

REQUEST FOR COUNCIL ACTION

Date: 11-10-14

Item No.: 13.b

Department Approval



City Manager Approval



Item Description: Proceed to Closing for Property Located at 2959 Hamline Avenue North

BACKGROUND

A 3.32 acre parcel of property located at 2959 Hamline Avenue North adjacent to Autumn Grove Park is currently owned by Independent School District No. 621. This property is identified in the Parks and Recreation Renewal Program for acquisition.

On April 21, 2014, the City entered into a Purchase Agreement (attached) with Independent School District No. 621 to purchase real property at 2959 Hamline Avenue North for \$415,000.

The Purchase Agreement provides that the City shall have a 90 day "Due Diligence Period" following the signing of the Purchase Agreement to determine, among other things, the environmental condition of the property, whether the City can obtain a No Association Determination, No Further Action, and other written assurances from the Minnesota Pollution Control Agency pertaining to the property, and whether the condition of the title to the property is satisfactory to the City. The 90 day Due Diligence Period was extended to August 19, 2014, pursuant to an option to extend contained in the Purchase Agreement.

An amendment was agreed to by the School District and approved by the City Council on August 11, 2014 to extend the "Due Diligence Period" until December 31, 2014 to allow further investigation and complete the Proceedings Subsequent action to remedy the title issues which exist with respect to the property.

An application has been submitted to the MPCA Voluntary Investigation and Cleanup (VIC) Program in order to secure a No Association Determination and ultimately a No Further Action on the remaining groundwater issue.

During the Due Diligence Period, several meetings with the Minnesota Pollution Control Agency ("MPCA") have been held and considerable document review and investigation has been conducted with respect to the environmental condition of the property. As a result of these activities, it has been determined that:

- a. The property has been the subject of environmental investigation since 1992.
- b. The School District, after finding environmental contamination on the property, applied to the Minnesota Pollution Control Agency ("MPCA") Voluntary Investigation and Clean-Up Program ("VIC Program").

- 37 c. A Response Action Plan (“RAP”) was prepared and implemented. Remediation included
38 removal of contaminated soils to off-site disposal locations and treatment of contaminated
39 snow melt and surface water run-off from stored stockpiles of contaminated soils.
40
41 d. Prior to and following completion of the remediation, groundwater monitoring has been
42 conducted on the property. Results of the most recent groundwater monitoring identified
43 Trichloroethene (“TCE”) and Tetrachloroethylene (“PCE”) concentrations above the
44 Minnesota Department of Health limits in three of the monitoring wells, with downward
45 trending concentrations.
46
47 e. The MPCA recently approved an Affidavit Concerning Real Property Contaminated with
48 Hazardous Substances for the property. The Affidavit indicated that groundwater monitoring
49 is to continue to confirm that the environmental contaminants in the groundwater are stable
50 or diminishing.
51

52 It has been determined that for a period of time there will be an estimated annual cost of \$6,050 for
53 continued well monitoring and reporting to the MPCA. A portion of the Renewal Program budget
54 would be used to continue any annual monitoring and reporting to the extent necessary to improve the
55 grounds to a recreationally usable state. There will also be a cost to abandon the monitoring wells when
56 monitoring is no longer required as well as costs to obtain a No Further Action Determination.
57

58 An examination of the Certificate of Title for the property disclosed several title issues including a
59 reservation of a perpetual right-of-way over the property for ingress and egress. The purpose of the
60 right-of-way and the parties to which the rights accrue are uncertain and ambiguous. Since the property
61 is “Registered or Torrens Property”, a Proceedings Subsequent is necessary to remedy these title issues.
62 The Seller has commenced the Proceedings Subsequent to remedy the title issues that have been raised.
63

64 At this point, we are working toward closing and wanted to provide the City Council with an update on
65 the status. City Attorney Charles Bartholdi, Environmental Specialist Eric Hesse and staff will be at
66 your meeting to provide you with an update.
67

68 POLICY

69 It is the policy of City to protect, improve and expand community natural amenities and environmental
70 quality, to preserve significant natural resources including lakes, ponds, wetlands, open spaces, wooded
71 areas and wildlife habitat as integral aspects of the parks and recreation system.
72

73 FINANCIAL IMPLICATIONS

74 The costs associated with this parcel, including acquisition and monitoring, are proposed to be taken from
75 the \$900,000 budgeted amount identified in the Parks and Recreational Renewal Program Fund.
76

77 STAFF RECOMMENDATION

78 Staff recommends proceeding with the satisfaction of the Purchase Agreement contingencies and to
79 closing.
80

81 REQUEST FOR COUNCIL ACTION

82 Approval of a motion authorizing the: a) City Manager to take the actions necessary, and b) Mayor and
83 City Manager to sign the documents needed to close on the Purchase Agreement.
84

85 Prepared by: Lonnie Brokke, Director of Parks and Recreation

86 Attachments: A. Parcel Location Map

87 B. Aerial Location Map

88 C. Purchase Agreement

89 D. Affidavit Concerning Real Property Contaminated with Hazardous Substances

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- This is a detailed street map of the Hamline area in Lake Josephine, Oregon. The map shows a grid of streets including Woodlynn Ave, Clamar Ave, Brenner Ave, Lydia Ave W, Millwood Ave, and County Road C2 W. A red dot marks the location of 2959 Hamline. The map also features Lake Josephine, Little Lake Josephine, and several parks like Autumn Grove Park and Centennial Park. A north arrow is located in the bottom right corner.

