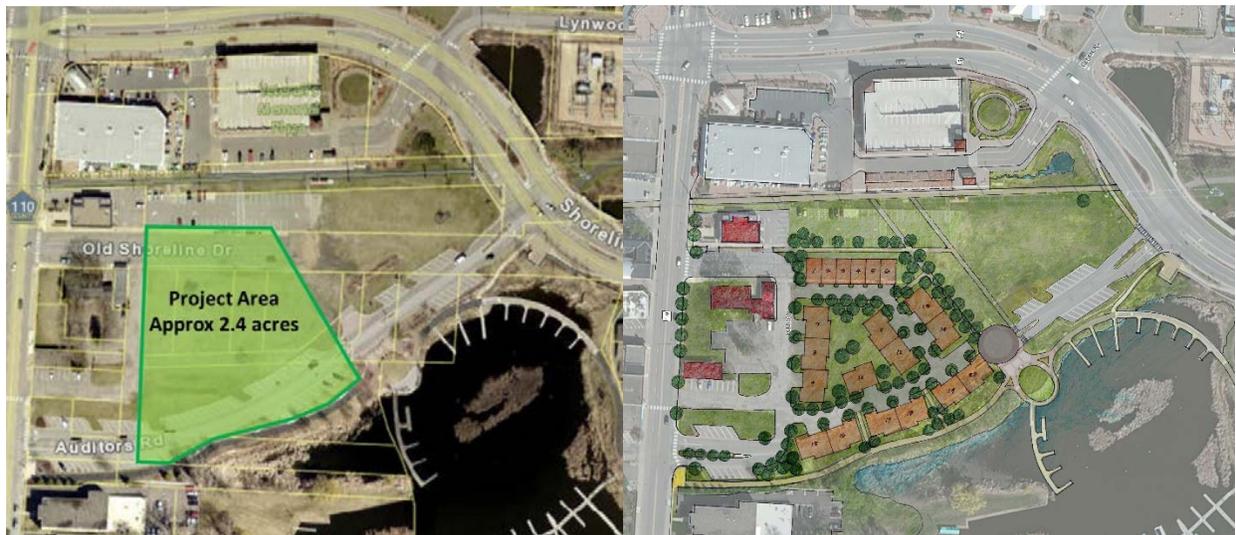


**REQUEST FOR QUALIFICATION AND INTEREST IN A RESIDENTIAL
DEVELOPMENT IN THE
MOUND HARBOR DISTRICT
MOUND, MN**



SUBMITTAL DUE DATE:

Wednesday, January 29, 2020 at 4:00 pm

REQUEST FOR QUALIFICATIONS AND INTEREST Mound Harbor District Residential Development

Overview

The City of Mound is requesting statements of qualification and interest in the development of a medium density, multi-family, luxury residential housing project to be located on approximately 2.4 acres in the heart of downtown Mound, MN. The City will extend the eventual project home owners first right of use for one of 20 total overnight docks on Lost Lake reserved for pairing to this project - subject to fees established annually by the City.

The City is seeking established housing developers that have the ability to perform the following:

1. Provide a competitive price for the land.
2. Maximize market value of the completed lake-homes development.
3. Preserve/improve circulation and surrounding public functions in the area.
4. Agree to terms of Purchase and Development Agreement.
5. Independently finance all improvements and development costs.
6. Minimize timeline for completion of Project.

The intent of the City is to review proposals from interested parties to determine a mutual interest in sale and development of the subject property. The anticipated timeline for submission, review, selection, and subsequent actions supporting final conveyance are defined on page 4 of this document. It is understood that as part of this RFQ-I that the City has no obligation to select any candidate and that the City and the selected candidate retain the right to terminate their interest prior to the signing of the Purchase and Development Agreement.

If any applicant desires more information on the physical aspects of the property and/or desires a walkthrough with City Staff, please contact the City Manager Eric Hoversten at 952.472.0609 or via email at erichoversten@cityofmound.com. Applicants intending to respond to this RFQ are encouraged to give their contact information to the City immediately so that additional information, if any, can be shared with all interested applicants.

Statement of Qualification Due Date and Time

In order to be considered, one (1) electronic version, one (1) unbound and seven (7) bound copies of the statement of qualification and interest must be received by the City Manager by 4:00 p.m., Wednesday, January 29, 2020. Submittals should be made to:

City of Mound
Attn: City Manager
2415 Wilshire Boulevard
Mound, MN 55364

Project Goals

The City of Mound has made significant investments in preparing this property for redevelopment, including property acquisition costs, re-platting/title work, demolition costs, dredging Lost Lake and investment in the greenway, pier and dock amenities. Due to the amount of debt incurred by the City to prepare the property for redevelopment and need to levy ad valorem taxes to support it, no TIF or other financial incentives are contemplated for this project. The following goals should serve as a starting point for any potential developer:

1. Medium density (min 7un/ac), high-end homes to increase tax base while balancing final density with overall total tax improvement across the area.
2. Receive a competitive price for the land
3. Provide for continued or improved public enjoyment and aesthetic of the adjacent Harbor District spaces that will remain public and publicly-accessible.
4. While the City has contemplated multi-family townhome units similar to the concept provided for in this packet, all formats will be considered and evaluated based on goals stated here in and criteria provided below.
5. City has contemplated designs that include 3 bedrooms, 2.5 baths with an owner's suite on the main living level and additional living and bedrooms up or down, 2-3 car enclosed parking; comparable to the Villas on Lost Lake, 5485 Lost Lake Court, Mound.
6. The City has contemplated residential-only development within the project area.
7. The City prefers initial owner-occupancy for homes/units.
8. City will provide a maximum of one overnight dock space per residential unit not to exceed 20 total docks in the adjacent harbor multi-slip complexes.
9. The City desires a 36 - 40-month maximum construction timeline for the development activities described here in.

Selection Process Factors

Since the request is for qualification and interest to enter into an agreement for real estate, the City will not have any formal scoring system. The judgment of the City will center on the following factors:

1. Ability to maximize quality and corresponding future market- and tax-values.
2. Ability to provide a competitive price for City land required for the proposed project.
3. Preservation/improvement of circulation and functions in the area
4. Ability to complement the stylistic features and amenities of other downtown features.
5. Concurrence with proposed Purchase and Development Agreement Language
6. Demonstrated experience completing developments similar to as proposed
7. Ability to independently finance all improvements and development costs.
8. Ability to complete the development in a timely manner.
9. Consideration of other project goals stated above

Preliminary Site Soil Investigations

The City of Mound has undertaken preliminary soils investigations and an environmental investigation of the identified parcel to determine the general conditions present. These documents are intended to convey the general characteristics of the land for purposes related to developing proposals in response to this solicitation and are provided as information only. The reports from these investigations will be made available to interested parties upon request once they are finalized by the testing lab in early December.

Narrative and Information Requirements

Applicants should submit a narrative, and any applicable background information, for the following items:

1. **Developer Information** - Describe your overall organization, e.g. size of company, assets held, number of previous developments, include location, size and type of homes. It is expected that the respondents submitting a response to this RFQ will remain or be the principal owner and/or controlling interest of the business entity to be formed and organized to execute the development; or describe specific ownership if to be held differently. Proposal should include a full listing of anticipated partners including the proposed Land Developer, Architect, and Builder.
2. **Proposed Development** - Provide site plan showing arrangement of estimated number of units, architectural concept plans of the unit types, lot size, floor plans and a list of features (enclosed garage spaces, main level master suite, finishes, etc.) with estimated market value of the project and each size/type of unit proposed.
3. **Sources and Uses** – Provide a preliminary sources and uses for financing the proposed development. (Refer to attachment D for confidentiality statement)
4. **Conditional Offer and Terms of Purchase** - Submit a proposal regarding the purchase price and any terms and conditions different from the attached DRAFT Purchase and Development Agreement including surety amount offered for home construction completion (refer to P&DA para 21).
5. **Proposed Project Phasing**
6. **Consent for Release of Response Data**
7. **Professional References:** minimum of 3; at least one lender and one from a City
8. Developers should provide a pricing and brokerage strategy if commercial spaces/pad sites are included in the proposal.
9. The Developer must demonstrate site control over any non-City lands included in the full scope of the submitted proposal if the proposal extends outside of the approx. 2.4-acre proposed project area.

Interview Process

The Development Committee of the City Council, City Manager, Director of Planning and Development, and Director of Finance and Administration will review all packages and determine finalists for interview with the full Council. It is anticipated that the final interviews will be held at the regular meeting of the City Council on February 11, 2020. As stated before, the City retains the right to terminate this process until the time of signing of a Purchase and Development Agreement, with no recourse for time and/or materials spent in responding to this RFQ.

Selection Milestones:

RFQ/I release	Monday, December 2, 2019
Responses due back to City	4:00 pm, Wednesday January 29, 2020
First review	February 3 – 6 (By Development Committee and Staff)
Council interviews	7:00 pm, Tuesday, February 11, 2020
Final developer selection	7:00 pm, Tuesday, February 25, 2020
Council approve of P&DA	February 25, 2020
----- P&DA Executed-----	

The above dates are subject to change at the sole discretion of the City. Following a determination of a preferred developer by the City Council, Staff will finalize the terms of the purchase with the selected developer. Upon execution of the Purchase and Development Agreement, the developer would begin the land use, planning and zoning entitlements approval processes that are required of all development projects, including: a neighborhood meeting, concept plan review, plan submittals, Planning Commission and City Council approvals, re-platting the project parcel, etc.

