



**ECONOMIC DEVELOPMENT AUTHORITY  
SPECIAL MEETING AGENDA  
TUESDAY, June 16 @ 5:30 P.M.  
Arlington Community Center - Council Chambers**

1. Call to Order
2. Pledge of Allegiance
3. Approval of Agenda
4. **Public Hearing regarding sale of parcel 31.0874.000 to Top Notch Construction (Justin Horstman)**
5. Approve/Deny Purchase Agreement with Justin Horstman
6. Approve/Deny Development Agreement with Justin Horstman
7. Adjourn

**STATE OF MINNESOTA**

**CITY OF ARLINGTON**

**COUNTY OF SIBLEY**

**ECONOMIC DEVELOPMENT AUTHORITY**

**NOTICE OF PUBLIC HEARING  
ON THE SALE OF LAND OWNED BY ARLINGTON EDA**

NOTICE IS HEREBY GIVEN that the Arlington Economic Development Authority will hold a public hearing at 5:30 p.m. on Tuesday, June 16, 2020. The meeting will be held at Arlington Community Center Chambers, 204 Shamrock Drive, Arlington, Minnesota, 55307 to consider the sale of land owned by the Arlington Economic Development Authority. The land is located on:

Parcel Identification Number: 31.0874.000

Legal Description: Sect-09 Twp -113 Range -027 14.37 Ac, 8.00 Ac of Tract 1 & 6.37 Ac of Tract 2

At this meeting, the Economic Development Authority will decide if it is advisable to sell the property under the City's Commercial Buildings and Lots Policy to Top Notch Construction.

Copies of the Commercial Buildings & Lots Policy as well as the proposed purchase agreement will be on file and available for public inspection at the Arlington City Office located at the Arlington Community Center.

All interested persons may appear at the public hearing and present their views orally or in writing.

Amy Newsom  
Arlington EDA Director  
204 Shamrock Drive  
Arlington, MN 55307

Publish: Week of June 1, 2020

Post: June 3, 2020

**BARE LAND PURCHASE AGREEMENT**

1. **PARTIES.** This Purchase Agreement is made on \_\_\_\_\_ 2020, by and between the following parties:

**Seller name(s) and address:** Arlington Economic Development Authority  
204 Shamrock Drive  
Arlington, MN 55307

**Buyer name(s) and address:** Justin Horstman  
46445 250<sup>th</sup> Street  
Gaylord, MN 55334

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

Part of the Northwest Quarter of Section 9, Township 113 North, Range 27 West, Sibley County, Minnesota, consisting of 14.37 acres, survey description to control. This is also described as Tax Parcel 31.0874.000.

Located at County Highway 9 (street address) City of Arlington, County of Sibley, State of Minnesota.

3. **ACCEPTANCE DEADLINE.** This offer to purchase, unless accepted sooner, shall be null and void at 11:59 P.M. on (date) \_\_\_\_\_ 2020, and in such event, all earnest money shall be refunded to Buyer.

4. **PERSONAL PROPERTY AND FIXTURES INCLUDED IN SALE.** There are no fixtures or personal property included in this sale.

5. **PRICE AND TERMS.** The price for the real property included in this sale is \$ \_\_\_\_\_, which Buyer shall pay as follows:

Payable at closing, which shall take place \_\_\_\_\_, 2020.

6. **DEED/MARKETABLE TITLE.** Upon performance by Buyer, Seller shall execute and deliver a Warranty Deed, joined in by spouse, if any, conveying marketable title, subject to:

- A. Building and zoning laws, ordinances, state and federal regulations;
- B. Restrictions relating to use or improvement of the property without effective forfeiture provisions;
- C. Reservation of any mineral rights by the State of Minnesota;
- D. Utility and drainage easements which do not interfere with existing improvements;
- E. Exceptions to title which constitute encumbrances, restrictions, or easements which have been disclosed to Buyer and accepted by Buyer in the Purchase Agreement;

**Buyer shall be responsible for either arranging to share the existing driveway approach to County Highway 9 with the Sibley County Fairgrounds, or the alternative, obtain a separate access from Sibley County.**

**7. REAL ESTATE TAXES AND SPECIAL ASSESSMENTS.** Real estate taxes due and payable in and for the year of closing shall be paid as follows:

**Real estate taxes shall be prorated, with seller paying the tax for that portion of the year prior to the sale, and buyer paying all taxes thereafter.**

Seller represents that the taxes due and payable in the year 2020 will be non-homestead classification, unless Buyer changes the tax classification for taxes payable in the year following closing by taking possession of the property as Buyer's homestead and filing a new homestead declaration within the time required by law.

