TO: **MAYOR AND CITY COUNCIL**

FROM: **Neil Jensen, City Administrator**

SUBJECT: **Purchase Agreement Riverside Terrace**

MEETING DATE: August 1, 2023

BACKGROUND

There are 2 lots that city staff have been working on to purchase from Riverside Terrace to place a storm water pond and to complete the connection for the sanitary sewer river crossing for the 2023 Reconstruction Project.

Parcel numbers 52.500.0390 and 52.100.4040 are the parcels that are in the purchase agreement as attached in the map. The purchase price is $50,000 for both parcels.

The Finance Committee has reviewed the parcels and the purchase price and has made a recommendation to City Council to approve the purchase.

There will be additional fees the city will need to pay for closing which are unknown at this time and should be included with the price.

After the purchase of these 2 parcels staff will start working on phase 2 of the 2023 Reconstruction project.

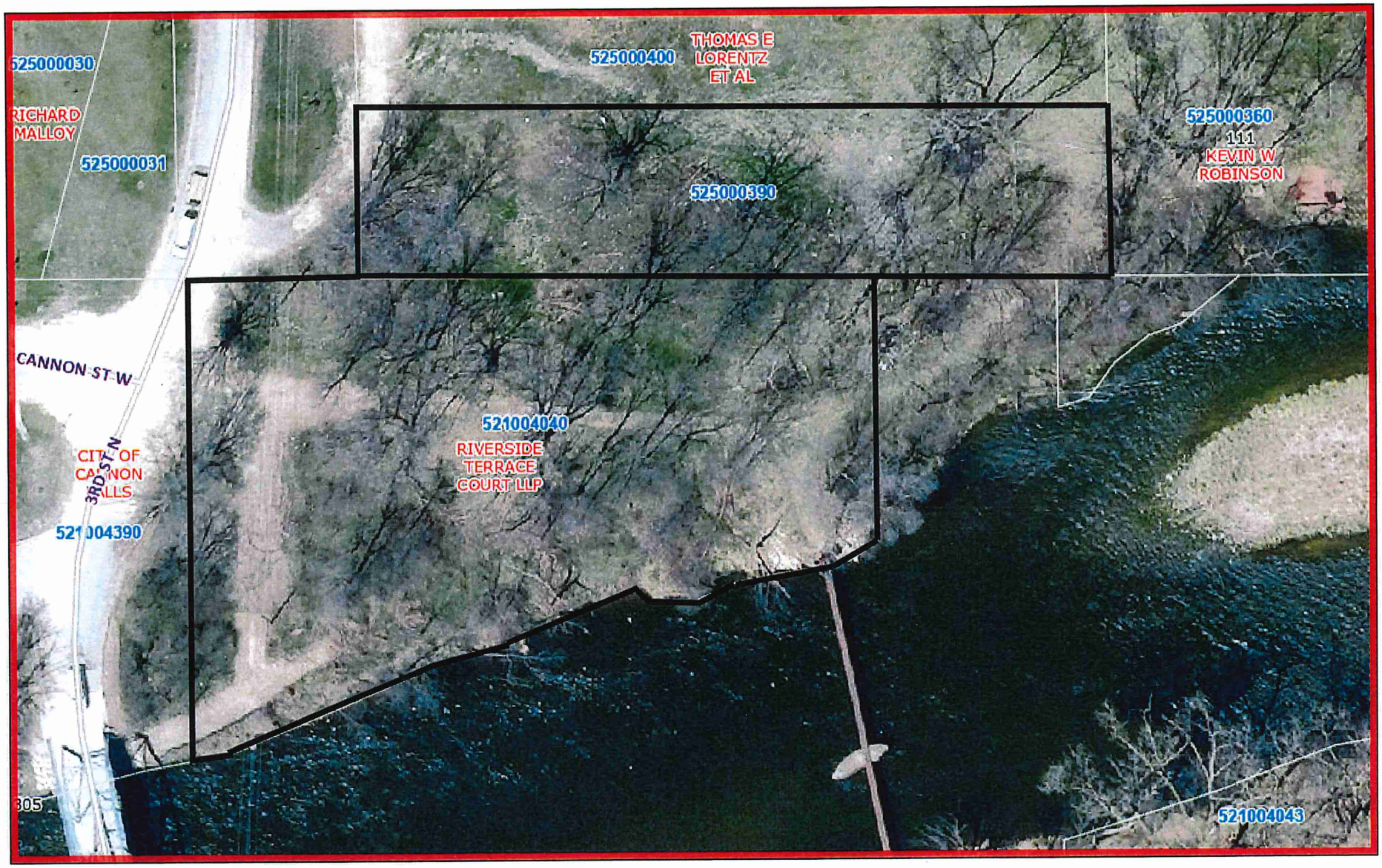
STAFF RECOMMENDATION

Please make a motion to approve the purchase agreement for parcels 52.500.0390 and 52.100.4040 from Riverside Terrace for the purchase price of $50,000. There may be additional closing fees or minor changes approved by the City Attorney.

REQUESTED COUNCIL ACTION

Please make a motion to approve the purchase agreement for parcels 52.500.0390 and 52.100.4040 from Riverside Terrace for the purchase price of $50,000 including closing fees.