Enter Map Description

NAD_1983_HARN_Adj_MN_Ramsey_Feet
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This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.
THIS MAP IS NOT TO BE USED FOR NAVIGATION

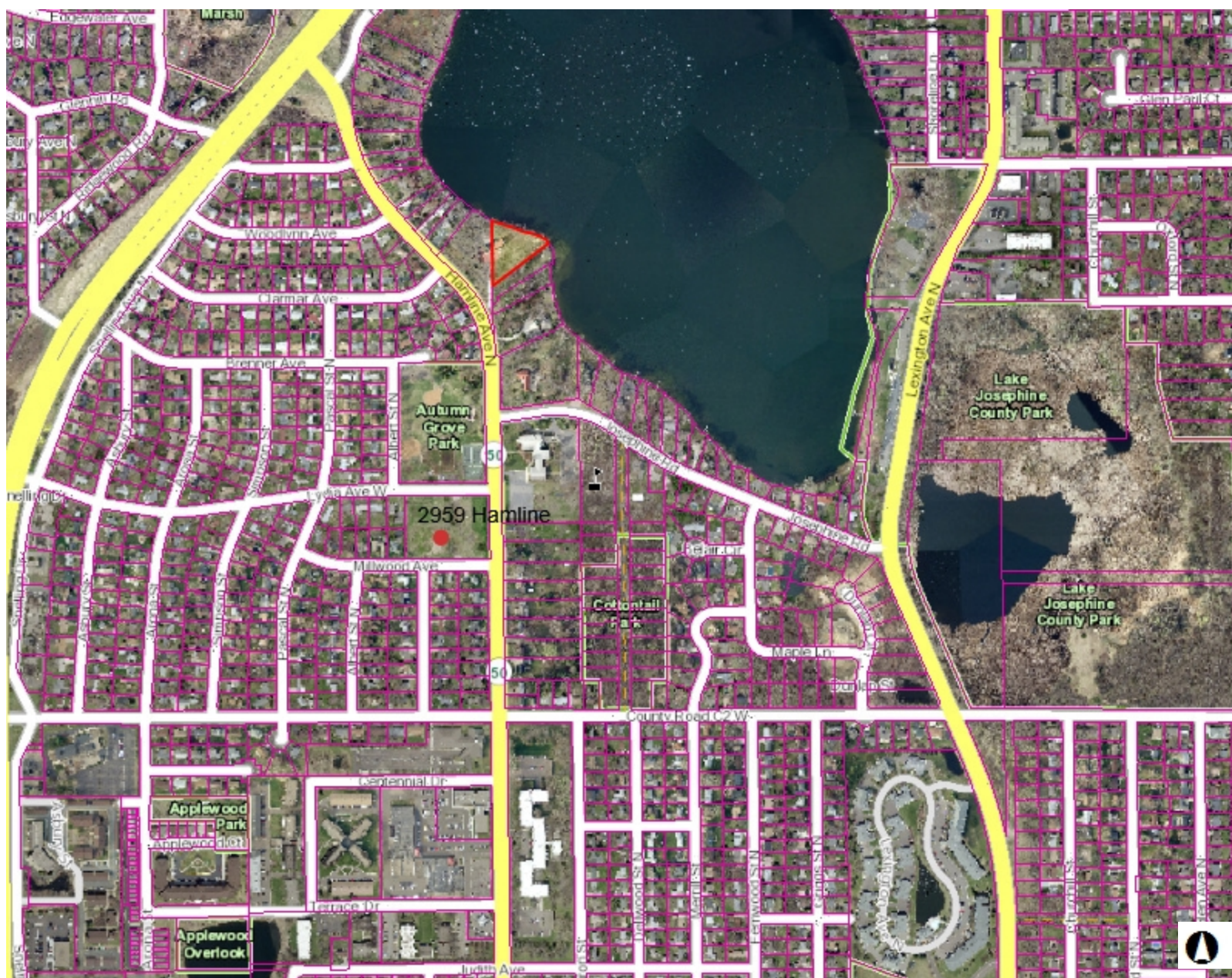
Legend



-  City Halls
-  Schools
-  Hospitals
-  Fire Stations
-  Police Stations
-  Recreational Centers
-  Parcel Points
-  Parcel Boundaries
-  Streets (8K-16K)
-  Interstate
-  US Highway; MN Highway
-  Ramp
-  County Road
-  Municipal Street
-  Service Road
-  Private Road
-  Restricted Access Route
-  A99

Notes

Enter Map Description



1,537.3 0 768.66 1,537.3 Feet

NAD_1983_HARN_Adj_MN_Ramsey_Feet
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PURCHASE AGREEMENT

THIS AGREEMENT is made as of April 21, 2014, between Independent School District Number 621, a Minnesota independent school district ("Seller"), and the City of Roseville, a Minnesota municipal corporation ("Buyer").

