this program could be extended beyond this date. For more information: <http://www.makemoorheadhome.com/pdf/FAQ.pdf>
- **First and New Home Incentive** – First-time homebuyers purchasing newly constructed homes in Moorhead may be eligible to receive a \$5,000, 0% interest deferred loan, to be applied to special assessments. For more information: <http://www.makemoorheadhome.com/new-home-incentive.php>

PROPOSAL SUBMITTAL REQUIREMENTS

Digital and/or Paper copies of the proposal will be accepted. All submittals must be clearly marked: "Residential Development Proposal: Johnson Farms". PDF would be the preferred format for all digital submittals. Paper proposals and digital discs must be submitted to:

City of Moorhead
500 Center Avenue – 4th Floor of City Hall
PO Box 779
Moorhead MN 56561-0779
Attn: Amy Thorpe

Proposals are also accepted via email to lotsales@cityofmoorhead.com. The City is not responsible for proposals that are not able to be opened or too large for electronic submittal.

The City of Moorhead will require each proposal to outline all the elements to be included in the project and provide the following minimum information:

Cover Sheet

The cover sheet must include: Name of organization, address, contact person, contact information including email, phone and address. Additional information may include previous development projects completed, project architect, project general contractor, construction lender and any other consultants.

Project Information

The developer shall provide a project narrative describing the proposed development concept including proposed housing types. As applicable, the proposal should also include supplemental information, such as target demographic, total estimated market value of the improvements, proposed ownership, sample price points and a description of possible marketing strategies for the development concept.

Financing Information

A statement of financial commitment noting the proposed purchase price and method/timing of payment to the City is required.

References

Please include references from two area lenders.

Timeline

A construction and phasing schedule that includes a timeline of improvements must be provided.

PERFORMANCE DEADLINE

The City of Moorhead encourages a quality project and aggressive construction schedule. The City is installing underground utilities in 2015 and the selected developer will install streets, curb, and gutter in 2016. The final terms of the project and construction schedule will be outlined in a Purchase Agreement. A Purchase Agreement template is attached for the benefit of developer's review prior to RFP submission and subject to change.

NOTICE TO DEVELOPERS

The City reserves the right to reject any and all proposals and to advertise for new proposals.

The City Council, at its sole discretion, will select a "preferred developer" and initiate negotiations to enter into a Purchase Agreement. The preferred developer submitting the selected proposal will be required to provide the City a \$1,000 security deposit within 72 hours of notification of selection. The deposit will be applied to the purchase of property or forfeited to the City if the developer fails to enter into a Purchase Agreement with the City within 60 days of the notification of selection.

PROJECTED SCHEDULE

Request for Proposals Issued: June 24, 2015

Proposals Due: **July 8, 2015 at Noon**
City of Moorhead
500 Center Avenue – 4th Floor
PO Box 779
Moorhead, MN 56560
Attn: Amy Thorpe

Notice of Award: A "preferred developer" selection by July 13, 2015

Proposals should be clearly marked "Residential Development Proposal: Johnson Farms"

Proposals must be received by the date and time due to be considered.

The City of Moorhead reserves the right to change any dates.

