COMMUNITY DEVELOPMENT COMMITTEE
MINUTES

The Community Development Committee of the Willmar City Council met on Thursday, December 17, 2015, in Conference Room No. 1 at the City Office Building.

Present:	Rick Fagerlie	..... Chair
	Andrew Plowman	..... Vice Chair
	Audrey Nelsen	..... Member
	Tim Johnson	..... Member

Others present: Bruce Peterson - Director of Planning and Development Services, Doug Fenstra – Fenstra Realty, David Little and Shelby Lindrud – West Central Tribune.

Item No. 1 Call to Order

The meeting was called to order by Chair Fagerlie at 4:45 p.m.

Item No. 2 Public Comments

There were no public comments.

Chair Fagerlie recognized Shelby Lindrud as the replacement for David Little on the West Central Tribune "City beat". Chair Fagerlie thanked Mr. Little for his years of service and fine work done for the City.

Item No. 3 Work Order to Bolton & Menk Professional Services Contract (Resolution)

Staff presented a work order as an amendment to the Professional Services Contract the City has with Bolton & Menk. Bolton & Menk performed most of the work in completing the submittals for the phase three and final land release. The first two land releases were prepared by City staff. The information required for phase three was at a technical level beyond staff capability. Staff had engaged the services of Bolton & Menk because of the ongoing relationship the City has with them as airport engineers.

Staff acknowledged that the work order should have been brought to the Council sooner, but in the process of completing the submittals for the final land release it was overlooked. The information required for the final land release has been filed with the FAA. It is now in their hands to review and grant the final land release for the former airport. The FAA has indicated the review could take up to 12 months. Staff has begun discussions with persons at the FAA and the Federal Railway Administration to move the process along more quickly, in light of the TIGER Grant for the Willmar WYE Project that will require right-of-way from the final land release area.

Following discussion a motion was made by Council Member Nelsen, seconded by Council Member Plowman and passed that the Council adopt a resolution approving Work Order No. 5 with Bolton & Menk for the final phase of the land release process.

Item No. 4 Proposal to Purchase Industrial Park Land (Motion)

Staff presented a proposal from Dooley Brothers LLP to acquire three lots in Willmar Industrial Park Fourth Addition. The offer is made at full asking price and includes a proposal to utilize the City's Industrial Land Write-Down policy. The Committee viewed a preliminary site plan that includes new corporate offices and maintenance facilities for Dooley's Petroleum. The use is permitted with plan review in the Limited Industry district and the company would like to begin construction in early spring.

Staff suggested that because the purchase proposal was written at full asking price that staff be directed to work out the details and negotiate a final purchase agreement consistent with the listing price and the terms of the Industrial Land Write-Down policy.

Following Discussion a Motion was made by Council Member Nelsen, seconded by Council Member Plowman and passed that staff be directed to complete negotiations for the purchase and to bring the final negotiated deal back to the Committee in January.

Item No. 5 MinnWest Tax Abatement Business Subsidy Agreement (Resolution)

The Committee discussed the Tax Abatement and Business Subsidy Agreement prepared for the recently granted MinnWest tax abatement. Questions were asked regarding the wage requirements in the City's Economic Development Incentives policy. Staff informed the Committee that all jobs created for projects that receive municipal incentives require the applicant to pay a minimum wage of $12 per hour. Language in the agreement will require MinnWest to meet any changes to the wage requirements that are adopted as policy during the term of the tax abatement. The agreement includes the goals of eight million dollars in capital investments and an additional 175 jobs over the ten year abatement period. Failure to meet the goals will result in the City pursuing repayment of all or a part of the abated taxes.

Following discussion, a motion was made by Council Member Nelsen, seconded by Council Member Plowman and passed that the Council adopt a resolution approving the Tax Abatement and Business Subsidy Agreement for the MinnWest tax abatement consistent with the terms of City Council Resolution No. 3, dated December 7, 2015.

Item No. 6 New Business

Staff informed the Committee that information regarding sex offender residency and zoning restrictions will be brought before the Committee in January. City Attorney Scott has indicated he has completed preliminary work on the matter and it is ready to go to Committee.

Staff also informed the Committee that it was working with EDC staff to prepare a site proposal for an industrial prospect seeking between 20-40 acres of land for a production facility.

There being no further business to come before the Committee, the meeting was adjourned at 5:40 p.m. by Chair Fagerlie.

Respectfully submitted,

Bruce D. Peterson, AICP
Director of Planning and Development Services

CITY OF WILLMAR, MINNESOTA
REQUEST FOR COMMITTEE ACTION

Agenda Item Number: 3

Meeting Date: December 17, 2015

Attachments: ☒ Yes ☐ No

CITY COUNCIL ACTION

Date: _____

☐ Approved ☐ Denied
☐ Amended ☐ Tabled
☐ Other

_____

_____

Originating Department: Planning and Development Services

Agenda Item: Work Order to Bolton & Menk Professional Services Contract

Recommended Action: To approve the work order for the final phase of the land release.

Background/Summary: While staff had completed the first two phases of the land release for the former airport, the final phase is much more technical due to the extent and types of information required by the FAA. The City of Willmar has a professional services contract with Bolton & Menk for airport services, but there was nothing within that scope of services that included work on the land release. Bolton & Menk has led the effort to secure the phase three land release and has worked on this for quite some time. It was determined that the City should formalize those efforts in a work order to define the scope of the additional services, as well as the compensation for those services. The attached work order does both.

Alternatives: To not approve the work order.

Financial Considerations: The total cost for the additional services is $40,000. It is anticipated that funding will come from 2015 Planning and Development Services and Airport budgets, the 2016 Airport budget and possibly funds from the Local Options Sales Tax.

