

BEMIDJI ECONOMIC DEVELOPMENT AUTHORITY

A G E N D A

December 21, 2020

6:00 p.m. (or soon thereafter)

City Hall

1. CALL TO ORDER

2. RE-CONVENE PUBLIC HEARING CONTINUED FROM DECEMBER 7, 2021 BEDA MEETING REGARDING PROPOSED SALE OF PROPERTY IN THE CITY OF BEMIDJI (Lot 2, Block 3, SOUTH SHORE ADDITION)
 - Approve Findings

3. ADJOURN

**PROCEEDINGS OF THE
BEMIDJI ECONOMIC DEVELOPMENT AUTHORITY (BEDA)**

In Re: Proposed BEDA sale of Southeast Lake Bemidji Redevelopment Project Property (in Plat of South Shore Addition) to Jonzek, LLC (Tim Mrazek).

BACKGROUND AND FINDINGS

On Monday, December 21, 2020, the Bemidji Economic Development Authority (BEDA) met and considered the proposed sale of BEDA-owned property in the Southeast Lake Bemidji Redevelopment Project Area and within the Plat of South Shore Addition, to Jonzek, LLC (hereinafter "Purchaser"). The plat of South Shore Addition is the subject of the approved BEDA South Shore Planned Unit Development, and is subject to the General Planned Unit Development Guidelines dated November 6, 2009, as the same have been amended from time to time, administered by the BEDA's Design Review Committee (the "DRC") in conjunction with the Greater Bemidji Area Joint Planning Board (the "JPB").

The BEDA-owned property to be sold is legally described as:

Lot 2, Block 3, SOUTH SHORE ADDITION, according to the recorded plat thereof, on file and of record in the office of the County Recorder, Beltrami County, Minnesota (hereinafter the "Development Property").

The BEDA Staff had tentatively negotiated to sell the Development Property to Purchaser for **Four Hundred Thirty-five Thousand and no/100 Dollars (\$435,000.00)**, subject to the terms of a Purchase Agreement, and to the approval of the proposed sale by the BEDA pursuant to the public hearing held herein. Purchaser intends to use the Development Property to construct an approximate twenty-eight (28) unit condominium residential housing complex.

Pursuant to Minnesota Statutes Chapter 469, the BEDA has conducted a public hearing in order to determine whether the proposed sale of the Development Property to Purchaser is in the best interests of the City of Bemidji and its residents and whether the proposed transaction furthers the BEDA's own general plan of and for economic development within the Bemidji Community. Pursuant to testimony received at the hearing and, based upon the discussion of Commissioners regarding the proposed sale, the interests of the City and its residents, as well as the Authority's general plan for economic development, the Authority makes the following findings and decision:

FINDINGS

1. That the sale of the Development Property to Jonzek, LLC will further a priority and goal of the BEDA to redevelop the Southeast Lake Bemidji Redevelopment Project Area, in particular, to accomplish a condominium residential housing complex.
2. That Purchaser's proposed condominium residential housing use is consistent with the Southeast Lake Bemidji Planned Unit Development (PUD) approved November 19, 2009, as the same have been amended from time to time, as approved by the JPB.
3. That the tentative development concept and 28-unit building design(s) presented to the BEDA by Purchaser, has found general approval of and with BEDA Commissioners; however, Purchaser must secure approval of final building plans and specifications from the DRC and JPB before commencement of construction.

4. The sale is conditioned upon the sale closing according to and in satisfaction of the terms and conditions set forth in the final Purchase Agreement negotiated between the BEDA and Purchaser, a copy of which is attached hereto as Exhibit **A** and incorporated by reference. The sale herein is further conditioned upon the successful negotiation and execution of any Development Agreement between the Purchaser, the BEDA, the City of Bemidji, and the JPB determined necessary for implementation and construction of Purchaser's proposed condominium residential building(s), including conditions arising from any and all JPB zoning approvals. Moreover, initiation of construction on the Development Property must begin within one (1) year after the date of conveyance of the Development Property unless Purchaser has sought and obtained an extension from the BEDA for good cause established by Purchaser.
5. It is the consensus of the BEDA Board that it is in the City's financial best interests that the proposed sale close according to and in satisfaction with those terms and conditions set forth in the above-described Purchase Agreement.
6. That the proposed sale to Purchaser will further the Authority's economic development plan for the City generally and the Southeast Lake Bemidji Redevelopment Project Area specifically, and will further the aims and purposes of Minn. Stat. §§469.090-.108.
7. That the BEDA had properly published notice of the public hearing as required by Minn. Stat. §469.105, Subd. 2.
8. That the Limited Warranty Deed to be used to convey the Development Property to Purchaser will contain the necessary covenants in compliance with Minn. Stat. §§469.090-.108.
9. That these Findings are adopted and the BEDA's decision respecting the proposed sale is rendered within thirty (30) days of the noticed public hearing herein.