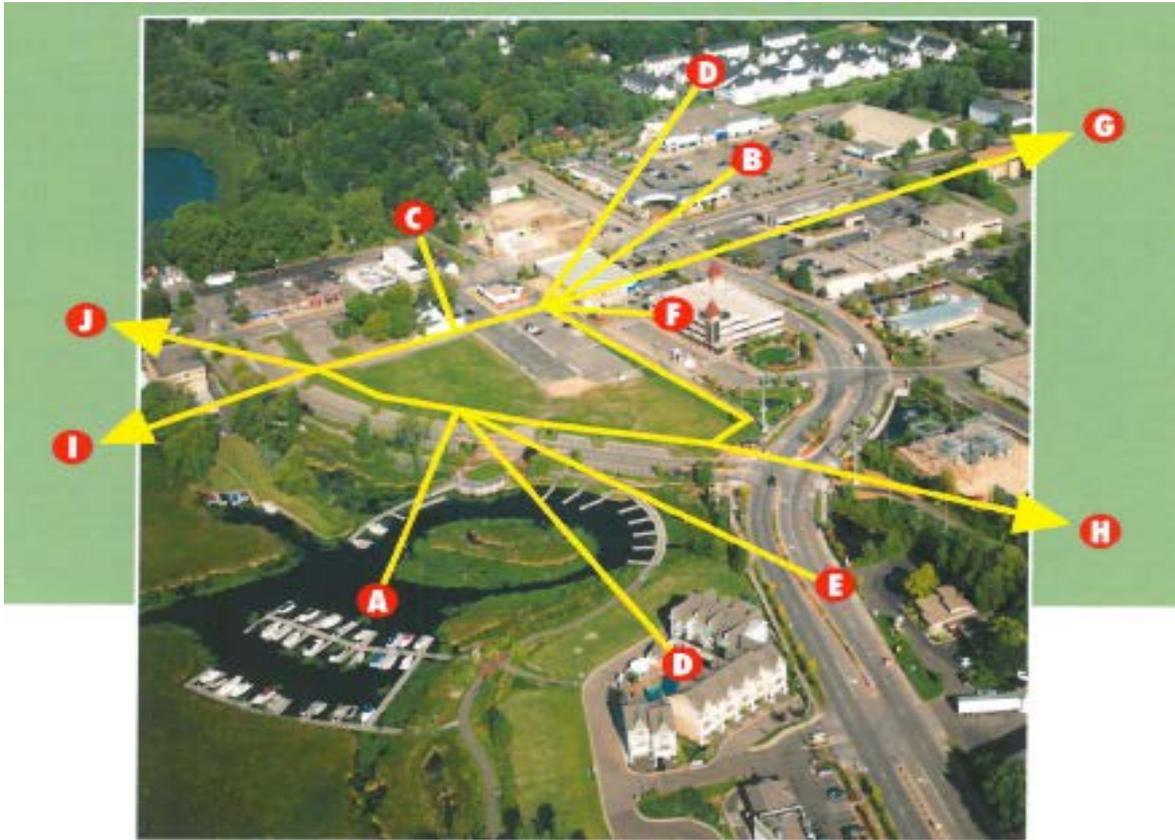
Assuming submission of Developer entitlement applications March 6, 2020:	
Earliest Planning Commission review of Developer entitlement applications	April 7, 2020
Earliest Council consideration of Developer entitlement applications	May 12, 2020
Earliest Council approval of Developer Outlot A final plat,	May 26, 2020
Earliest Council approval of Development Agreement	May 26, 2020
Earliest Closing	June 2020

Attachments:

- Attachment A – Pictures and Description of Area Amenities
- Attachment B – Slip Complex Diagrams
- Attachment C – Proposed Purchase and Development Agreement Language
- Attachment D – Consent for Release of Response Data
- Attachment E – 2019 ALTA Survey/Preliminary Plat

Attachment A - Pictures

The Site and Area Amenities



A Harbor/Lake Minnetonka
Prime real estate situated on the Lost Lake Greenway and Pier.

B Vibrant "Walkable" Downtown
New greenways and trails invite everyone to get out and walk.

C The Dakota Rail Regional Trail
The 44-mile recreational trail runs through downtown Mound.

D 9,000+ and Growing
The City boasts a population of over 9,000 residents and growing.

E Minutes from the Metro Area
The estimated commute time to downtown Minneapolis is 25-30 minutes.

F Regional Transit Center
Convenient public transit is available.

G "Best in State" Schools
Our schools earned top state test scores 12 years running.

H Golf, Golf & Golf
Some of the best in the western metro is just down the road.

I "Three Rivers Parks" Abound
Choose from bike trails, beaches, dog parks, fishing, boating, and camping.

J Regional Hospital Just Next Door
Ridgeview Hospital offers top quality care.

Lost Lake Greenway and Pier



Dakota Trail



Concept Drawing of Townhome Development



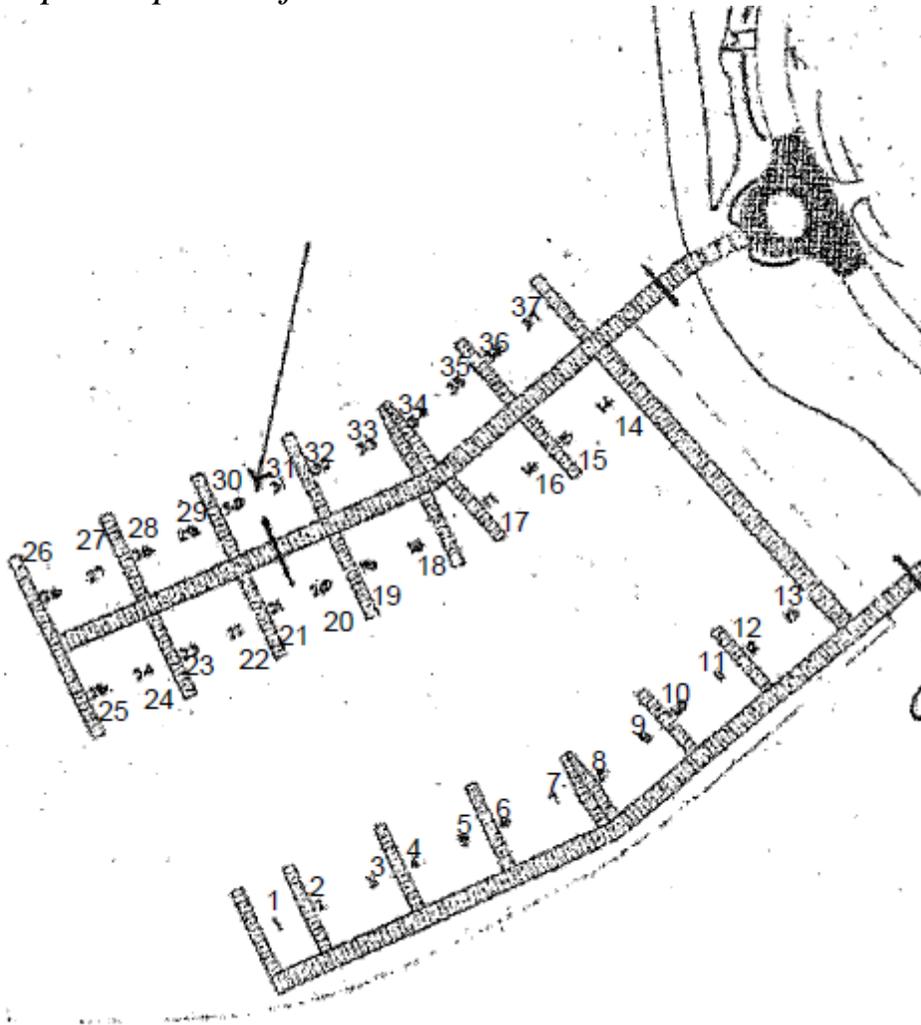
Ariel View of Lost Lake Channel and Cooks Bay on Lake Minnetonka



Attachment B - Slip Complex Diagrams

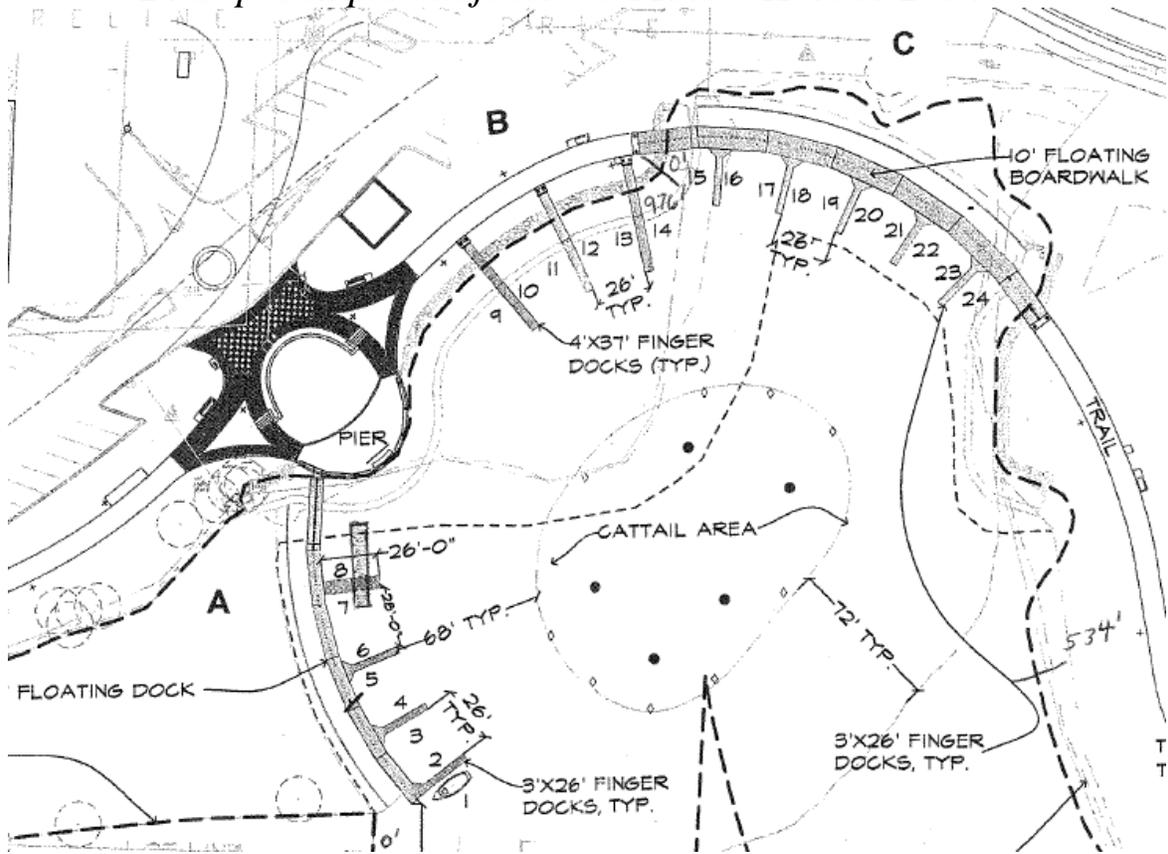
Project to benefit from first right-of-use to 20 dock complex slips within existing city dock complexes. 10 from adjacent to the Villas on Lost Lake and 10 from the Mound Harbor District as shown below:

