

## **REAL ESTATE PURCHASE AGREEMENT**

THIS REAL ESTATE PURCHASE AGREEMENT (the “Agreement”) is entered into on the **Enter day** day of **Choose a month**, **Choose the year** (the “Effective Date”), by and between the **City of Minot, Ward County, North Dakota** ( the “Seller”), whose address is **10 3<sup>rd</sup> Ave SW (PO Box 5006)**, Minot, ND 58702, and the **\_\_\_\_\_** (the “Buyer”) whose address is **\_\_\_\_\_**. Hereinafter, Buyer and Seller are referred to collectively as the “Parties.”

### **RECITALS**

WHEREAS, Seller is the owner of real property (collectively referred to herein as the “Property”) described as:

Township 155 North, Range 83 West  
NORTH MINOT ADDITION EAST 33' OF NORTH 250' LOT 1 BLOCK 5  
And NORTH MINOT ADDITION LOT 1 LESS NORTH 250' BLOCK 5

lying and being in the County of Ward, State of North Dakota, and included in the Warranty Deed on file with the Ward County Recorder’s Office as Document No. 2882118, the Warranty Deed Record - 20806a on file with the Ward County Recorder’s Office as Document No. 106419, and the Warranty Deed on file with the Ward County Recorder’s Office as Document No. 577139, copies of which is attached hereto as Exhibit A, and described further as follows, on the map attached hereto as Exhibit B.

WHEREAS, Seller desires to sell the Property to Buyer, and Buyer desires to purchase the Property from Seller, pursuant to the terms and conditions contained in this agreement;

### **AGREEMENT**

NOW, THEREFORE, in consideration of the promises and mutual agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by both Seller and Buyer, the Parties hereby agree as follows:

1. **Sale of Property.** Subject to the terms and provisions hereof, Seller agrees to sell to Buyer, and Buyer agrees to purchase from Seller, all of Seller's right, title and interest in and to the Property, on the terms and conditions set forth in this Agreement. The Property shall include, to the extent that Seller may legally transfer the same, all of the land described and/or shown in Exhibit B, attached hereto.
2. **Purchase Price.** The purchase price for the Property (the "Purchase Price") shall be [REDACTED] (\$[REDACTED]). The Purchase Price shall be paid to Sellers by Buyer on the Closing Date (as defined below), plus or minus all adjustments or credits as set forth herein.
3. **Time and Place of Closing.** Buyer and Seller agree that the Closing shall take place on the [REDACTED] day of [REDACTED], [REDACTED] ("Closing Date"). Closing will be held at [REDACTED]. Buyer and Seller further agree that time is of the essence.
  - a. **Closing Costs.** Except as otherwise provided herein, Buyer and Seller shall each pay their own legal fees related to this Agreement and the transaction contemplated herein. Buyer shall pay all other costs associated with Closing, including any costs to investigate the Property, such as the cost of any appraisals, architectural, engineering, credit, and environmental reports. Buyer shall reimburse Seller for any costs associated with recording the quitclaim deed at the Ward County Courthouse and updating the abstract of title, if any.
  - b. **Abstract of Title.** The Seller does not have an Abstract of Title to the Property. The Buyer is responsible for the cost of providing an updated abstract for the Property.
  - c. **Examination of Title.** The Buyer shall be responsible for conducting any examinations of title to the Property and pay any closing fees charged by the title company and title examination fees. If title to the Property is unmarketable or if there are easements, restrictive covenants, and mineral grants and reservations of record (or that will be of record prior to closing) not acceptable to Buyer as permitted encumbrances or if there are building zoning laws, ordinances or state and/or federal regulations that would hinder Buyer's intended use of the Property, the Buyer shall have 90 days in which to notify Seller about the unacceptable conditions in writing and provide the Seller with a reasonable opportunity to correct the title and make it

marketable and/or address Buyer's concerns as to the acceptability of easements, restrictive covenants, and mineral grants and reservations of record and building and zoning laws, ordinances and state and federal regulations. If the title to said Property cannot be made marketable or the concerns addressed to Buyer's satisfaction within said period of time or such further time as may be granted by the Buyer in writing, this contract shall be wholly void and unenforceable, and Buyer shall be refunded the Purchase Price within thirty (30) days of the Buyer's election to void this contract. Any election by the Buyer to void this contract due to title defects must be delivered to the Seller in writing and contain a clear explanation of the title defect.