DECISION

NOW, THEREFORE, based upon the above Findings, it is the decision of the BEDA that the sale of the Development Property to Jonzek, LLC, as described herein, is in the best interests of the City of Bemidji and its residents and that the proposed sale does further the Authority's general plan of economic development. Therefore, it is recommended that the BEDA complete the proposed sale to Purchaser, and that BEDA and its staff take all necessary administrative steps and actions leading to completion of the sale in accordance herewith and including Minn. Stat. §§469.090-.108.

Dated: December 21, 2020

Rita C. Albrecht, President

ATTEST:

Michelle R. Miller, Secretary

PURCHASE AGREEMENT

This Real Estate Purchase Agreement is made this 5th day of December, 2020 by and between the Bemidji Economic Development Authority, a public body corporate and politic organized under the laws of Minnesota (hereinafter the "BEDA"), and Jonzek, LLC, a limited liability company organized under the laws of Minnesota, (hereinafter "Purchaser").

WITNESSETH:

WHEREAS, the BEDA is the owner of a parcel of land situated in the City of Bemidji, County of Beltrami, State of Minnesota, legally described as follows:

Lot 2, Block 3, SOUTH SHORE ADDITION, according to the recorded plat thereof, on file and of record in the office of the County Recorder, Beltrami County, Minnesota,

as shown on *Exhibit A* attached hereto (hereinafter the "**Development Property**"); and

WHEREAS, Purchaser desires to purchase the Development Property upon which Purchaser proposes to construct a residential development comprised of an approximate 28-unit condominium residential building (the "**Development Project**"); and

WHEREAS, Purchaser offers and agrees to purchase from BEDA and BEDA accepts such offer and agrees to sell and convey to Purchaser all of the BEDA's right, title and interest in and to the Development Property, all subject to the terms and conditions hereinafter stated.

NOW, THEREFORE, the parties hereto agree as follows:

1. **Earnest Money and Purchase Price for Development Property.** That in consideration of the mutual agreements herein contained and the sum of **Ten Thousand and no/100 Dollars (\$10,000)** earnest money to be paid by Purchaser to the BEDA within **five (5) business days** after the execution of this Purchase Agreement, the BEDA grants unto Purchaser the exclusive right to purchase the Development Property legally described above for the sum of **Four Hundred Thirty-five Thousand Dollars (\$435,000.00) (approximately 1.9 acres)** to be paid as follows: the earnest money shall be deposited with the BEDA (City Finance Department), and the sum of **Four Hundred Twenty-five Thousand Dollars (\$425,000.00)** paid in cash or by certified check payable to BEDA on or before the date of Closing or such other date as the parties may agree.

The earnest money and all interest thereon shall be applied against the purchase price at Closing. Furthermore, the earnest money deposit shall be non-refundable to Purchaser, except as otherwise provided hereinafter in this Purchase Agreement

Purchaser shall have a period of **one hundred eighty (180) days**, after receipt of a fully executed duplicate original of this Purchase Agreement, to conduct such due diligence investigation as Purchaser deems appropriate. Purchaser may cancel this Purchase Agreement for any reason during the due diligence period and receive a refund of all earnest money.

Moreover, in the event Purchaser should satisfactorily perform all actions and obligations required under this Purchase Agreement, once executed, and such performance satisfaction is adjudged adequate by the BEDA, but the BEDA nonetheless fails to close on the sale of the Development Property, Purchaser may elect to terminate this Purchase Agreement and have the escrowed earnest money and any interest earned thereon returned to it.