37 Slip Complex Adjacent to Villas on Lost Lake Townhomes



Slips 1 - 7 and 18 - 37 reserved for Villas on Lost Lake Townhomes (27)
Slips 8 - 13 and 14 - 17 reserved for Harbor District Development (10)

24 Slip Complex adjacent to Mound Harbor District



Slips 1 - 14 Remain transient slips/day use only (14)

Slips 15 - 24 Converted to overnight use reserved for Harbor District Development (10)

Attachment C – Draft Purchase and Development Agreement

PURCHASE AND DEVELOPMENT AGREEMENT

This Purchase and Development Agreement is made as of _____, (the “Agreement”), between the CITY OF MOUND, MINNESOTA, a statutory city and political subdivision of the State of Minnesota, having its office located at 2415 Wilshire Boulevard, Mound, Minnesota 55364 (the “Seller”), and _____, a Minnesota limited liability company, having its principal office at _____, or its assigns (the “Buyer”). The “Effective Date” of this Agreement shall be the later date on which both the Seller and the Buyer have executed this Agreement, as shown by the dates next to their signature blocks.

1. **Sale of Real Property.** The Buyer offers to purchase and the Seller agrees to sell real property in Hennepin County, Minnesota, legally described in EXHIBIT A attached hereto (the “Property”).
2. **Purchase Price.** The price for the Property is \$_____ (the “Purchase Price”). The Purchase Price shall be paid as follows:
 - 2.1 **Earnest Money.** Twenty Thousand and no/100 Dollars (\$20,000) as earnest money (“Earnest Money”) which Earnest Money shall be delivered and held by _____ (“Escrow Agent”) in an interest bearing escrow account, pursuant to the Escrow Agreement attached hereto as EXHIBIT B, provided, however, that the fee for any such account shall be paid by the Buyer. The Earnest Money shall be deposited within three (3) business days after the Effective Date. Unless otherwise disbursed pursuant to the Escrow Agreement, the Earnest Money and all interest accrued thereon shall be paid to the Seller at Closing and credited towards the Purchase Price.
 - 2.2 **Closing Payment.** Subject to adjustments provided for herein, _____ in cash or by wire transfer of U.S. Federal Funds to be received by the Seller on or before 1:00 p.m. local time on the Closing Date.
3. **Payment of Purchase Price.** The Buyer shall pay the Purchase Price as follows: (a) nonrefundable earnest money of \$20,000 by check (the “Earnest Money”), receipt of which is hereby acknowledged by the Seller; and (b) the balance of the Purchase Price must be paid by certified check or wire transfer on the Closing Date. The “Closing Date” shall be no later than thirty (30) days following the date of the final plat approval.

4A. Buyer's Contingencies.

- 4.1 Performance of the Seller's Obligations. The Seller shall have performed all of the obligations required to be performed by the Seller under this Agreement, as and when required by this Agreement.
- 4.2 Title. Title shall have been found acceptable by the Buyer or made acceptable in accordance with the requirements and terms of Section 10 below.
- 4.3 Environmental Investigations. The Buyer is solely responsible for compliance with any and all environmental regulations and shall evaluate the suitability of the preliminary environmental investigations conducted by the City in preparation for property conveyance for usability during the development phases of the project. The Buyer will accomplish any additional investigation required for the project at Buyer's expense.
- 4.4 Feasibility Period. Following the Effective Date of this Agreement, the Buyer may enter the Property to conduct, at its expense, engineering studies on the Property, including but not limited to wetland, soil, and environmental assessments. No later than two hundred ten (210) days after the Effective Date, the Buyer shall have determined, in its absolute sole discretion, that it is satisfied with the results of and matters disclosed by any soil tests, engineering inspections, hazardous waste, environmental reviews of the Property, and that the Property is suitable for the Buyer's intended use.
- 4.5 Utilities. The Buyer shall have determined that the Property's access, utility services (including sanitary sewer, storm sewer, water, natural gas, electricity, cable and telephone services) are sufficient for the Buyer's intended use of the Property.
- 4.6 No Adverse Action. There shall not exist on the Closing Date any lawsuit, governmental investigation or other proceeding challenging the transaction contemplated in this Purchase Agreement, or which might adversely affect the right of the Buyer to own, develop, or use the Property after the Closing Date for the Buyer's intended use.
- 4.7 Governmental Approval. The Buyer shall have obtained, reviewed, or completed the following items to the Buyer's sole satisfaction within 210 days from the Effective Date of this Agreement: (A) condition of title and an ALTA survey; (B) land use applications; (C) preliminary plat application; (D) final plat application; (E) land use approvals; (F) preliminary plat approval; (G) Development Agreement with the Seller as described in Paragraph 20; (H) Approvals as required by the County, the watershed district, or any other regulating body; and (I) final plat approval (collectively, the "Governmental Approvals"). The Seller shall without charge to the Buyer cooperate in the Buyer's attempts to obtain all such Governmental Approvals.
- 4.8 Access/Easements/Vacation of Roadways. The Seller shall have completed the vacation of certain roadways and easements on and surrounding the Property and created roadway access rights to the Property for the Buyer's intended use.
- 4.9 Boat Slip Priority. The Seller will have amended its City Code of Ordinances to provide for the Townhome Association having exclusive access for up to 20 boat slips each year for a maximum of one slip per residential unit (as further described in Section 19.7 below and set forth in EXHIBIT F).

4.10 Platting. Seller shall have completed platting of the Property and the Plat shall be fully executed and recorded or ready to record at or before the Closing Date.

4B. Termination by Buyer. If any of the foregoing contingencies set forth in Section 4A hereof have not been satisfied, in the Buyer's sole discretion, on or before the stated date then this Agreement may be terminated, at the Buyer's option, by written notice from the Buyer to the Seller; provided, however, the Buyer may only terminate this Agreement as a consequence of its dissatisfaction with the physical condition of the Property if the Buyer has performed reasonable and customary investigation or due diligence with respect to the physical attributes of the Property that the Buyer finds unsatisfactory. Such notice of termination shall be given no later than three (3) business days after the stated date for the relevant contingency item, provided, however, that said notice shall be given prior to the Closing Date. If the Buyer fails to give notice of termination as provided above, the contingencies are automatically deemed waived. The Buyer may also waive any contingency by written notice to the Seller but such written notice is not required for a waiver to be effective. Upon a termination by the Buyer (a) the Buyer and the Seller shall execute a recordable written termination of this Agreement, which shall include the Buyer's quit claim of any interest in and to the Property, (b) the Earnest Money and any interest accrued thereon shall be released to the Buyer, and (c) upon fulfillment of (a) and (b) above neither party will have any further rights or obligations regarding this Agreement or the Property except for the rights and obligations of indemnification set forth in Sections 6, 17, 22, and 23 hereof.

5. **[Intentionally Omitted.]**

6. **Buyer's Access, Investigation, and Security.** The Seller shall allow the Buyer, and the Buyer's agents, access to the Property without charge and at all reasonable times for the purpose of the Buyer's investigation and testing the same. The Buyer shall pay all costs and expenses of such investigation and testing and shall indemnify and hold the Seller and the Property harmless from all costs and liabilities relating to the Buyer's activities. The Buyer shall further promptly repair and restore any damage to the Property caused by or occurring during the Buyer's testing and return the Property to substantially the same condition as existed prior to such entry.

7. **The Seller's Closing Documents.** On the Closing Date, the Seller shall execute and/or deliver to the Buyer the following (collectively, "the Seller's Closing Documents"):

7.1 Deed. A Warranty Deed, substantially in the form attached hereto as EXHIBIT C, in recordable form reasonably satisfactory to the Buyer, conveying the Property to the Buyer, free and clear of all encumbrances, except the Permitted Encumbrances.

7.2 Title Policy. The Policy described in Section 10 hereof, or a suitably marked up Title Commitment for the Policy initialed by Title Company (hereinafter defined), in the form required by this Agreement.