PRIMARY POINT OF CONTACT

Amy Thorpe, Econ Dev Program Administrator - 218.299.5442

CITY STAFF

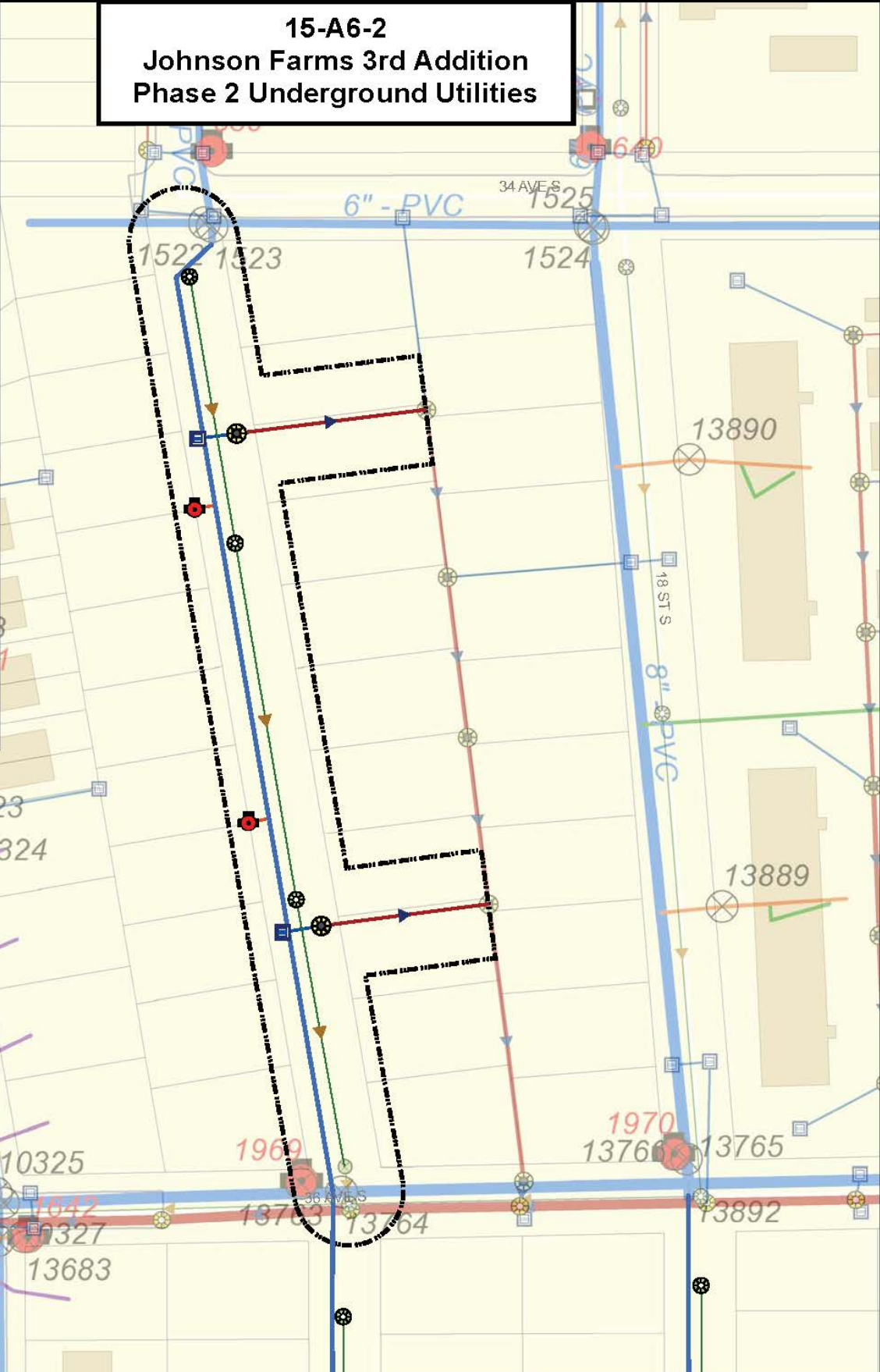
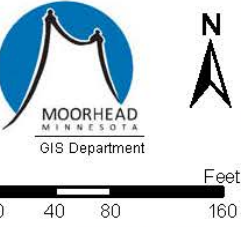
City Manager	Michael J. Redlinger	218.299.5305
Deputy City Manager	Scott A. Hutchins	218.299.5376
City Planner & Zoning Administrator	Kristie Leshovsky	218.299.5332
City Engineer	Robert Zimmerman	218.299.5393
Assistant City Engineer	Tom Trowbridge	218.299.5395
Finance Director	Wanda Wagner	218.299.5318

MOORHEAD PUBLIC SERVICE

General Manager	Bill Schwandt	218.477.8004
Water Distribution Engineer	Kris Knutson	218.477.8071
Electrical Engineering Manager	Travis Schmidt	218.477.8084