2. **Closing.** The closing of the sale of the Development Property may occur upon the later of either April 19, 2021 or 15 days after termination of the Due Diligence period, but in no event shall closing take place sooner than **thirty (30) days** after the conclusion of the BEDA's approval process for the sale as provided in Paragraph 4. herein, and may occur at such other date as may be mutually agreed upon subsequently in writing by the BEDA and Purchaser. The closing may be held at City Hall, 317 4th Street NW, Bemidji, MN, or at the offices of Sathre Title & Abstract, Inc., 315 5th St. NW #2, Bemidji, MN 56601, the BEDA's closing agent.

3. **Development Agreement.** As a condition of the sale of the Development Property, the BEDA, City of Bemidji, and the Greater Bemidji Area Joint Planning Board (hereinafter the "JPB") may enter into a Development Agreement with Purchaser for construction of the 28-unit condominium residential housing project proposed by Purchaser for the Development Property. Terms and conditions of the Development Agreement may be finally negotiated and agreed to subsequent to the execution of this Purchase Agreement; however, negotiation and execution of the Development Agreement may be a condition of the BEDA's sale and conveyance of the Development Property to Purchaser as further described in Paragraph 4 herein. Should a Development Agreement, if required, not be timely executed, and the BEDA reasonably determines that the Purchaser is not proceeding in good faith and with due diligence to negotiate and enter into the Development Agreement, this Purchase Agreement shall be terminated and cancelled, and all Earnest Money and any interest earned thereon shall be retained by BEDA.

4. **Sales Conditioned on BEDA Approval and City Approval.** The sale of the Development Property is conditioned upon the BEDA's approval of the sale in accordance with the requirements of Minnesota Statutes Sections 469.090 to 469.108, including being subject to the results of a public hearing pursuant to Minnesota Statutes Section 469.105. Within 30 days of such hearing, the BEDA shall make written findings and decision whether sale of the Development Property is advisable. The sale is further conditioned upon successful resolution of any taxpayer appeal of the BEDA's decision (such appeal must be made within 20 days after the findings and decision is entered). Terms and conditions of the proposed sale (this Purchase Agreement) shall be available for review by the public prior to the hearing. Furthermore, the sale described herein may be conditioned upon the BEDA's review and approval of written plans and specifications for the Development Project, which review and approval shall be based upon the recommendation(s) of the BEDA's Design and Review Committee (the "DRC") (the BEDA may require preparation of said plans and specifications prior to the hearing).

Additionally, as provided in Paragraph 3. above, the BEDA's sale and conveyance of the Development Property may be further conditioned upon the successful negotiation and execution of a Development Agreement between Purchaser, the BEDA, the City of Bemidji, and the JPB for construction of the Development Project.

A decision by the BEDA not to approve the sale shall not result in any claim, cause of action, or other recourse by Purchaser against the BEDA, nor by any third party claiming an interest by or through the Purchaser. However, a decision by the BEDA not to approve the sale

of the Development Property shall result in this entire Purchase Agreement being null and void, in which event all Earnest Money and any interest earned thereon shall be returned to Purchaser. As a contingent agreement, the termination of this Agreement is not required pursuant to Minnesota Statutes, Section 559.21, et. seq.

Purchaser shall be responsible for securing all land use, zoning or subdivision approvals necessary or required under the JPB's Land Use and Zoning Ordinance for the use(s) proposed herein, as well as all required building permits and approvals from the City and any other permitting entities having jurisdiction over development of the Development Project.

5. **Additional Conditions of Sale.** The sale is further conditioned on the following:

a. **Use Condition.** Purchaser, its successors and assigns, must use the Development Property for construction of the proposed residential development as shown and described in the preliminary plans and specifications provided to the BEDA's DRC, including such related accessory uses as are consistent with the JPB's Lake Oriented Development District (LD) zoning regulations, as the same may be amended from time to time, as well as with the General Planned Unit Development Guidelines dated November 6, 2009, as the same have been amended from time to time (the "PUD Guidelines"), which PUD Guidelines are administered by the BEDA's DRC and the JPB.