7.3 Affidavits. Such Affidavits of the Seller as may be reasonably required by Title Company to issue the Policy.

7.4 IRS Reporting Form. The appropriate Federal Income Tax reporting form, if any, as required.

7.5 Development Agreement. The Development Agreement described in Section 20.

- 7.6 Declaration Regarding Boat Slips. The Declaration Regarding Boat Slips described in Section 19.10.
- 7.7 FIRPTA Affidavit. A non-foreign affidavit, in commercially acceptable form (if not applicable to this the Seller, then the Seller agrees to comply with all withholding requirements of the Internal Revenue Service related thereto);
- 7.8 A Bring-Down Certificate. A bring-down certificate confirming the truth and accuracy of those representations made by the Seller in Paragraph 17 of this Agreement; and
- 7.9 Other Documents. All other documents reasonably determined by the Buyer to be necessary to transfer the Property to the Buyer free and clear of all encumbrances, except the Permitted Encumbrances.
- 8. Buyer's Closing Documents.** On the Closing Date, the Buyer will execute and/or deliver to the Seller the following (collectively, "Buyer's Closing Documents"):
- 8.1 Purchase Price. The Purchase Price, by wire transfer of U.S. Federal Funds or by certified check to be received in Title Company's trust account or delivered to the Seller on or before 1:00 p.m. local time on the Closing Date.
- 8.2 Title Documents. Such Affidavits of Purchaser, Certificates of Value or other documents as may be reasonably required by Title Company in order to record the Seller's Closing Documents and issue the Policy.
- 8.3 Development Agreement. The Development Agreement described in Section 20.
- 8.4 Other Documents. All other documents reasonably determined by the Seller to be necessary to consummate the transaction contemplated hereby in a manner consistent with the terms and conditions hereof.
- 9. Prorations.** The Seller and the Buyer agree to the following prorations and allocation of costs regarding this Agreement:
- 9.1 Title Insurance and Closing Fee. The Seller will pay all costs of the Title Commitment described in Section 10 of this Agreement and the fees charged by Title Company for any escrow required regarding the Buyer's Objections. The Buyer will pay the premium or cost of the Owner's Title Policy and all additional premiums required for the issuance of any Mortgagee's Title Insurance Policy required by the Buyer. The Seller and the Buyer will each pay one-half of any reasonable and customary closing fee or charges imposed by any closing agent designated by Title Company.
- 9.2 Deed Tax. The Seller shall pay all state deed tax regarding the Warranty Deed to be delivered by the Seller under this Agreement.
- 9.3 Real Estate Taxes and Special Assessments. On the Closing Date, the Purchase Price shall be adjusted as follows:
- 9.3.1 Current Year's Taxes. All property taxes and green acres taxes which have become a lien on the Property (the "Taxes") and which are due and payable prior to the year in which the Closing Date occurs shall be paid by the Seller at or prior

to the Closing Date. All Taxes which are due and payable in the year in which the Closing Date occurs shall be prorated to the Closing Date and the Seller's portion shall be paid by the Seller on the Closing Date. This proration shall result in the Seller's payment of Taxes from January 1 to the date immediately prior to the Closing Date and the Buyer's payment of Taxes from the Closing Date to December 31.

9.3.2 Assessments. All charges for improvements or services already made to or which benefit the Property, and all levied and pending assessments (general or special) created or confirmed prior to the Closing Date (the "Assessments") shall be paid in full by the Seller on the Closing Date. All assessments (general or special) which levied as of the Closing Date or which become levied after the Closing Date shall be assumed and paid by the Buyer.

9.4 Recording Costs. The Seller will pay the cost of recording all documents necessary to place record title in the condition warranted by the Seller and requested by the Buyer in this Agreement. The Buyer will pay the cost of recording all other documents, including the cost of recording the final plat.

9.5 Other Costs. All other operating costs of the Property will be allocated between the Seller and the Buyer as of the Closing Date, so that the Seller pays that part of such other operating costs payable before the Closing Date, and the Buyer pays that part of such operating costs payable from and after the Closing Date.

9.6 Attorney's Fees. Each of the parties will pay its own attorney's fees, except that a party defaulting under this Agreement or any closing document will pay the reasonable attorneys' fees and costs incurred by the non-defaulting party to enforce its rights regarding such default.

10. Title Examination. Title examination will be conducted as follows:

10.1 Seller's Title Evidence. The Seller shall, no later than 30 days after the Effective Date furnish to the Buyer, at the Seller's cost and expense, the following: a commitment (the "Title Commitment") for the most current ALTA Form B Owner's Policy of Title Insurance insuring title to the Property in the amount of the Purchase Price, issued by _____ (the "Title Company"). The Title Commitment will commit Title Company to insure title to the Property subject only to the Permitted Encumbrances. The Buyer is responsible for purchasing an Owner's Policy of Title Insurance.

10.2 Survey. No later than 60 days after its receipt of the Title Commitment, the Seller shall obtain at its own expense an ALTA/ASCM as built survey (the "Survey") prepared by a Registered Land Surveyor properly licensed to practice in the State of Minnesota in form acceptable to the Buyer (the "Survey"). The Seller shall provide a copy of the Survey to the Buyer within three days of receipt.

10.3 Buyer's Objections. Within 10 business days after receiving the later of the Title Commitment and the Survey, the Buyer shall make written objections (the "Objections") to the form and/or contents of the Title Commitment and the Survey if the Buyer has obtained one within the time set forth in Section 10.2 hereof. The Buyer's failure to make Objections within such time period will constitute a waiver of Objections. Any

matter shown on the Title Commitment and/or Survey and not objected to by the Buyer shall be a "Permitted Encumbrance" pursuant to this Agreement. The Seller will have 60 days after receipt of the Objections to cure the Objections, during which period the Closing will be postponed if necessary. The Seller shall use its best efforts to correct any Objections. To the extent that the Objections are not cured within such 60-day period, the Buyer will have the option to terminate this Agreement and receive a refund of the Earnest Money, or waive the Objections and proceed to Closing.

11. **Closing.** The closing of the purchase and sale contemplated by this Agreement (the "Closing") shall occur on the Closing Date. The Closing shall take place at the offices of the Title Company, or at such other place as may be agreed to. The Seller agrees to deliver possession of the Property to the Buyer on the Closing Date.
12. **Property.** The Seller, in advance of or as part of the land use and preliminary plat application process will vacate roads and easements on and surrounding the Property as required for the Buyer to undertake the Minimum Improvements.
13. **Well Disclosure.** The Seller's knowledge of wells is as follows:
 - The Seller certifies that the Seller does not know of any wells on the described real property.
 - A well disclosure certificate accompanies this document.
 - I am familiar with the property described in this instrument and I certify that the status and number of wells on the Property have not changed since the last previously filed well disclosure certificate.
14. **Individual Sewage Treatment System Disclosure.** The Seller certifies that there is [no] individual sewage treatment system on or serving the Property.
15. **Right of Entry.** The Seller hereby grants to the Buyer, its agents, employees, officers, and contractors, a license to enter the Property to perform all work and inspections deemed appropriate by the Buyer in conjunction with this Agreement.
16. **No Representations by Seller.** IT IS UNDERSTOOD AND AGREED THAT THE SELLER IS NOT MAKING AND HAS NOT AT ANY TIME MADE ANY WARRANTIES OR REPRESENTATIONS OF ANY KIND OR CHARACTER, EXPRESSED OR IMPLIED, WITH RESPECT TO THE CONDITION OF THE PROPERTY, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OR REPRESENTATIONS AS TO HABITABILITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ZONING, TAX CONSEQUENCES, LATENT OR PATENT PHYSICAL OR ENVIRONMENTAL CONDITIONS, UTILITIES, ACCESS, OPERATING HISTORY OR PROJECTIONS, VALUATION, GOVERNMENTAL APPROVALS, THE TRUTH, ACCURACY OR COMPLETENESS OF ANY PROPERTY DATA OR OTHER INFORMATION PERTAINING TO THE PROPERTY DELIVERED TO BUYER BY SELLER, OR ANY OTHER MATTER OR THING REGARDING THE PROPERTY. BUYER ACKNOWLEDGES AND AGREES THAT UPON THE CLOSING OF THE TRANSACTION CONTEMPLATED BY THIS AGREEMENT, THE SELLER SHALL SELL AND BUYER SHALL ACCEPT THE PROPERTY "AS IS, WHERE IS, WITH ALL FAULTS." THE BUYER HAS NOT RELIED AND WILL NOT RELY ON, AND THE SELLER IS NOT LIABLE FOR OR BOUND BY, ANY EXPRESSED OR IMPLIED WARRANTIES, GUARANTIES, STATEMENTS, REPRESENTATIONS OR INFORMATION PERTAINING TO THE PROPERTY OR RELATING THERETO

(INCLUDING SPECIFICALLY, WITHOUT LIMITATION, PROPERTY INFORMATION PACKAGES DISTRIBUTED WITH RESPECT TO THE PROPERTY) MADE OR FURNISHED BY THE SELLER, THE MANAGER OF THE PROPERTY, OR ANY REAL ESTATE BROKER OR AGENT REPRESENTING OR PURPORTING TO REPRESENT SELLER, TO WHOMEVER MADE OR GIVEN, DIRECTLY OR INDIRECTLY, ORALLY OR IN WRITING, UNLESS SPECIFICALLY SET FORTH IN THIS AGREEMENT.

THE BUYER REPRESENTS TO THE SELLER THAT THE BUYER HAS CONDUCTED, OR WILL HAVE HAD THE OPPORTUNITY TO CONDUCT PRIOR TO CLOSING, SUCH INVESTIGATIONS OF THE PROPERTY, INCLUDING BUT NOT LIMITED TO, THE PHYSICAL, ENVIRONMENTAL AND GEOTECHNICAL CONDITIONS THEREOF, AS THE BUYER DEEMS NECESSARY TO SATISFY ITSELF OF THE CONDITION OF THE PROPERTY AND THE EXISTENCE OR NONEXISTENCE OR CURATIVE ACTION TO BE TAKEN WITH RESPECT TO ANY HAZARDOUS OR TOXIC SUBSTANCES OR MATERIALS ON, WITHIN, UNDER OR DISCHARGED FROM THE PROPERTY, AND WILL RELY SOLELY UPON SAME AND NOT UPON ANY INFORMATION PROVIDED BY OR ON BEHALF OF THE SELLER OR ITS AGENTS, OFFICERS, DIRECTORS, SHAREHOLDERS OR EMPLOYEES WITH RESPECT THERETO.