Preparer: Bruce D. Peterson, AICP
Director of Planning and Development Services

Signature:

Comments:

WORK ORDER NO. 5
TO
PROFESSIONAL SERVICES CONTRACT
FOR
LAND RELEASE PHASE 3; "ORIGINAL" AIRPORT LOCATION

BETWEEN:	The City of Willmar, A Minnesota municipal corporation	**(CLIENT)**
AND:	Bolton & Menk, Inc.	**(CONSULTANT)**
EFFECTIVE DATE:	**December ___, 2015**	

RECITALS

1. City owns and operates the Willmar Municipal Airport (John L. Rice Field) located in Willmar, Minnesota.

2. This is Work Order No. 5 to the Professional Services Contract, between City and Bolton & Menk, Inc. The Professional Services Contract effective April 23, 2012, is referred to herein as the "**Master Agreement**".

AGREEMENT

DESCRIPTION

The CONSULTANT agrees to provide Professional Services required for the prior Airport Location Land Release, Phase 3 at the Willmar Municipal Airport/City of Willmar (herein referred to as the CLIENT).

I.A. BASIC SERVICES

For purposes of this Work Order, the Basic Services to be provided by the CONSULTANT are as follows:

Project Scope

It is understood that the CLIENT is required to provide historical documentation of the old airport property for releasing all federal obligations of said properties for compliance and continuation of receiving federal grants at the new airport. The CLIENT had completed Land Release Phases 1 & 2 and requested assistance for the final phase 3 documentation efforts.

TASK 1. Land Release Report

For the CLIENT to sell airport property acquired through a percentage of federal funding, a Land Release is required with certain process requirements that must be followed before the land can be released back to the City or sold to a private entity. The guidelines for this process are presented in FAA Order 5190.6B. The steps are outlined as follows:

1. The owner must make a written request and justify why there has been a change in the aviation need for the land as well as supply considerable detail about the history and condition of the property.

2. An Environmental Assessment (EA) or CATEX is required, which must address the impact of the sale and the proposed future use of the land. The land release will be incorporated into the

Environmental Assessment under Secondary and Cumulative Impacts. This will fulfill the requirement of environmental review of the land release. COMPLETED BY CLIENT. CONSULTANT will assist with coordination with MnDOT and FAA for approval of the environmental document.

3. Proceeds from the sales/release belong to the FAA, the State, and the City in the ratios at which the property was purchased. There are specific FAA Terms and Conditions and State Project Agreements that define the funding shares. To accomplish the request for the Phase 3 land release, the CONSULTANT will complete the following tasks in accordance with AC 150/5190.6B:

Task 1: Legal Description and Condition of Property.
Complete a legal description of the property requested for the land release and determine the amount of acreage.

Task 2: Property Title and Appraised Value
The CLIENT will furnish evidence of clear title to the property to be sold. If existing documentation is not available from the original purchase, then the CLIENT will complete a title search and furnish evidence of clear title for the parcel to be sold. CONSULTANT will work with City Attorney to develop title, deed and deed restrictions for the airport property to be released.

CONSULTANT will discuss with both the County Assessor and/or County Recorder as to current land values and recent property sales. This appraised value would document potential for future revenue from sale of property and identify dedicated uses for the federal and state share of these funds at the airport.

Task 3: Review Comprehensive Plans
Review CLIENT Comprehensive Plans to determine long range vision for parcel or adjoining parcels, such as: Airport Master Plan, ALP, City Comprehensive Plan, Land Use Plan, Economic Development Plan, and/or Industrial Park Plan.

Task 4: Request of Land Release to FAA and Mn/DOT
Using the City of Willmar's vision for the property and FAA Order 5190.6B, the CONSULTANT will write the justification for the land release. This will describe the reason for the land release, and develop consensual reasons for FAA allowance of this transaction. This will include supporting documentation such as estimated property/parcel values and future use of existing property. This will also identify the cost participation of the original purchase and detail the sum of funds from the future sale that would be required to remain dedicated for airport purposes.

TASK 2. Sponsor, FAA and MnDOT Aeronautics Coordination

This task covers the Administration and Coordination of Phase 3 of the Land Release. This task includes the following:

1. The CONSULTANT and CLIENT agree that historical research services furnished shall be to the extent necessary to determine compliance with federal guidelines.
2. The CONSULTANT shall attend up to (5) site visits with the CLIENT and (5) with AGENCIES.

TASK 3. Field Survey and Property Research Assistance

The CONSULTANT will assist the CLIENT with the following Survey and Research Assistance tasks:

1. Verification of prior and existing airport properties. The 1975 Airport Layout Plan property map data tables were not found along with the "Exhibit A" document.
2. Including discussions with Mn/DOT and FAA to provide background for approval as well as completing Federal guidelines.
3. Complete a boundary description of the old airport site Phase 3 parcels.
4. Kandiyohi County property research, estimated (4) visits to gather parcel information and estimated Appraised Property values along with MnDOT archive searches.

I.B. ADDITIONAL SERVICES

Consulting services performed other than those authorized under Section I.B. shall not be considered part of the Basic Services and may be authorized by the CLIENT as Additional Services. Additional Services consist of those services, which are not generally considered to be Basic Services; or exceed the requirements of the Basic Services; or are not definable prior to the commencement of the project; or vary depending on the technique, procedures or schedule of the project contractor. Additional services may consist of the following:

1. Upon receiving the CLIENT's request, CONSULTANT will assist with completing any close out report for requesting the final grant reimbursement for phases of the prior projects, in accordance with Mn/DOT of FAA requirements
2. Attendance of additional meetings beyond those identified in the above scope.
3. Creation of a new "Exhibit "A" document.
4. All other services not specifically identified in Section I.A.

I.C. CONSIDERATION

The services described above in Section I.A. BASIC SERVICES shall be provided as follows:

1. Land Release Report	$ 23,500
2. Sponsor, FAA & MnDOT Coordination	$ 11,300
3. Field Survey & Property Research	$ 5,200
TOTAL AUTHORIZED FEE	**$ 40,000**

Progress payments shall be made in accordance with the Attached Fee Schedule and Section III of the Master Agreement.

