



## **Valley City Voluntary Flood Acquisition Program**

As of December 17, 2024

### **A. INTRODUCTION**

The Valley City Voluntary Flood Acquisition Program was established in 2012 to purchase properties, with financial assistance from the ND Department of Water Resources, with the intention of mitigating future flood damages. This revision is applicable to properties acquired after December 17, 2024.

### **B. GUIDELINES FOR ACQUISITION AND REMOVAL OF STRUCTURES**

#### **1. Eligibility**

- All properties identified by the City Engineer through an approved FEMA Conditional Letter of Map Revision (CLOMR).

#### **2. Timeline**

- Offers will be made on eligible properties based on the phased construction schedule for the City's Permanent Flood Protection Program, and specific timing is subject to project priorities and funding.
- Property owners who receive an offer letter from the City will have 30 days from the date of the letter to accept the City's offer to purchase.
- The owner of an eligible property may offer to sell to the City at any time, and the City may purchase the property if funding is available. If one hundred ten percent (110%) of the Assessed Value (as established by the City Assessor) is equal to or less than seventy-five thousand dollars (\$75,000), the City may purchase without further approval of the Board of City Commissioners.

#### **3. Establishing Fair Market Value (FMV)**

Option A – Used when a property owner accepts 110% of Current Assessed Value

- Offers will be made based on 110% of Current Assessed Value.

Option B - Used when property owner rejects 110% Assessed Value offer to purchase property, and requests a full appraisal to establish current fair market value.

- Purchase price will be based on appraisal value whether more or less than 110% of Current Assessed Value.
- The City will select appraiser, pursuant to City purchasing ordinances, to ensure consistency in appraisal methods.
- Property owner must pay for one-half of the cost of the appraisal.

- The City Administrator will order appraisal upon receipt of property owner's share of appraisal costs.
- Property owner may reject the appraisal ordered by the City, and obtain an independent appraisal at property owner's sole cost. Following the independent appraisal, the City will make an offer based on either or both of the appraisals, but under no circumstances will the City be obligated to accept the independent appraisal as the sole determination of fair market value.

Option C – Used when property owner rejects 110% Assessed Value offer to purchase property, and provides the City with a Certified Valuation.

- The Certified Valuation must have been completed by a local (within City limits) financial institution within the five-year period preceding the effective date of the purchase agreement for the buyout.
- A Certified Valuation equal to or less than one hundred thousand dollars (\$100,000) may be accepted without further approval of the Board.
- Under no circumstances will the City be obligated to accept the Certified Valuation as the sole determination of fair market value.

Option D - Condemnation

- The City reserves the right to take appropriate actions to acquire critical locations, in accordance with law and with or without the consent of the owner of such property. However, to the greatest degree possible, voluntary acquisition of properties will be encouraged. This program does not require the use of the City's eminent domain powers. If needed, the City may use a different program to exercise the power of eminent domain to purchase properties for the purpose of permanent flood protection.

#### **4. Possession of the property**

- City and property owner may close on the property at a mutually agreeable time.
- Property taxes will be pro-rated to date of closing or property owner's relinquishment of possession, whichever is later.
- Seller will pay all current and past due utilities to the date of closing or property owner's relinquishment of possession, whichever is later.
- Any remaining balance on special assessments will be paid for by the City. No refund will be given for prepayment of special assessments.
- Deduction from purchase price: Any costs or fees to be paid by property owner pursuant to this policy must be paid prior to or at the time of closing.
- The property owner must provide clear title to the City's satisfaction before the closing can occur. The property owner must convey the property by warranty deed.
- Abstract: The property owner will be responsible for paying for the update of the abstract, title insurance or other evidence of title.
- Title Opinion: The City will be responsible for paying for necessary title opinion.
- Recording Fees: The City will be responsible for paying for applicable recording fees.
- The property owner will bear the costs of any quiet title action which may be necessary; any other costs associated with clearing any clouds upon the title; the costs of entirely replacing a lost or misplaced abstract of title; the costs of paying any liens or judgments against the property; and the costs of paying off any mortgages, loans,

tax liens, or other costs which run with the property and constitute a lien or prior claim against the property.

