



# City of Grand Island

Tuesday, July 14, 2020

Council Session

## Item F-3

**#9775 - Consideration of Sale of Property Located at 3231 West Schimmer Drive (Parcel No. 400401746)**

Staff Contact: John Collins, P.E. - Public Works Director

# **Council Agenda Memo**

**From:** Keith Kurz PE, Assistant Public Works Director

**Meeting:** July 14, 2020

**Subject:** Consideration of Sale of Property Located at 3231 West Schimmer Drive (Parcel No. 400401746)

**Presenter(s):** John Collins PE, Public Works Director

## **Background**

On April 9, 2019, via Resolution No. 2019-127, City Council approved an agreement with Berkshire Hathaway Home Services Da-Ly Realty of Grand Island, Nebraska for real estate services at 3231 West Schimmer Drive (Parcel No. 400401746). With no City use for this parcel the sale of such will eliminate maintenance costs and liability for the City.

Two (2) offers were previously submitted on the subject property, with Council rejecting both via Ordinance No. 9765. One offer was submitted by Midwest Waste Trucks, LLC in the amount of \$136,000.00, which did not share their plan/intent for the subject parcel as requested by City Council at the April 28, 2020 meeting. The 2<sup>nd</sup> offer was from 3 Diamonds, Inc. in the amount of \$125,000.00, with rejection based on their condition of the sale be a sign variance to allow an outdoor advertising digital billboard, which isn't allowed per City Code Section 31-40 through 31-49.

On June 9, 2020 an offer from 3 Diamonds, Inc. was presented to City Council in the amount of \$75,000.00 with the condition of the sale being for a sign variance removed. Such offer was denied, as another interested party contacted City Administration to submit an offer on that same day.

Based on the history of offers continually submitted on the day of Council meetings Public Works staff worked with the Administration and Legal Departments to devise a plan for public release. Offerors were given until noon on July 6, 2020 to submit offers to the City retained realtor, Berkshire Hathaway Home Services- Da-Ly Realty, with offers received after that date not considered. Berkshire Hathaway did include the deadline and procedures in their MLS and other listings, as well as notices by the realty company and the City Clerk placed such information on the City web page. It was noted that purchase offers must include the terms of sale and offeror's plan for development and use of the property.

Offers were delivered to the Public Works Administrative Coordinator by 5:00 p.m., July 6, 2020. Council action on approval of purchase offer subject to remonstrance, and adoption of ordinance on July 14, 2020.

### **Discussion**

Bosselman Energy, Inc. has submitted a proposal in the amount of \$135,000.00, with plans to install an unmanned card lock fueling station to service the Platte Valley Industrial Park, as well as the Grand Island Community, per the letter submitted with their offer. At this time City staff is recommending the acceptance of Bosselman Energy, Inc.'s proposal in the amount of \$135,000.00.