15-A6-2 Johnson Farms 3rd Addition Phase 2 Underground Utilities

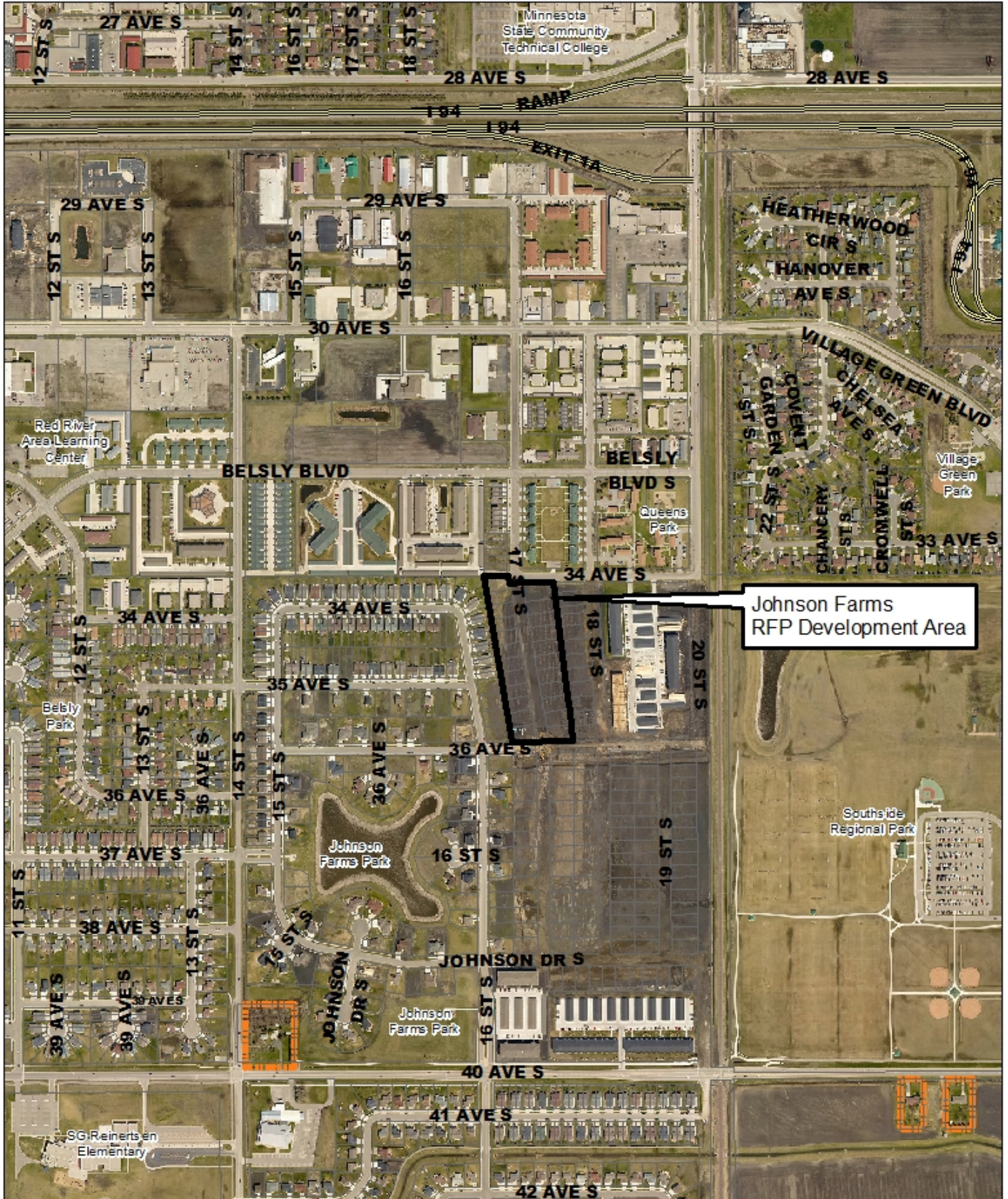
- Legend**
- Sanitary Sewer**
 - Manhole
 - Sanitary Mains**
 - 8" San. Main
 - Storm Sewer**
 - Manholes**
 - Grated Manhole
 - Catch Basin
 - CB Lead
 - Storm Mains**
 - Diameter**
 - 15
 - Water Distribution**
 - 8" Water Main
 - Fire Hydrant
 - Hydrant Lateral



Faded lines represent existing utilities.



General Location Map - Aerial Johnson Farms First Addition





General Location Map - Zoning Johnson Farms First Addition



Zoning District Legend

RLD-1: Residential Low Density-1	RHD-1: Residential High Density-1	MU-1: Downtown Mixed Use	P: Public/Open Space
RLD-2: Residential Low Density-2	NC: Neighborhood Commercial	MU-2: Corridor Mixed Use	I: Institutional
RLD-3: Residential Low Density-3	CC: Community Commercial	MU-3: Commercial Mixed Use	PUD-LINS: Planned Unit Development/Light Institutional
RMD-1: Residential Medium Density-1	RC: Regional Commercial	LI: Light Industrial	TZ: Transitional
RMD-2: Residential Medium Density-2	HI: Heavy Industrial	Moorhead City Limits	

PURCHASE AGREEMENT

THIS AGREEMENT, entered into this ____ day of _____, 2015 (hereinafter the "Effective Date"), between the City of Moorhead, whose post office address is P.O. Box 779, 500 Center Avenue, Moorhead, Minnesota 56561-0779 ("Seller"), and _____, a _____, whose address is _____, ("Buyer").