Notwithstanding the foregoing, neither Purchaser nor its successors or assigns may use the Development Property for casino or casino-type gambling purposes.

b. **Transfer Restriction.** Excepting a transfer to an entity or affiliate owned by Purchaser, or for purposes of conveying a security interest in the Development Property for mortgage or lease financing or other purposes relative to the construction and continuing operation of the proposed Development Project, the Purchaser may not transfer title to the Development Property nor assign its interest in the construction or use of the proposed Development Project within one (1) year after the date of conveyance of the Development Property, without the written consent of the BEDA. Written consent shall be in the form of a resolution of the BEDA, which consent shall not be unreasonably withheld.

c. **Commencement of Use.** Within one (1) year from the date of purchase, Purchaser shall devote the Development Property to the intended condominium residential use or begin work on the proposed Development Project improvements to devote them to that use. If the Purchaser fails to do so within that one (1) year period, the BEDA may cancel the sale and rescind this Purchase Agreement and full title to the Development Property shall revert or be restored to the BEDA upon repayment to Purchaser of the Purchase Price paid for the Development Property, less the earnest money which shall be retained by BEDA. BEDA may extend the time to so comply for good cause shown by Purchaser.

Deed restrictions stating the foregoing conditions in 5.a., 5.b., and 5.c. above shall be included in the Limited Warranty Deed conveying the Development Property from BEDA to Purchaser at Closing and in any subsequent conveyance of the Development Property.

d. **MPCA VIC Program Participation.** BEDA has previously included the Development Property in the enrollment of its greater South Shore holdings in the Minnesota Pollution Control Agency (MPCA) Owner's Voluntary Inspection and Cleanup (VIC) Program. Purchaser is not required to continue the Development Property's enrollment in the VIC Program, but in buying the property on an "as-is" basis, Purchaser may, at its option and

expense elect to apply to and participate in the VIC Program. Moreover, with respect to the Development Property's current enrollment in the VIC Program, prior to closing the BEDA will provided Purchaser with a Letter Notice, which notifies Purchasers of BEDA's activities conducted with respect to the Development Property under the VIC Program and the status of the property as a result of those activities.

e. As-Is/Waiver of Conditions. The Purchaser acknowledges that the BEDA makes no representations or warranties as to the conditions of the soils on the Development Property, or the fitness of the Development Property for construction of the proposed Development Project or any other purpose for which the Purchaser may make use of such property. Purchaser has been offered, and will continue to have the opportunity to inspect the Development Property offered herein and to review title to said property, and is responsible for acquiring sufficient knowledge as to the past use of the Development Property. By closing on the sale of the Development Property subject of this Purchase Agreement, and except as otherwise provide in this Purchase Agreement, Purchaser acknowledges that it is satisfied with the condition of the Development Property and satisfied with the condition of the BEDA's title to the Development Property and, as such, accepts the condition of BEDA's title to the Development Property. BEDA shall not be responsible for any title corrections or physical conditions of the Development Property being sold pursuant to this Purchase Agreement.

Purchaser has been advised of the risk that hazardous substances and contaminants may be present on the Development Property. Except for, and in addition to Purchaser's indemnification obligations for pre-closing/site-related activities as described in Paragraph 9. of this Purchase Agreement, Purchaser, upon completing the purchase of any portion of the Development Property, shall indemnify and hold harmless the BEDA and hereby waives, releases and discharges forever the BEDA, from any and all present or future claims or demands, and any all damages, loss, injury, liability, claims or costs, including fines, penalties and judgments, and attorney's fees (collectively "losses"), arising from or in any way related to the condition of the Development Property or alleged presence, use, storage, generation, manufacture, transport, release, leak, spill, disposal or other handling of any hazardous substances or contaminants in, on or under the Development Property. "Losses" shall include without limitation (a) the cost of any investigation, removal, remedial or other response action that is required by any environmental law, that is required by judicial order or by order of or agreement with any governmental authority, or that is necessary or otherwise is reasonable under the circumstances, (b) losses for injury or death of any person, (c) losses arising under any environmental law enacted after transfer, (d) losses sustained as a result of the physical condition of the property. The rights of the BEDA under this paragraph shall be in addition to and not in lieu of any other rights or remedies to which it may be entitled under this Purchase Agreement or otherwise. This indemnity specifically includes the obligation of Purchaser to remove, close, remediate, reimburse or take other actions requested or required by any governmental agency concerning any hazardous substances or contaminants on the Development Property, or take such action as are required by the physical condition of the Development Property. "BEDA" as the term is used herein shall be given its broadest meaning and shall include but not be limited to BEDA, its officers, directors, shareholders, governors, members, managers, employees or agents.