RIVERSIDE TERRACE



July 28, 2023

Goodhue County Roads

CEM; ; OCTY; OCRLN; CTRLN

House Number

PIN

Full Name

Parcels

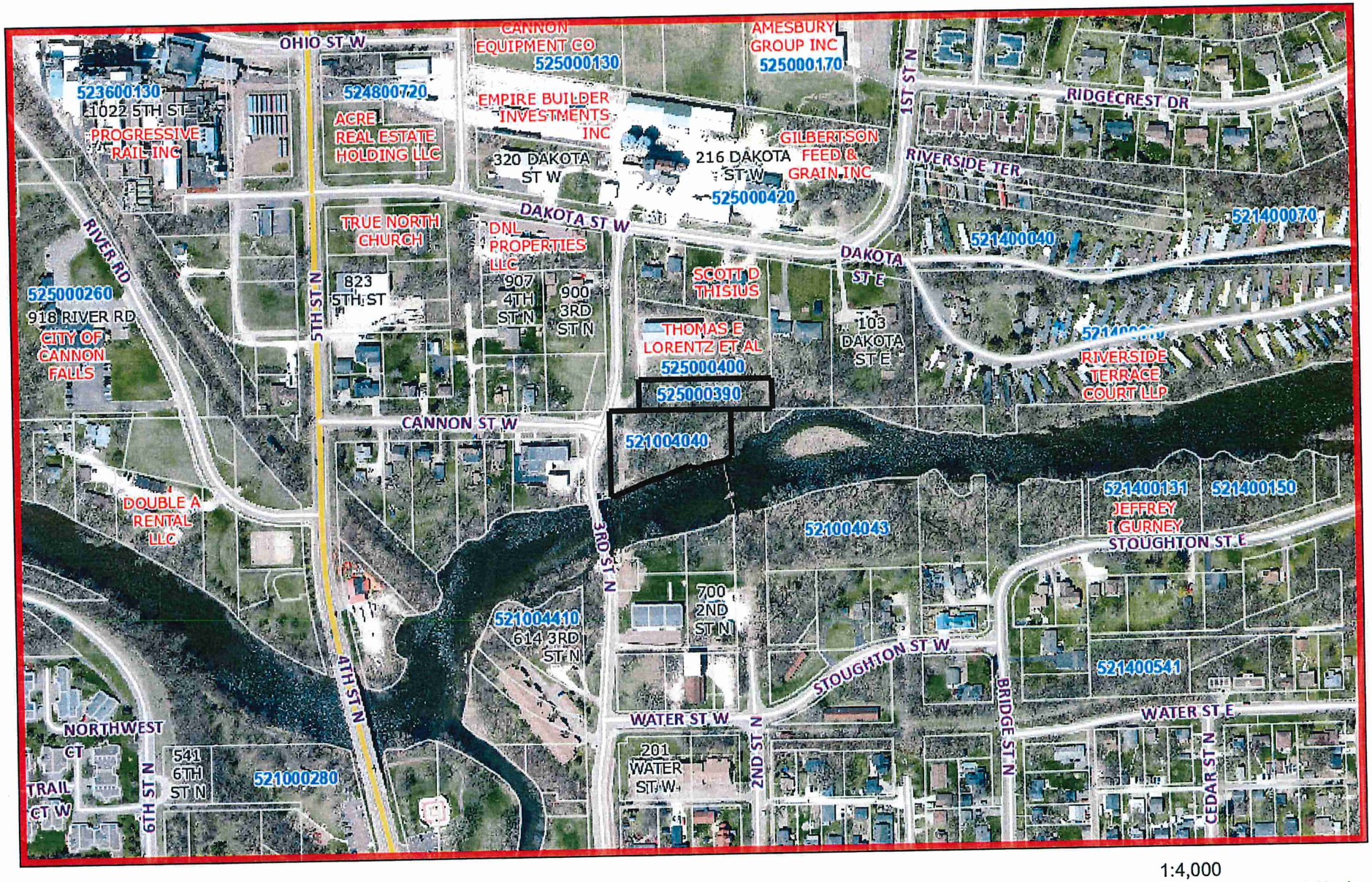
1:720

0 0.01 0.01 0.02 mi

0 0.01 0.01 0.03 km

ArcGIS WebApp Builder

RIVERSIDE TERRACE



July 28, 2023

Goodhue County Roads

CEM; ; OCTY; OCRLN; CTRLN

SHWY

Full Address

PIN

Full Name

Parcels

1:4,000

0 0.03 0.07 0.13 mi

0 0.05 0.1 0.2 km

ArcGIS WebApp Builder

MINNESOTA VACANT LAND PURCHASE AGREEMENT -- RESIDENTIAL DEVELOPMENT TRACT

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BEFORE YOU USE OR SIGN THIS CONTRACT, YOU SHOULD CONSULT WITH A LAWYER TO DETERMINE THAT THIS CONTRACT ADEQUATELY PROTECTS YOUR LEGAL RIGHTS. Minnesota State Bar Association disclaims any liability arising out of use of this form.

1. PARTIES. This Purchase Agreement is made on _____, by and between Riverside Terrace Court LLP, *[marital status]* _____ of *[seller's address]* 100 Chippewa St., Cannon Falls, MN 55009, SELLER, and City of Cannon Falls, as joint tenants [strike "joint tenants" if tenancy-in-common is intended] of *[buyer's address]* 918 River Road Cannon Falls, MN 55009, BUYER.

2. OFFER/ACCEPTANCE. Buyer offers to purchase and Seller agrees to sell real property legally described as

See Supplemental Sheet

[Property Tax Identification Number or Tax Parcel Number 52.500.0390 and 52.100.4040]

located at xxx 3rd Steet North, City of Cannon Falls, County of Goodhue, State of Minnesota, Zip Code 55009.

3. ACCEPTANCE DEADLINE. The acceptance date of this Purchase Agreement is the date it is delivered by the last party signing to the other party. This offer to purchase, unless accepted sooner, shall be void at 11:59 A.M., *[date]* July 31, 2024, and in such event all earnest money shall be refunded to Buyer.

4. PERSONAL PROPERTY AND FIXTURES INCLUDED IN SALE. The following items of personal property and fixtures owned by Seller and currently located on the property are included in this sale *[Strike out items not included]:* garden bulbs, plants, shrubs, trees, fences, gates, culverts, survey monuments, and also the following property: None

Upon delivery of the Deed, Seller shall also deliver a Warranty Bill of Sale for the above personal property. *[Check the box if the following provision applies to this Purchase Agreement:]* ☐ Seller shall use M.S.B.A. Real Property Form No. 90 (2005), Warranty Bill of Sale.

5. PRICE AND TERMS. The price for the real and personal property included in this sale is Fifty Thousand and No/100 Dollars ($ 50,000.00), which Buyer shall pay as follows:

Earnest money of $ 0.00 by (CASH, CHECK, NOTE - state which) _____, payable to *[select one:]*

☐ Seller, to be deposited and held by Seller (and may be commingled with Seller's other funds) pending closing,
☐ Seller's lawyer, to be deposited and held in the lawyer's trust account pending closing,
☐ Seller's broker, to be deposited or held by broker according to the requirements of Minnesota Statutes,
☐ Other *[describe how the earnest money will be held]* _____,

receipt of which is hereby acknowledged (to be deposited the next business day after acceptance in trust account of listing broker, unless otherwise specified in writing) and $ 50,000.00 cash on _____, the DATE OF CLOSING, and the balance of $ 0.00 by financing as shown on the **attached Financing Addendum**.

6. DEED/MARKETABLE TITLE.

A. Upon performance by Buyer, Seller shall execute and deliver a _____ **Warranty Deed**, joined in by spouse, if any, conveying marketable title of record, subject to:

(1) Building and zoning laws, ordinances, state and federal regulations; and
(2) The lien of real property taxes and the lien of special assessments and interest due thereon, if any, payable in the year of closing which by the terms of this Purchase Agreement are to be paid or assumed by Buyer.

B. Seller proposes to Buyer that Seller's good and marketable title will be delivered to Buyer at closing subject to the following title issues:

[Check (1), if applicable:]

(1) ☐ Encumbrances, easements, covenants, conditions, restrictions, a declaration (without an association),and reservation of mineral rights by the State of Minnesota, as disclosed in M.S.B.A. Real Property Form No. 19, **ADDENDUM TO PURCHASE AGREEMENT:**

TITLE ISSUES, attached as a part of this Purchase Agreement.

[Check (2), if applicable:]

(2) [ ] A Declaration of covenants, conditions, and restrictions with an association in a planned community, condominium, or other common interest ownership community, as disclosed in M.S.B.A. Real Property Form No. 12, **ADDENDUM TO PURCHASE AGREEMENT: COMMON INTEREST COMMUNITY** attached as a part of this Purchase Agreement.