- d. **Environmental.** Seller is not aware of any hazardous materials having been deposited or stored with the Property. If abatement of hazardous contaminants is warranted, in the discretion of the Buyer, the hazardous materials must be removed at the Buyer's expense. Buyer indemnifies the Seller for any liability arising from previous contamination of the Property.
4. **Closing and Possession.** Buyer shall be entitled to possession of the Property upon Closing. At the Closing, Seller will transfer ownership of the property to the Buyer by giving Buyer a duly executed quitclaim deed (the "Deed") acknowledged by Seller.
  - a. **Deed.** The quitclaim deed shall convey marketable title, subject to (A) local, state, and federal building and zoning laws, ordinances, regulations and restrictions relating to use or improvement of the Property; (B) any conditions, covenants, restrictions, limitations, terms, easements, and declarations of record; (C) taxes, general and/or special assessments or assessments for completed special improvements which have not been certified to the County Auditor for collection; (D) any reservations of any mineral rights; (E) utility and drainage easements; (F) covenants required by federal, state, or local authorities as a result of the acquisition of the property; and (G) any facts that a survey or personal inspection of the property will disclose.
  - b. **Mineral Reservation.** The quitclaim deed shall transfer only the surface estate of the Property to the Buyer, and the City shall specifically exclude and reserve unto itself any and all interest in and to all of the mineral rights of whatsoever nature or kind in, under, and that may be produced from the Property, including rights to any

oil, gas, gravel, clay, scoria, sulphur, and all other minerals whether similar or dissimilar, and including the rights to any oil royalties, gas royalties, overriding royalty interests, working interests, royalties in casinghead gas and all other royalties whatsoever. The City also reserves the right of ingress and egress to the Property for exploring for, drilling, mining, storing, and transporting any of the minerals reserved unto itself.

- c. **Prorations.** For purposes of calculating any prorations, Buyer shall be deemed to be in title to the Property, and therefore entitled to any income or expenses incurred therewith, for the entire day upon which the Closing occurs.
- d. **Recorded Documents.** Buyer shall submit to the Ward County Recorder's Office the Deed and any other document to be recorded under the terms of this Agreement immediately upon receipt, or as soon as is practicable. After the documents are recorded, Buyer will ensure Seller receives copies of the recorded documents. Buyer agrees it will cover the cost to record the Deed and any other document to be recorded under the terms of this Agreement.

5. **Risk of Loss.** As the property is vacant land, it is highly unlikely that there will be substantial loss or damage to the Property between the date hereof and the Closing Date. However, if the Property should be destroyed or substantially damaged before the Closing Date by fire, vandalism, flood, hail, wind, earthquake, or other act of *force majeure*, this Purchase Agreement shall become null and void, at the Buyer's option.
6. **Personal Property and Fixtures.** The property is vacant land and there are no improvements or fixtures included.
7. **Physical Condition of the Property.** This property is being sold "as is" except as may be expressly represented herein, in the exhibits attached hereto and in the documents to be executed and delivered by Seller to Buyer at Closing. Seller does not make any claims or promises about the condition or value of any property included in this sale. Buyer makes this offer in full reliance upon his own independent investigation and judgment. There are no verbal agreements, which modify or affect this offer. The acceptance of a quit claim deed by Buyer shall be deemed to be the full performance of every obligation of the part of Seller. Seller shall make the Property available for all inspections and tests upon reasonable notice by Buyer.