In consideration of this Agreement, Seller and Buyer agree as follows:

1. Sale of Property. Seller agrees to sell to Buyer and Buyer agrees to buy from the Seller the following (collectively the "Property"):

The real property located in Ramsey County, Minnesota, legally described on the attached Exhibit A ("Land"), together with all monitoring wells and improvements located thereon and all easements and rights benefitting or appurtenant to the Land.

2. Purchase Price and Manner of Payment. The total purchase price ("Purchase Price") to be paid by Buyer to Seller for the Property shall be FOUR HUNDRED FIFTEEN THOUSAND AND NO/100 DOLLARS (\$415,000.00) which shall be payable as follows:

A. \$5,000.00 as earnest money ("Earnest Money"), which Earnest Money shall be deposited with Land Title, Inc. ("Title Company"), 2200 W. County Road C, Roseville, MN 55113, within three (3) business days following the Effective Date (as defined below) of this Agreement. The Earnest Money shall be applied to the Purchase Price at Closing if the parties close hereunder, or if this Agreement is terminated by either party shall be paid to the party entitled thereto in accordance with the provisions of this Agreement.

B. The balance of the Purchase Price shall be paid by wire transfer of U.S. federal funds upon Closing.

3. Contingencies. The obligations of Buyer under this Agreement are contingent upon each of the following:

A. Inspections and Testing. Buyer shall have determined, on or before the Contingency Date (as defined below), that it is satisfied with the results of all matters disclosed by physical inspections, soil tests, engineering inspections, hazardous waste and environmental reviews of the Property, and all other tests and inspections which Buyer deems necessary.

B. Environmental Assurances. Buyer is able to obtain, on or before the Contingency Date, a No Association Determination, Certificate of Completion and/or such other written assurances and acknowledgments from and/or agreements with the Minnesota Pollution Control Agency and other entities or parties pertaining to the environmental

condition of the Property as Buyer determines is necessary for Buyer to close on this transaction.

- C. Survey. Buyer shall have determined, on or before the Contingency Date, that all matters (including but not limited to the acreage of the Land, the location of any improvements, wetlands and easements, and the location of the property boundaries) shown on the Survey (as defined below) and by boundary markers to be placed on the Land in accordance with Provision 6B below, are satisfactory to the Buyer.
- D. Physical Condition of Property. The Buyer shall have determined, on or before the Contingency Date, that it is satisfied with the physical condition of the Property, and with the zoning, access, drainage, floodplain designation, wetland areas, acreage, dimensions, and all other features and conditions of the Property which Buyer deems necessary for Buyer to purchase the Property.
- E. Legal Description. Buyer shall have determined, on or before the Contingency Date, that it is satisfied with the legal description and rights granted to others set forth in the Certificate of Title for the Property. The Seller agrees to cooperate with the Buyer to make any modifications to the legal description shown in the Certificate of Title which the Title Company, the Ramsey County Examiner of Titles and/or the Buyer deem necessary to clarify the easement and easement rights which are set forth in the legal description shown on the Certificate of Title.

The "Contingency Date" shall be ninety (90) days after the Effective Date of this Agreement. If any of the foregoing contingencies have not been satisfied (which determination shall be within the Buyer's exclusive discretion) on or before the Contingency Date, then this Agreement may be terminated, at Buyer's option, by written notice from Buyer to Seller. Such notice of termination may be given at any time before Closing. Upon such termination the Earnest Money (together with any interest accruing thereon) shall be immediately returned to Buyer, and neither party shall thereafter have any further rights against or obligations to the other hereunder, except as expressly provided otherwise herein. All the contingencies set forth in this Agreement are specifically stated and agreed to be for the sole and exclusive benefit of the Buyer and the Buyer shall have the right to unilaterally waive any contingency by written notice to Seller. Except as otherwise provided in Section 20 below, the costs incurred by the Buyer to determine whether the contingencies have been satisfied shall be paid by the Buyer.

Notwithstanding anything contained herein to the contrary, if one or more of the contingencies set forth in this Provision 3 has not been satisfied by the Contingency Date stated above, the Buyer may extend the Contingency Date for thirty (30) days by delivering to the Title Company an additional \$1,000.00 of Earnest Money and written notice of such extension to Seller on or prior to the original Contingency Date. In the event that the Contingency Date is extended by the Buyer as provided herein, all references in the Purchase Agreement to the Contingency Date shall be that date which is

one hundred twenty (120) days after the Effective Date of this Agreement, rather than ninety (90) days after the Effective Date.

4. Closing. The closing on the purchase and sale of the Property contemplated by this Agreement (the "Closing") shall occur on that date which is ten (10) days after the Contingency Date, or such earlier date to which the Seller and Buyer hereinafter mutually agree. The Closing shall take place at the Title Company or such other location as is mutually agreeable to the parties. The Seller agrees to deliver possession of the Property to the Buyer immediately following the Closing.