Installments of Special Assessments certified for payment with the real estate taxes due and payable in the year of closing shall be paid as follows:

- By Seller.
- By Buyer.
- Prorated between seller and buyer as of the date of closing.

As of the date of this Agreement, Seller represents that Seller has not received a Notice of Hearing of a new public improvement project from any governmental assessing authority, the costs of which project may be assessed against the property. If a special assessment becomes pending **after** the date of this agreement and **before** the date of closing, Buyer may, at Buyer's option:

- A. Assume payment of the pending special assessment without adjustment to the purchase agreement price of the property; or,
- B. Require Seller to pay the pending special assessment (or escrow for payment of same as provided above) and Buyer shall pay a commensurate increase in the purchase price of the property, which increases shall be the same as the estimated amount of the assessment; or,
- C. Declare this Agreement null and void by notice to Seller, and earnest money shall be refunded to Buyer.

**SELLER SHALL PAY ON DATE OF CLOSING** any deferred real estate taxes or special assessments payment of which is required as a result of the closing of this sale.

Buyer shall pay real estate taxes due and payable in the year following closing and thereafter and any unpaid special assessments payable therewith and thereafter, the payment of which is not otherwise provided for herein. Seller makes no representation concerning the amount of future real estate taxes or of future special assessments.

**8. DAMAGES TO REAL PROPERTY.** If the real property is substantially damaged prior to closing, this Agreement shall terminate and the earnest money shall be refunded to Buyer. If the real property is damaged materially but less than substantially prior to closing, Buyer may rescind this Agreement by notice to Seller within 21 days after Seller notifies Buyer of such damage, during which 21-day period Buyer may inspect the real property, and in the event of such rescission, the earnest money shall be refunded to Buyer.

9. **SELLER'S BOUNDARY LINE, ACCESS, RESTRICTIONS AND LIEN WARRANTIES.** Seller warrants that there is a right of access to the real property from a public right of way. Seller warrants that there has been no labor or material furnished to the property for which payment has not been made. Seller warrants that there are no present violations of any restrictions relating to the use or improvement of the property. These warranties shall survive the delivery of the deed or contract for deed.
10. **CONDITION OF PROPERTY.** Seller has not received any notice from any governmental authority as to the existence of any dutch elm disease, oak wilt, or other disease of any trees on the property. To the best of Seller's knowledge no hazardous substances or petroleum products have been placed, stored, or released from or on the property by any party in violation of any law, nor have any underground storage tanks been located on the property at any time, except as follows:

**NONE**

Seller's warranties and representations contained in this paragraph 10 shall survive the delivery of the Deed or Contract for Deed, provided that any notice of a defect or claim or breach of warranty must be in writing and given by Buyer to Seller within one year of the date of closing or be deemed waived.

Buyer shall have the right to have inspections of the property conducted prior to closing. Unless required by local ordinance or lending regulations, seller does not plan to have the property inspected. Other than the representations made in this paragraph 10, the property is being sold "**AS IS**" with no express or implied representation or warranties by seller as to physical conditions, quality of construction, workmanship, or fitness for any particular purpose. (This paragraph is not intended to waive or modify any provisions of Minn. Stat., Chapter 327A.)

