

Prepared by: Barry A. Lindahl, 300 Main Street, Suite 330, Dubuque, Iowa 52001-4113  
Return to: Barry A Lindahl, 300 Main Street, Suite 330, Dubuque, Iowa 52001-4113

## **OFFER TO BUY REAL ESTATE AND ACCEPTANCE**

TO: Morrison Brothers Company

**SECTION 1. REAL ESTATE DESCRIPTION.** The City of Dubuque, Iowa (Buyer) offers to buy real estate in Dubuque County, Iowa, described as follows:

Lot 13, 14, 15, 16, 17, N ½ 18 and 20 of O.S. Langworthy's Addition

As shown on Exhibit A attached hereto

(the Real Estate) together with any easements and appurtenant servient estates, but subject to the following: a. any zoning and other ordinances; b. any covenants of record; c. any easements of record for public utilities, roads and highways designated the Real Estate, as acceptable to Buyer in its sole discretion.

**SECTION 2. PURCHASE PRICE.** The Purchase Price for the Real Estate is \$120,000.00 payable as follows: \$0.00 at closing and the Net Purchase Price (after the deduction of all ordinary costs payable at closing) as provided in Section 13.4.

**SECTION 3. REAL ESTATE TAXES.** Seller represents that all real estate taxes due and owing through March, 2016 are paid, and Seller shall not be responsible for any future real estate tax payments after the closing, nor shall real estate taxes be prorated at closing.

**SECTION 4. POSSESSION.** If Buyer and Seller timely perform all obligations, possession of the Real Estate shall be delivered to Buyer on March 25, 2016 or on such other date as the parties agree in writing, with any adjustments of rent, insurance, and interest to be made as provided in Section 13.4.

**SECTION 5. ABSTRACT AND TITLE.** Seller shall promptly obtain an abstract of title to the Real Estate continued at Buyer's cost through the date of acceptance of this offer, and deliver it to Buyer for examination. It shall show merchantable title in Seller in conformity with this agreement, Iowa law and Title Standards of the Iowa State Bar Association. The abstract shall become the property of the Buyer at closing. Seller shall pay the costs of any additional necessary abstracting and title work.

**SECTION 6. DEED.** Upon payment of the Purchase Price, Seller shall convey the Real Estate to Buyer by Warranty Deed, free and clear of all liens, restrictions, and encumbrances, except as stated in Section 1. Buyer agrees to reimburse Seller for reasonable attorney's fees for the preparation of any deed and related documents required by this Section.

**SECTION 7. TIME IS OF THE ESSENCE.** Time is of the essence in this contract.

**SECTION 8. REMEDIES OF THE PARTIES.** Buyer and Seller also are entitled to utilize any and all other remedies or actions at law or in equity available to them and shall be entitled to obtain judgment for costs and attorney fees as permitted by law.

**SECTION 9. COURT APPROVAL.** If the sale of the Real Estate is subject to Court approval, the fiduciary shall promptly submit this contract for such approval. If this contract is not so approved, it shall be void.

**SECTION 10. CONTRACT BINDING ON SUCCESSORS IN INTEREST.** This contract shall apply to and bind the successors in interest of the parties.

**SECTION 11. CONSTRUCTION.** Words and phrases shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender, according to the context.

**SECTION 12. TIME FOR ACCEPTANCE.** If this offer is not accepted by Seller on or before March 16, 2016, it shall become void and all payments shall be repaid to the Buyer.

**SECTION 13. OTHER PROVISIONS.**

13.1 The Offer is subject to final approval of the City Council of the City of Dubuque, Iowa in its sole discretion.

13.2 Buyer, its counsel, accountants, agents and others authorized by Buyer, shall have full and continuing access to the Real Estate and all parts thereof, upon reasonable notice to Seller for the purpose of inspecting, surveying, engineering, test boring, performance of environmental tests and such other work as Buyer shall consider appropriate, provided that Buyer shall hold Seller harmless and fully indemnify Seller against any damage, claim, liability or cause of action arising from or caused by the actions of Buyer, its agents, or representatives upon the Real Estate (except for any damage, claim, liability or cause of action arising from conditions existing prior to any such entry upon the Real Estate), and shall have the further right to make such inquiries of governmental agencies and utility companies, etc. and to make such feasibility studies and analyses as Buyer considers appropriate.