[Check (3), if applicable:]

(3) [ ] The rights of tenants or other parties in possession, as disclosed in M.S.B.A. Real Property Form No. 20, **ADDENDUM TO PURCHASE AGREEMENT: TENANTS AND PARTIES IN POSSESSION** attached as a part of this Purchase Agreement.

Although Seller has disclosed these title issues and Buyer has indicated a general willingness to take title subject to these title issues, these title issues are subject to the other provisions of the Purchase Agreement and to an examination of title based upon the Minnesota Title Standards and upon Minnesota law.

Buyer also reserves the right to evaluate these title issues in the light of Buyer's intended use and enjoyment of the property. Buyer shall have until the end of the period for stating Title Objections under Paragraph 14., of this Purchase Agreement to make the evaluation and determine if these title issues will affect Buyer's intended use and enjoyment of the property. Except for matters disclosed under B.(2), above, and governed by the statutory remedies referenced in M.S.B.A. Real Property Form No. 12, **ADDENDUM TO PURCHASE AGREEMENT : COMMON INTEREST COMMUNITY**, if Buyer, in Buyer's sole discretion, determines that these title issues will adversely affect Buyer's intended use and enjoyment of the property, Buyer may declare this Purchase Agreement void by notice to Seller, neither party shall be liable for damages hereunder to the other, and earnest money shall be refunded to Buyer. If the period for stating Title Objections under Paragraph 14., passes without Buyer's declaring that these title issues will adversely affect Buyer's intended use and enjoyment of the property, then, subject to Seller's covenant to deliver a good and marketable title of record, Buyer shall take title subject to these title issues. *[Seller should consider full disclosure of all title issues to Buyer in this Purchase Agreement or in addenda to this Purchase Agreement. Full disclosure as to the substance of title issues allows Buyer an early opportunity to ensure that this is the right property for Buyer and to measure the impact on the Buyer's intended use or potential enjoyment of the property. In other words, Buyer's consent to take title subject to the existence of title issues must be a fully informed consent. If Buyer is fully informed early, it is less likely that Buyer will elect to void the Agreement.]*

7. REAL ESTATE TAXES AND SPECIAL ASSESSMENTS.

A. Prior Years' Delinquent Real Estate Taxes and Delinquent Special Assessments. Delinquent real estate taxes payable in years prior to the year of closing and delinquent installments of special assessments certified for collection with real estate taxes payable in years prior to the year of closing, together with penalty, interest and costs, **shall be paid by Seller not later than the actual date of closing.**

B. Real Estate Taxes Payable in the Year of Closing. Real estate taxes payable in the year of closing shall *[select from (1) or (2):]*

[✔] (1) **Be prorated** between Seller and Buyer *[select (a) or (b)]*:

[✔] (a) On a calendar year basis to the actual date of closing;

[ ] (b) As follows: Seller %; Buyer %;

adjusted between Seller and Buyer at closing, and paid to the county at closing if then due and Buyer shall assume installments not paid at closing.

[ ] (2) **Not be prorated** and the entire year's taxes shall be *[select (a) or (b)]*:

[ ] (a) Paid by Seller when due, but not later than closing,

[ ] (b) Assumed by Buyer, to be paid when due and not later than closing if due prior to closing, and Buyer shall reimburse Seller at closing for any installments paid by Seller prior to closing.

Seller shall pay penalty, interest and costs on any delinquent installment of taxes and special assessments payable in the year of closing. If closing is delayed to a later year, real estate taxes payable in the year of closing shall be prorated between Seller and Buyer on a calendar year basis to the actual date of closing.

C. Tax Statements. If tax statements for taxes payable in the year of closing are not available on the Date of Closing, the amount to be used for closing purposes shall be % of the prior year's taxes, and such amount shall be *[select one]* [ ] **FULL AND FINAL BETWEEN SELLER AND BUYER** [ ] **ADJUSTED UPON RECEIPT OF TAX STATEMENTS FOR SUCH YEAR** (in which case the party obligated to pay the adjustment shall pay it to the other party within 30 days of issuance of the tax statements).

D. Homestead Classification. Seller represents that, as of the date of this Agreement, the property tax classification is *[strike one]* ~~homestead~~ **/ nonhomestead.** If the property is nonhomestead, Buyer may change the tax classification for taxes payable in the year following closing by taking possession of the real property as Buyer's homestead and filing a new homestead declaration within the time required by law. If the property tax classification in the year of closing is not homestead, Seller shall pay to Buyer at closing *[select one]*

[ ] $

[ ] the difference (on Buyer's portion of the taxes) between the taxes in the actual classification and the taxes that would have been payable under homestead classification.

If the property tax classification for taxes payable in the year following closing is not homestead and, through no fault of Buyer, the closing takes place after the date by which Buyer must take possession of the real property as Buyer's homestead to file for homestead tax status for taxes payable in such year, Seller shall pay to Buyer at closing *[select one]*

[ ] $

[ ] the difference (on Buyer's portion of the taxes) between the taxes in the actual classification and the taxes that would have been payable under homestead classification.

[If Buyer intends to claim the property as Buyer's homestead, Buyer should file Buyer's homestead declaration as soon as possible after taking possession and occupancy of the property.]

E. Deferred Real Estate Taxes. *[select one:]* [ ] BUYER [✔] SELLER shall pay on date of closing or provide for payment of any

deferred real estate taxes (including "Green Acres" taxes under Minnesota Statutes Section 273.111) payment of which is required as a result of the closing of this sale or the recording of the Deed or Contract for Deed. Provision for payment shall be by payment into escrow of 1.5 times the estimated amount of the assessor's reassessment for deferred taxes.

F. Valuation Exclusions from Assessed Value. Seller warrants and represents that the property *[select one:]* ☐ **does** ☑ **does not** have an exclusion from estimated market value for certain home improvements pursuant to Minnesota Statutes Section 273.11, Subd. 16. Such exclusion expires on the sale of the property and will cause the assessed value of the property to increase for property tax purposes. The increase in assessed value will cause the property taxes to increase and might make the property unaffordable for Buyer. If Seller represents that the property does not have an exclusion and an exclusion is discovered prior to closing, Buyer may, at Buyer's option:
(1) Assume payment of the increased property taxes without adjustment to the purchase price of the real property;
(2) Require that the price of the property be reduced by the estimated increase in property taxes over the three calendar years following the year of closing (such estimated increase shall be obtained from the county assessor or city assessor); or.
(3) Rescind this Agreement, in which case all earnest money shall be refunded to Buyer.

If the exclusion is not discovered until after closing, Seller shall be liable to Buyer for liquidated damages in the amount that is five times the estimated increase in real estate taxes based on the reassessed value provided that any notice of a claim of breach of warranty must be in writing and must be given by Buyer to Seller within one year of the Date of Closing or be deemed waived. The provisions of this Paragraph F., shall survive the delivery of the Deed or Contract for Deed.

G. Certified Special Assessments. All installments of special assessments certified for payment with the real estate taxes payable in the year of closing shall be *[select one]*:
☑ Prorated between Seller and Buyer on a calendar year basis to the actual date of closing, adjusted at closing, and unless otherwise provided in this Purchase Agreement, shall be paid at closing
☐ Paid by Buyer at closing
☐ Paid by Seller at closing
☐ Assumed by Buyer.