11. **DISCLOSURE OF NOTICES.** Seller has not received any notice from any governmental authority as to violation of any law, ordinance or regulation affecting the property. If the property is subject to restrictive covenants, Seller has not received any notice from any person as to a breach of the covenants.
12. **POSSESSION.** Seller shall deliver possession of the property not later than closing date. All interest, fuel oil, liquid petroleum gas, and all charges for city water, city sewer, electricity, and natural gas shall be prorated between the parties as of closing date.
13. **EXAMINATION OF TITLE.** Within a reasonable time after acceptance of this Agreement, Seller shall furnish Buyer with an Abstract of Title or a Registered Property Abstract certified to date including proper searches covering bankruptcies and State and Federal judgments, liens, and levied and pending special assessments. Buyer shall have ten (10) business days after receipt of the Abstract of Title or Registered Property Abstract either to have Buyer's attorney examine the title and provide Seller with written objections or, at Buyer's own expense, to make an application for a Title Insurance Policy and notify Seller of the application. Buyer shall have (10) business days after receipt of the Commitment for Title Insurance to provide Seller with a copy of the Commitment and written objections. Buyer shall be deemed to have waived any title objection not made within the (10) day period, except that this shall not operate as a waiver of Seller's covenant to deliver a statutory Warranty Deed, unless a Warranty Deed is not specified above.

- 14. TITLE CORRECTIONS AND REMEDIES.** Seller shall have 120 days from receipt of Buyer's written title objections to make title marketable. Upon receipt of Buyer's title objections, Seller shall, within ten (10) business days, notify Buyer of Seller's intention to make title marketable within the 120 day period. Liens or encumbrances for liquidated amounts which can be released by payment or escrow from proceeds of closing shall not delay the closing. Cure of the defects by Seller shall be reasonable, diligent, and prompt. Pending correction of title, all payments required herein and the closing shall be postponed.
- A. If notice is given and Seller makes title marketable, then upon presentation to Buyer and proposed lender of documentation establishing that title has been made marketable, and if not objected to in the same time and manner as the original title objections, the closing shall take place within ten (10) business days or on the scheduled closing date, whichever is later.
  - B. If notice is given and Seller proceeds in good faith to make title marketable but the 120 day period expires without title being made marketable, Buyer may declare this Agreement null and void by notice to Seller, neither party shall be liable for damages hereunder to the other, and earnest money shall be refunded to Buyer.
  - C. If Seller does not give notice of intention to make title marketable, or if notice is given but the 120 day period expires without title being made marketable due to Seller's failure to proceed in good faith, Buyer may seek, as permitted by law, any one or more of the following:
    - 1. Proceed to closing without waiver or merger in the deed of the objections to title and without waiver of any remedies, and may:
      - (a) seek damages, costs, and reasonable attorneys' fees from Seller as permitted by law (damages under this subparagraph (a) shall be limited to the costs of curing objections to title, and consequential damages are excluded); or
      - (b) Undertake proceedings to correct the objections to title;
    - 2. Rescission of the Purchase Agreement by notice as provided herein, in which case the Purchase Agreement shall be null and void and all earnest money paid hereunder shall be refunded to Buyer.
    - 3. Damages from Seller together with costs and reasonable attorneys' fees, as permitted by law;
    - 4. Specific performance within six months after such right of action arises.
  - D. If title is marketable, or is made marketable as provided herein, and Buyer defaults in any of the agreements herein, Seller may elect either of the following options, as permitted by law:
    - 1. Cancel this contract as provided by statute and retain all payments made hereunder as liquidated damages. The parties acknowledge their intention that any note given pursuant to this contract is a down payment note, and may be presented for payment notwithstanding cancellation;
    - 2. Seek specific performance of this Agreement within six months after such right of action arises, including costs and reasonable attorneys' fees, as permitted by law.
  - E. If title is marketable, or is made marketable as provided herein, and Seller defaults in any of the agreements herein, Buyer may, as permitted by law:
    - 1. Seek damages from Seller including costs and reasonable attorneys' fees;
    - 2. Seek specific performance within six months after such right of action arises.

**TIME IS OF THE ESSENCE FOR ALL PROVISIONS OF THIS AGREEMENT.**

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

- 16. AGENCY DISCLOSURE NOTICE:** No agent represents the seller.

17. **SURVEY OF LAND.** The parties agree:

- That no boundary survey of the property shall be conducted.
- That a boundary survey of the property shall be conducted as soon as possible. The cost of said survey shall be paid as follows:

**Seller shall pay the cost of survey.**

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

19. **WELL DISCLOSURE.** Check one of the following:

- Seller certifies that Seller does not know of any wells on the described real property.
- Wells on the subject real property are disclosed by Seller on the attached Well Disclosure form.