13.3 Environmental Provision.

(1) Seller represents and warrants that there are no abandoned wells, solid waste disposal sites, hazardous wastes or substances, underground storage tanks, burial sites or private wastewater disposal systems located on the Real Estate, the Real Estate does not contain radon gas, asbestos or asbestos containing building materials, or urea-formaldehyde foam insulation, and Seller has done nothing to cause or allow contamination of the Real Estate with hazardous wastes, substances, or pollutants. Seller represents and warrants that the Real Estate is not subject to any local, state, or federal judicial or administrative action, investigation or order regarding any environmental matter. Seller shall provide Buyer with a properly executed Groundwater Hazard Statement showing no wells, solid waste disposal sites, hazardous wastes, underground storage tanks, private burial sites or private wastewater disposal systems on the Real Estate which shall be considered a warranty and representation by Seller to Buyer.

(2) Seller covenants and agrees at its sole cost and expense to protect, defend, indemnify, defend, release and hold Buyer harmless from and against any and all losses imposed upon or incurred by or asserted against or suffered by Buyer and directly or indirectly arising out of or in any way relating to any one or more of the following (except to the extent the same relate solely to a hazardous substance first introduced to the Real Estate by the Buyer): (a) the past, present, or future presence, release or threatened release of any hazardous substance in, on, above, or under the Real Estate; (b) any past, present, or threatened noncompliance or violations of any federal, state or local laws now existing or hereafter enacted in connection with the Real Estate or operations thereon; (c) any legal or administrative processes or proceedings or judicial proceedings in any way connected with any matter addressed in Section 13.3(1); (d) any personal injury, wrongful death, or property or other damage arising under any statutory or common law or tort law theory concerning any hazardous substances that may exist on the Real Estate; and (e) any misrepresentation or inaccuracy in any representation or warranty or material breach or failure to perform any of the covenants or other obligations pursuant to this Agreement. Seller acknowledges that losses it is required to indemnify Buyer against include, but not by way of limitation, any costs reasonably necessary to remediate the property to a state in which it does not pose a threat to the public safety, without regard to whether such remediation is voluntary or is required by a government authority.

13.4 Buyer and Seller are negotiating the purchase of additional property owned by Seller, namely, the industrial lots, Lots 1 to 12 in O S Langworthy's Addition (the Industrial Lots). If Buyer and Seller are unable to enter into an agreement for the purchase of the Industrial Lots by September 1, 2016, either party may in its sole discretion notify the other party in writing that the negotiations for the Industrial Lots are terminated, and Buyer shall within thirty days after the date of such notice pay the Net Purchase Price for the Real Estate to Seller.