f. WAC and SAC Charges. It is the mutual understanding and agreement of the parties hereto that as anticipated residential building construction takes place on the Development Property, Purchaser shall pay Water Access Charges and Sanitary Sewer Access Charges to the City of Bemidji in the usual practice of collection that currently exists within the City fee collection procedure process. Collection of applicable WAC and/or SAC charges shall

not otherwise be delayed, postponed or waived as a condition of Purchaser's agreement herein to purchase the Development Property.

g. Watercraft Slips. It is the mutual understanding and agreement of the parties that upon Purchaser's purchase of the Development Property, the appropriate governmental authority will authorize Purchaser to lease up to twenty percent (20%) of available slips in the currently DNR approved marina along the shoreline of the South Shore PUD area. BEDA shall cooperate with Purchaser in obtaining such authorization.

6. **Warranties, Representations and Disclaimers**. The parties warrant:

a. Unless otherwise specifically agreed upon in writing in this Purchase Agreement, the Development Property is conveyed on an "as is, where is" and "with all faults" basis with any and all patent and latent defects, including those relating to the physical condition, and environmental condition of the property, and that Purchaser is not relying on any representation or warranties, express or implied, of any kind whatsoever from the BEDA as to any matters concerning the Development Property, except as otherwise made in the Purchase Agreement, including the physical condition of the property and any defects thereof, the presence of any hazardous substances, wastes or contaminants in, on or under the property, the condition or existence of any of the above ground or underground structures or improvements in, on or under the property, the condition of title to the property, and the existence of any zoning permits, easements or other agreements affecting the property.

b. Notwithstanding Paragraph 5e. herein, BEDA, except as revealed in any Letter Notice or affidavit submitted by it under the VIC program, is unaware of any hazardous substance or violation of environmental regulation, arising in any manner whatsoever out of or associated with the BEDA's past and present use of the Development Property.

c. BEDA certifies that the Development Property is serviceable by municipal water and sewer utilities, and that BEDA does not know of any individual wells or sewage treatment systems on the Development Property (excepting individual Monitoring Wells that may be present upon the Development Property for groundwater monitoring purposes).

d. The Development Property has legal access to Lakeshore Drive NE, a public street.

e. BEDA otherwise represents that the Development Property is currently tax exempt and may become taxable in the hands of Purchaser, including mandatory annual assessments for solid waste management and storm-water utility. There are no outstanding assessments for past public improvements benefitting the Development Property, nor will there be special assessments levied for public improvements related to the construction of the Sanford Center or the improvement of roads and infrastructure constructed to date and currently serving the South Shore Plat. However, future public improvements unrelated to the BEDA's current development of the Sanford Center within the South Shore Plat, may become the basis for future special assessments levied against the Development Property, if the same is benefited by those future improvements.

f. To the best of its knowledge, BEDA is unaware of any clandestine drug lab(s), for methamphetamine or any other controlled substance production, ever having occurred or existed on the Development Property.

g. BEDA has no knowledge that the Development Property has any conditions that are protected by federal or state law (such as American Indian burial grounds, other human burial grounds, historic structures, or archeological sites).

h. BEDA warrants that it has not received any notice from any government authorities as to violations of any laws, ordinances, or regulations with respect to the Development Property. Additionally, BEDA asserts that except as otherwise disclosed herein, neither the execution or delivery of this Purchase Agreement nor the consummation of the transaction contemplated hereby will result in any breach or violation of, or default under, any judgment, decree, order, lease, agreement, indenture or other instrument or document to which it is a party or by which the Development Property or any part thereof is bound.

i. Notice Regarding Predatory Offender Information. Information regarding the predatory offender registry and persons registered with the predatory offender registry under Minn. Stat. §243.166 may be obtained by contacting the local law enforcement office in the community where the property is located or the Minnesota Department of Corrections at (651) 624-0200, or from the Department of Corrections web site at www.corr.state.mn.us.