H. Pending Special Assessments. *[select one:]* ☑ BUYER SHALL ASSUME PAYMENT OF ☐ SELLER SHALL PROVIDE FOR PAYMENT OF special assessments pending as of the date of this Purchase Agreement for improvements that have been ordered by the City Council or other governmental assessing authorities. (Seller's provision for payment shall be by payment into escrow of 1.5 times the estimated amount of the assessments.) As of the date of this Purchase Agreement, Seller represents that Seller has not received a Notice of Hearing of a new public improvement project from any governmental assessing authority, the costs of which project may be assessed against the real property. If a special assessment becomes pending **after** the date of this Purchase Agreement and **before** the Date of Closing, Buyer may, at Buyer's option:
(1) Assume payment of the pending special assessment without adjustment to the purchase price of the real property; or,
(2) Require Seller to pay the pending special assessment (or escrow for payment of same as provided above) and Buyer shall pay a commensurate increase in the purchase price of the real property, which increase shall be the same as the estimated amount of the assessment; or,
(3) Rescind this Agreement, in which case all earnest money shall be refunded to Buyer.

I. Deferred Special Assessments. *[select one:]* ☐ BUYER / ☑ SELLER shall pay on date of closing or provide for payment of any deferred special assessments payment of which is required as a result of the closing of this sale or the recording/filing of the Deed or Contract for Deed. Provision for payment shall be by payment into escrow of 1.5 times the estimated amount of the deferred special assessments.

J. All Other Levied Special Assessments. *[select one:]* ☐ BUYER SHALL ASSUME PAYMENT OF / ☑ SELLER SHALL PAY ON DATE OF CLOSING all other special assessments levied as of the date of this Purchase Agreement, except deferred special assessments (covered at Paragraph 7.I., above).

K. Taxes and Special Assessments in the Years Following Closing. Buyer shall pay real estate taxes payable in the years following closing and special assessments payable therewith, the payment of which is not otherwise provided herein. Seller makes no representation concerning the amount of future real estate taxes or of future special assessments.

8. DAMAGES TO REAL PROPERTY. Until completion of closing and delivery of possession, all risk of loss is on Seller. If the real property is damaged prior to closing, Seller shall give notice to Buyer within 3 business days after such damage has occurred. The notice shall include Seller's proposal for repairing the damage. From the date that Buyer receives Seller's notice, Buyer shall have 3 business days to inspect the real property, and an additional 2 business days to determine if the damages and Seller's proposal for repairs are acceptable to Buyer. If Buyer does not accept Seller's proposals for repairs within the 2 day period, this Agreement is cancelled and the earnest money shall be refunded to Buyer.

9. SELLER'S BOUNDARY LINE, ACCESS, RESTRICTIONS AND LIEN WARRANTIES. Seller warrants that buildings on adjoining real property, if any, are entirely outside of the boundary lines of the property. Seller warrants that there is a right of access to the real property from a public right of way. Seller warrants that there has been no labor or material furnished to the property for which payment has not been made. Seller warrants that there are no present violations of any restrictions relating to the use or improvement of the property. Seller warrants that the real property is not subject to a lien for Medical Assistance or other public assistance. These warranties shall survive the delivery of the Deed or Contract for Deed.

10. CONDITION OF THE REAL PROPERTY.

A. CLEAN CONDITIONS. Seller shall remove all debris, trash, rubbish, garbage, rubble, and yard waste from the land before the possession date.

B. HAZARDOUS SUBSTANCES, PETROLEUM PRODUCTS, AND UNDERGROUND STORAGE TANKS. Seller knows of no **hazardous substances or petroleum products** having been placed, stored, or released from or on the real property by any person in violation of any law, nor of **any underground storage tanks** having been located on the real property at any time, except as follows:

If the presence of underground storage tanks is disclosed, then this paragraph applies: Seller hereby represents and warrants to Buyer that all of the underground tanks known to Seller on the subject property have been disclosed to Buyer on the attached drawing or map. Seller shall provide at closing the affidavits required by Minnesota Statutes Sections 115B.16, Subd. 2, and 116.48 if applicable to the subject property and record an affidavit attesting to the location of any underground tanks which are used for the storage of petroleum products.

Notwithstanding Buyer's environmental investigations of the property (see Paragraph 22.C., below), Seller warrants and represents to Buyer that there have been no acts or occurrences upon the property that have caused or could cause hazardous substances or petroleum products to be released or discharged into the subsoil or ground water of the property or other property in the area. Seller represents and warrants to Buyer that the property is free of hazardous substances and is not subject to any "superfund" type liens or claims by governmental regulatory agencies or third parties arising from the release or threatened release of hazardous substances in, on, or about the property. Seller shall indemnify and hold Buyer harmless from any and all claims, causes of action, damages, losses, or costs (including lawyer's fees) relating to hazardous substances or petroleum products in the subsoil or ground water of the property or other property in the area which arise from or are caused by acts or occurrences upon the property prior to Buyer taking possession. These warranties and indemnifications shall survive the delivery of the Deed or Contract for Deed.

C. WETLANDS, FLOOD PLAIN, AND SHORELAND. Seller knows of no wetlands, flood plain, or shoreland on or affecting the property, except as follows: All or a portion of the parcels is located in a flood plain.

[Check the box if the following provision applies to this Purchase Agreement:] ☐ **ADDENDUM TO PURCHASE AGREEMENT: WETLANDS, SHORELAND AND FLOOD PLAIN DISCLOSURE**, M.S.B.A. Real Property **Form No. 8**, is included as an addendum to this Purchase Agreement.

D. PROTECTED SITES. Seller has no knowledge that the property has any conditions that are protected by federal or state law (such as American Indian burial grounds, other human burial grounds, ceremonial earthworks, historical structures or materials, or archeological sites). *[Check the box if the following provision applies to this Purchase Agreement:]* ☐ **ADDENDUM TO PURCHASE AGREEMENT: CONTINGENCIES FOR SURVEY, APPRAISAL, DEVELOPMENT EVALUATION, AND ARCHEOLOGICAL / HISTORICAL SURVEY, M.S.B.A. Real Property Form No. 17**, is included as an addendum to this Purchase Agreement.

E. DISEASED TREES. Seller has not received any notice from any governmental authority as to the existence of, and Seller has no knowledge of, any Dutch elm disease, oak wilt, or other disease of any trees on the real property.

F. BUYER'S INSPECTIONS. Buyer shall have the right to have inspections of the property conducted prior to closing. Unless required by local ordinance or lending regulations, Seller does not plan to have the property inspected. Other than the representations made in this Paragraph 10., and in Paragraph 22., the property is being sold "AS IS" with no express or implied representations or warranties by Seller as to physical conditions or fitness for any particular purpose.

G. METHAMPHETAMINE DISCLOSURE. *[Check only one box, either (1) or (2).]*

☑ (1) To the best of Seller's knowledge, methamphetamine production has not occurred on the property.