13.5 The covenants, representations and warranties of Section 13.3 shall survive the closing.

THIS OFFER IS ACCEPTED

**CITY OF DUBUQUE, IOWA**

**MORRISON BROTHERS COMPANY**

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

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

By \_\_\_\_\_  
Michael C. Van Milligen  
City Manager

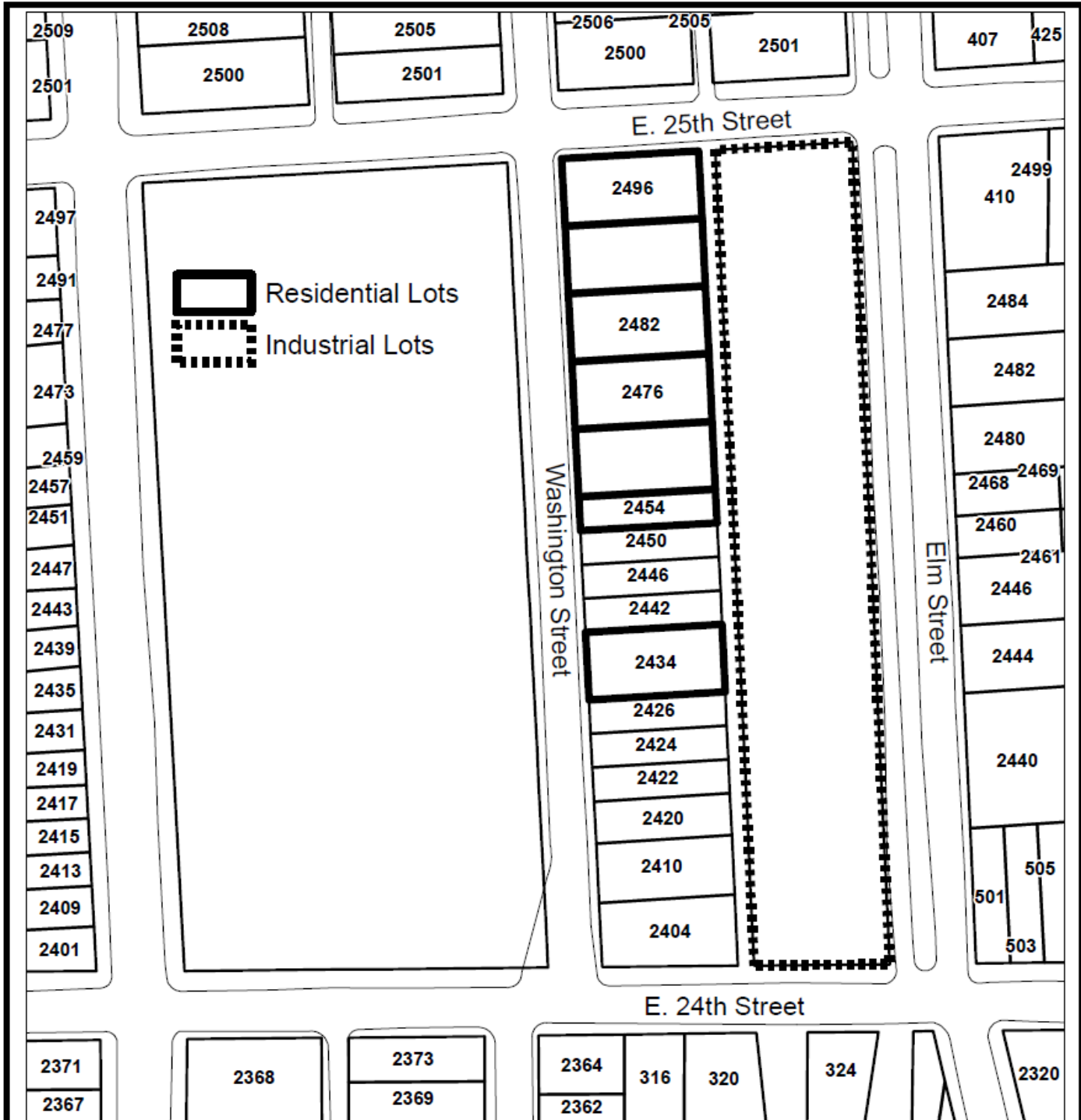
By \_\_\_\_\_

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**EXHIBIT A**  
**THE REAL ESTATE**

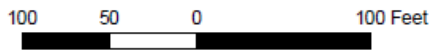
# EXHIBIT A

Properties to be Acquired



**DISCLAIMER:** This information was compiled using the Dubuque Area Geographic Information System (DAGIS), which includes data created by both the City of Dubuque and Dubuque County. It is understood that, while the City of Dubuque and participating agencies utilized the most current and accurate information available, DAGIS and its suppliers do not warrant the accuracy or currency of the information or data contained herein. The City and participating agencies shall not be held liable for any direct, indirect, incidental, consequential, punitive, or special damages, whether foreseeable or unforeseeable, arising out of the authorized or unauthorized use of this data or the inability to use this data or out of any breach of warranty whatsoever.

1 inch = 100 feet



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