WHEREAS, Seller is the owner of property in Clay County, Minnesota; and

WHEREAS, the City, pursuant to a petition for installation of improvements, previously installed municipal infrastructure consisting of streets, sanitary sewer, water, storm water retention pond and storm water improvements (hereinafter the "Improvements") under, on and through the property; and

WHEREAS, in order to finance the Improvements, the City levied and apportioned special assessments (hereinafter referred to as the "Prior Special Assessments") against the Property; and

WHEREAS, the prior owner of the Property failed to pay the annual installments of special assessments and general real estate taxes; and

WHEREAS, as a result the City assumed ownership of the Property; and

WHEREAS, in order to provide clear and marketable title to the Property, the City commenced, prosecuted and successfully completed a quiet title action identified as Clay County District Court Case No. 14-CV-13-1364; and

WHEREAS, Buyer intends to construct up to seventeen (17) detached single family housing units and twelve (12) attached single family units upon the Property; and

WHEREAS, the City and Buyer desire to levy and reapportion the Prior Special Assessments in a fair and equitable manner; and

WHEREAS, the City desires to have security in the form of a letter of credit in order to assure that the annual installments of special assessments are paid in full in a timely manner; and

WHEREAS, Seller is willing to sell, and Buyer is willing to purchase the property on the terms and conditions of this Agreement;

NOW THEREFORE, in consideration of the mutual terms, covenants, conditions, and agreements contained herein, it is hereby agreed by and between the parties as follows:

1. **The Property.** Seller agrees to sell and Buyer agrees to purchase the following-described real property and all appurtenances thereunto belonging located in the County of Clay, State of Minnesota, and legally described as follows:

Lots 32-43 Block 6 and Lots 1-11 Block 7 of Johnson Farms First Addition to the City of Moorhead, Clay County, Minnesota (hereinafter referred to as the

“Property”); and

2. **Purchase Price.** The purchase price for the Property will be the sum of two hundred eighty-five thousand (\$285,000.00) dollars, payable as follows:

- a. Cash in the amount of one hundred fifteen thousand (\$115,000.00) dollars; and,
- b. Assumption of special assessments in the amount of one hundred seventy thousand (\$170,000.00) dollars.
 - i. **Earnest Money.** Upon execution of this Purchase Agreement by both parties, Buyer will pay a **non-refundable** deposit in the amount of two thousand eight hundred fifty dollars (\$2,850.00) as earnest money to be credited towards the purchase price, the receipt of which is hereby acknowledged by Seller.
 - ii. **Purchase Price.** Upon the delivery of a Warranty Deed by Seller, conveying the Property to Buyer, the entire purchase price, less earnest money received, and the amount of special assessments assumed as set forth in Section 2 (b) of this agreement will be payable in cash upon closing.

3. **Date of Closing.** This transaction will close on or before _____, 2015 (hereinafter referred to as the “Date of Closing”).

4. **Seller’s Obligations.** Subject to performance by Buyer, Seller agrees to execute and deliver a Warranty Deed conveying marketable title to said premises, including mineral rights, subject only to the following:

- a. Building and zoning laws, ordinances, state and federal regulations.
- b. “Permitted Encumbrances” which collectively include: (a) utility and drainage easements that do not interfere with present or proposed use or improvements of or on the Property; (b) protective covenants recorded on the Property; (c) ingress and egress easements of record; and (d) any other encumbrance not objected to by Buyer pursuant to Section 5 hereof.

5. **Buyer’s Obligations.** Buyer's obligation to consummate the transaction contemplated by this Purchase Agreement is contingent upon the following:

- a. Seller's ability to convey marketable title to the premises on the date of closing, free and clear of any and all liens or encumbrances whatsoever except Permitted Encumbrances.
- b. Upon the failure of any of the foregoing contingencies, at the option of Buyer exercised by written notice to Seller given not later than five (5) days

following the applicable time period provided for such contingency or the Date of Closing, whichever occurs first, this Purchase Agreement will terminate and be of no further force or effect, in which case any money paid will be immediately returned to Buyer.