20. **ADDITIONAL TERMS.**

**This sale shall also be subject to the terms and conditions set-out in the development agreement between the parties, a copy of which is attached to this purchase agreement.**

21. **ATTACHMENTS.** Attached are 3 Attachment page(s), made a part of this Agreement.

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

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

**For Arlington Economic  
Development Authority:**

**SELLER:** \_\_\_\_\_  
**Printed Name:** Dean Bergersen  
Its President

**BUYER:** \_\_\_\_\_  
**Printed Name:** Justin Horstman

**Dated:** \_\_\_\_\_

**Dated:** \_\_\_\_\_

## DEVELOPMENT AGREEMENT

Arlington Economic Development Authority, an agency of the City of Arlington, a Minnesota municipal corporation, hereafter "City" and Justin Horstman, "Buyer," hereby agree as follows:

1. City has agreed to sell to Buyer the following described real estate, hereafter "premises":

**Part of the Northwest Quarter of Section 9, Township 113 North, Range 27 West, Sibley County, Minnesota, consisting of 14.37 acres, survey description to control. This is also described as Tax Parcel 31.0874.000.**

2. Consideration for this purchase is \$ \_\_\_\_\_ and the agreement of the Buyer that Buyer will construct a business building on the premises to be substantially completed by \_\_\_\_\_. It is the understanding and intent of this agreement that Buyer is constructing said buildings in order to provide a place of operation for Buyer's construction business.
3. If through no fault of Buyer, weather conditions, non-availability of building materials, or any other cause beyond Buyer's control, prevents Buyer from completing the structure on the premises by \_\_\_\_\_, Buyer may be granted an extension of completion date in the sole discretion of city.
4. As further consideration for this purchase, Buyer agrees that the business building to be constructed by Buyer on the premises shall be of a construction cost of at least \$300,000.00.
5. If Buyer does not begin construction of the business building on the premises within 90 days after the premises purchase has been closed, then at the option of the city, the city can require Buyer to deed back the property to the city for \$ \_\_\_\_\_, immediately upon demand.
6. As further consideration for this purchase, Buyer agrees that Buyer, or any tenant of Buyer, shall employ at least \_\_\_\_\_ full-time equivalent employees working primarily on the premises, within 6 months after the completion of the business building to be constructed on the premises. Upon sufficient showing of the hiring of \_\_\_\_\_ full-time employees, the city shall record partial satisfaction releasing Buyer from the obligation. If this condition is not fulfilled, then at the option of the city, the city can require Buyer to pay an amended purchase price in accordance with the city's development land sale policy as adopted by the Arlington City Council on May 21, 2018. For purposes of this agreement, the Sibley County Assessor's estimated market value for 2020 will be considered the "Market Rate Value" as set out in said development land sale policy. Such amended purchase price shall be paid by Buyer to the city within 30 days after written demand by the city for such payment, following the failure of Buyer to meet the employment goals as set out in this paragraph.



7. Municipal sewer and water service are not available to the premises at this time. Buyer will undertake construction of city sewer and water service infrastructure to the premises at the Buyer's cost.
8. Buyer's operation of the business on the premises shall at all times comply with government regulations, to include, but not limited to, sound suppression and dust control standards.

Dated: \_\_\_\_\_, 2020

For Arlington Economic Development Authority:

\_\_\_\_\_  
Dean Bergersen  
Its President

\_\_\_\_\_  
Justin Horstman  
Buyer

STATE OF MINNESOTA  
COUNTY OF SIBLEY

This instrument was acknowledged before me on \_\_\_\_\_, 2020, by Dean Bergersen, President, on behalf of Arlington Economic Development Authority, an agency of the City of Arlington, a Minnesota municipal corporation.

NOTARIAL STAMP

\_\_\_\_\_  
SIGNATURE OF PERSON TAKING ACKNOWLEDGMENT

STATE OF MINNESOTA  
COUNTY OF SIBLEY

This instrument was acknowledged before me on \_\_\_\_\_, 2020, by Justin Horstman, Buyer.

NOTARIAL STAMP

\_\_\_\_\_  
SIGNATURE OF PERSON TAKING ACKNOWLEDGMENT