UPON CLOSING, THE BUYER SHALL ASSUME THE RISK THAT ADVERSE MATTERS, INCLUDING BUT NOT LIMITED TO, ADVERSE PHYSICAL, ENVIRONMENTAL AND GEOTECHNICAL CONDITIONS MAY HAVE BEEN REVEALED BY THE BUYER'S INVESTIGATIONS, AND BUYER, UPON CLOSING, SHALL BE DEEMED TO HAVE WAIVED, RELINQUISHED AND RELEASED THE SELLER (AND THE SELLER'S OFFICERS, COUNCIL MEMBERS, EMPLOYEES AND AGENTS) FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION (INCLUDING CAUSES OF ACTION IN TORT), LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES (INCLUDING ATTORNEYS' FEES AND COURT COSTS) OF ANY AND EVERY KIND OR CHARACTER, KNOWN OR UNKNOWN, WHICH BUYER MIGHT HAVE ASSERTED OR ALLEGED AGAINST THE SELLER (AND THE SELLER' OFFICERS, COUNCIL MEMBERS, EMPLOYEES AND AGENTS) AT ANY TIME BY REASON OF OR ARISING OUT OF ANY LATENT OR PATENT PHYSICAL CONDITIONS, VIOLATIONS OF ANY APPLICABLE LAWS (INCLUDING, WITHOUT LIMITATION, ANY ENVIRONMENTAL LAWS) AND ANY AND ALL OTHER ACTS, OMISSIONS, EVENTS, CIRCUMSTANCES OR MATTERS REGARDING THE PROPERTY.

17. Representations

17.1 Representations and Warranties of Buyer. The Buyer represents and warrants to the Seller that the Buyer is a limited liability company duly organized under the laws of the State of Minnesota; that the Buyer is duly qualified to transact business in the State of Minnesota; that the Buyer has the requisite company power and authority to enter into this Agreement and the Buyer's Closing Documents signed by it; such documents have been duly authorized by all necessary company action on the part of the Buyer and have been duly executed and delivered; that the execution, delivery and performance by the Buyer of such documents do not conflict with or result in violation of state law or any judgment, order or decree of any court or arbiter to which the Buyer is a party; such documents are valid and binding obligations of the Buyer, and are enforceable in accordance with their terms.

The Buyer will indemnify the Seller, its successors and assigns, against, and will hold the Seller, its successors and assigns, harmless from, any actual expenses or damages, including reasonable attorneys' fees, that the Seller incurs because of the breach of any of the above representations and warranties, whether such breach is discovered before or after Closing; provided, and notwithstanding the foregoing, each of the representations and warranties herein contained shall survive the Closing for a period of three years and any action concerning a breach of any of the foregoing representations or warranties of the Buyer shall be commenced within three years of the Closing or shall be deemed waived. Consummation of this Agreement by the Seller with knowledge of any breach of such warranties and representations by the Buyer will constitute a waiver or release by the Seller of any claims due to such breach.

17.2 Representations and Warranties of the Seller.

(a) The Seller is duly authorized and empowered to enter into this Agreement and to perform fully the Seller's obligations hereunder.

(b) The Seller has received no notice of any pending or threatened condemnation proceeding or other litigation relating to or otherwise affecting the Property, except as may be shown in the public record.

(c) The Seller has received no notice of any pending or threatened violations or litigation at the Property, except as may be shown in the public record.

18. Condemnation. If, prior to the Closing Date, eminent domain proceedings are commenced against all or any part of the Property by any entity other than the Seller, the Seller shall immediately give notice to the Buyer of such fact and at the Buyer's option (to be exercised within 30 days after the date of the Seller's notice), this Agreement shall terminate, in which event neither party will have further obligations under this Agreement, except for the rights and obligations of indemnification set forth in Sections 6, 17, 22, and 23, and the Earnest Money, together with any accrued interest, shall be refunded to the Buyer. If the Buyer shall fail to give such notice then there shall be no reduction in the Purchase Price, and the Seller shall assign to Buyer at the Closing Date all of the Seller's right, title and interest in and to any award made or to be made in the condemnation proceedings. Prior to the Closing Date, if the Agreement has not been terminated pursuant to the first sentence of this Section, the Seller shall not designate counsel, appear in, or otherwise act with respect to such condemnation proceedings without the Buyer's prior written consent.

19. Construction of Minimum Improvements. The Buyer agrees that it will construct the Minimum Improvements (defined below) on the Property as described in this Section. This covenant shall survive the delivery of the Deed.

19.1 The Buyer shall construct on the Property the "Minimum Improvements," which consist of the completion of work [to be similar in size, scope, and quality to the project submitted to the City as part of the Buyer's response to the City's Request for Qualifications with respect to the property] as shown on the current concept plan. The specific Minimum Improvements shall be as shown on the preliminary plat, as approved.

19.2 The Buyer agrees to commence and complete construction of each phase of the Minimum Improvements as follows [and previously laid out in the buyers project proposal submission used during the project selection phase] :

Phase 1: Infrastructure Improvements – grading, water main, sanitary sewer and storm sewer and small utilities (as described in the Development Agreement referred to in Sections 20) will be performed in one phase with the completion by December 31, 2020. The Buyer may request an Early Start Agreement for consideration by the City Council prior to release of the Final Plat and completion of the Development Agreement for recording to allow issuance of a building permit to begin construction of the infrastructure improvements.

Phase 2: _____ by December 31, 2021.

Phase 3: _____ by December 31, 2022.

Phase 4: _____ by June 1, 2023.

Landscaping / Irrigation Improvements: To be installed in the Fall of or Spring following the completion date for each building construction phase referenced above. It being understood and acknowledged that the landscaping and irrigation improvements are not conditions to issuance of a Certificate of Completion of Phases 2 through 4. The Buyer/Builder is solely responsible for meeting storm water and erosion control permitting conditions until establishment of ground cover site wide.

For each of Phases 2 through 4 described above, the Buyer may request an extension for the commencement and/or construction dates described above of up to 6 months, which such extension shall not be unreasonably withheld.

For Phases 2 through 4 of the Minimum Improvements, construction of each respective phase will be considered satisfied when the building exterior and the respective unit's vanilla shell have been completed.

- 19.3 The Buyer is a Minnesota limited liability company, whose purpose is to install the required public improvements required for the Minimum Improvements and to develop the Minimum Improvements. It is in the best interest of the Buyer, and the intent of the Buyer to work with _____ (“Builder”) as the builder of the townhomes. The Buyer acknowledges and understands that the City expects the completed Minimum Improvements to be similar in size, scope, and quality to the project submitted to the City as part of the Buyer’s response to the City’s Request for Qualifications with respect to the Property.
- 19.4 Promptly after the Buyer’s substantial completion each Phase, upon written request from the Buyer, the Seller will furnish the Buyer with a Certificate of Completion, at no cost to the Buyer, in the form attached hereto as EXHIBIT D and reduce the Buyer’s letter of credit in the applicable percentages as described in Section 21 below. Such issuance of Certificates of Completion by the Seller shall be a conclusive determination of satisfaction and termination of the agreements and covenants in this Agreement with respect to the obligations of the Buyer and its successors and assigns, to construct the Minimum Improvements and the dates for completion thereof. The Buyer’s completion of any Phase ahead of the required deadline shall not affect the required timing of commencement or completion of subsequent Phases.

If the Seller shall refuse or fail to provide any certification in accordance with the provisions of this Section, the Seller shall, within 30 days after written request by the Buyer, provide the Buyer with a written statement, indicating in adequate detail in what respects the Buyer has failed to complete the particular phase of the Minimum Improvements in accordance with the provisions of the Agreement, or is otherwise in default, and what measures or acts it will be necessary, in the opinion of the Seller for the Buyer to take or perform in order to obtain such certification and the Buyer shall be afforded a fair and reasonable opportunity, as necessary, to cure or address such stated default.

19.5 The Buyer represents and agrees that until issuance of the Certificate of Completion for the Minimum Improvements:

19.5.1 The Buyer has not made or created and will not make or create or suffer to be made or created any total or partial sale, assignment, conveyance, or lease, or any trust or power, or transfer in any other mode or form of or with respect to this Agreement or the Property or any part thereof or any interest therein, or any contract or agreement to do any of the same, to any person or entity, with the exception of any bona-fide unit owner or an assignment to another entity affiliated with the Buyer by common ownership, (collectively, a "Transfer"), without the prior written approval of the City Council of the Seller. The term "Transfer" does not include encumbrances made or granted by way of security for, and only for, the purpose of obtaining construction, interim or permanent financing necessary to enable the Buyer to construct the Minimum Improvements or component thereof.

19.5.2 If the Buyer seeks to effect a Transfer other than to a bona-fide unit owner, prior to issuance of the final Certificate of Completion for the Minimum Improvements, the Seller shall be entitled to require as conditions to such Transfer that:

19.5.2.1 Any proposed transferee shall have the qualifications and financial responsibility, in the reasonable judgment of the Seller, necessary and adequate to fulfill the obligations undertaken in this Agreement by the Buyer as to the portion of the Property to be transferred.

19.5.2.2 Any proposed transferee, by instrument in writing satisfactory to the Seller and, if necessary, in form recordable in the public land records of Hennepin County, Minnesota, shall, for itself and its successors and assigns, and expressly for the benefit of the Seller, have expressly assumed all of the obligations of the Buyer under this Agreement as to the portion of the Property to be transferred and agreed to be subject to all the conditions and restrictions to which the Buyer is subject as to such portion; provided, however, that the fact that any transferee of, or any other successor in interest whatsoever to, the Property, or any part thereof, shall not, for whatever reason, have assumed such obligations or so agreed, and shall not (unless and only to the extent otherwise specifically provided in this Agreement or agreed to in writing by the Seller) deprive the Seller of any rights or remedies or controls with respect to the Property, the Minimum Improvements or any part thereof or the construction of the Minimum Improvements; it being the intent of the parties as expressed in this Agreement that (to the fullest extent permitted at law and in equity and excepting only in the manner and to the extent specifically provided otherwise in this Agreement) no transfer of, or change with respect to, ownership in the Property or any part thereof, or any interest therein, however consummated or occurring, and whether voluntary or involuntary, shall operate,

legally, or practically, to deprive or limit the Seller of or with respect to any rights or remedies on controls provided in or resulting from this Agreement with respect to the Property that the Seller would have had, had there been no such transfer or change. In the absence of specific written agreement by the Seller to the contrary, no such transfer or approval by the Seller thereof shall be deemed to relieve the Buyer, or any other party bound in any way by this Agreement or otherwise with respect to the Property, from any of its obligations with respect thereto.