6. **Inspection of the Property.** Seller authorizes Buyer, or such other person as Buyer may designate, to enter the Property for inspection prior to the Date of Closing at any time between the Effective Date of this Purchase Agreement and the Date of Closing.

7. **Release and Waiver.** Buyer assumes all risk of personal injury or death and property damage or loss from whatever causes arise while Buyer or Buyer's agents or employees are on the Property. Buyer releases Seller, its employees, agents or designees, from any and all liability, losses, damages, claims, demands, actions, judgments, and executions in any way relating to or arising out of Buyer's, its employees, agents or designees', presence on the Property, whether known or unknown, foreseen or unforeseen, liquidated, unliquidated, fixed, contingent, material or immaterial, disputed or undisputed, suspected or unsuspected, asserted or unasserted, direct or indirect, at law or in equity, from the beginning of time.

Buyer's duties to release, hold harmless, defend, and indemnify Seller, Seller's officers, employees, agents, and representatives as described above include, but are not limited to, any and all claims, damages, actions, causes of action, claims for relief for damages (compensatory, exemplary, or otherwise), costs, loss of services, expenses, or compensation for or on account of any damage, loss, or injury directly to Buyer, or Buyer's officers, agents, representatives, or employees and/or to claims, demands, actions, causes of action, or claims for relief for contribution and/or indemnity for injury alleged to the person or property of any other person or party, whether natural or not, other than Buyer.

Buyer agrees to reimburse Seller, Seller's officers, employees, agents, and representatives for any costs or expenses, including reasonable attorneys' fees, expended or incurred in response to or in defense of any claim, demand, action, cause of action, or claim for relief made or asserted by any person or party, natural or not, for any alleged action or omission of Seller, Seller's officers, employees, agents, or representatives, or in any way arising out of or regarding Buyer's presence on the Property, and including any costs, expenses, and attorneys' fees incurred in establishing the indemnification provided in this Option to Purchase.

Buyer understands and acknowledges the significance of such release and waiver and hereby assumes full responsibility for any injuries, damages or losses that it may incur as a result its execution of this Option to Purchase. Buyer's release, waiver, and indemnification set forth above will survive the Date of Closing.

8. **Closing.** On the Date of Closing:

a. Seller will execute and deliver to Buyer the following:

i. A Warranty Deed conveying the premises to Buyer, free and clear of all liens, charges and encumbrances, except the Permitted Encumbrances.

- ii. All other documents affecting title to and possession of the subject premises and necessary to transfer or assign the same to Buyer, free and clear of all liens, charges and encumbrances, except the Permitted Encumbrances.
- b. Buyer will:
 - i. Deliver to Seller that portion of the purchase price in cash as required by Section 2(a) above.
 - ii. As the titleholder of 100% of the Property, will petition the City for the construction of 17th Street South between 34th Avenue South and 36th Avenue South.
- c. The closing and delivery of such documents will take place at such reasonable location as may be agreed upon by Buyer and Seller. Buyer will be responsible for the cost of the deed tax. Seller will be responsible for the costs of the title opinion, drafting of the deed, recording fees, updating, and any correction that is required of the abstract. Each party will pay their own attorney's fees in this matter.
- d. Buyer and Seller will each pay their own costs of closing.

9. **Condition of the Property.** Buyer accepts the Property in **as is, where as**, and with **all faults** condition. Buyer also acknowledges that Property is subject to a Developer's Agreement recorded by the County Recorder of Clay County, Minnesota, on the 26th day of February, 2007 as evidenced by recorder's document #619183.

10. **Taxes and Special Assessments.**

- a. The real estate taxes and special assessments will be prorated to the Date of Closing.
- b. The Prior Special Assessments are to be apportioned and levied as a special assessment against the Property. The total principal amount of the Prior Special Assessments to be reallocated, levied and apportioned on the Property is one hundred seventy thousand dollars (\$170,00.00) (hereinafter the "Reallocated Special Assessments"). Buyer agrees and acknowledges that the Reallocated Special Assessments shall be amortized in annual installments over a period of twenty (20) years. The City shall charge interest at the same rates as the Prior Special Assessments on any unpaid balance of special assessments for the Reallocated Special Assessments. The first annual installment of the Reallocated Special Assessments shall be certified on or about November 30, 2015 and will be payable in 2016.