- a. **Final Walk Through.** Seller grants Buyer and any representative of Buyer reasonable access to conduct a final walk through of the Property for the purpose of determining that the Property is in substantially the same condition as the date this Agreement was signed.
- b. **Square Footage and/or Acreage.** Buyer is aware that any reference to the square footage and/or acreage of the Property is approximately, and if square footage and/or acreage is a material matter for the Buyer, it must be verified by the Buyer.

8. **Repair Limitation.** Seller is not obligated to and shall not make any improvements or repairs to the property prior to or after sale and transfer of title.

9. **Condition and Use of Property.** Seller makes no representation as to the condition of the property or that the premises comply with local, county, state, or federal ordinances and statutes.

10. **Property Lines.** The Seller does not have a survey for this property and makes no representation that all improvements are within its boundary lines or that no improvements on adjoining properties extend across the boundary lines of this property.

11. **Ownership.** The Seller agrees to transfer and the Buyer agrees to accept ownership of the property free of all claims and right of others.

12. **Taxes.** Seller shall pay real estate taxes on the Property up to the Closing Date and all unpaid taxes for prior years. Buyer shall be deemed to be in title to the Property for the entire Closing Date and shall be responsible for all real estate taxes on the Property on and after the Closing Date. Seller makes no representations concerning the amount of subsequent real estate taxes, which have not been certified for collection.

13. **Special Assessments.** The Seller shall pay the annual installment for any unpaid assessments against the property for work completed up to the Closing Date. Buyer assume on the Closing Date, the balance of any special assessments as of the Closing Date. shall be solely responsible for all annual installment payments on special assessments for work completed on or after the Closing Date. Seller makes no representations concerning the amount of subsequent special assessments, including but not limited to assessments for completed special improvements, which have not been certified for collection.

14. **Possession.** Buyer shall receive possession at Closing.

15. **Replatting.** If the Buyer owns other land adjacent to the Property, the Buyer shall be required to replat all land within one year of the date of Closing.

### **TERMINATION AND DEFAULT**

16. **Buyer Default.** If the sale contemplated by this Agreement is not consummated because of a default by Buyer in its obligation to purchase the Property in accordance with the terms of this Agreement after the Seller has performed all of its material obligations in accordance with this Agreement, then this Agreement shall terminate and Seller and Buyer shall have no further obligation to each other except those which survive termination of this Agreement.

17. **Seller Default.** If prior to Closing, Seller fails to perform any of its obligations or is otherwise in default hereunder, Buyer shall have the right to waive such failure and proceed to Closing with no reduction in Purchase Price, or terminate this Agreement by delivering a notice of termination to Seller.

### **MISCELLANEOUS**

18. **Complete and Entire Agreement.** This Agreement and any Addenda or Amendments signed by the Parties, is the entire and only agreement between the Parties with respect to the sale and purchase of the Property. All Exhibits attached hereto are considered a part of this Agreement and are incorporated herein by reference. This Agreement supersedes, replaces, and cancels any previous agreements between Buyer and Seller with respect to the sale and purchase of the Property. This Agreement may be amended or modified only by an agreement in writing signed by both Buyer and Seller.

19. **Binding on Successors and Assigns.** This contract is binding upon Buyer and Seller and all their heirs, successors and assigns.

20. **Waiver.** The excuse or waiver of the performance by a party of any obligation of the other party under this Agreement shall only be effective if evidenced by a written statement signed by the party so excusing or waiving. No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by Seller or Buyer of the breach of any term of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or any other covenant or condition of this Agreement.

21. **Governing Law and Venue.** The Parties agree that this Agreement shall be governed by and construed under the laws of the State of North Dakota, and that any legal action to enforce, interpret, or otherwise shall be filed in a District Court located in Ward County, North Dakota.

a. **Attorneys' Fees.** In the event of a judicial or administrative proceeding or action by one party against the other party with respect to the interpretation or enforcement of this Agreement, the prevailing party shall be entitled to recover reasonable costs and expenses including, without limitation, reasonable attorneys' fees and expenses, whether at the investigative, pretrial, trial, or appellate level. The prevailing party shall be determined by the Court based upon an assessment of which party's major arguments or position prevailed.