I.D. SCHEDULE

TASK	SERVICE DESCRIPTION	DATE
1	Land Release Report **	February 2013 - December, 2015
2	Sponsor, FAA & MnDOT Coordination	February 2013 - December 2015
3	Field Survey & Property Research	May 2015 – August 2015

** *((Project started as T51.105032, Task 004 - Miscellaneous Projects))*

I.E. AUTHORIZATION

City of Willmar, Minnesota

Mr. Marv Calvin Mayor

Bolton & Menk, Inc.

Ronald A. Roetzel, P.E
Principal

Mr. Kevin Halliday Interim City Administrator

CITY OF WILLMAR, MINNESOTA
REQUEST FOR COMMITTEE ACTION

Agenda Item Number: 4

Meeting Date: December 17, 2015

Attachments: ☐ Yes ☒ No

CITY COUNCIL ACTION

Date: _____

☐ Approved ☐ Denied
☐ Amended ☐ Tabled
☐ Other

_____

_____

Originating Department: Planning and Development Services

Agenda Item: Proposal to Purchase Industrial Park Land

Recommended Action: To grant staff the authority to negotiate a purchase agreement consistent with the listing price and the terms of the Industrial Park land write down policy.

Background/Summary: The City has received a proposal from a non-Kandiyohi County company to purchase four lots in the Willmar Industrial Park Fourth Addition (West of County Road 5). The proposed project would include office facilities, as well as shop and maintenance facilities for the company. The exact scope of the project has not yet been defined. The company has expressed an interest in utilizing the City's Industrial Land Write Down Policy. That policy has as a requirement that the base price for the sale of the property be the listing price of $1.25 per square foot. Staff will be able to answer questions from the Committee regarding the proposal. At this time, the name of the Company is not being made public.

Alternatives: To not pursue the sale.

Financial Considerations: The total purchase price for the four lots at $1.25 per square foot would be $602,455. It is anticipated that the price could be reduced by approximately $325,000 due to the use of the Industrial Land Write Down Policy.

Preparer: Bruce D. Peterson, AICP
Director of Planning and Development Services

Signature:

Comments:

CITY OF WILLMAR, MINNESOTA
REQUEST FOR COMMITTEE ACTION

Agenda Item Number: 5

Meeting Date: December 17, 2015

Attachments: ☒ Yes ☐ No

CITY COUNCIL ACTION

Date: _____

☐ Approved ☐ Denied
☐ Amended ☐ Tabled
☐ Other

_____

_____

Originating Department: Planning and Development Services

Agenda Item: Minn West Tax Abatement Business Subsidy Agreement

Recommended Action: To approve the business subsidy agreement for the Minn West Tax Abatement consistent with terms of City Council Resolution #3 dated December 7, 2015.

Background/Summary: The City received a request for tax abatement for Minn West Technology Campus for several parcels that were previously part of the JOBZ program. A public hearing on the tax abatement resulted in approval by the Council for the tax abatement program. The Business Subsidy Agreement is the last step in the process, in that it formalizes the requirements for the Company in order for the tax abatements to be paid. The goals in the business subsidy agreement are a minimum of $8 million in capital investments and additional 175 jobs over a 10 year period. Failure to meet these goals will result in the City pursuing repayment of all or a part of the abated taxes.

Alternatives: To not approve the Business Subsidy Agreement.

Financial Considerations: The maximum cost to the City over the 10 year period will be $416,000.

Preparer: Bruce D. Peterson, AICP
Director of Planning and Development Services

Signature:

Comments:

TAX ABATEMENT AND BUSINESS SUBSIDY AGREEMENT

BY AND BETWEEN

CITY OF WILLMAR, MINNESOTA

AND

MINNWEST TECHNOLOGY CAMPUS MANAGEMENT COMPANY, LLC

DRAFT

TABLE OF CONTENTS

Page

ARTICLE I DEFINITIONS 2
Section 1.1 Definitions 2

ARTICLE II REPRESENTATIONS AND WARRANTIES 3
Section 2.1 Representations and Warranties of the City 3
Section 2.2 Representations and Warranties of the Developer 3

ARTICLE III UNDERTAKINGS BY DEVELOPER AND CITY 4
Section 3.1 Construction of Project and Reimbursement of Cost 4
Section 3.2 Limitations on Undertaking of the City 5
Section 3.3 Commencement and Completion of Construction 5
Section 3.4 Damage and Destruction 5
Section 3.5 No Change in Use of Project 5
Section 3.6 Prohibition Against Transfer of Project and Assignment of Agreement 5
Section 3.7 Real Property Taxes 5
Section 3.8 Business Subsidy Act 6
Section 3.9 Tax Abatement Program 6

ARTICLE IV EVENTS OF DEFAULT 6
Section 4.1 Events of Default Defined 6
Section 4.2 Remedies on Default 7
Section 4.3 No Remedy Exclusive 8
Section 4.4 No Implied Waiver 8
Section 4.5 Agreement to Pay Attorneys' Frees and Expenses 8
Section 4.6 Release and Indemnification Covenants 8

ARTICLE V ADDITIONAL PROVISIONS 9
Section 5.1 Conflicts of Interest/No Personal Liability 9
Section 5.2 Non-Discrimination 9
Section 5.3 No Merger 9
Section 5.4 Cleanup 9
Section 5.5 Responsibilities for Costs 9
Section 5.6 Notices and Demands 10
Section 5.7 Counterparts 10
Section 5.8 Duration 10
Section 5.9 Provisions Surviving Rescission or Expiration 10
Section 5.10 Records—Availability and Retention 10
Section 5.11 Data Practices 11
Section 5.12 Rules of Interpretation 11