- c. In addition to the Reallocated Special Assessments described above, there is one (1) project hereinafter referred to as Pending Special Assessments. The project, identified as engineering project #14-A2-5, for the curb, gutter & paving of 36th Avenue South, was completed in 2014 and is scheduled to be adopted in August of 2015 in the amount of ninety-eight thousand four hundred fifty dollars (\$98,450.00), with the first annual installment to be certified in 2015 for payable 2016.
- d. In addition to the Reallocated Special Assessments and Pending Special Assessments, there will be three (3) future projects, hereinafter referred to as Future Special Assessments.
 - i. Sanitary sewer and water main services are currently being installed and scheduled to be adopted in 2016 with an estimated total assessment in the amount of two hundred fifty thousand eight hundred twenty dollars (\$250,820.00) and the first annual installment to be certified in 2016 for payable 2017.
 - ii. The second project, identified as engineering project #14-A2-2, for the extension of 20th Street South, is currently under construction and scheduled to be adopted in the fall of 2016 with an estimated total assessment of forty thousand two hundred fifty dollars (\$40,250.00) and the first annual installment to be certified in 2016 for payable 2017.
 - iii. The third project is the construction of 17th Street South which is scheduled to be installed in 2016, pending receipt of a petition from the Buyer, with an estimated assessment amount of two hundred seventy thousand nine hundred eighty dollars (\$270,980.00) and the first annual installment to be certified in 2017 for payable 2018.
- e. Parties agree that on the date of closing described in Paragraph three (3), the Buyer shall provide an irrevocable standby Letter of Credit from a responsible financial institution to the City in the amount of three hundred sixty-five thousand dollars (\$365,000.00). Said Letter of Credit shall contain an auto renewing clause or evergreen clause. Parties agree and acknowledge that the Seller shall have the sole authority to determine whether a financial institution is responsible. Parties acknowledge that the amount of the Letter of Credit set forth in this paragraph is equal to five years of annual installments of the Reallocated Special Assessments, Pending Special Assessments and Future Special Assessments.

Buyer acknowledges and agrees that Buyer is contractually obligated to make each and every yearly installment of special assessments on each and every lot covered by this agreement that is not “developed” as defined in section iii below. The sale, transfer, gift or conveyance of a lot shall not relieve Buyer of this contractual obligation; furthermore, this obligation cannot be assigned without prior written approval of the Moorhead City Council.

Buyer acknowledges and agrees that draws against the Letter of Credit shall be paid directly to the City in conformance with section i set forth below. The bank issuing the Letter of Credit shall extend it automatically without amendment for a period of one (1) year from the expiry date hereof, or any future expiry date, unless sixty (60) days prior to any expiration date, the issuing bank notifies the City's Director of Finance and City Manager by registered mail that it elects not to renew the Letter of Credit. This provision is commonly referred to as an "evergreen clause," which any Letter of Credit provided by Buyer shall contain. The Buyer will have until 30 days prior to any expiration date of the existing letter of credit to supply the City with a replacement letter of credit for one year from the expiry date, meeting all the terms within this Agreement. The Letter of Credit is deemed to be in default thirty (30) days prior to the expiration date, at which time the City's Director of Finance will notify the bank of the default and order the draw on the entire balance of the letter of credit.

- i. Parties agree that the certified annual installments of special assessments on undeveloped lots covered by this Agreement shall be paid by November 15 of each and every year that they are levied. If the certified annual installment of special assessments are not paid by November 15, the Director of Finance shall give written notice to the Buyer that, if the delinquent special assessments are not paid by the December 31 of that year or within 14 days of mailing of the notice, whichever is later, he/she shall give the issuing bank written demand for the payment out of the letter of credit to the City of an amount sufficient to satisfy the deficiency. Said payment shall be made directly to the City and the City shall place it into the sinking fund of the special improvement districts. The City shall use those funds to pay the principal and interest debt service on outstanding bonds for the districts covered by the letter of credit. In addition, the City shall reduce the level of uncertified special assessments on lots owned by the Buyer and covered by the letter of credit by the amount of funds received from the Letter of Credit¹. The Letter of Credit obligation is only extinguished when a lot is "developed" as that term is defined in section C of this Paragraph, or when all special assessments for that lot, whether certified or uncertified, are paid.
- ii. When the amount of unpaid certified and uncertified special assessments covered by this Agreement is less than the principle balance in the Letter of Credit, the City, upon request of the Buyer, may give written notice to the bank to reduce the balance of the Letter of Credit so that the balance equals the amount of unpaid certified and uncertified special assessments covered by this agreement. Buyer may make said requests only once in any six month period. When ninety percent of the lots are developed or the amount of certified and uncertified specials becomes zero, the City will provide the Buyer and the issuer of the Letter of Credit notice that the obligation to maintain a Letter of Credit has been extinguished.