22. **Calculating Time.** If the time for performance of any obligation hereunder expires on typical Business Day, the time for performance shall be extended to the next Business Day. For purposes of this Agreement, a "Business Day" shall be defined as any time from 8:00 a.m. through 4:30 p.m. on a Monday, Tuesday, Wednesday, Thursday, or Friday, excluding Federally recognized holidays or days closed due to events or effects that can neither be anticipated nor controlled such as floods, earthquakes, riots, strikes, or other acts of *force majeure*. Any reference to "day" or "Days" in this Agreement shall be construed as Business Days.

23. **Counterparts and Signatures.** This Agreement may be executed in any number of counterparts and it shall be sufficient that the signature of each party appear on one or more such counterparts. All counterparts shall collectively constitute a single agreement. Signatures transmitted by e-mail or facsimile shall be treated as original signatures for all purposes of this Agreement.

24. **Survival.** The obligations and covenants of this Purchase Agreement shall survive the closing of the sale and any transfer of title to the property to the Buyer.

25. **Notices.** All notices under this contract must be in writing. The notices must be delivered personally or by certified mail, return receipt requested to the other party at the address written in this contract. Service of any notices to a party's attorney shall be deemed as notice to the party.

26. **Modification of Agreement.** No modification of this Agreement, including all amendments and waivers, shall be deemed effective unless in writing and signed by the party against whom enforcement is sought and specifying with particularity the extent and nature of such modification. Any waiver by either Party of any default shall not affect or impair any right arising from any subsequent default. Except as expressly and specifically stated otherwise in this agreement, nothing herein shall limit the remedies and rights of the Parties to this Agreement.
27. **Further Instruments.** Each Party agrees that it will promptly execute any and all further instruments reasonably requested or appropriate to evidence or give effect to the provisions of this Agreement and which are consistent with the provisions of this Agreement.
28. **Assignability.** This agreement shall not be assignable by the Buyer without the Seller's written consent.
29. **Descriptive Headings; Word Meaning.** The descriptive headings of the paragraphs of this Agreement are inserted for convenience only and shall not control or affect the meaning or construction of any provisions of this Agreement.
30. **Severability.** The Parties hereto intend and believe that each provision in this Agreement comports with all applicable local, state and federal laws and judicial decisions. However, if any provision in this Agreement is found by a court of law to be in violation of any applicable local, state or federal law, statute, ordinance, administrative or judicial decision, or public policy, or if in any other respect such a court declares such provision to be illegal, invalid, unlawful, void or unenforceable as written, then it is the intent of all parties hereto that, consistent with and with a view towards preserving the economic and legal arrangements among the parties hereto as expressed in this Agreement, such provision shall be given force and effect to the fullest extent possible, and that the remainder of this Agreement shall be construed as if such illegal, invalid, unlawful, void or unenforceable provision were not contained herein, and that the rights, obligations, and interests of the parties under the remainder of this Agreement shall continue in full force and effect.

IN WITNESS WHEREOF, the Parties hereto hereby execute this Agreement on the date first written above, and the Buyer hereby agrees to purchase the Property described in this Agreement from the Seller pursuant to the terms and conditions set forth herein.

\_\_\_\_\_**(BUYER):**

By:\_\_\_\_\_ Date:\_\_\_\_\_

Title:\_\_\_\_\_

CITY OF MINOT (SELLER):

By:\_\_\_\_\_ Date:\_\_\_\_\_

Title:\_\_\_\_\_

ATTEST:\_\_\_\_\_ Date:\_\_\_\_\_

Title:\_\_\_\_\_