TAX ABATEMENT AGREEMENT

THIS AGREEMENT, made as of the ____ day of _____, 20__, by and among the City of Willmar, Minnesota, a Minnesota municipal corporation (the "City"), and MinnWest Technology Campus Management Company, LLC, a Minnesota limited liability company (the "Developer"),

WITNESSETH:

WHEREAS, the Developer has sought to renovate, expand and otherwise further develop the MinnWest Technology Campus (the "Development Property") that it owns and operates by making infrastructure and capital investments on and expanding the campus. The renovation, expansion and further development of the Development Property generally consists of the Developer's purchase and renovation of several of the historic Spanish colonial cottage buildings on the Development Property and the renovation of approximately seven additional historic buildings or portions thereof already owned by the Developer on the Development Property, the expansion and construction of additional improvements and other further development of the MinnWest Technology Campus on the Development Property, the Developer's recruitment of new technology oriented businesses to locate on and occupy the Development Property, and Developer's continued operation of the MinnWest Technology Campus on the Development Property as facilities for agriculture, bioscience and technology oriented businesses (the "Project"); and

WHEREAS, pursuant to Minnesota Statutes, Sections 469.1812 through 469.1815, the City has established a Tax Abatement Program pursuant to which the City is authorized to grant an abatement of ad valorem property taxes imposed by the City under certain conditions; and

WHEREAS, the Developer has requested that the City provide financial assistance in the form of property tax abatement on eight parcels located on the Development Property located from 1701—1706 Engineering Avenue Northeast, and from 1700—1704 and 1800—1801 Bio Tech Avenue Northeast, all in the City (Parcel Nos. 95—508—0240, 95—508—0250, 95—508—0260, 95—508—0270, 95—508—0300, 95—508—0310, 95—508—0380, and 95—508—0400), as legally described on the attached Exhibit A (collectively, the "Abatement Property") to abate the City's share of ad valorem property taxes on the Development Property for a period not to exceed ten (10) years, specifically with respect to the payable 2016 through 2025 property taxes, in a total amount not to exceed $416,000.00; and

WHEREAS, the City believes that the development and construction of the Project and fulfillment of this Agreement are vital and are in the best interests of the City, will result in the creation of new employment opportunities for its citizens, increase and modernize the commercial building facilities available in the City, and increase the tax base in the City, and are in accordance with the public purpose and provisions of the applicable state and local laws and requirements under which the Project has been undertaken and is being assisted; and

WHEREAS, following notice and a public hearing the City adopted Resolution #3, dated December 7, 2015 (the "Abatement Resolution"), agreeing to provide, in accordance with the referenced Abatement Resolution, State law and this Agreement, abatement of City property taxes on the Abatement Property subject to the terms and conditions contained in the above-referenced Abatement Resolution and this Agreement (the "Tax Abatement" or "Abatement"); and

WHEREAS, the requirements of the Business Subsidy Law, Minnesota Statutes, Section 116J.993 through 116J.995, apply to this Agreement; and

WHEREAS, the City believes that the Project will meet the conditions of the Tax Abatement Act and Tax Abatement Program in that: (a) the City expects the benefits to the City from this Agreement to equal or exceed the costs to the City of this Agreement; and (b) the City finds that granting the Tax Abatement is in the public interest because it will increase or preserve the City's tax base, and will provide business and employment opportunities in the City; and

WHEREAS, the City has determined that the Project: (a) will promote and carry out the objectives for which development in the City has been undertaken; (b) will be in the vital best interests of the City and the health, safety, morals and welfare of its residents; and (c) is in accord with the public purposes and provisions of the applicable state and local laws, including requirements of the City's Code, under which the Project will be undertaken and is being assisted; and

WHEREAS, the Developer and the City desire to enter into this Agreement in satisfaction of applicable requirements of the City, and to set out the undertakings and obligations of each party from this point forward with respect to the Project.

NOW, THEREFORE, in consideration of the premises and the mutual obligations of the parties hereto, each of them does hereby covenant and agree with the other as follows:

ARTICLE I

DEFINITIONS

Section 1.1 Definitions. All capitalized terms used and not otherwise defined herein shall have the following meanings unless a different meaning clearly appears from the context:

Abatement Property means the real property described on Exhibit A, attached hereto;

Agreement means this Agreement, as the same may be from time to time modified, amended or supplemented;

Benefit Date means every date on which the City makes a payment of Tax Abatements to the Developer according the specific provisions of Section 3.9 payment, consistent with the statutory definition of the term contained in Minnesota Statutes, Section 116J.993, Subdivision 2.

Business Day means any day except a Saturday, Sunday or a legal holiday or a day on which banking institutions in the City are authorized by law or executive order to close;

City means the City of Willmar, Minnesota;

Code means the City's Code of Ordinances;

Developer means Minnwest Technology Campus Management Company, LLC, and its successors and assigns;

Development Property means the entirety of real property located in the Common Interest Community Number 40, A Planned Community, MinnWest Technology Campus, City of Wilmar, Kandiyohi County, Minnesota, according to the plat on file and of record in the office of the County Recorder of Kandiyohi County, Minnesota;

Event of Default means any of the events described in Section 4.1;

Project means the Developer's purchase and renovation of several of the historic Spanish colonial cottage buildings on the MinnWest Technology Campus on the Development Property and the renovation of approximately seven additional historic buildings or portions thereof already owned by the Developer on the Development Property, the expansion, construction of additional improvements and other further development of the MinnWest Technology Campus on the Development Property, the Developer's recruitment of new technology oriented businesses to locate on and occupy the Development Property, and Developer's continued operation of the MinnWest Technology Campus on the Development Property as facilities for agriculture, bioscience and technology oriented businesses;

Project Improvements means each and all of the improvements to be constructed on the Development Property as part of the Project, pursuant to the Project Plans and this Agreement. The timing of Developer's construction of the Project is described in more detail in remaining portions of this Agreement. All Project Improvements shall be completed to City specifications as provided in the Project Plans, this Agreement, and the Code.