¹ The funds drawn from the Letter of Credit shall not be applied to special assessment installments which have been certified but are delinquent.

- iii. The Buyer agrees that the Letter of Credit issued pursuant to this Agreement is to be used to pay city debt service obligations in the event that Buyer fails to pay certified special assessments on all lots covered by this Agreement. Buyer's obligation to pay delinquent assessments on lots is only extinguished when the lots are "developed". For purposes of this Agreement, the term "developed" means that a structure for which a building permit has been issued by the City has been constructed on the lot. The sale, tax sale, transfer or other disposition of any lot covered by this Agreement shall have no effect on the obligation of the Letter of Credit.

11. **Representations and Warranties.** Seller represents and warrants to Buyer that:

- a. On the Date of Closing, Seller will own the Property free and clear of all liens, charges and encumbrances, except the Permitted Encumbrances.
- b. There is no action, litigation, investigation, condemnation or proceeding of any kind pending against the Seller or the Property.
- c. Seller, on the Date of Closing, will have complied with all of its obligations hereunder, unless such compliance has been waived in writing by Buyer, and all representations and warranties made hereunder will be true and correct on said date.
- d. There are no underground wells, buried underground storage tanks as defined in Minn. Stat. 116.46, subd. 8, or private septic systems on, under or upon the subject premises. Upon twenty four (24) hours notice, Buyer may enter the Property at any date after the effective date of this Agreement to investigate and survey the Property for underground storage tanks or wells.
- e. With the exception of the special assessments which constitute part of the Purchase Price, there will be no other special assessments levied against the property as of the Date of Closing. The Buyer agrees and acknowledges that the property may be subject to future special assessments as more fully discussed in the Development Agreement recorded as document number 638820 and as may be specially assessed in connection with future projects pursuant to and in accordance with Minnesota Statutes Chapter 429.

Seller hereby agrees that the truthfulness of each of said representations and warranties and all other representations and warranties herein made is a condition precedent to the performance by Buyer of its obligations hereunder.

12. **Breach of Representation or Warranty.** Upon the breach of any representation or warranty hereof, Buyer may, prior to the Date of Closing, declare this Purchase Agreement to be null and void, or Buyer may elect to close this sale. If Buyer elects to declare this Purchase Agreement null and void in writing (citing the express breach by Seller), any money paid will be immediately refunded to Buyer and, upon such refund, neither party will have any further rights or obligations

hereunder. All representations, warranties and covenants of Seller will survive the Date of Closing. In the event any representation or warranty will be discovered to have been untrue as of the Date of Closing, Seller will indemnify, defend and hold Buyer, its successors and assigns, harmless with respect to any loss, cost, expense, damage or liability (including reasonable attorneys' fees) arising out of or relating to said representation or warranty being untrue.

13. **Contract.** This contract will be held by Seller for the mutual benefit of the parties.

14. **Future Warranty.** Neither the Seller nor the Seller's agent makes any representation or warranty about the amount of future real estate taxes on the property.

15. **Title to the Property.** Seller and Buyer acknowledge that title to the Property is currently in the name of the City of Moorhead, a Minnesota municipal corporation. Within ten (10) days after approval of this Purchase Agreement, Seller will furnish an Abstract of Title or a Registered Property Abstract certified to date to include proper searches covering bankruptcies and state and federal judgments and liens. Buyer will have fifteen (15) days after receipt of the abstract to examine the title and to make any objections to the title. Buyer must make any objections in writing. Any objections not made in writing will be ineffective. If Buyer makes any objections, Seller will have one hundred twenty (120) days to make the title marketable. Pending correction of title, the payments required by this Purchase Agreement will be postponed. Within thirty (30) days after written notice to Buyer that Seller has corrected the title, the parties will perform this Purchase Agreement according to its terms. If the title is not marketable and is not made so within one hundred twenty (120) days from the date of written objections, this Purchase Agreement will be null and void at option of Buyer, and neither party will be liable for damages to the other. Seller will refund all money paid by Buyer. If the title to property is marketable or is made so within the time allowed, and Buyer defaults in any of the agreements and continues in default for ten (10) days, then Seller may terminate this contract.