j. Waiver of Disclosure. The written disclosure required under Minnesota Statutes Sections 513.52 to 513.60, if any, may be waived if the Seller and prospective buyer agree in writing. BEDA and Purchaser each hereby waive the written disclosure required under Sections 513.52 to 513.60. Waiver of the disclosure under Sections 513.52 to 513.60 does not waive, limit, or abridge any obligation for disclosure as a seller created by any other law.

k. Mechanic's Lien. There has been no labor or material furnished to the Development Property on behalf of the BEDA for which payment has not been made. In the event that any such lien or charges placed against the Development Property or any part thereof subsequent to closing, and the same had as its basic work or materials furnished to the Development Property prior to closing, BEDA agrees to promptly cause the same to be removed and take such other actions as may be appropriate in order to satisfy the same of record.

k. Unrecorded Interests. BEDA has no knowledge of any unrecorded easements, rights of way or interest, express or implied, written or oral, whether at law or in equity, which exists to benefit or burden the Development Property, except as previously mentioned herein.

l. Authority. Except as conditioned herein, each of the undersigned parties warrants that it has the full authority to exercise this Purchase Agreement, and each individual signing this Purchase Agreement on behalf of a corporation or limited liability company hereby warrants that he or she has full authority to sign on behalf of the corporation or limited liability company that he or she represents and to bind such corporation or company thereby.

7. Marketability of Title. Notwithstanding Paragraph 5 herein, BEDA shall provide to Purchaser upon request, copies of any surveys, abstracts and title information that BEDA may have in its possession respecting the Development Property under this Purchase Agreement.

The BEDA shall also within forty-five (45) days after acceptance of this Purchase Agreement furnish to Purchaser a current title commitment for an Owner's Title Insurance Policy ("Commitment") issued by Sathre Title and Abstract, Inc., 315 5th Street NW, Bemidji, Minnesota (the "Title Company") naming the Purchaser as the proposed insured. The Commitment shall

show the status of title of the Development Property, and all encumbrances and exceptions, including easements, restrictions, rights-of-way, covenants, reservations and other conditions, if any, affecting the Development Property which would appear in a Title Policy, if issued, and committing to issue such Title Policy to Purchaser for the full amount of the Purchase Price for the Development Property at the Closing, together with such endorsements as are deemed necessary by Purchaser, at no additional cost to BEDA. The cost of obtaining the Commitment shall be paid by BEDA. The cost of obtaining title insurance shall be paid by Purchaser.

After execution of the Purchase Agreement and upon receipt of the Commitment, Purchaser shall have fifteen (15) days to examine title under the Commitment and, upon examining said Commitment, Purchaser shall have the right to rescind this Purchase Agreement or to waive any objections and close on the Development Property per the terms of the Purchase Agreement.

BEDA agrees to satisfy any recorded or unrecorded contracts for deed, mortgages or liens incurred by the BEDA against the Development Property which are curable solely by the payment of money either prior to Closing or simultaneously with Closing. Except as provided under this Purchase Agreement, BEDA is not required to cure any title defect respecting the Development Property.

BEDA shall not permit any encumbrances to be made upon the Development Property subject of this Purchase Agreement between the date of this Purchase Agreement and Closing.

Any objections approved or waived by Purchaser under this paragraph shall be "Permitted Exceptions".

8. **Other exceptions to Marketable Title.** In addition to "Permitted Exceptions", Seller shall convey Marketable Title to the Development Property to the Purchaser subject only to the following exceptions:

- a. Building and zoning laws, ordinances, State and Federal regulations;
- b. Restrictions of record relating to use or improvement of premises without effective forfeiture provisions.
- c. Reservation of any minerals or mineral rights to the State of Minnesota;
- d. Utility, drainage and highway easements which do not interfere with the Property; and
- e. Easements, conditions, covenants, declarations and restrictions which are now of record.