Project Plans means all submissions required by the City Ordinances, or this Agreement with respect to the Project and all plans, drawings, plats and related documents for the construction of the Project, approved by the City and Developer, irrespective of whether the Developer's and/or the City's final approval of any such documents occurs before or after the execution and delivery of this Agreement.

State means the State of Minnesota;

Tax Abatement Act means Minnesota Statutes, Sections 469.1812 through 469.1815;

Tax Abatement Program means the action by the City pursuant to Minnesota Statutes, Section 469.1812 through 469.1815, as amended, and undertaken in support of the Project;

Tax Abatements means the City's reimbursement to the Developer of the City's share of ad valorem property taxes imposed on the Abatement Property and paid by the Developer for a period not to exceed ten (10) years, specifically with respect to the payable 2016 through 2025 property taxes, in a total amount not to exceed $416,000.00, pursuant to the specific provisions of Section 3.9.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Section 2.1 Representations and Warranties of the City. The City makes the following representations and warranties:

(1) The City is a municipal corporation organized under the laws of the State and has the power to enter into this Agreement and carry out its obligations hereunder.

(2) The Tax Abatement Program was created, adopted and approved in accordance with the terms of the Tax Abatement Act.

(3) To finance the costs of the Project to be undertaken by the Developer, the City proposes, subject to the further provisions of this Agreement, to reimburse the Developer for Project costs as further provided in this Agreement.

(4) The City has made the findings required by the Tax Abatement Act for the Tax Abatement Program.

(5) This Agreement has been duly approved by the City Council of the City and the execution and delivery of this Agreement has been authorized by such City Council.

Section 2.2 Representations and Warranties of the Developer. The Developer makes the following representations and warranties:

(1) The Developer is a limited liability company duly organized, in good standing, and validly existing under the laws of the State and has the power to enter into the Agreement and to perform its obligations hereunder and is not in violation of its charter, articles of incorporation, operating agreement or any local, state or federal laws.

(2) The Developer's parent corporations are NovaTech Engineering, LLC, a Minnesota Limited Liability Company, 1800 Technology Drive Northeast, Willmar, Minnesota 56201 and Life—Science Innovations, LLC, a Minnesota Limited Liability Company, 1800 Technology Drive Northeast, Willmar, Minnesota 56201.

(3) The Developer will cause the Project to be constructed in accordance with the terms of the Agreement, the Project Plans, and all local, state, and federal laws and regulations (including, but not limited to, environmental, zoning, energy conservation, building code and public health laws and regulations, City Policy and Code).

(4) The Developer will obtain or cause to be obtained, in a timely manner, all required permits, licenses and approvals, and will meet, in a timely manner, all requirements of all applicable local, state, and federal laws and regulations which must be obtained or met before the Project may be lawfully constructed. Without in any way limiting the foregoing, the Developer will request and seek to obtain from the City, if necessary, such approvals, variances, conditional use permits, zoning changes and other required City approvals as may be applicable.

(5) The Project will, as of the date it is completed and subject to the issuance of City approvals as herein contemplated, contain only uses permitted under the Code.

(6) The construction of the Project would not be undertaken by the Developer, and in the opinion of the Developer would not be economically feasible within the reasonably foreseeable future, without the assistance and benefit to the Developer provided for in this Agreement.

(7) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and

conditions of this Agreement is prevented, limited by or conflicts with or results in a breach of, the terms, conditions or provision of any contractual restriction, evidence of indebtedness, agreement or instrument of whatever nature to which the Developer is now a party or by which it is bound, or constitutes a default under any of the foregoing.

(8) The Developer will cooperate fully with the City with respect to any litigation commenced with respect to the project, but only to the extent that the City and the Developer are not adverse parties to the litigation.

(9) The Developer will cooperate fully with the City in resolution of any traffic, drainage, utility, parking, trash removal or public safety problems which may arise in connection with the construction and operation of the Project.

ARTICLE III

UNDERTAKINGS BY DEVELOPER AND CITY

Section 3.1 Construction of Project and Reimbursement of Cost.

(1) The costs of the construction of the Project shall be paid by the Developer. The Developer will construct the Project in a good and workmanlike manner in accordance with the Project Plans and at all times prior to the termination of this Agreement will operate and maintain, preserve and keep the Project or cause the Project to be maintained, preserved and kept with the appurtenances and every part and parcel thereof, in good repair and condition.

(2) The City shall partially reimburse the Developer for the costs of the Project pursuant to the Abatement Program as provided in Section 3.9, and shall have no other financial obligation to the Developer with respect to the Project.

Section 3.2 Limitations on Undertaking of the City. Notwithstanding the provisions of Section 3.1, the City shall have no obligation to reimburse the Developer for the costs of the Project, if the City, at the time or times such payment is to be made, is entitled under Section 4.2 to exercise any of the remedies set forth therein as a result of an Event of Default which has not cured.

Section 3.3 Commencement and Completion of Construction.

The Developer shall complete the Project by December 31, 2025. All work with respect to the Project to be constructed or provided by the Developer shall be in conformity with the Project Plans as submitted by the Developer and approved by the City.

Nothing in this Agreement shall be deemed to impair or limit any of the City's rights or responsibilities under its zoning laws or construction permit processes.

Section 3.4 Damage and Destruction. In the event of damage or destruction of the Project the Developer shall repair or rebuild the Project.

Section 3.5 No Change in Use of Project. The City's obligations pursuant to this Agreement shall be subject to the continued operation of the Project by the Developer.