19.5.2.3 Any and all instruments and other legal documents involved in effecting the transfer of any interest in this Agreement or the Property governed by this clause shall be in a form reasonably satisfactory to the Seller.

19.5.3 If the conditions described in Section 19.5.2 hereof are satisfied then the Transfer will be approved and the Buyer shall be released from its obligation under this Agreement, as to the portion of the Property that is transferred, assigned, or otherwise conveyed. The provisions of this Section 19.5.3 apply to all subsequent transfers.

19.5.4 Except for transfers to bona-fide unit owners, which does not require the Seller consent, upon issuance of the final Certificate of Completion for the final unit, the Buyer may transfer the Property and/or the Buyer's rights and obligations under this Agreement with respect to such Property without the prior written consent of the Seller,

19.6 Upon the completion of the Minimum Improvements, the Townhome owner's association (the "Townhome Association") shall provide a copy of [the Declaration Creating _____] (the "Townhome Declaration"). The Townhome owner's association must include in its Declaration a covenant that the first buyer of each townhome unit intends to live in the unit as an owner-occupant and will not rent the townhome unit for at least five years following the purchase of such townhome.

19.7 Annually, the Seller, its successor or assign, shall offer the Townhome Association the ability to enter into a Boat Slip Use Agreement each year for up to 20 boat slips for exclusive use of the owners of a Townhome unit in the form as attached hereto as EXHIBIT F. The Boat Slip Use Agreement will include the exclusive use of up to 20 boat slips, limited to one slip per unit; provided, however, that the number of boat slips offered each year to the Townhome Association will not exceed the number of Townhome units completed and units under construction. The Seller covenants and represents that, subject to the provisions of this Section 19.7, the Townhome Association shall have exclusive access to 20 boat slips each year, limited to one slip per unit with excess slips made available to Mound residents. Notwithstanding the foregoing, if any of the owners of the homes/units decline the use of all 20 boat slips, the City may enter into rental agreements for the unused boat slips for that year. In addition, upon creation of the Townhome Association, the Seller shall enter into the Declaration Regarding Boat Slips set forth in EXHIBIT E which shall be recorded against the Property.

20. Development Agreement. Prior to the issuance of any grading or building permits for the Property, the Buyer shall enter into a Development Agreement with the Seller with respect to the infrastructure required for the Minimum Improvements and the requirements of the Seller for the Buyer's construction of such infrastructure, and such Development Agreement shall be recorded against the Property. Pursuant to the City's standard development agreement, prior to commencement of construction of the Improvements, the Developer will furnish the City an irrevocable letter of credit ("Security"), approved by the City Attorney, in the amount of 125% of the estimated project costs for

the infrastructure required for the Minimum Improvements as agreed by the City. The letter of credit shall renew automatically, as applicable, and released by the City pursuant to the terms of the Development Agreement.

- 21. Penalties for Failure to Complete Minimum Improvements.** The Buyer will submit a letter of credit in the amount of \$_____ (the "Letter of Credit") at Closing to secure performance of the Buyer's obligations under Section 19.2. Upon completion of one or more Phases of the Minimum Improvements, the Letter of Credit shall be reduced as follows: 10% reduction of the original amount after satisfactory completion of Phase 1 (in addition to any applicable reductions or releases in relation to the Development Agreement), 25% reduction of the remaining amount after satisfactory completion of Phase 2, 25% reduction of the remaining amount after satisfactory completion of Phase 3, and release of the balance after satisfactory completion of Phase 4.

In the event that, subsequent to conveyance of the Property to the Buyer, the Buyer, subject to Unavoidable Delays (as hereafter defined), fails to carry out its obligations to construct Phases 1 through 4 as described in Section 19.2 with respect to the commencement of construction of the Minimum Improvements (including the nature and the date for the completion thereof), or abandons or substantially suspends construction work, and any such failure, abandonment, or suspension shall not be cured, ended, or remedied within thirty (30) days after written demand from the Seller to the Buyer to do so, then the Seller may grant up to a 6 month extension to commence or complete the Phase as provided in Section 19.2. If following the applicable extension, the Buyer has not satisfied the applicable commencement or completion of the applicable Phase, the Seller may draw down on or make a claim against the Letter of Credit (in the percentage of the remaining amounts for each Phase set forth in the first paragraph of this Section 21), as appropriate, upon five (5) business days' notice to the Developer.

For the purposes of this Agreement, the term "Unavoidable Delays" means delays beyond the reasonable control of the Buyer as a result thereof which are the direct result of strikes, other labor troubles, prolonged adverse weather or acts of God, fire or other casualty to the Minimum Improvements, litigation commenced by third parties which, by injunction or other similar judicial action, directly results in delays, or acts of any federal, state or local governmental unit (other than the Seller in exercising its rights under this Agreement) which directly results in delays. Unavoidable Delays shall not include delays in the Buyer's obtaining of permits or governmental approvals necessary to enable construction of the Minimum Improvements by the dates such construction is required under this section of this Agreement.

- 22. Broker's Commission.** The Seller and the Buyer represent and warrant to each other that they have dealt with no brokers, finders or the like in connection with this transaction. The parties agree to indemnify each other and to hold each other harmless against all claims, damages, costs or expenses of or for any other such fees or commissions resulting from their actions or agreements regarding the execution or performance of this Agreement, and will pay all costs of defending any action or lawsuit brought to recover any such fees or commissions incurred by the other party, including reasonable attorneys' fees.
- 23. Mutual Indemnification.** The Seller and the Buyer agree to indemnify each other against, and hold each other harmless from, all liabilities (including reasonable attorney's fees in defending against claims) arising out of the ownership, operation or maintenance of the Property for their respective periods of ownership. Such rights of indemnification will not arise to the extent that (a) the party seeking indemnification actually receives insurance proceeds or other cash payments directly attributable to the liability in question, (net of the cost of collection, including reasonable

- 30. Controlling Law.** This Agreement has been made under the laws of the State of Minnesota, and such laws will control its interpretation.
- 31. Remedies.** If either party defaults under this Agreement, the non-defaulting Party shall have the right to terminate this Agreement by giving written notice to the defaulting Party. If the Buyer fails to cure such default within five business days, or such time period as allowed pursuant to this Agreement of the date of such notice from the Seller, the Seller may cancel this Agreement pursuant to Minnesota Statutes, Section 559.21. If the Seller fails to cure such default within five business days of the date of such notice from the Buyer, the Buyer may immediately terminate this Agreement by delivering to the Seller at the address noted in Section 27 hereof a Notice of Termination executed by an authorized representative(s) of the Buyer.

The foregoing is the exclusive remedy for either party. All other remedies, including damages for breach, equitable remedies, specific performance, and all other remedies at law or equity are waived and relinquished by each of the parties.

(The remainder of this page is intentionally left blank.)

DRAFT

IN WITNESS WHEREOF, the Seller and the Buyer have executed this Purchase and Development Agreement as of the date and year first written above.

SELLER:

CITY OF MOUND, MINNESOTA

By _____
Its Mayor

By _____
Its City Manager

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this ____ day of October, 20__, by Raymond J Salazar, the Mayor of the City of Mound, Minnesota, a statutory city and political subdivision of the State of Minnesota, on behalf of the Seller.

Notary Public

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this ____ day of October, 20__, by Eric Hoversten, the City Manager of the City of Mound, Minnesota, a statutory city and political subdivision of the State of Minnesota, on behalf of the Seller.

Notary Public

This document drafted by:

KENNEDY & GRAVEN, CHARTERED (JAE)
470 U.S. Bank Plaza
200 South Sixth Street
Minneapolis, MN 55402
(612) 337-9300

Execution page of the Buyer to the Purchase and Development Agreement, dated as of the date and year first written above.

BUYER:

[selected buyer]

By _____
Its _____

STATE OF MINNESOTA)
) SS.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of October, 20__, by _____, the _____ of [buyer], a _____, on behalf of the Buyer.

Notary Public

DRAFT

EXHIBIT A

LEGAL DESCRIPTION

That part of the following parcels:

Insert Property Legal Description Here

DRAFT

EXHIBIT B

ESCROW AGREEMENT

The undersigned _____ (“Title Company”), acknowledges receipt of \$_____ (the “Earnest Money”) to be held by it pursuant to the Purchase Agreement to which this Escrow Agreement is attached. Title Company will hold the Earnest Money (hereinafter the “Earnest Money”) in accordance with the terms of the Purchase Agreement and disburse the same strictly in accordance with such terms. Title Company will invest the Earnest Money in such interest-bearing accounts, instruments, corporate paper, or money market funds as approved by both the Buyer and the Seller, Interest will accrue for the benefit of the Buyer, unless the Purchase Agreement is terminated by reason of the default of the Buyer, in which case the interest will be paid to the Seller. Prior to the waiver or satisfaction of its contingencies, the Buyer may direct the Title Company to return the Earnest Money to it if the Buyer is entitled to terminate and elects to terminate the Purchase Agreement.

Title Company is not responsible for any decision concerning performance or effectiveness of the Purchase Agreement or for resolution of any disputes concerning the Purchase Agreement. Title Company is responsible only to act in accordance with the joint and mutual direction of both the Seller and the Buyer, or in lieu thereof, the direction of a court of competent jurisdiction except as to the Buyer’s right to direct the return of the Earnest Money in accordance with the Purchase Agreement. The Seller and the Buyer will hold Title Company harmless from all claims for damages arising out of this Escrow Agreement and do hereby agree to indemnify Title Company for all costs and expenses in connection with this escrow, including court costs and attorneys’ fees, except for Title Company’s failure to account for the funds held hereunder, or acting in conflict with the terms hereof.