- Duplication of Benefits: All National Flood Insurance Program (NFIP) payments and FEMA minimal repair payments (for real property only) must be deducted from the acquisition payment. Other insurance, SBA loans, repair grants, compensation in compliance with a court order or other assessments available to help address damages to the structure must also be deducted from the acquisition payment. At ND Department of Emergency Services' or FEMA's discretion, other assistance may also be deducted from the acquisition payment. If the property owner has received flood insurance which exceeds the purchase price of the structure, the property owner will be offered the assessed land value only. No duplication of benefits will be deducted from the land value.

#### **5. Removal of Structures – Salvage Rights – Auction**

- The City will remove all structures from acquired property through 1) demolition and removal of debris, 2) removal of structures to another City lot, or 3) sale of the structure(s).
- Demolition and restoration of a property may be performed by the City or through a contract with a third party.
- The City retains all salvage rights unless auctioned by the City to a third party.
- For structures that are to be demolished, the City may authorize pre-demolition salvage rights to appropriate charitable organizations and to the property owner. All salvage rights and the items proposed to be salvaged must be reviewed and approved by the City prior to closing.
- In the event pre-demolition salvage is authorized, the replacement value of the salvaged items may be deducted from the purchase price. The City shall determine the value of such salvaged items.
- Removal of Personal Property: The property owner will remove, at their expense, prior to closing, all personal property. Any personal property remaining on the premises following the closing shall be considered to be abandoned property of which the seller authorizes its removal and disposal.
- If the City Building Inspector determines that a structure is in satisfactory condition to be moved, it may be offered for sale at a public auction with a minimum bid of one thousand dollars (\$1,000.00) for the structure only. Detached residential garages and accessory structures may be sold by the City Administrator at a private sale with due consideration given to constitutional and statutory anti-gifting provisions.
- All structures must be moved within 90 days of the sale, unless the City Administrator determines that a longer period of time will not interfere with the City's Permanent Flood Protection Program and the other party enters into a lease agreement for use of the structure on the acquired lot. Pursuant to paragraph 4, property taxes will be paid by the party in possession. Any structure not moved within 90 days (or at the end of a negotiated lease) is subject to demolition by the City, at which time the purchase price, less the City's administrative and demolition costs, will be refunded.
- Any person moving a structure within City limits must enter into an agreement with the City which shall provide that the structure will be moved to a specific predetermined location and that the owner will bring the structure up to current building code standards within a reasonable time as determined by the Building Inspector or the structure will be demolished by the City at the owner's expense.

## **6. Special Circumstances**

- If an appeals process or disagreement occurs, the property owner can work through the City Administrator who will ultimately bring the matter before the City Commission if needed.
- The City may, in its discretion, make partial acquisitions of property for the purposes of flood control, or for such other reasons or purposes which may be appropriate.
- Any other special circumstances not addressed by this policy may be negotiated by the City Administrator and presented to the City Commission for final approval.

### **C. Additional Program Components:**

#### **1. Preventing Duplication of Benefits:**

- The City will take the necessary steps to ensure that ND Department of Water Resources funding complements and doesn't duplicate federal programs such as the NFIP and FEMA's Individual Assistance Program by working with state (NDDDES) and federal (FEMA) agencies to obtain information about any assistance received by the property owner from these agencies and their programs prior to closing.

#### **2. Perpetual Restrictions:**

- Upon purchasing the properties with assistance from ND Department of Water Resources funding, the City will place a perpetual restrictive covenant similar to the restrictions required by the federal Hazard Mitigation Grant Program with the additional exceptions being that the property may be utilized for flood control structures and related infrastructure, paved surfaces and bridges. These covenants will be recorded either in the deed or in a restrictive covenant that applies to multiple deeds.



Dave Carlsrud, President  
Board of City Commissioners

Attest:



Brenda Klein, Finance Director

Adopted by City Commission action on December 17, 2024.