9. **Pre-Closing Site-related Activities.**

a. **Inspections and Reviews.** Up to the Date of Closing herein, Purchaser or its agents, during normal business hours and after reasonable advance written notice, may have access to the Development Property to make any inspections, surveys, tests, audits or reviews of the Development Property, all at Purchaser's sole cost and expense. Inspections and tests may include invasive Phase II environmental inspections or other invasive inspections or sampling of soil or ground water. BEDA will deliver to Purchaser (at no cost to Purchaser)

copies of all environmental or soil reports respecting the Development Property previously prepared by or for the BEDA.

b. Costs, Liens and Indemnity. Purchaser will not suffer or permit any mechanic's liens to attach to or be filed against or upon the Development Property, or any part thereof by reason of any of the foregoing inspections, tests, reviews, or audit activities. Purchaser agrees to indemnify, defend, and hold the BEDA harmless from any and all losses, damages, professional fees, and all related liabilities, costs and expenses (including all attorneys' fees), and any liens filed in connection therewith, suffered, incurred or paid by Purchaser arising out of its conducting any tests, inspections, reviews, or audit activities with respect to the Development Property, and from all claims of third parties relating thereto. Such indemnity by Purchaser shall survive any termination of this Purchase Agreement. Purchaser also agrees not to permit any mechanic's lien to attach or be filed against or upon the Development Property or any part thereof for which payment has not or will not be made by Purchaser prior to Closing.

10. Closing Related.

a. Date of Closing. The closing of the sale of the Development Property shall take place as provided in Paragraph 3 herein. The closing may be held at the offices of Sathre Title & Abstract Inc., 315 5th St NW, Bemidji, MN, the Title Insurance and Closing Agent for the BEDA, or at such other location as is mutually acceptable.

b. Deed Delivered at Closing. Subject to the previously stated conditions and "Permitted Exceptions", BEDA agrees to give good and marketable title to the Development Property in fee-simple, together with all improvements, hereditaments and appurtenances thereunto belonging, and to convey the same by Limited Warranty Deed joined in by all individuals known collectively as the BEDA and in a form acceptable to counsel for Purchaser.

c. Other BEDA Documents. The Limited Warranty Deed shall be accompanied by the appropriate BEDA organizational authorization or resolution authorizing the sale and conveyance, and any and all other documentation reasonably required or necessary to carry out the provisions of this Purchase Agreement.

d. Taxes and Special Assessments. With respect to the Development Property, real estate taxes and special assessments due and payable in the years prior to the year of Closing, if any, including any deferred real estate taxes, will be the responsibility of the BEDA. Real estate taxes and special assessments due and payable in the year of Closing, if any, shall be prorated to date of Closing. Real estate taxes and special assessments due and payable in the years following Closing, if any, attributable to Purchaser's use of the Development Property shall be paid or assumed by the Purchaser.

e. Closing Costs. The following costs and expenses will be paid as follows in connection with the Closing:

- i. As to BEDA as BEDA, BEDA will pay:
 - Preparation of Title Commitment.
 - Cost of preparation of the Deed and documents of conveyance.
 - State Deed Tax upon delivery of the Deed to Purchaser.
 - BEDA's attorney's fees, if any.

- Fees for recording of any Satisfaction(s) of Mortgage and/or other liens affecting the Development Property.
 - Such other costs allocated to BEDA under this Purchase Agreement.
- ii. As to Purchaser as Buyer, Purchaser will pay:
- Fees for filing and recording of the Deed from BEDA.
 - Purchaser's attorney's fees.
 - Premium for title insurance policy obtained as a Purchaser.
 - Such other costs allocated to Purchaser under this Purchase Agreement.

*Each party shall pay one-half of the Closing fee charged by the Title/Closing Agent.

11. **Commission.** Each party shall be responsible for payment of their own real estate brokerage commission or fees.

12. **Possession and Insurance.** Notwithstanding Purchaser's right of entry and access to the Development Property as provided in Paragraph 9 herein, the Purchaser shall be entitled to possession of the Development Property upon the Date of Closing. Risk of loss from casualty or any liability incurred by or as a result of the Purchaser's use, contact or activities associated with the Development Property prior to Closing shall be the Purchaser's. Risk of loss attributable to Purchaser's use, contact or activities associated with the Development Property after delivery of possession at Closing shall be Purchaser's.

13. **No Merger.** The warranties, representations and covenants of Purchaser and the BEDA contained in this Purchase Agreement shall survive the conveyance of the Development Property and shall not be merged with the Limited Warranty Deed.

14. **No Waiver.** No action or failure to act by any party hereto will constitute a waiver of any right or duty of such party under this Purchase Agreement, nor will any such action or failure to act constitute an approval of or acquiescence in any breach of this Purchase Agreement except as may be specifically agreed in writing.