A. Seller's Closing Documents. Upon Closing the Seller shall execute and deliver to Buyer the following (collectively the "Seller's Closing Documents"):

- i. Deed. A Warranty Deed, in form satisfactory to Buyer, conveying the Real Property to Buyer, free and clear of all encumbrances, except for the Permitted Encumbrances (as defined below).
- ii. Seller's Affidavit. An Affidavit indicating that on the date of actual Closing there are no outstanding, unsatisfied judgments, tax liens or bankruptcies against or involving Seller or the Property; that there has been no skill, labor or material furnished to the Property for which payment has not been made or for which mechanics' liens could be filed; and that there are no unrecorded contracts, leases, easements, or other agreements or interests relating to the Property, together with whatever standard owner's affidavit and/or indemnity which may be required by the Title Company to issue an Owner's Policy of Title Insurance showing the condition of title required by this Agreement with the standard exceptions waived.
- iii. Non-Foreign Transferor Certificate. A non-foreign certificate, properly executed and in recordable form, containing such information as is required by IRC Section 1445 (b) (2) and its regulations.
- iv. Other Documents. Such other documents reasonably determined by the Title Company or the Buyer to be necessary to transfer the Property to Buyer in compliance with this Agreement or which are to be entered into by, or given to, the parties upon Closing pursuant to the terms and conditions of this Agreement.

B. Buyer's Closing Documents. Upon Closing the Buyer will deliver to the Seller the balance of the Purchase Price by wire transfer of U.S. federal funds.

5. Prorations. Seller and Buyer agree to the following prorations and allocation of costs regarding this Agreement:

A. Title Insurance, Survey and Closing Fee. Seller will pay all costs of providing the Title Commitment designated in Provision 6A below. Buyer will pay all premiums for any Title Insurance Policy required by Buyer. Buyer will pay the cost of any closing fee charged by the Title Company. The Buyer will pay the cost of the Survey

to be obtained by Buyer and boundary markers to be placed upon the Land pursuant to Provision 6B below.

- B. Deed Tax. Seller shall pay all state deed tax and the conservation fee regarding the Warranty Deed to be delivered by Seller under this Agreement.
 - C. Real Estate Taxes and Special Assessments. Seller shall pay, on or before the date of actual Closing, all special assessments outstanding, levied, pending, deferred or otherwise or record against the Property as of the date of actual Closing (including without limitation any installments of special assessments and interest on assessments payable with the general real estate taxes due and payable in the year of Closing and prior years). General real estate taxes due and payable in the year of Closing shall be prorated by Seller and Buyer as of the date of actual Closing based upon a calendar year. Seller shall pay all deferred real estate taxes (including "Green Acres" taxes) or special assessments payment of which is required to be paid as a result of the Closing of this sale.
 - D. Recording Costs. Buyer will pay the cost of recording the Warranty Deed.
 - E. Utility and Operating Costs. All utility and operating costs pertaining to the Property not otherwise provided for herein will be allocated between Seller and Buyer as of the date of actual Closing, so that Seller shall pay that part of such costs attributable to the period before the time of Closing and the Buyer shall pay that part of such costs attributable to the period after the time of Closing.
 - F. Attorney's Fees. Each of the parties will pay their own attorney's fees pertaining to the negotiation, performance and enforcement of this Purchase Agreement.
6. Title Examination. The Title Examination will be conducted as follows:
- A. Sellers Title Evidence. Seller shall, within twenty (20) days after the Effective Date, furnish to Buyer a commitment ("Title Commitment") for an ALTA Owner's Policy of Title Insurance (accompanied by legible copies of all documents described therein and a copy of the Certificate of Title for the Property) issued by the Title Company committing to insure title to the Property in the amount of the Purchase Price, subject only to the exceptions stated therein.
 - B. Survey. Following the delivery of the Title Commitment by the Seller to the Buyer as provided in Provision 6A above, the Buyer shall, if Buyer so elects, have a survey of the Property (the "Survey") prepared showing such matters as the Buyer deems necessary and place boundary markers on the Property. The Survey shall be prepared and the boundary markers placed upon the Property at Buyer's sole expense.
 - C. Buyer's Objections. Within thirty (30) days after receiving the Title Commitment, Buyer will examine the title to the Property and make written objections ("Objections") to the form and/or contents of the Certificate of Title for the Property,

the Title Commitment and/or to any items shown on the Survey. Any matter shown in the Certificate of Title, Title Commitment or on the Survey not objected to by the Buyer within said 30 day period Contingency Date shall be a "Permitted Encumbrance." If Buyer delivers to Seller any Objections, Seller will use Seller's best efforts to cure or satisfy the Objections on or before the Closing Date. If the Objections are not cured on or before the Closing Date, the Buyer will have the option to do the following:

- i. Terminate this Agreement and receive a full refund of the Earnest Money (together with any interest accruing thereon); or
- ii. Waive the Objections and proceed to Closing.

7. Operation Prior to Closing. During the period from the date of Seller's acceptance of this Agreement to the earlier of the date of actual Closing or termination of the Agreement (the "Executory Period"), the Seller shall execute no contracts, easements, leases or other agreements regarding the Property without the prior written consent of Buyer.

Seller will give Buyer written notice of any citation or other notice or communication which Seller receives subsequent to the date the Seller signs this Agreement, from any governmental authority or agency concerning any alleged violation of any law, ordinance, code, rule, regulation or order regulating the Property of the use thereof.