### **Alternatives**

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

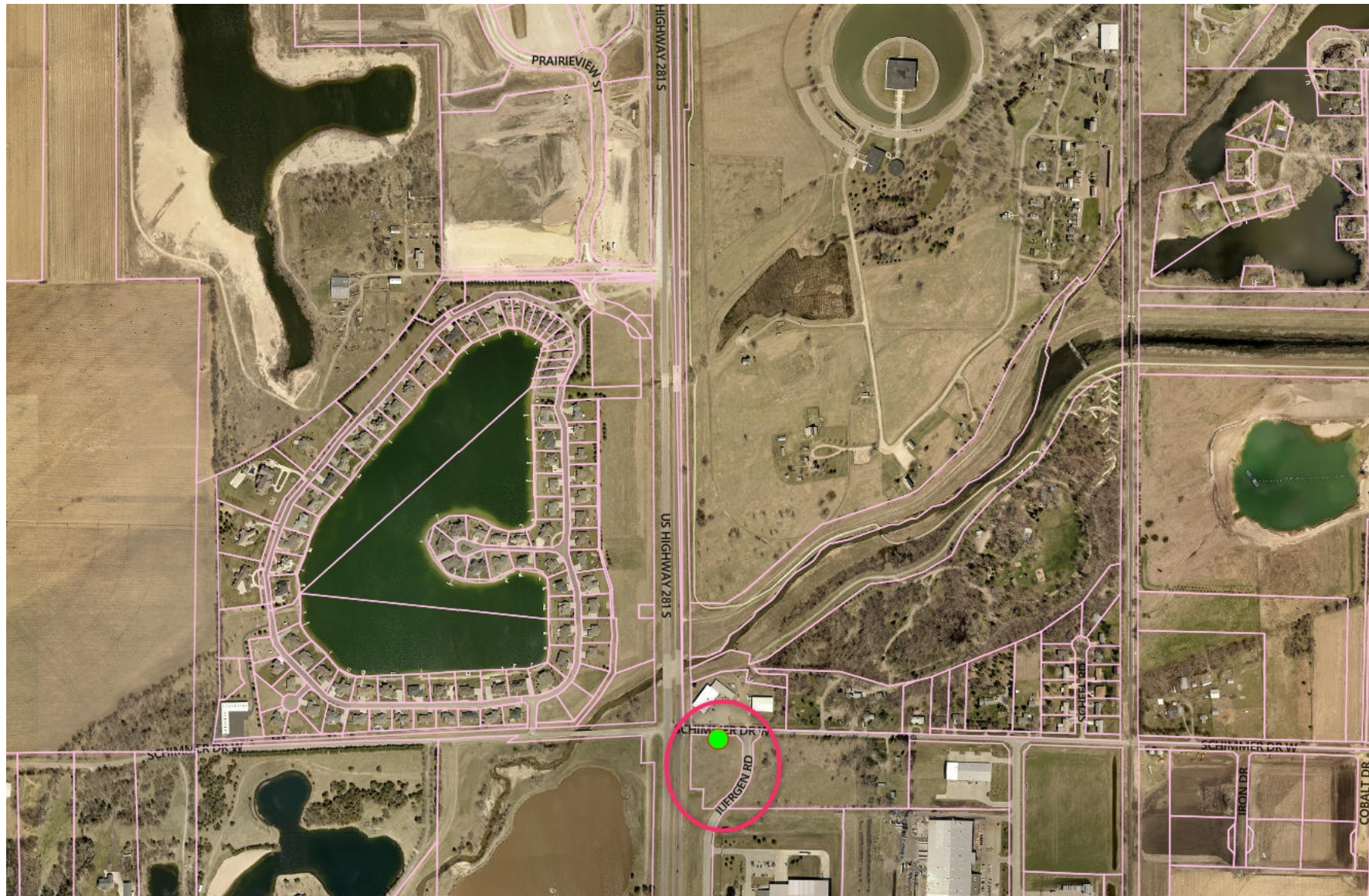
1. Move to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

### **Recommendation**

City Administration recommends that the Council approve the proposal from Bosselman Energy, Inc. in the amount of \$135,000.00.

### **Sample Motion**

Move to approve.







June 10, 2020

City of Grand Island  
100 East First Street  
Grand Island, NE 68801

RE: Intended use of 3231 Shimmer Dr

To Whom it May Concern:

Bosselman Energy, Inc. is proposing to purchase the property located at 3231 Shimmer Dr, Grand Island, NE 68803 for the purpose of installing an unmanned cardlock fueling station to service the Platte Valley Industrial park as well as the Grand Island community.

It is our intention to have multiple pull through diesel lanes for over the road trucks, which will also include DEF. In addition, we will install a gas and diesel island for passenger vehicles all supplied from underground storage tanks. While we have included some preliminary layouts and designs, we will engage a professional engineer to layout the property to make sure the traffic flow is adequate as not to hinder neither Juergen Rd nor Shimmer Dr. If the purchase is approved, we would begin design right away with expected completion to be in the spring of 2021.