☐ (2) To the best of Seller's knowledge, methamphetamine production has occurred on the property and Seller's disclosure is continued in Part B., **METHAMPHETAMINE DISCLOSURE STATEMENT**, M.S.B.A. Real Property Form No. 22, included as an addendum to this Purchase Agreement.

H. NOTICE OF AIRPORT ZONING REGULATIONS. If airport zoning regulations affect this real property, a copy of those airport zoning regulations as adopted can be viewed or obtained at the office of the county recorder where the zoned area is located.

I. WARRANTIES SURVIVE CLOSING. Seller's warranties and representations contained in this Paragraph 10., shall survive the delivery of the Deed or Contract for Deed.

J. LOCATION OF UTILITIES. For Seller's representations regarding the presence and location of utilities, if any, see Paragraph 22.,D., below.

NOTICE REGARDING PREDATORY OFFENDERS: Information about the predatory offender registry and persons registered with the registry may be obtained by contacting the local law enforcement agency or by contacting the Minnesota Department of Corrections at 651-361-7200 or at **http://www.doc.state.mn.us**.

11. DISCLOSURE OF NOTICES. Seller has not received any notice from any governmental authority as to violation of any law, ordinance or regulation. If the property is subject to restrictive covenants, Seller has not received any notice from any person as to a breach of the covenants. Seller has not received any notice from any governmental authority concerning any eminent domain, condemnation, special taxing district, or rezoning proceedings. Seller's representations contained in this Paragraph 11., shall survive the delivery of the Deed or Contract for Deed

12. ACCESS PRIOR TO CLOSING. By this Purchase Agreement, Buyer does not acquire any right of possession of the property nor does Buyer acquire any right of entry, license, or easement. Seller will consent to a case-by-case right of entry for Buyer and/or Buyer's agents, surveyors, engineers, and site evaluators for testing, measuring, and evaluating purposes provided that the following conditions are met:

A. There shall be no crop or tree damage.
B. There shall be no excavating or earth-moving and no tree removal.
C. Buyer's independent contractors (surveyors, engineers, and site evaluators, etc.) shall, prior to entry on the land, deliver to Seller proof of independent contract with Buyer and a waiver of lien rights in a form satisfactory to Seller.

Buyer shall indemnify and hold Seller harmless from any and all liens, claims, liabilities or charges incurred or caused by Buyer's contracts with surveyors, engineers, and site evaluators, which indemnity shall include any lawyer's fees, costs or disbursements incurred by Seller in any defense thereof.

13. POSSESSION. Seller shall deliver possession of the property not later than _____ closing.

14. EXAMINATION OF TITLE.

A. ABSTRACT AND EXAMINATION OF TITLE. To demonstrate that Seller's title is good and marketable of record, within a reasonable time after acceptance of this Purchase Agreement, Seller shall furnish Buyer with an Abstract of Title [see B., below] or a Registered Property Abstract certified to date including proper searches covering bankruptcies and state and federal judgments, federal court judgment liens in favor of the U.S., liens, and levied and pending special assessments. Buyer shall have ten business days after receipt of the Abstract of Title or Registered Property Abstract either to have Buyer's lawyer examine the title and provide Seller with written Title Objections or, at Buyer's own expense, to make an application for a title insurance policy and notify Seller of the application. Buyer shall have ten business days after receipt of the Commitment for Title Insurance to provide Seller with a copy of the Commitment and written Title Objections. Buyer shall be deemed to have waived any Title Objections not made within the ten day period above, except that this shall not operate as a waiver of Seller's covenant to deliver a statutory Warranty Deed, unless a Warranty Deed is not specified above. If Buyer obtains title insurance, Buyer is not waiving the right to obtain a good and marketable title of record from Seller.

For the purposes of this Agreement, an "Objection to Title" or "Title Objection" is some title matter which fails to pass a title examination based upon Minnesota law and the Minnesota Title Standards promulgated by the Real Property Section of the Minnesota State Bar Association thereby rendering the title unmarketable and is a title matter which requires a remedial response by the Seller prior to or at closing.

An "Exception to Title" or "Title Exception" is some title matter which passes a title examination based upon Minnesota law and the Minnesota Title Standards; is generally regarded by title examiners as not rendering the title unmarketable and, which, because of its nature, is generally disclosed by title examiners to the recipient of the title opinion or title insurance commitment.

B. ABSTRACT LOST OR UNAVAILABLE: TITLE INSURANCE BY SELLER. If Seller is unable to find the Abstract of Title or if Seller did not receive an Abstract of Title when Seller purchased the Property, then, to demonstrate that Seller's title is insurable for marketability and subject to only those matters disclosed at Paragraph 6., above, within a reasonable time after acceptance of this Agreement, Seller shall furnish Buyer with a Commitment for Title Insurance including proper searches covering bankruptcies and state and federal judgments, federal court judgment liens in favor of the U.S., liens, and levied and pending special assessments. *[Seller: see Advisory below.]* The Commitment shall be obtained from *[select one:]*

☐ The title insurer of Buyer's choice; or,
☐ The same title insurer that issued title insurance to Seller so that Seller may obtain a reissue credit from the insurer.

The Commitment shall contain the insurer's requirements for deleting these exceptions in the owner's policy (except for those matters accepted by Buyer in this Agreement):

(1) Rights or claims of parties in possession, not shown by the public records
(2) Easements, or claims of easements, not shown by the public records:
(3) Discrepancies, conflicts in boundary lines, shortage in area, encroachments, and any facts which a correct survey and inspection of the premises would disclose and which are not shown by the public records: and,
(4) Any lien, or right to a lien, for services, labor or material furnished, imposed by law and not shown by the public records.

Seller shall provide to Buyer and to the title insurer all documents [except a survey, unless Seller is required by other provisions of this Agreement to provide a survey] necessary to enable the title insurer to delete these exceptions from the owner's policy of title insurance. Buyer shall have ten business days after receipt of the Commitment for Title Insurance to provide Seller with a copy of the Commitment and written Title Objections. Buyer shall be deemed to have waived any Title Objections not made within the ten day period above, except that this shall not operate as a waiver of Seller's covenant to deliver a statutory Warranty Deed, unless a Warranty Deed is not specified above. By agreeing to receive title insurance in lieu of an Abstract, Buyer is not waiving the right to obtain a good and marketable title of record from Seller. *[Buyer: see Advisory below.]*

Select one of the following:

☐ The Commitment shall be accompanied by, at Seller's expense, the insurer's agreement (or the separate agreement of a Minnesota-licensed abstracter) to provide Buyer with an Abstract of Title at any time in the future. The abstract to be provided shall be at no cost to Buyer for all abstracting through the date of recording of the instrument of conveyance contemplated by this Purchase Agreement. Seller shall pay all commitment, abstracting, examination, searches, and title insurance costs, including the premium for the owner's policy and excluding the premium for the lender's policies.

☐ The Commitment will not include the insurer's or abstracter's agreement to provide Buyer with an Abstract of Title at any time at no cost to Buyer. Seller shall pay all commitment, abstracting, examination, searches, and title insurance costs including the premiums for the owner's and the lender's policy.