The Seller shall not take any action, or cause to be recorded against the Property, any documents which change the condition of title to the Property from that shown in the Title Commitment without the prior written consent of the Buyer.

8. Representations and Warranties by Seller. The Seller represents and warrants to Buyer as follows (which representations and warranties shall be true and correct as of the date the Seller signs this Agreement and as of the date of actual Closing):
- A. Seller Authority. Seller has the requisite power and authority to enter into, perform and execute this Agreement and the Seller's Closing Documents.
 - B. Unrecorded Documents. To the best of Seller's knowledge there are no unrecorded leases, contracts, easements, agreements or other documents affecting the Property.
 - C. Hazardous Substances. Except as otherwise disclosed in Section 20 below, there are, to the best of Seller's actual knowledge, no Hazardous Substances (as defined in Minn. Stat. § 115B.02), asbestos, urea formaldehyde, polychlorinated biphenyls, radon gas or petroleum products (including gasoline, fuel oil, crude oil and various constituents of such products) which exist on, have been placed or stored on, or have been released from, the Property by any person in violation of any law. For purposes of this Section, "seller's actual knowledge" shall refer to the actual knowledge of John Ward

- D. Mechanic's Lien. To the best of Seller's knowledge there are no unpaid charges, debts, liabilities, claims or obligations arising from the construction, occupancy, ownership, use, environmental remediation or operation of the Property which could give rise to any mechanic's or materialmen's or other statutory liens against any of the Property, or for which Buyer will be responsible.
- E. Storage Tanks. To the best of Seller's knowledge there are no "above ground storage tanks" or "underground tanks" (within the meaning of Minn. Stat. §116.46) located in or on the Property, or have been located, in or on the Property and have subsequently been removed or filled.
- F. Litigation. To the best of Seller's knowledge there is: (i) no actual or pending litigation or administrative proceeding by any organization, person, individual or governmental agency pertaining to the Property, and (ii) no pending or threatened condemnation proceeding that would affect the Property.
- G. Boundary Lines. To the best of Seller's knowledge there are: (i) no disputes pertaining to the location of the boundary lines of the Land, and (ii) no existing encroachments from or onto the Land.
- H. Diseased Trees. Seller has not received any notice from any governmental authority as to the existence of, nor does the Seller have any knowledge of any Dutch elm disease, oak wilt, emerald borer infestation or other disease of any trees or vegetation on the Property.
- I. Wells. Seller does not know of any "Wells" on the described Property within the meaning of Minn. Stat. § 1031, except as have been previously disclosed to the Buyer pursuant to a Well Disclosure Statement, and except for the monitoring wells currently on the Property.
- J. Individual Sewage Treatment Systems. There is no existing or abandoned "individual sewage treatment system" (within the meaning of Minn. Stat. § 115.55) on or serving the Property.
- K. Methamphetamine Production. No Methamphetamine Production has occurred on the Property.
- L. 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).
- M. Relocation Benefits. That the Property was vacant and unoccupied before the initiation of negotiations between the parties for the Buyer's acquisition of the Property and that the Property has been continuously vacant and unoccupied since

that time. The Seller has no right or claim to relocation benefits as a result of this transaction.

Each of the representations and warranties made herein shall survive Closing. Seller will indemnify Buyer and its successors and assigns, against, and will hold Buyer, and its successors and assigns, harmless from, any expenses or damages, including reasonable attorney's fees, that Buyer incurs because of the breach of any of the above representations and warranties.

9. Eminent Domain Proceedings. If, prior to the Closing, eminent domain proceedings are commenced against all or any part of the Property, Seller will immediately give notice to Buyer of such fact, and at Buyer's option (to be exercised within 20 days after Seller's notice), this Agreement will terminate, in which event the Earnest Money (together with any accrued interest thereon) will be refunded to the Buyer and neither party shall thereafter have any rights against or obligations to the other hereunder, except as expressly provided otherwise herein. If Buyer fails to give such notice then there will be no reduction in the Purchase Price, and Seller will assign to Buyer at the Closing all of Seller's right, title and interest in and to any award made or to be made in the eminent domain proceedings. Prior to the Closing, Seller will not designate counsel, appear in, or otherwise take any action with respect to the eminent domain proceedings without Buyer's prior written consent.
10. Broker's Commission. Seller and Buyer represent to each other that they have not dealt with any brokers, real estate agents or the like in connection with this transaction, and that there are no real estate brokers fees or commissions due on this sale. If either party has entered into a written agreement which gives rise to a real estate commission being due, then the party so entering into the written agreement shall be responsible for the payment of any real estate commission or brokers fee arising thereunder. This provision shall survive Closing or if no Closing occurs, the termination of this Agreement.
11. Survival. The warranties, representations, indemnifications and covenants contained in this Agreement shall survive Closing.
12. Notices. Any notice required or permitted to be given by any party upon the other is given in accordance with this Agreement if it is: i) delivered personally upon the Superintendent of the Seller, if such delivery is upon Seller, or delivered personally upon the City Manager, if such delivery is upon Buyer, ii) mailed in a sealed wrapper by United States registered or certified mail, return receipt requested, postage prepaid addressed as designated below; or iii) given to a reputable express courier for overnight delivery to the other party addressed as follows:

If to Seller:

If to Buyer:

City of Roseville
 Roseville City Hall
 2660 Civic Center Drive
 Roseville, MN 55113
 Attn: Patrick Trudgeon

Notices shall be deemed effective on the date of receipt if delivered personally, upon the date of delivery to the reputable express courier if delivered to the courier for overnight delivery, or on the date of deposit in the U.S. Mail, if mailed; provided, however, if notice is given by deposit in the U.S. mails or by delivery to a courier for overnight delivery, the time for response to any notice by the other party shall commence to run one business day after the date of mailing or delivery to the courier. Any party may change its address for the service of notice by giving written notice of such change to the other party, in any of the manners specified above, 10 days prior to the effective date of such change.