16. **Time is of the Essence.** Time is of the essence of each provision of this entire contract and of all the conditions thereof.

17. **Specific Performance.** Neither party will be deprived of the right of enforcing the specific performance of this contract. Any action to enforce specific performance must be started within six (6) months after the right of action arises.

18. **Notice.** Any notice or election required or permitted to be given or served by any party hereto upon any other will be deemed given or served in accordance with the provisions of this Purchase Agreement if said notice or election is (a) delivered personally, or (b) mailed by United States certified mail, return receipt requested, postage prepaid and in any case properly addressed as follows:

If to Seller: City of Moorhead
 P.O. Box 779
 500 Center Avenue
 Moorhead, MN 56561-0779

If to Buyer: _____

Each such mailed notice or communication will be deemed to have been given on the date the same is deposited in the United States mail. Each such delivered notice or communication will be deemed to have been given upon the delivery. Any party may change its address for service of notice in the manner above specified.

19. **Entire Agreement.** This Purchase Agreement constitutes the entire and complete agreement between the parties and supersedes any prior oral or written agreements between the parties with respect to the subject premises. It is expressly agreed that there are no verbal understandings or agreements which in any way change the terms, covenants and conditions set forth herein, and that no modification of this Purchase Agreement and no waiver of any of its terms and conditions will be effective unless in writing and duly executed by the parties.

20. **Amendments.** No amendment, modification, or waiver of any condition, provision or term will be valid or of any effect unless made in writing signed by the party or parties to be bound or a duly authorized representative and specifying with particularity the extent and nature of such amendment, modification or waiver.

21. **No Forbearance.** The failure or delay of any party to insist on the performance of any of the terms of this Purchase Agreement, or the waiver of any breach of any of the terms of this Purchase Agreement, will not be construed as a waiver of those terms, and those terms will continue and remain in full force and effect as if no forbearance or waiver had occurred and will not affect the validity of this Purchase Agreement, or the right to enforce each and every term of this Purchase Agreement.

22. **Remedies.** Except as expressly and specifically stated otherwise, nothing herein will limit the remedies and rights of the parties thereto under and pursuant to this Purchase Agreement.

23. **Binding Effect.** All covenants, agreements, warranties and provisions of this Purchase Agreement will be binding upon and inure to the benefit of the parties and their respective heirs, representatives, successors and assigns, and will continue in force and effect and be binding after the Date of Closing and delivery of the Warranty Deed.

24. **Grammatical Construction.** When used herein, the singular will include the plural, the plural will include the singular, and the use of one gender will include all other genders, as and when the context so requires.

25. **Governing Law.** This Purchase Agreement has been made and entered into under the laws of the State of Minnesota, and said laws will control its interpretation.

26. **Rules of Construction.** The parties acknowledge that they have both had the opportunity to have this Agreement reviewed by their respective attorneys, and that they have an

equal bargaining position in this transaction. No rule of construction that would cause any ambiguity in any provision to be construed against the drafter of this document will be operative against either Buyer or Seller.

27. **Headings.** The paragraph headings or captions appearing in this Purchase Agreement are for convenience only, are not a part of this Purchase Agreement, and are not to be considered in interpreting this Purchase Agreement.

28. **Authorization.** Buyer represents and warrants that the individuals signing on behalf of Buyer have been duly authorized and have the authority to execute this Purchase Agreement on Buyer's behalf.

29. **Survival of Terms and Conditions.** Buyer and Seller agree and acknowledge that the terms and conditions of this Purchase Agreement shall survive the Date of Closing and Buyers Obligation to maintain an irrevocable standby Letter of Credit shall not terminate unless and until the Seller provides Buyer written notice signed by the City's Finance Director that the obligation to maintain a letter of Credit set forth in Section ten (10) of this Agreement has been reduced or terminated.

(Signatures appear on the following page)

SELLER:

CITY OF MOORHEAD

BY: _____
Del Rae Williams, Mayor

BY: _____
Michael Redlinger, City Manager

BUYER:

Name of Buyer

Name of Buyer

DRAFT