Section 3.6 Prohibition Against Transfer of Project and Development Property and Assignment of Agreement. The Developer represents and agrees that prior to the termination date of this Agreement the Developer shall not transfer the Project or the Development Property or any part thereof or any interest therein, without the prior written approval of the City. The City shall be entitled to require as conditions to any such approval that;

(1) Any proposed transferee shall have the qualifications and financial responsibility, in the reasonable judgment of the City, necessary and adequate to fulfill the obligations undertaken in this Agreement by the Developer.

(2) Any proposed transferee, by instrument in writing satisfactory to the City shall, for itself and its successors and assigns, and expressly for the benefit of the City, have expressly assumed all of the obligations of the Developer under this Agreement and agreed to be subject to all the conditions and restrictions to which the Developer is subject.

(3) There shall be submitted to the City for review and prior written approval all instruments and other legal documents involved in effecting the transfer of any interest in this Agreement or the Project.

Section 3.7 Real Property Taxes. The Developer acknowledges that it is obligated under law to pay all real property taxes and special assessments payable with respect to all parts of the Development Property acquired and owned by it which are payable pursuant to this Agreement, State law and any other statutory or contractual duty that shall accrue subsequent to the date of its acquisition of title to the Development Property (or part thereof) and until title to the property is vested in another person. The Developer agrees that for tax assessments so long as this Agreement remains in effect:

(1) It will not seek administrative review or judicial review of the applicability of any tax statute relating to the ad valorem property taxation of real property contained on the Development Property determined by any tax official to be applicable to the Project or the Developer or raise the inapplicability of any such tax statute as a defense in any proceedings with respect to the Development Property, including delinquent tax proceedings; provided, however, "tax statute" does not include any local ordinance or resolution levying a tax;

(2) It will not seek administrative review or judicial review of the constitutionality of any tax statute relating to the taxation of real property contained on the Development Property determined by any tax official to be applicable to the Project or the Developer or raise the unconstitutionality of any such tax statute as a defense in any proceeding, including delinquent tax proceeding with respect to the Development Property; provided, however, "tax statute" does not include any local ordinance or resolution levying a tax;

(3) It will not seek any tax deferral or abatement, either presently or prospectively authorized under Minnesota Statutes, Section 469.181, or any other State or federal law, of the ad valorem property taxation of the Development Property so long as this Agreement remains in effect.

Section 3.8 Business Subsidies Act.

(1) In order to satisfy the provisions of Minnesota Statutes, Sections 116J.993 to 116J.995 (the "Business Subsidies Act"), the Developer acknowledges and agrees that the amount of the "Business Subsidy" granted to the Developer under this Agreement is needed because the

Project is not sufficiently feasible for the Developer to undertake without the Business Subsidy. The public purpose of the Business Subsidy is to develop new jobs, increase and modernize the commercial building facilities available in the City, and increase the tax base in the City. The Developer agrees that it will meet the following goals (the "Goals"):

(a) To create a minimum of 175 full-time equivalent jobs on the Development Property by December 31, 2025.
(b) For each full-time equivalent job added pursuant to subparagraph (a) above, to pay a wage that with benefits, exceeds the minimum hourly wage required for qualification for job creation or retention goals in the City's Business Subsidy Policy, as the same may be amended.
(c) To spend $8 million on capital projects on and improvements to the Development Property by December 31, 2025.

(2) If the Goals are not met, the Developer agrees to repay all or a part of the Business Subsidy to the City, plus interest ("Interest") set at the implicit price deflator defined in Minnesota Statutes, Section 275.70, subdivision 2, accruing from and after the Benefit Date, as that term is defined in Minnesota Statute Section 116J.993, compounded semiannually. If the Goals are met in part, the Developer will repay a portion of the Business Subsidy (plus Interest) determined by multiplying the Business Subsidy by a fraction in proportion to the level of the Developer's partial satisfaction of the Goals.

(3) The Developer agrees to (i) report its progress on achieving the Goals to the City until the later of the date the Goals are met or two years from the latest Benefit Date, or, if the Goals are not met, until the date the Business Subsidy is repaid, (ii) include in the report the information required in Subdivision 7 of the Jobs Act (Minnesota Statutes, Section 116J.994) on forms developed by the Minnesota Department of Employment and Economic Development, and (iii) send completed reports to the City. The Developer agrees to file these reports no later than March 1 of each year commencing March 1, 2017, and within 30 days after the deadline for meeting the Goals. The Taxing Jurisdictions agree that if they do not receive the reports, they will mail the Developer a warning within one week of the required filing date. If within 14 days of the post marked date of the warning the reports are not made, the Developer agrees to pay to the City a penalty of $100 for each subsequent day until the report is filed up to a maximum of $1,000.

(4) The Developer agrees to continue operations of the Project for at least five (5) years after the latest Benefit Date.

Section 3.9 Tax Abatement Program.

(1) The Tax Abatement paid to the Developer shall be in accordance with and subject to the terms and conditions contained in the Abatement Resolution and the Tax Abatement Act.

(2) The Tax Abatement shall be for a duration not to exceed ten years and shall apply to 100 percent of the City's share of ad valorem property taxes imposed on the Abatement Property and paid by the Developer, not to exceed $41,600 in any given year, beginning with taxes payable in 2016 and continuing through taxes payable in 2025.

(3) On or before January 1 and July 1 each year commencing July 1, 2016 and including January 1, 2026, the Developer shall invoice the City in the amount of the City's

portion of ad valorem property taxes on the Abatement Property paid by Developer in the previous six month period to which the Developer is entitled to reimbursement under this Section. On or before February 1 and August 1 each year commencing August 1, 2016 to and including February 1, 2026 the City shall pay the Developer the amount of the Tax Abatements received by the City in the previous six month period.