13. Defaults and Remedies. In the event of a default on the part of either party under this Agreement which continues for three (3) business days after receipt of written notice from the other party, the following shall apply:
 - A. If the Buyer is the defaulting party the Seller may, as its sole remedy, terminate this Agreement in accordance with Minnesota Statutes §559.21, whereupon the Earnest Money shall be delivered to Seller as liquidated damages.
 - B. If the Seller is the defaulting party, the Buyer may (i) terminate this Agreement whereupon the Earnest Money (together with any interest accruing thereon) shall be returned to Buyer, or (ii) seek specific performance of this Agreement, provided that such action is brought within six (6) months after such right of action arises.

Notwithstanding anything to the contrary contained herein, the parties acknowledge and agree that any liability of the parties to the other under the covenants and indemnification contained in Sections 10 and 14 shall not be limited or affected by the foregoing provisions of this Section.

14. Physical Inspection. Following the signing of this Agreement, the Seller shall allow Buyer access to the Property without charge for the purpose of Buyer's surveying, placing boundary monumentation upon, and testing and examining the Property. The Buyer shall not perform any subsurface exploration of the Property without the Seller's prior consent. Seller's consent shall not be unreasonably withheld. Buyer shall pay all costs and expenses of such surveying, placing of boundary monumentation, examination and testing, and Buyer will, subject to the provisions and limitations of Minn. Stat. Chapter 466, defend and indemnify the Seller from all claims, liens, costs, expenses, and attorneys' fee related to such actions by Buyer. The foregoing indemnification shall survive Closing or if no Closing occurs, the termination of this Agreement.

15. Property Condition Disclosure. The parties acknowledge that, if the Property is residential property, the Seller must provide the Buyer a written disclosure, or Buyer must have received an inspection report, or Buyer and Seller may waive the written disclosure requirements under Minnesota Statutes Sections 513.52-513.60. THE SELLER AND BUYER EXPRESSLY WAIVE THE WRITTEN DISCLOSURE REQUIRED UNDER MINNESOTA STATUTES SECTIONS 513.52 TO 513.60.
16. Airport Zoning Regulations. If airport zoning regulations affect the 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.
17. 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>.
18. Studies and Other Materials. Within twenty (20) days after the Effective Date, the Seller shall provide the Buyer with copies of all soil reports, surveys, engineering studies and reports, environmental studies and reports and other documents that Buyer may request pertaining to the Property, if Seller has such documents in Seller's possession. If the foregoing would work an inconvenience on the Seller, the Seller shall permit the Buyer to examine and make copies of such items during normal business hours, and shall provide facilities for these purposes.
19. Conditions to Closing. The Buyer's obligation to close on this Purchase Agreement is subject to the following conditions precedent:
 - A. The representations and warranties of the Seller contained in this Agreement are true and correct as of the date the Seller signs this Agreement and at the time of Closing.
 - B. The Seller shall have performed and satisfied each of the Seller's obligations under this Agreement.
 - C. The Buyer is able to obtain an Owner's Policy of Title Insurance issued by the Title Company in the full amount of the Purchase Price, subject only to the Permitted Encumbrances, covering title to the Property, showing Buyer as owner of the Property and providing for full coverage over all standard title exceptions.
 - D. There has been no material change in the physical condition of the Property between the date the Buyer signs this Agreement and Closing.

In the event any of the foregoing conditions are not satisfied as of the time of Closing, Buyer will have no obligation to proceed to Closing and, unless Buyer delivers written notice to Seller that Buyer has waived any unsatisfied condition and will proceed to Closing, this Agreement, upon notice from Buyer to Seller will cease and terminate, the

Earnest Money (together with any accrued interest thereon) shall be refunded to Buyer and neither party shall thereafter have any rights against or obligations to the other hereunder, except as expressly provided otherwise herein.