ADVISORY TO SELLER: You should consult with your lawyer about the comparative costs of paying an abstract company to produce a new Abstract of Title versus paying the Buyer's title insurance costs. In many Minnesota counties, it is less expensive to obtain a new Abstract.

ADVISORY TO BUYER: You should consult with your lawyer about the relative merits of receiving an Abstract of Title versus receiving a title insurance policy. As a future seller of the same property, you likely will be asked to give your buyer an Abstract. If your Seller does not obtain the title insurance endorsement for future production of an Abstract, you might be facing a large expense when you sell.

15. TITLE CORRECTIONS AND REMEDIES. Seller shall have a limited time, from receipt of Buyer's written Title Objections, to make title marketable. Upon receipt of Buyer's Title Objections, Seller shall, within ten business days, give Notice to Buyer of Seller's intention to make title marketable within the title-clearing cure period selected in C.(1) or C.(2) below. Liens or encumbrances for liquidated amounts which can be released by payment or escrow from proceeds of closing shall not delay the closing. Cure of the defects by Seller shall be reasonable, diligent, and prompt. Pending correction of title, all payments required herein and the closing shall be postponed.

As an alternative to making title good and marketable of record, Seller may, within the ten day Notice period, make a written, dated offer to Buyer to obtain title insurance for Buyer with insuring provisions acceptable to Buyer (and, if applicable, Buyer's lender), as follows:

- Seller may procure, at Seller's expense, an owner's policy of title insurance, from an insurer registered and licensed to do business in Minnesota and acceptable to Buyer, specifically insuring over the Title Objections; or,
- If the Title Objections are stated in a title insurance commitment which Buyer has obtained, Seller may provide the insurer with such documents and escrows as are necessary to allow the insurer to specifically insure over the Title Objections and agree to pay all of the insurer's charges for issuing the owner's policy to Buyer.

Under either of these title insuring alternatives, "at Seller's expense" and "pay all of the insurer's charges" mean that Seller will pay all title insurance commitment and policy premium charges, search charges, plat drawing fees, and any other charge by the insurer to issue the owner's policy, but not the premium for a lender's policy, if any. If Buyer accepts Seller's offer of an insurable title, then in this Purchase Agreement, "making title marketable" shall mean "making title insurable," in the manner described above. Buyer is under no obligation to accept Seller's offer of an insurable title in lieu of a good and marketable title of record, but, if Buyer does not reject Seller's offer of an insurable title within three (3) business days of receiving Seller's offer, Buyer shall be deemed to have accepted Seller's offer of an insurable title. If Buyer rejects Seller's offer to make title insurable, Seller shall then make title good and marketable of record and shall be subject to the provisions of this agreement for failure to timely present good and marketable title of record.

A. If Notice is given and Seller makes title marketable, then upon presentation to Buyer and proposed lender of documentation establishing that title has been made marketable, and if not objected to in writing and within 5 business days of receipt of Seller's documentation, the closing shall take place within ten business days or on the scheduled closing date, whichever is later.

B. If Seller does not give Notice of intention to make title marketable within ten business days after receipt of Buyer's Title Objections, this Purchase Agreement is canceled and the earnest money shall be refunded to Buyer.

C. **Selection of Title-Clearing Cure Period.** ***[C.(1) and C.(2) are alternative remedies. ONLY ONE OF THEM CAN APPLY FOR THIS PURCHASE AGREEMENT. If either party cannot endure more than a 30 to 45 day delay for the closing, select C.(1). If both parties can endure a longer delay for the closing, select C.(2). SELECT ONLY C.(1) OR C.(2).]*** **IF THE PARTIES DO NOT SELECT C.(1) OR C.(2), BY CHECKING ONE OF THE BOXES BELOW, THEN C.(1) AUTOMATICALLY APPLIES AS A TERM FOR THIS PURCHASE AGREEMENT.**

☐ C.(1) is selected as a remedy for this Purchase Agreement.

(1) Seller shall have **30 days** from receipt of Buyer's written Title Objections or until the Date of Closing, whichever date is later, to make title marketable. If Notice is given but the stated period expires without title being made marketable, Buyer may:

(a) Cancel this Purchase Agreement by notice to Seller pursuant to Minnesota Statutes Section 559.217, Subd. 3 (allowing Seller a 15 day right to cure) and neither party shall be liable for damages hereunder to the other, and the earnest money shall be refunded to Buyer; or,

(b) Elect to take title subject to some or all of the Title Objections.

☐ C.(2) is selected as a remedy for this Purchase Agreement.

(2) Seller shall have *[select one]* **60 / 90 / 120 days** from receipt of Buyer's written Title Objections or until the Date of Closing, whichever date is later, to make title marketable If Notice is given but the stated period expires without title being made marketable, Buyer may seek, as permitted by law, one or more of the following:

(a) Proceed to closing without waiver or merger in the Deed of the Title Objections and without waiver of any remedies, and may:

(i) Seek damages, costs, and reasonable lawyer's fees from Seller as permitted by law (damages under this subparagraph (i) shall be limited to the cost of curing Title Objections, and consequential damages are excluded); or

(ii) Undertake proceedings to correct the Title Objections;

(b) Rescission of this Purchase Agreement by notice to Seller, in which case all earnest money paid shall be refunded to Buyer;

(c) Damages from Seller together with costs and reasonable lawyer's fees, as permitted by law;

(d) Specific performance within six months after such right of action arises, including costs and reasonable lawyer's fees;

(e) Cancellation of this Purchase Agreement pursuant to Minnesota Statutes Section 559.217, Subd. 3 (allowing Seller a 15 day right to cure).

D. If title is marketable, or is made marketable as provided herein, and Buyer defaults in any of the agreements herein, Seller may elect either of the following options, as permitted by law:

(1) Cancel this Purchase Agreement pursuant to either Minnesota Statutes Section 559.21 or Section 559.217, Subd. 3, and retain all payments made hereunder as liquidated damages. *[Note: Under federal law, Seller might not be able to legally claim or retain the earnest money under purchase agreements where Buyer applies for but is unable to secure F.H.A. or D.V.A. mortgage financing.]* The parties acknowledge their intention that any note given pursuant to this contract is a down payment note, and may be presented for payment notwithstanding cancellation;

(2) Seek specific performance within six months after such right of action arises, including costs and reasonable lawyer's fees, as permitted by law.

E. If title is marketable, or is made marketable as provided herein, and Seller defaults in any of the agreements herein, Buyer may, as permitted by law:

(1) Seek damages from Seller including costs and reasonable lawyer's fees;

(2) Seek specific performance within six months after such right of action arises, including costs and reasonable lawyer's fees;

(3) Cancel this Purchase Agreement pursuant to Minnesota Statutes Section 559.217, Subd. 3 (allowing Seller a 15 day right to cure) and neither party shall be liable for damages hereunder to the other, and the earnest money shall be refunded to Buyer .

NOTE: If this Purchase Agreement is canceled using Minnesota Statutes Section 559.217, contract provisions and statutory provisions for refunding of the earnest money to Buyer might be in conflict.