(4) In order to be entitled to the Tax Abatement provided for in this Agreement, the Developer shall not be in default within the City of any of its payment obligations respecting any taxes, assessments, utility charges or other governmental impositions. Notwithstanding the other provisions of this Article, the City shall not have any obligation to the Developer with respect to the Abatement of taxes hereunder if the City, at the time or times such obligation is required, is entitled to exercise any of the remedies set forth in this Agreement as a result of an Event of Default, which has not been cured.

ARTICLE IV

EVENTS OF DEFAULT

Section 4.1 Events of Default Defined. The following shall be "Events of Default" under this Agreement and the term "Event of Default" shall mean whenever it is used in this Agreement any one or more of the following events:

(1) Failure by the Developer to timely pay when due the payments required to be paid or secured under any provision of this Agreement or which are otherwise required, including the payment of any ad valorem real property taxes, special assessments, utility charges or other governmental impositions with respect to the Development Property, the Project or any portion thereof.

(2) Failure by the Developer to cause the construction of the Project to be completed pursuant to the terms, conditions and limitations of this Agreement.

(3) Failure by the Developer to observe or perform any other covenant, condition, obligation or agreement on its part to be observed or performed under the Agreement.

(4) If Developer admits in writing of its inability to pay its debts generally as they become due, or shall file or be involuntarily named as a debtor in a petition in bankruptcy, or shall make an assignment for the benefit of creditors, or shall consent to the appointment of a receiver of itself or of the whole or any substantial part of the Development Property.

(5) If the Developer, on a petition in bankruptcy filed against it, be adjudicated bankrupt, or a court of competent jurisdiction shall enter an order or decree appointing, without the consent of the Developer, a receiver of the Developer or of the whole or substantially all of its property, or approve a petition filed against the Developer seeking reorganization or rearrangement of the Developer under the federal bankruptcy laws, and such adjudication, order or decree shall not be vacated or set aside or stayed within sixty (60) days from the date of entry thereof.

(6) If the Developer is in default under any mortgage and has not entered into a workout agreement with the Mortgagee within sixty (60) days after such default

Section 4.2 Remedies on Default. Whenever any Event of Default referred to in Section 4.1 occurs and is continuing, the City, as specified below, in addition to any other remedies or rights given the City under this Agreement, after the giving of thirty (30) days' written notice to the Developer citing with specificity the item or items of default and notifying the Developer that it has thirty (30) days within which to cure said Event of Default, may take any one or more of the following actions:

(1) The City may suspend its performance under this Agreement, including the payment of any Tax Abatement, until it receives assurances from the Developer, deemed adequate by the City, that the Developer will cure its default and continue its performance under this Agreement.

(2) The City may cancel and rescind the Agreement.

(3) The City may take any action, including legal or administrative action, in law or equity, which may appear necessary or desirable to collect any payments due under this Agreement, or to enforce performance and observance of any obligation, agreement, or covenant of the Developer under this Agreement; provided that any exercise by the City of its rights or remedies hereunder shall always be subject to and limited by, and shall not defeat, render invalid or limit in any way the lien of any mortgage authorized by this Agreement; and provided further that should any Mortgagee succeed by foreclosure of the mortgage or deed in lieu thereof in respect to the Developer's interest in the Development Property, the Mortgagee shall, notwithstanding the foregoing, be obligated to perform the obligations of the Developer to complete construction of the Project described and in the manner required hereunder, but only to the extent that the same have not theretofore been performed by the Developer.

(4) The City may withhold any certificate or permit required hereunder.

The notice of an Event of Default required in this Section shall be effective on the date mailed or hand delivered to the Developer.

Section 4.3 No Remedy Exclusive. No remedy herein conferred upon or reserved to the City is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. Except as expressly set forth herein, it shall not be necessary to give notice to exercise a remedy, other than such notice as may be required in this Article.

Section 4.4 No Implied Waiver. In the event any obligation contained in this Agreement should be breached by either party hereto and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other concurrent, previous or subsequent breach hereunder.

Section 4.5 Agreement to Pay Attorneys' Fees and Expenses. Whenever any Event of Default occurs and the City shall employ attorneys or incur other expenses for the collection of payments due or to become due or for the enforcement or performance or observance of any obligation or agreement on the part of the Developer herein contained, the Developer agrees that

it shall, on demand therefore, pay to the City the reasonable fees of such attorneys and such other expenses so incurred by the City.

Section 4.6 Release and Indemnification Covenants.

(1) The Developer expressly releases from and covenants and agrees to indemnify and hold the City and its officers, agents, servants, employees and all members of the City Council, planning commission and other board or commission harmless from and against all claims, costs and liability of every kind and nature, for injury or damage received or sustained by any person or entity in connection with, or an account of the Project, the Development Property, or the performance of work at the development site and elsewhere pursuant to this Agreement, and further releases such officers employees, agents and members from any personal liability in connection with handling funds pursuant to the terms of this Agreement. The indemnification provided hereunder shall not apply to intentional acts or gross misconduct of the individual or entity so indemnified.

(2) Except for any willful misrepresentation or any willful or wanton misconduct of the following named parties, the Developer agrees to protect and defend the City and its officers, agents, servants and employees and all members of the City Council, planning commission and other board or commission, now or forever, and further agrees to hold the aforesaid harmless from any claim, demand, action or other proceeding whatsoever by any person or entity whatsoever arising or purportedly arising from a breach of the obligations of the Developer under this Agreement, or the transactions contemplated hereby or the acquisition, construction, installation, ownership, maintenance and operation of the Project.

(3) The City and its officers, agents, employees and all members of the City Council, planning commission and other board or commission shall not be liable for any damages or injury to the persons or property of the Developer or its officers, agents, servants or employees or any other person who may be about the Project due to any act of negligence of any person.

(4) All covenants, stipulations, promises, agreements and obligations of the City contained herein shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the City and not of any officer, agent, servant, employee or any members of the City Council, planning commission and other board or commission of the City in the individual capacity thereof.