The fees and charges of the Title Company will be paid by the Seller. This Escrow Agreement is dated this ___ day of _____, 20____.

By _____

Its _____

EXHIBIT C

FORM OF WARRANTY DEED

Deed Tax Due: \$ _____

ECRV _____

Date: _____

FOR VALUABLE CONSIDERATION, the City of Mound, Minnesota, a statutory city and political subdivision of the State of Minnesota, Grantor, hereby conveys and warrants to [buyer], a Minnesota limited liability company, Grantee, real property in Hennepin County, Minnesota, described as follows:

[Insert legal description – same as Exhibit A to Purchase Agreement]

Check here if part or all of the land is Registered (Torrens)

together with all hereditaments and appurtenances belonging thereto, subject to the following exceptions: easements of record.

- The Seller certifies that the Seller does not know of any wells on the described real property.
- A well disclosure certificate accompanies this document or has been electronically filed. (If electronically filed, insert WDC number: _____).
- I am familiar with the property described in this instrument and I certify that the status and number of wells on the described real property have not changed since the last previously filed well disclosure certificate.

CITY OF MOUND, MINNESOTA

By _____
Its Mayor

By _____
Its City Manager

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by Raymond J. Salazar, the Mayor of the City of Mound, Minnesota, a statutory city and political subdivision of the State of Minnesota, on behalf of the City.

Notary Public

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by Eric Hoversten, the City Manager of the City of Mound, Minnesota, a statutory city and political subdivision of the State of Minnesota, on behalf of the City.

Notary Public

This instrument was drafted by:

Kennedy & Graven, Chartered
470 U.S. Bank Plaza
200 South Sixth Street
Minneapolis, MN 55402
(612) 337-9300

Tax Statements should be sent to:

New Owner
[ADDRESS]

DRAFT

EXHIBIT D

**FORM OF CERTIFICATE OF COMPLETION
(To be completed for each Phase of the Minimum Improvements)**

The undersigned hereby certifies that _____, a _____ limited liability company (the "Developer"), has fully satisfied its obligations under Section 19 of the Purchase and Development Agreement, dated _____, 20__ (the "Agreement"), between the City of Mound, Minnesota and the Developer, with respect to construction of Phase ____ of the Minimum Improvements in accordance with Section 19 of the Agreement relating to the Property described in the attached Exhibit A, and that the Developer is released and forever discharged from its obligations with respect to construction of Phase ____ of the Minimum Improvements under Section 19 of the Agreement.

Dated: _____, 20__.

CITY OF MOUND, MINNESOTA

By _____
Its Mayor

By _____
Its City Manager

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by _____, the Mayor of the City of Mound, Minnesota, a statutory city and political subdivision of the State of Minnesota, on behalf of the City.

Notary Public

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by _____, the City Manager of the City of Mound, Minnesota, a statutory city and political subdivision of the State of Minnesota, on behalf of the City.

Notary Public

This document drafted by:

KENNEDY & GRAVEN, CHARTERED (JAE)
470 U.S. Bank Plaza
200 South Sixth Street
Minneapolis, MN 55402
(612) 337-9300

DRAFT

EXHIBIT E

DECLARATION REGARDING BOAT SLIPS

DECLARATION – BOAT SLIPS

THIS DECLARATION REGARDING BOAT SLIPS (the “Declaration”) entered into this ____ day of _____, 20__), by and between the CITY OF MOUND, MINNESOTA, a statutory city and political subdivision of the State of Minnesota, having its office located at 2415 Wilshire Boulevard, Mound, Minnesota 55364 (the “City”), and [TOWNHOME ASSOCIATION], a _____, having its principal office at _____ (the “Townhome Association”).

RECITALS:

WHEREAS, the City intends to convey the real property legally described on Exhibit A attached hereto (the “Development Property”) to _____, a Minnesota limited liability company (the “Developer”) under Purchase and Development Agreement, dated _____, 20__, between the City and the Developer (“Development Agreement”); and

WHEREAS, pursuant to the Development Agreement, the Developer will construct [Project as proposed in the buyer selection phase] (the “Minimum Improvements”) on the Development Property; and

WHEREAS, in exchange for the Developer constructing the Minimum Improvements, the City has agreed to provide the Townhome Association exclusive use of up to 20 boat slips under certain conditions and the City and the Townhome Association desire to memorialize this agreement pursuant to this Declaration.

NOW, THEREFORE, for good and valuable consideration, the City hereby agrees, covenants, and declares the following:

1. Boat Slip Agreement. Annually, the City shall offer the Townhome Association the ability to enter into a Boat Slip Use Agreement each year for up to 20 boat slips for exclusive use of the owners of a Townhome unit, for a maximum of one per unit. The Boat Slip Use Agreement will include the exclusive use of up to 20 boat slips; provided, however, that the number of boat slips offered each year to the Townhome Association will not exceed the number of Townhome units completed and units under construction. The Seller covenants and represents that, subject to the provisions of this Section 1, the Townhome Association shall have exclusive access to 20 boat slips each year, for a maximum of one per unit. Notwithstanding the foregoing, if any of the owners of the Townhomes decline the use of any of the 20 boat slips, the City may enter into rental agreements for the unused boat slips for that year with Mound residents.

2. Failure to Provide Boat Slips. If the City takes action to permanently reduce the number of boat slips available for the exclusive use of the owners of the Townhome units below 20, the Townhome Association shall have all rights and remedies available to it at law or in equity, including a

right to injunctive relief and specific performance. If any arbitration, litigation, or other legal proceeding occurs between the parties relating to this Agreement, the Townhome Association shall be entitled to recover (in addition to any other relief awarded or granted) the reasonable costs and expenses, including attorney's fees, incurred by the Townhome Association.

3. Enforceability; Successors and Assigns. The covenants contained herein are intended to be perpetual, shall run with the land, and shall be binding upon, and inure to the benefit of, the Townhome Association and its successors, assigns, and future owners, tenants and occupants of any portion of the Development Property. Without limiting the foregoing, the restrictions and prohibitions contained herein on the Development Property (or any portion thereof) shall be enforceable by the City, and its successors and assigns, by injunctive relief, the remedy at law being inadequate.

4. Governing Law. This agreement shall be governed by the laws of the State of Minnesota.

5. Amendment. This agreement shall not be amended or modified unless by an instrument in writing executed by the City and the Townhome Association, at the time of the amendment or modification, of all of the Development Property.

6. No Merger. This instrument shall not merge or be extinguished by reason of common ownership, including common ownership of the Development Property and any property adjacent to the Development Property.

DRAFT

IN WITNESS WHEREOF, the City and the Townhome Association have executed this Declaration as of the date first above written.

CITY OF MOUND, MINNESOTA

By _____
Its Mayor

By _____
Its City Manager

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by Raymond J. Salazar, the Mayor of the City of Mound, Minnesota, a statutory city and political subdivision of the State of Minnesota, on behalf of the Seller.

Notary Public

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by Eric Hoversten, the City Manager of the City of Mound, Minnesota, a statutory city and political subdivision of the State of Minnesota, on behalf of the Seller.

Notary Public

This document drafted by:

KENNEDY & GRAVEN, CHARTERED (JAE)
470 U.S. Bank Plaza
200 South Sixth Street
Minneapolis, MN 55402
(612) 337-9300

**EXHIBIT A OF DECLARATION
LEGAL DESCRIPTION OF DEVELOPMENT PROPERTY**

[Insert – to match Exhibit A in Purchase Agreement]

DRAFT

EXHIBIT F

**SLIP USE AGREEMENT BETWEEN THE CITY
OF MOUND AND THE HARBOR DISTRICT TOWNHOMES**

THIS SLIP USE AGREEMENT (this "Agreement") is made and entered into as of the ____ day of _____, 2020, by and among The Harbor District Townhomes, Common Interest Community No. _____, acting by and through its association board ("HOA") and the City of Mound, a Minnesota municipal corporation ("City"). The HOA and the City may hereinafter be referred to individually as a "party" or collectively as the "parties."

RECITALS:

A. The City owns the 37 slip multiple slip complex in Lost Lake adjacent to the Villas on Lost Lake townhomes ("37 Slip Complex") and the 24 slip multiple slip complex ("24 Slip Complex") adjacent to the Harbor District's Greenway and Pier. The 37 Slip Complex and the 24 Slip Complex may hereinafter be referred to collectively as the "Slip Complexes."

B. In 20____, the City approved a Purchase Agreement and a Developer Agreement with _____, LLC, the original developer of the Harbor District Townhomes, ("Developer"), which provides for priority assignment of a slip at one of the Slip Complexes for the residents of the Harbor District Townhomes; and

D. The parties desire to enter into an Agreement that sets forth the terms and conditions of the slip assignments, fee structure, rules governing use of the Slip Complexes and the City's obligation to maintain the Lost Lake Channel and the Slip Complexes and appurtenances.

NOW THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Slip Assignment. In accordance with Chapter 78, Section 78-122 (d) of the Mound City Code, as amended from time to time, up to [20] slips at the Slip Complexes will be reserved for owners or renters of the Harbor District Townhomes who will be given first priority for assignment of these slips. Only one slip per residence will be allowed and any excess slips will be made available to Mound residents. Applications and fees for the slip are due by the last day of February each year. All slips not used by Harbor District Townhomes owners or renters will be released by the City for licensing in accordance with the Mound City Code (Chapter 78, Section 78-122) beginning on March 1st of each year.