16. NOTICES. All notices required herein shall be in writing and delivered personally or mailed to the address as shown at Paragraph 1., above and if mailed, are effective as of the date of mailing.

17. SUBDIVISION OF LAND. If the legal description in this Purchase Agreement is a new description requiring a subdivision of land owned by Seller, Buyer shall pay all subdivision expenses and obtain all necessary governmental approvals. Seller makes no warranties or representations that the legal description of the real property to be conveyed has been or will be approved for recording as of the Date of Closing. **NOTE:** Unless the following costs and charges have been assessed against the property prior to the date of this Purchase Agreement by the governmental unit having jurisdiction (and therefore already covered by the provisions for payment of special assessments), Buyer shall assume the payment of municipal charges for development on, construction on, or improvement of the subject property related to access fees, connection fees and "hook up" fees for connections to sewer, water, and other utilities.

18. MINNESOTA LAW. This contract shall be governed by the laws of the State of Minnesota.

19. WELL DISCLOSURE. *[Check one of the following:]*
☑ Seller certifies that Seller does not know of any wells on the property.
☐ Wells on the property are disclosed by Seller on the attached Well Disclosure form.

20. DISCLOSURE OF INDIVIDUAL ON-SITE SEWAGE TREATMENT SYSTEM. *[Check one of the following:]*
☑ Seller certifies that Seller does not know of any individual on-site sewage treatment systems on the property.
☐ Individual on-site sewage treatment systems on the property are disclosed by Seller on the attached Disclosure form.

21. SELLER'S AFFIDAVIT. At closing, Seller shall supplement the warranties and representations in this Purchase Agreement by executing and delivering a Minnesota Uniform Conveyancing Blank [Form No. 50.1.2 (formerly 116-M) or 50.1.3 (formerly 117-M or 118-M)] Affidavit of Seller.

22. CONTINGENCIES. This Purchase Agreement is subject to the following contingencies which must be performed or occur before the Date of Closing of this transaction or such other date specified herein ["performance date"].

A. BUYER'S DEVELOPMENT EVALUATION. This Purchase Agreement is contingent upon Buyer obtaining by *[date]* _____, all necessary approvals, architectural reviews, licenses, zoning, conditional use permits, variances, building permits, environmental permits, environmental approvals, and all other necessary permits, licenses and approvals (or has obtained reasonable assurances acceptable to Buyer, in its sole discretion, that such approvals will be available) for the intended development of *[briefly describe]*: _____
_____
Buyer shall promptly proceed to obtain such permits, licenses, approvals and/or assurances. Seller shall assist Buyer in applying for rezoning, necessary licenses, conditional use permits, variances, building permits, environmental permits, and all other necessary permits for the development of the property as Buyer may determine to be necessary, but at no cost to Seller.

This Purchase Agreement is also contingent upon Buyer determining by *[date]* _____ that the proposed development can be constructed on the property without the use of piling, extraordinary filling, or similar extraordinary land preparation steps which would make it financially impractical for Buyer's intended use. All tests and inspections shall be conducted in such a manner so as to prevent any damage to the property. Buyer shall promptly determine the soil conditions of the property and make the necessary calculations. Buyer shall promptly pay for all services rendered in conducting such tests and inspections and will not allow any mechanic's liens to attach to the property. Buyer shall indemnify Seller from all such costs, expenses and liens. Buyer and its authorized agents, shall have the limited right (pursuant to Paragraph 12, above) from the date of this Purchase Agreement, to enter upon the property to make such surveys, measurements, soil tests, and other tests as Buyer deems necessary, but without expense to Seller.

B. SURVEY. Buyer's obligation to close under this Purchase Agreement is contingent upon Buyer obtaining, at Buyer's expense, by *[date]*_____ a survey of the property certified to Buyer as of a current date (no earlier than the date of this Purchase Agreement) evidencing conditions satisfactory to Buyer and containing certifications meeting the following minimum standards:

(a) Prepared, dated and signed by a Minnesota Registered Land Surveyor with his or her seal affixed.
(b) Includes legal description properly identifying the property described in this Purchase Agreement.
(c) Locates all platted and unplatted property lines and lot lines.
(d) Locates all streets adjacent to the property.
(e) Locates all curb cuts, driveways and fences.
(f) Locates all easements described in the plat, if any, and in the record title of the property.
(g) Locates all visible utility lines that service the property and improvements (sewer, water, gas, electric and telephone).
(h) Locates any building setback lines.
(i) Locates all encroachments or makes a positive statement that there are no encroachments.
(j) Locates all improvements on the property.
(k) Shows all descriptions, angles, and other calls contained in the legal description.

Buyer shall promptly retain a surveyor. If the survey reveals boundary or title problems, Buyer shall promptly deliver a copy of the survey to Seller. If the survey has been delivered to Buyer after Buyer's date for stating title objections, Buyer shall have an additional ten days from the date of receiving the survey in which to state additional title objections. If the boundary or title problems prevent this transaction from closing, Seller shall reimburse Buyer for all expenses of survey and Buyer shall assign all rights in and to the survey to Seller.

C. ENVIRONMENTAL ASSESSMENT. This Purchase Agreement is contingent upon Buyer obtaining, at Buyer's expense, a Phase I Environmental Assessment of the property by *[date]*_____, sufficient to meet the diligence requirements of federal and state law, certified to Buyer as of a current date (no earlier than the date of this Purchase Agreement) evidencing conditions satisfactory to Buyer. Buyer shall promptly retain a qualified environmental scientist to conduct the environmental assessment. If the environmental assessment reveals environmental conditions which are in violation of the law, Buyer shall promptly deliver a copy of the report

to Seller. If the environmental conditions are not remedied by Seller, thereby preventing this transaction from closing, Seller shall reimburse Buyer for all expenses of the environmental assessment and Buyer shall assign all rights in and to the environmental assessment to Seller.

D. UTILITIES. The price offered by Buyer in this Purchase Agreement does not reflect any reliance upon any representations made by Seller as to the location or availability of utilities. Buyer's obligation to close under this Purchase Agreement is contingent upon Buyer obtaining, at Buyer's expense, verification that utilities can be provided to the property at costs which are reasonable for Buyer. This contingency shall be satisfied by *[date]* _____ or be deemed waived. **NOTE:** Unless the following costs and charges have been assessed against the property prior to the date of this Purchase Agreement by the governmental unit having jurisdiction (and therefore already covered by the provisions for payment of special assessments), Buyer shall assume the payment of municipal charges for development on, construction on, or improvement of the subject property related to access fees, connection fees and "hook up" fees for connections to sewer, water, and other utilities.

If any of the contingencies (1) has not been fully and completely performed or fulfilled, (2) has not been waived, or (3) has not occurred to the satisfaction of Buyer on or before the respective performance dates, this Purchase Agreement shall be null and void at the sole option of Buyer, which option must be exercised by notice to Seller on or before the Date of Closing, and the earnest money herein paid shall be promptly refunded to Buyer upon Buyer's exercise of the option to declare this Purchase Agreement null and void. Both Buyer and Seller shall cooperate and make all reasonable efforts to attempt to remove the contingencies by the respective performance dates.