15. **Time is of The Essence.** Time is of the essence in this Purchase Agreement.

16. **Entire Agreement; Amendments.** This Purchase Agreement constitutes the entire agreement between the parties and no other agreement prior to this Purchase Agreement or contemporaneous herewith shall be effective except as expressly set forth or incorporated herein. Any purported amendment hereto shall not be effective unless it shall be set forth in writing and executed by both parties hereto.

17. **Binding Effect; No Assignment.** This Purchase Agreement shall be binding upon and inure to the benefit of the parties hereto, and their respective heirs, successors and assigns. Neither Purchaser nor the BEDA may assign or transfer all or any part of its respective rights under this Purchase Agreement without the written consent of the other.

18. **Notice.** Any notice, demand, request or other communication which may or shall be given or served by each party to the other shall be deemed to have been given or served on the date the same is deposited in the United States mail, postage prepaid and addressed as follows:

- a. To BEDA: Bemidji Economic Development Authority
Attn: Nathan Mathews, Executive Director
317 4th Street NW
Bemidji, MN 56601

- b. To Purchaser: Tim Mrazek
Jonzek, LLC
PO Box 161
Bemidji, MN 56619

19. **Governing Law.** This Purchase Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota, and any cause of action arising out of this Purchase Agreement shall be venued in Beltrami County District Court.

20. **Counterparts.** This Purchase Agreement may be executed in any number of counterparts, each of which will be an original, but such counterparts together will constitute one and the same instrument.

21. **Severability.** In the event any one or more of the provisions of this Purchase Agreement, or any application thereof, shall be found to be invalid, illegal, or otherwise unenforceable, the validity, legality, and enforceability of the remaining provisions or any application thereof shall not in any way be affected or impaired thereof.

22. **Additional Condition of Sale.** The sale of the Development Property is conditioned upon Purchaser selling its 3810 Whispering Meadows Court, Bemidji, MN 56601 and 3813 Whispering Meadows Court, Bemidji, MN 56601 properties, and Purchaser completing a 1031 like-kind exchange pursuant to Section 1031 of the Internal Revenue Code. BEDA agrees to cooperate with Purchaser to the extent necessary for Purchaser to complete the like-kind exchange pursuant to said Section 1031; however, Purchaser shall be responsible for any and all costs incurred as a result of the like-kind exchange procedure.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands, the day and year first printed above.

**BEMIDJI ECONOMIC DEVELOPMENT
AUTHORITY**

By Rita C. Albrecht
Rita C. Albrecht
Its President

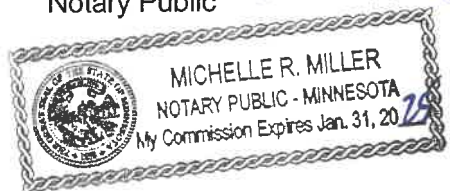
By Nathan Mathews
Nathan Mathews
Its Executive Director

TIN: 41-6004972

STATE OF MINNESOTA)
)ss.
COUNTY OF BELTRAMI)

The foregoing instrument was acknowledged before me this 8th day of December, 2020, by Rita C. Albrecht and Nathan Mathews, the President and Executive Director, respectively, of the Bemidji Economic Development Authority (BEDA), a body politic and corporate duly organized under the laws of the State of Minnesota, on behalf of the BEDA.

Michelle R. Miller
Notary Public



Jonzek, LLC

By *Tim Mrazek*
Tim Mrazek
Its Managing Partner

TIN: _____

STATE OF MINNESOTA)
)ss.
COUNTY OF BELTRAMI)

The foregoing instrument was acknowledged before me this 11th day of December, 2020, by Tim Mrazek, the Managing partner of JONZEK, LLC, a limited liability company organized under the laws of Minnesota, on behalf of the company.

Valerie Anne Bruns
Notary Public

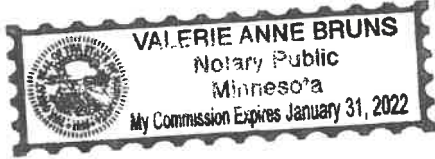


EXHIBIT A
(DEVELOPMENT PROPERTY)