2. Fee Structure. The City establishes its fee schedule as part of the annual budget process and the City reserves the right to modify the fees for the slips at the Slip Complexes from time to time. The City agrees to provide for maintenance activities of the channel, the slips and surrounding appurtenances of the Slip Complexes including, but not limited to, debt service on

bonds related to the Lost Lake development or renewal, maintenance of the channel and multiple slip structures and appurtenances, utilities, insurance premiums and deductibles, program administration and funding reserves for these activities. Harbor District Townhomes will pay the Lost Lake Slips Multiple Mound Resident Rate (2020 Rate: \$1,950 per season)

3. Dock Use Area. The slips at the Slip Complexes are licensed and regulated by the Lake Minnetonka Conservation District (“LMCD”), which imposes certain restrictions on the use of the lake, including the slips, that must be complied with by those using the Slip Complexes. In addition, Chapter 78, Article VI the City of Mound City Code, as amended from time to time, regarding slip licensing has additional regulations that all multiple slip licensees need to comply with. Each user of a slip is responsible for complying with all applicable federal, state, and local laws, rules, regulations, and ordinances related to their use. The City may terminate a Townhome resident’s use of the Slip Complexes and refuse to lease a slip to the resident for such period of time as the City determines is reasonable if the resident violates any of the applicable regulations or the terms and conditions of the lease.

4. Maintenance Activities. Lost Lake was re-dredged in 2005 to provide access to Lake Minnetonka for the planned redevelopment of the City’s downtown. The Slip Complexes were constructed to provide pedestrian access to these amenities. The City is responsible for maintaining the dredge and any aquatic vegetation removal/management so that reasonable access can be obtained in and around the Slip Complexes. The dredge depth is regulated by the Department of Natural Resources (“DNR”) and the standard limit is out to 48" of water depth measured from the Ordinary High Water (“OHW”) level elevation of 929.4 feet. The City will maintain the Slip Complexes and appurtenances, as public amenities, to a reasonable standard, as determined by the City, providing for the health and safety of pedestrians and functionally equivalent replacement, if necessary. The City’s agreement to maintain the Slip Complex and appurtenances is as the owner of the facilities to make them available to the general public as a public amenity and does not create a special duty between the City and the users of the Slip Complexes.

5. Liability. All slip licensees must provide proof of boat owners insurance upon slip license renewal. The City maintains a General Liability Policy with the League of Minnesota Cities Insurance Trust. Nothing in this Agreement constitutes, or shall be interpreted as, a waiver by the City of any limitation on or exemption from liability available to it under common law, Minnesota Statutes, chapter 466, or other law.

6. Notices. Any notice required hereunder shall be given in writing, signed by the party giving notice, personally delivered or mailed by certified or registered mail, return receipt requested, to the parties' respective addresses as set forth below:

To City: Eric Hoversten
City Manager
City of Mound
2415 Wilshire Blvd
Mound, MN 55364

With Copy to: Troy Gilchrist
City Attorney
Kennedy & Graven
200 South Sixth Street, Suite 470
Minneapolis, MN 55402

To HOA: The Harbor District Homeowners Association
C/O _____

_____, MN _____

Notice shall be deemed delivered (a) in the case of personal delivery, on the date when personally delivered; or (b) in the case of certified or registered mail, on the date which is one day after deposited in the United States mail with sufficient postage to effect such delivery. Each party may change recipient and the address to which notice must be given by delivery of written notice to the other parties in accordance with this Paragraph 6.

7. Original Agreement. Except as specifically amended hereby, this Original Agreement, shall continue to be in full force and effect and is hereby ratified by the Parties.

8. Termination. The parties may agree in writing to terminate this Agreement at any time. The City may terminate this Agreement upon providing the HOA 6 months written notice of termination. The termination will not affect the use of the slips by the Townhome residents in the then present season, but the City may refuse to grant the priority provided for in this Agreement for the then upcoming season and thereafter.

9. Miscellaneous. This Agreement shall be binding upon the parties hereto and their respective successors and assigns. This Agreement can be amended or modified only by a writing signed by the parties hereto. This Agreement shall be governed by the laws of the State of Minnesota.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

CITY OF MOUND

HARBOR DISTRICT HOMEOWNERS
ASSOCIATION (COMMON INTEREST
COMMUNITY NO. _____)

By: _____ By: _____

Its _____ Its _____

By: _____ By: _____

Its _____ Its _____

DRAFT

Attachment D - Consent for Release of Response Data

Form of Consent for Release of Response Data

Date: _____

City of Mound
2415 Wilshire Boulevard
Mound, MN 55364

Re: Request for Statement of Qualification and Interest in a Development in the Mound Harbor District, Mound, Minnesota Consent for Release of Response Data

I, _____, on behalf of

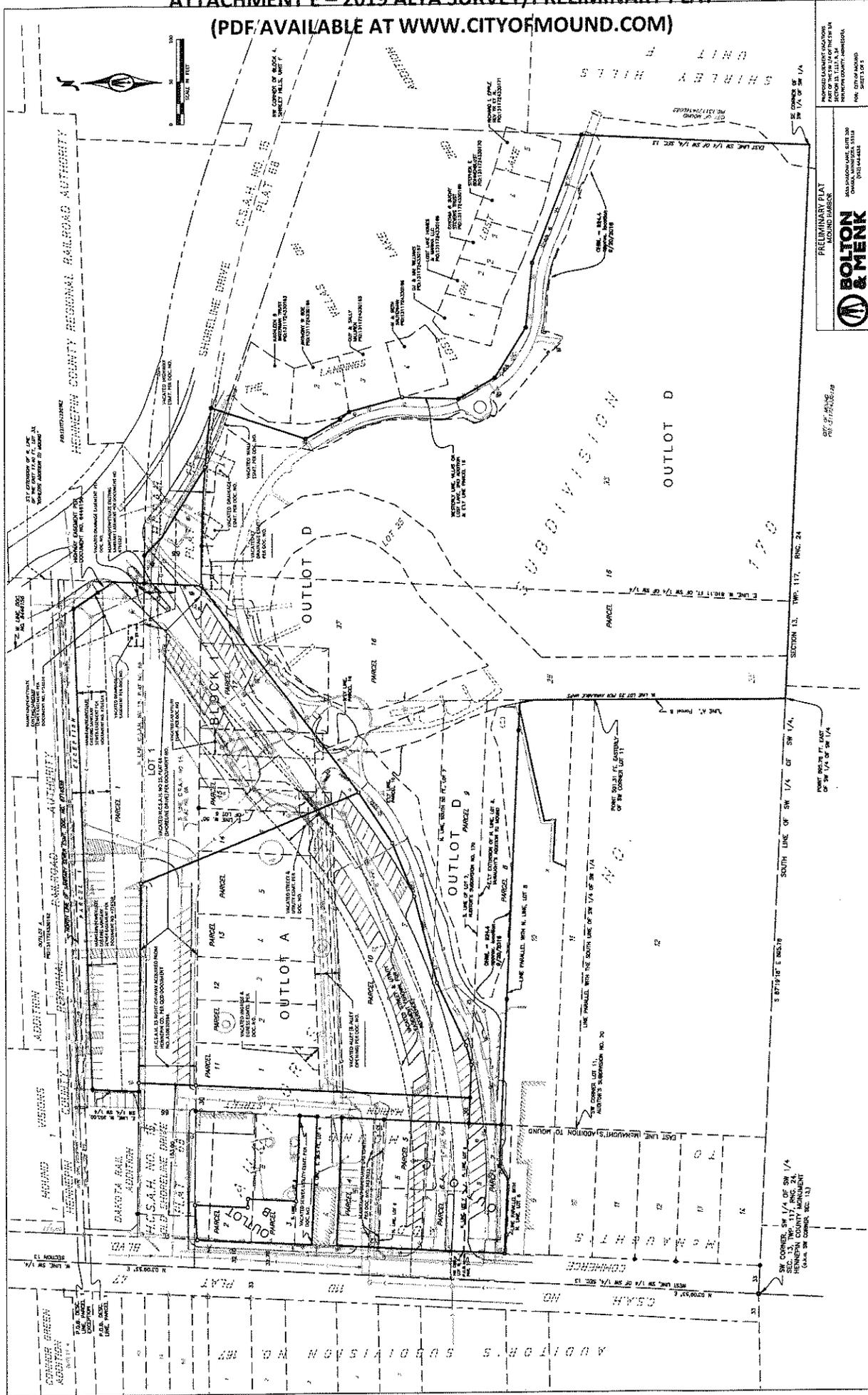
hereby consent to the release of its development proposal in response to the Request for Statement of Qualification and Interest in a Development in the Mound Harbor District, Mound, Minnesota and waives any claims it may have under Minnesota Statutes Section 13.08 against the City of Mound for making such information public. The foregoing consent and waiver does not extend to financial statements submitted under separate confidential cover, which may be public data, but shall be treated by the City consistent with Minnesota Statutes Section 13.591.

By: _____

Its: _____

ATTACHMENT E - 2019 ALTA SURVEY/PRELIMINARY PLAT

(PDF AVAILABLE AT WWW.CITYOFMOUND.COM)



PROPOSED EXISTING FACILITIES
 SECTION 13, TWP. 117, RANG. 24
 PRELIMINARY PLAT
 MOUND VISIONS
 MOUND, MISSOURI
 PREPARED BY
BOLTON & MENK
 SURVEYORS
 1000 SOUTH MAIN STREET
 MOUND, MISSOURI 64454
 PHONE: 660.337.5151
 FAX: 660.337.5151

DATE OF WORK
 08/27/2019

SECTION 13, TWP. 117, RANG. 24

SOUTH LINE OF SW 1/4 OF SW 1/4,
 SEC. 13, TWP. 117, RANG. 24,
 MOUND, MISSOURI

POINT SOUTH LINE CORNER LOT 11
 OF THE CORNER LOT 11

SW CORNER SW 1/4 OF SW 1/4
 SEC. 13, TWP. 117, RANG. 24,
 MOUND, MISSOURI

DATE OF WORK
 08/27/2019

DATE OF WORK
 08/27/2019

DATE OF WORK
 08/27/2019