23. CLOSING. Closing shall be at the office of Seller's lawyer, Buyer's title insurer, or at some other mutually agreeable location.

[State other location:] Remotely

At closing, Seller and Buyer shall disclose their Social Security Numbers or Federal Tax Identification Numbers for the purposes of completing state and federal tax forms.

CLOSING COSTS. The costs of closing, if not determined by other provisions of this Agreement, shall be paid as follows.

A. SELLER'S COSTS. Seller shall pay the following at closing:

1. Document preparation costs, recording fees, and deed taxes for documents necessary to establish good and marketable title in Seller.
2. Document preparation costs, certified copy fees, and recording fees to establish the authority of the person acting on behalf of Seller.
3. Document preparation costs for Seller's deed or contract-for-deed, Certificate of Real Estate Value, Seller's affidavit, Well Disclosure Certificate (if required), and any other documents necessary to transfer good and marketable title by Seller's deed or contract-for-deed.
4. Deed tax on Seller's deed and the Agricultural Conservation deed tax charged under Minnesota Statutes Section 40A.152.
5. Fees payable to Seller's lawyer or to a closer ["title closer"] for conducting the title-transfer portion of the closing. If Seller is not providing a lawyer or title closer for the title-transfer portion of the closing and if Buyer is obtaining new mortgage financing and the closer's fee is not separated into a "title closing fee" and a "loan closing fee," then Seller shall pay one half of the closer's fee or $, whichever amount is less.
6. And also the following costs:

_____

_____

_____

B. BUYER'S COSTS. Buyer shall pay the following at closing:

1. Document preparation costs, recording fees, and mortgage registry taxes for documents necessary for Buyer's mortgage financing.
2. Document filing fee for a Well Disclosure Certificate, if applicable.
3. The Agricultural Conservation deed tax on Buyer's mortgage deed charged under Minnesota Statutes Section 40A.152.
4. Loan closer's fee.
5. Recording fee for Deed, Contract for Deed, or other instrument of conveyance where Buyer is the grantee.
6. And also the following costs:

_____

_____

_____

24. ADDITIONAL TERMS. _____

25. ADDENDA. Attached are the following addenda which are made a part of this Purchase Agreement: *[Check only those that are attached.]*

FINANCING:

- ☐ **Financing Addendum for Seller Mortgage**, M.S.B.A. Real Property Form No. **5**
- ☐ **Financing Addendum for Contract for Deed**, M.S.B.A. Real Property Form No. **6**
- ☐ **Contract for Deed Disclosure** *[Multiple Seller]*, M.S.B.A. Real Property Form No. **25**
- ☐ **Financing Addendum for Assumption**, M.S.B.A. Real Property Form No. **7**

DISCLOSURE AND CONTINGENCY:

- ☐ **Addendum to Purchase Agreement: Wetlands, Shoreland, and Flood Plain Disclosure**, M.S.B.A. Real Property Form No. **8**
- ☐ **Disclosure of Sewage Treatment System**, M.S.B.A. Real Property Form No. **14**
- ☐ **Addendum to Purchase Agreement: Contingencies for Survey, Appraisal, Development Evaluation, and Archeological / Historical Survey**, M.S.B.A. Real Property Form No. **17**
- ☐ **Well Disclosure Statement,** M.S.B.A. Real Property Form No. **21**
- ☐ **Methamphetamine Disclosure Statement,** M.S.B.A. Real Property Form No. **22**

TITLE ISSUES:

- ☐ **Addendum to Purchase Agreement: Title Issues**, M.S.B.A. Real Property Form No. **19**
- ☐ **Addendum to Purchase Agreement: Tenants and Parties in Possession**, M.S.B.A. Real Property Form No. **20**

26. TIME IS OF THE ESSENCE. Time is of the essence for all provisions of this Purchase Agreement.

27. MULTIPLE ORIGINALS. Seller and Buyer have signed *[number]* _____ originals of this Purchase Agreement.

THIS IS A LEGALLY BINDING CONTRACT. BEFORE SIGNING, CONSULT A LAWYER. Minnesota law permits licensed real estate brokers and sales agents to prepare purchase agreements. No recommendation or representation may be made by any real estate broker or sales agent as to the legal sufficiency, the legal effect, or the tax consequences of this contract. These are questions for your lawyer.

I agree to sell the property for the price and terms and conditions set forth above.

SELLER: _____ (date)
Riverside Terrace Court LLP

SELLER: _____ (date)

I agree to purchase the property for the price and terms and conditions set forth above.

BUYER: _____ (date)
City of Cannon Falls

BUYER: _____ (date)

****

This Purchase Agreement was prepared by:

Hoff Barry, P.A.
100 Prairie Center Drive, Suite 200
Eden Prairie, MN 55344

Others who will assist Seller or Buyer with this transaction:

Lawyer for City of Cannon Falls Telephone: 952.746.2700 Facsimile:

Hoff Barry, P.A.
Shelley M. Ryan
100 Prairie Center Drive, Suite 200
Eden Prairie, MN 55344

Listing Agent and Broker for this transaction are: Telephone: Facsimile:

Selling Agent and Broker for this transaction are: Telephone: Facsimile:

Buyer's or Lender's Title Insurer: Telephone: Facsimile:

SUPPLEMENTAL SHEET

Parcel 1:

The south seventy five feet (S75') of the following lands:
That part of Government Lot 12, Section 7, Township 112, Range 17, Goodhue County, Minnesota, described as follows: Commencing at the southeast corner of said Government Lot 12; thence North 00 degrees, 24 minutes East along the east line thereof a distance of 385.00 feet to the southerly right of way line of a Railroad; thence North 79 degrees, 05 minutes, 40 seconds West along said southerly Railroad right of way line a distance of 672.00 feet to the east line of Third Street; thence South 00 degrees, 08 minutes, 30 seconds West along said easterly line of Third Street a distance of 224.20 feet to the point of beginning; thence continuing South 00 degrees, 08 minutes, 30 seconds West along the easterly line of Third Street a distance of 283.38 feet to the south line of said Government Lot 12; thence South 89 degrees, 36 minutes, 15 seconds East along the south line of said Government Lot 12 a distance of 329.22 feet; thence North 00 degrees, 16 minutes, 14 seconds East a distance of 222.10 feet; thence North 79 degrees, 05 minutes, 40 seconds West parallel with said Railroad a distance of 335.62 feet to the point of beginning.
For informational purposes only:

Property Address: xxx 3rd Street North, Cannon Falls, MN 55009
Tax Key Number: 52.500.0390

Abstract Property

Parcel 2:

Two (2) Blocks lying between First Street and Third Street and North of Stoughton Street, neither lotted or numbered, North of the Cannon River, located in the Original Plat of Cannon Falls, Goodhue County, Minnesota.
For informational purposes only:

Property Address: xxx 3rd Street North, Cannon Falls, MN 55009
Tax Key Number: 52.100.4040

Abstract Property