20. VIC Program Obligations. The parties acknowledge that chlorinated volatile organic compounds have been discovered on the Property and that the Seller has enrolled in the Minnesota Pollution Control Agency ("MPCA") Voluntary Investigation and Cleanup ("VIC") program to assist in the remediation of the contamination. The Seller has submitted a Response Action Plan ("RAP") which has been approved by the MPCA. The remediation designated in the RAP has been completed, but there are still concentrations of tetrachloroethane ("PCE") and trichloroethane ("TCE") in the Property which exceed the Minnesota Department of Health's Health Risk Limits. Monitoring wells have been installed on the Property by the Seller and annual reports have been provided to the MPCA describing the TCE and PCE concentration levels. It is anticipated that the MPCA will require the continued maintenance of the monitoring wells and delivery of annual monitoring reports after Closing. Following the execution of this Agreement, the parties intend to meet with the MPCA to discuss the sale of the Property, the requirements of the MPCA pertaining to the environmental contamination, the procurement by the Buyer of a No Association Determination Letter based upon the Buyer's proposed use of the Property and the timing and requirements of the MPCA to issue a No Further Action letter and/or Certificate of Compliance with respect to the contamination. The parties agree to cooperate with one another in scheduling the Joint Meeting so that both parties and their respective consultants and representatives can attend the meeting together. The parties further agree to allocate the following costs associated with the remediation, monitoring and reporting of the environmental contamination between themselves as follows:

A. The Seller shall pay for:

- (i) All MPCA charges attributable to the period before, and all MPCA charges for work, services, communications and meetings initiated or requested by Seller after, the Joint Meeting.
- (ii) The MPCA charges for the Joint Meeting.
- (iii) The maintenance and operation of the monitoring wells and all environmental remediation, reporting and monitoring required by the MPCA prior to Closing.
- (iv) All fees and charges charged by consultants, contractors, engineers, representatives and attorneys retained by the Seller for services provided in connection with the Seller's participation in the VIC program and the environmental remediation, reporting and monitoring required by the MPCA.

B. The Buyer shall pay for:

- (i) All MPCA charges for work, services, communications and meetings initiated or requested by Buyer after the Joint Meeting.
- (ii) The maintenance and operation of the monitoring wells and all environmental remediation, reporting and monitoring required by the MPCA after Closing.
- (iii) All fees and charges charged by consultants, contractors, engineers, representatives and attorneys retained by the Buyer for services provided in connection with the Buyer's participation in the VIC program and the environmental remediation, reporting and monitoring required by the MPCA.
- (iv) All fees and charges charged by consultants, contractors, engineers, representatives and attorneys retained by Buyer for services connected with the determination of whether the contingencies set forth in Section 3 have been satisfied.

The Seller agrees to continue the Seller's participation in the VIC program through the date of Closing and to be responsible for and perform all remediation, reporting and monitoring required by the MPCA prior to Closing. The Buyer agrees to be responsible for and perform all remediation, reporting and monitoring required by the MPCA after Closing and the Buyer shall defend and indemnify the Seller from all such costs or obligations.

This contract is an arm's-length agreement between the parties. The purchase price was bargained on the basis of an "as is, where is" transaction. The Property will be conveyed to Buyer in an "as is, where is" condition with all faults. Seller makes no warranty of condition, merchantability, or suitability or fitness for a particular purpose or for Buyer's intended use of the property for park purposes with respect to the Property. All warranties, except the warranty of title in the closing documents and the representations and warranties set forth in Section 8 above, are disclaimed.

21. Miscellaneous.

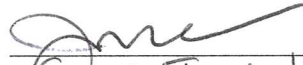
- A. Entire Agreement. This written Agreement constitutes the complete agreement between the parties and supersedes any prior oral or written agreements between the parties regarding the Property.
- B. Controlling Law. This Agreement has been made under the laws of the State of Minnesota, which will control its interpretation.
- C. Binding Effect. This Agreement is binding upon the inures to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns.

- D. Amendments. No amendment to this Agreement will be binding on either of the parties hereto unless such amendment is in writing and is executed by the party against whom enforcement of such amendment is sought.
- E. Time of the Essence. Time is of the essence of this Agreement and each and every term and condition hereof.
- F. Date For Performance. If the time period by which any right, option or election provided under this Agreement must be exercised, or by which any act required hereunder must be performed, or by which the Closing must be held, expires on a Saturday, Sunday or legal or bank holiday, then such time period will be automatically extended through the close of business on the next regularly scheduled business day.
- G. Effective Date. The "Effective Date," as that term is used in this Agreement, shall be that date on which the party who signs this Agreement last, signs this Agreement.
- H. Negotiation. This Agreement and every provision of this Agreement is the result of negotiation by and between the respective parties hereto, and it is agreed that in the event any litigation arises with respect hereto, a strict construction of the terms of this Agreement shall not be applied against any of the parties hereto because of the fact that it drafted or prepared this Agreement.
- I. Counterparts. This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original, but all of which, when taken together, constitute the same instrument.

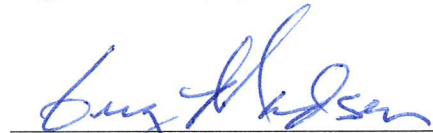
Seller and Buyer have executed this Agreement as of the date first written above.

SELLER:

Independent School District Number 621, a
Minnesota independent school district



Jon M. Tynjala, School Board Chair



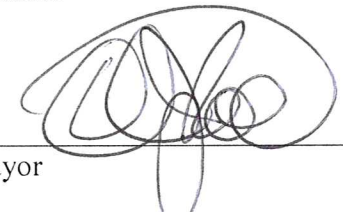
Greg Madsen, School Board Clerk

Date of Execution by Seller

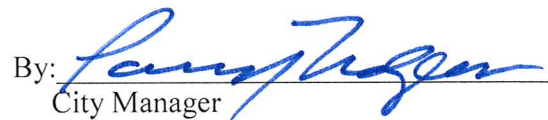
April 8, 2014

BUYER:

City of Roseville, a Minnesota municipal
corporation

By: 

Mayor

By: 

City Manager

Date of Execution by Buyer

April 21, 2014

Exhibit A

LAND

The North 326 feet of the South 1143 feet of the East 476 feet of the Northwest Quarter of Section 3, Township 29 North, Range 23 West, Ramsey County, Minnesota.