(5) The Developer is not an agent of the City and this Agreement shall not be construed as creating a joint venture, partnership or other joint arrangement between the Developer and the City relating to the Project.

ARTICLE V

ADDITIONAL PROVISIONS

Section 5.1 Conflicts of Interest/No Personal Liability. No member of the governing body or other official or employee of the City shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official or employee participate in any decision relating to the Agreement which affects his or her personal interests or the interests of any corporation, partnership or association in which he or she is directly or indirectly interested. No member, official or employee of the City shall be personally liable to the Developer in the event

of any default or breach by the City or for any amount that may become due to the Developer for any obligations under the terms of this Agreement.

Section 5.2. Non-Discrimination. Developer shall not violate any law applicable to it with respect to civil rights and non-discrimination including, without limitation, Minnesota Statutes, Section 181.59.

Section 5.3. No Merger. None of the provisions of this Agreement are intended to be or shall be merged by reason of any deed transferring any interest in any part of the Development Property and any such deed shall not be deemed to affect or impair the provisions of this Agreement.

Section 5.4. Cleanup. The Developer shall promptly clear or cause to be cleared from the Development Property and any public streets or property, any soil, earth or debris or unnecessary personal property or equipment resulting from construction work by the Developer or its agents or assigns. If Developer fails to do so within two (2) business days of receipt of telephone or personally delivered personal notice from the City, the City shall be entitled to undertake such corrective action as it deems necessary and to charge the Developer for the cost of such corrective action. This remedy is in addition to any other remedy available to the City hereunder. Developer's failure to pay such charges when billed by the City shall be an additional Event of Default under this Agreement.

Section 5.5. Responsibility for Costs. Developer shall be responsible for the following costs incurred with respect to this Agreement, which costs shall be paid as set forth below:

(1) The Developer shall reimburse the City for reasonable, administrative and out-of-pocket costs, expenses and disbursements incurred in the enforcement of this Agreement, including engineering and attorney's fees.

(2) The Developer shall pay in full all bills submitted to it by the City within thirty (30) days after receipt. If the bills are not paid on time, the City may without further notice to Developer exercise any one or more of the remedies provided to the City by Article 5 hereunder.

Section 5.6 Notices and Demands. Except as otherwise expressly provided in this Agreement, a notice, demand or other communication under this Agreement by any party to any other shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally, and

(1) in the case of the Developer is addressed to or delivered personally to:

James A. Sieben, President
MinnWest Technology Campus Management Company, LLC
1800 Technology Drive Northeast
Willmar, MN 56201

(2) in the case of the City is addressed to or delivered personally to:

City Administrator
City of Willmar
333 SW 6th St.
Willmar, MN 56201

or at such other address with respect to any such party as that party may, from time to time, designate in writing and forward to the other, as provided in this Section.

Section 5.7 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument.

Section 5.8 Duration. This Agreement shall remain in effect through February 1, 2031, unless earlier terminated or rescinded in accordance with its terms.

Section 5.9 Provisions Surviving Rescission or Expiration. Sections 4.5 and 4.6 shall survive any rescission, termination or expiration of this Agreement with respect to or arising out of any event, occurrence or circumstance existing prior to the date thereof.

Section 5.10 Records—Availability and Retention. Pursuant to Minn. Stat. § 16C.05, subd. 5, the Developer agrees that the City, the State Auditor, or any of their duly authorized representatives at any time during normal business hours and as often as they may reasonably deem necessary, shall have access to and the right to examine, audit, excerpt, and transcribe any books, documents, papers, records, etc., which are pertinent to the accounting practices and procedures of the Developer and involve transactions relating to this Agreement. The Developer agrees to maintain these records for a period of six years from the date of termination of this Agreement.

Section 5.11 Data Practices. The parties acknowledge that this Agreement is subject to the requirements of Minnesota's Government Data Practices Act, Minnesota Statutes, Section 13.01 *et seq.*

Section 5.12. Rules of Interpretation.

(1) Governing Law. This Agreement shall be interpreted in accordance with and governed by the laws of the State of Minnesota,

(2) Includes Entire Agreement. The words "herein" and "hereof' and words of similar import, without reference to any particular section or subdivision refer to this Agreement as a whole rather than any particular section or subdivision hereof.

(3) Original Sections. References herein to any particular article, section or paragraph hereof are to the section or subdivision of this Agreement as originally executed.

(4) Headings. Any headings, captions, or titles of the several parts, articles, sections, and paragraphs of this Agreement are inserted for convenience and reference only and shall be disregarded in construing or interpreting any of its provision.

(5) Conflict Between Agreements. In the event of any conflict between the terms, conditions and provisions of this Agreement and the terms, conditions and provisions of any other instrument, the terms, conditions and provisions of this Agreement shall control and take precedence.

(6) Entire Agreement. This Agreement including any Schedules and Exhibits hereto contain the entire agreement of the parties relating to the subject matter herein, and no other prior or contemporary agreements, oral or written, shall be binding upon the parties hereto.

(7) Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns as provided and as conditioned in this Agreement.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the City has caused this Agreement to be duly executed in its name and on its behalf, and the Developer has caused this Agreement to be duly executed in its name and on its behalf, on or as of the date first above written.

MINNWEST TECHNOLOGY CAMPUS MANAGEMENT COMPANY, LLC

By_____
Its_____

By_____
Its_____

CITY OF WILLMAR, MINNESOTA

By_____
Its Mayor

By_____
Its Administrator

Exhibit A
Legal Description of Abatement Property

Units 17, 18, 19, 20, 23, 24, 31 and 33, Common Interest Community Number 40, A Planned Community, MinnWest Technology Campus, City of Wilmar, Kandiyohi County, Minnesota, according to the plat on file and of record in the office of the County Recorder of Kandiyohi County, Minnesota