- Former presence of a printing facility on-site and unknown use of the site prior to the 1950s;
- Documentation of volatile organic compounds (VOC)-impacted groundwater;
- Use of the western portion of the on-site structure as a maintenance shop;
- Former presence of a leaking underground storage tank (UST) containing fuel oil; and
- Historical use of an on-site septic system

Golder Associates, Inc. (Golder) notes that subsequent investigation of school district materials has revealed that between 1945 and 1970, prior to the ownership by the Catholic Digest, the Property was owned by the Otto Ashbach Construction Company.

4. In November 2005, the Mounds View School District applied to the Minnesota Pollution Control Agency (MPCA) Voluntary Investigation and Cleanup (VIC) program for technical assistance with further investigation of the Property. The Property/site is assigned: District Service Center site, VIC Site No. VP21420.

5. Property investigations have been conducted from 1992 to present. Activities are summarized below.

UST Removal, Monitoring and Sampling (1992)

Water Well Sampling (1993)

Soil and Groundwater Sampling (Foth & Van Dyke, 1997)

Phase I Environmental Site Assessment (Braun, 2004)

Phase II Environmental Site Assessment (Braun, February 2005)

Supplemental Phase II Environmental Site Assessment (Braun, September 2005)

Second Supplemental Phase II Investigation (Golder, 2006)

Push Probe Investigation and Groundwater Analysis (Golder, 2007)

Multiple Response Action Plans, Revisions, Amendments and Alternatives (Golder, 2006-2008)

Development Response Action Plan and Addenda (Short, Elliott Hendrickson, Inc. or SEH, 2009-2010)

Response Action Implementation Report (SEH, 2011)

Approximately 870 cubic yards of Volatile Organic Compound (VOC) impacted soil was excavated and hauled to the Veolia ES Rolling Hills Landfill in Buffalo, MN and approximately 2,800 gallons of excavation dewater or wastewater was disposed off-site by Mountain Environmental, Inc.

Annual Monitoring Reports (Golder and SEH, 2007 -2014)

Groundwater monitoring indicates Tetrachloroethylene (PCE) and Trichloroethene (TCE) remain on the Property at monitoring wells MW-2, MW-3 and MW-4 above Health Risk Limits (HRLs) and the Health Based Values (HBVs) established by the Minnesota Department of Health (MDH) with downward trending concentrations.

6. Groundwater monitoring continues as a response action for the Property to confirm contaminant plume as stable or diminishing. Groundwater and soil vapor contamination remains on the

Property and is a risk management issue. Monitoring wells MW-2, MW-3 and MW-4 continue to show detected concentrations of PCE and TCE above the MDH HRLs and HBVs in groundwater at the Property. The monitoring well locations on the Property which remain for use in further monitoring in conjunction with the MPCA VIC Program are depicted on the attached Exhibit.

Soil gas contaminants including PCE and TCE which were detected in the southwestern quadrant of the Property at concentrations in excess of the MPCA's screening criteria of ten times (10X) the Intrusion Screening Values (ISVs). The Property locations where soil gas survey results were completed are presented on the attached Exhibit.

7. Any person who is planning any use or activity that will disturb the groundwater, or soil two feet below the ground surface, or develop enclosed structures on the Property should contact the Minnesota Pollution Control Agency prior to commencement of the planned activities.

8. The response actions at the Property were approved by the MPCA based on the proposed use and maintenance of the Property as recreational/park land without any enclosed indoor areas. If the Property use is changed, the change could associate the Property owner with the release or threatened release of hazardous substances or pollutants or contaminants and could result in the requirement for performance of further response actions at the Property.

Mounds View School District

By _____ (signature)
<Name of affiant>

_____ (print)
<Name of affiant>

<Title>

<Company>

ACKNOWLEDGMENT

STATE OF _____

COUNTY OF _____

On this _____ day of _____, _____, before me a notary public within and for said County and State, personally appeared _____ and _____ to me personally known, who, being duly sworn by me on oath, did say that he/she/they is/are the person(s) who signed the foregoing instrument and acknowledged that he/she/they signed the same as free act and deed for the uses and purposes therein set forth.

(signature)
Notary Public, _____ County,



3535 VADNAIS CENTER DR.
ST. PAUL, MN 55110
PHONE: (651) 490-2000
FAX: (651) 490-2150
WATTS: 800-325-2055
www.sehinc.com

Project: ISDMV 108712
Print Date: 7/8/2014

Map by: SH
Projection: Ramsey County NAD83
Source: Ramsey County, MndOT,
MnGEO 2010 Aerials, SEH Inc.

Mounds View School District
Former Service Center
Roseville, Minnesota