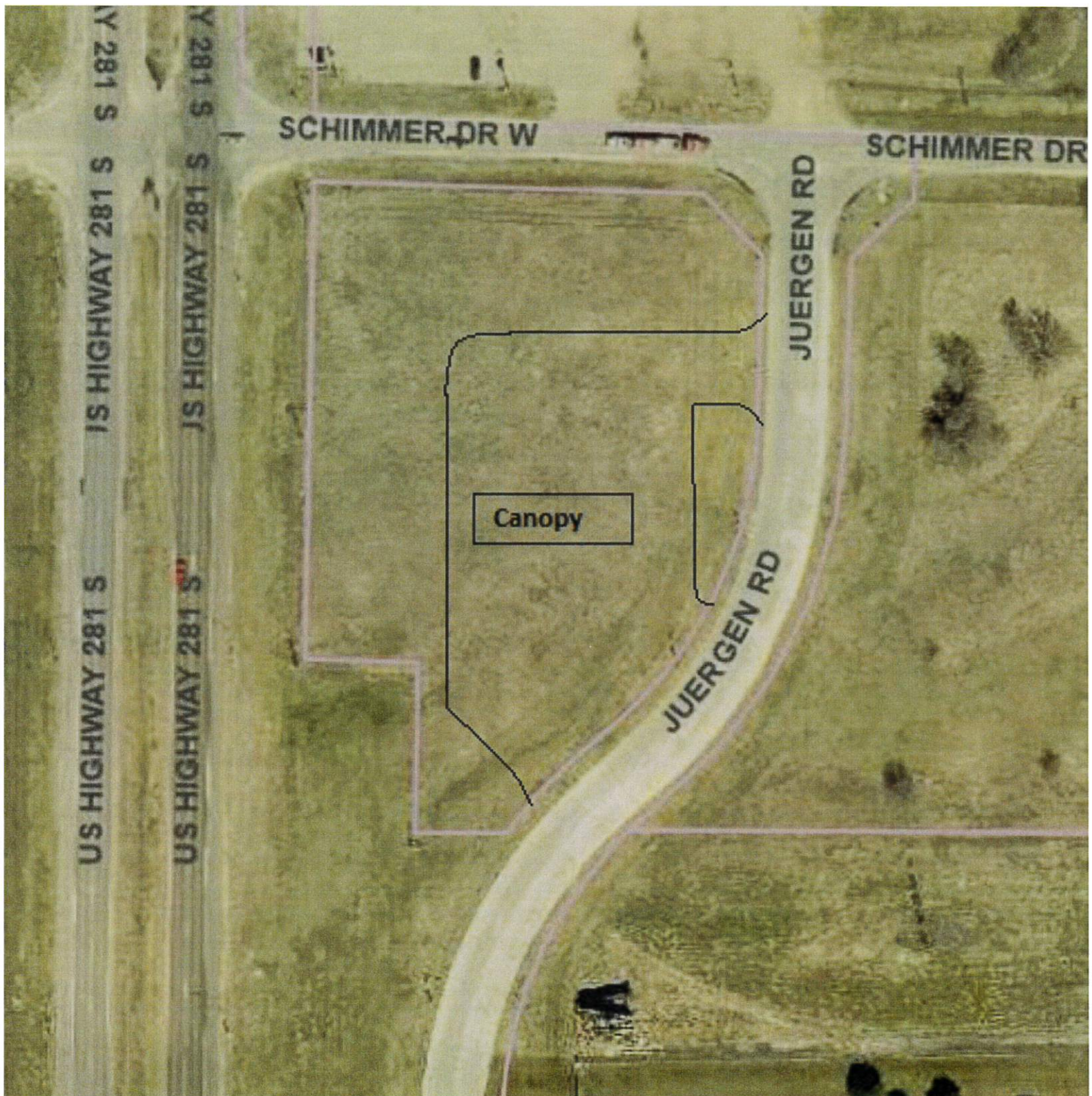
Bosselman Energy, Inc., along with its affiliated companies Bosselman Tank & Trailer, Inc. and Bosselman Carriers, LLC own and operate their businesses in the Platte Valley Industrial Park just to the south of this location as well as many other locations located throughout Nebraska and Kansas. This project will not only support the current businesses within the Platte Valley Industrial Park, but we feel it will help attract new businesses into the area by having a convenient fueling station.

Sincerely,

Fred A. Bosselman  
Chief Executive Officer and Chairman  
Bosselman Energy Companies

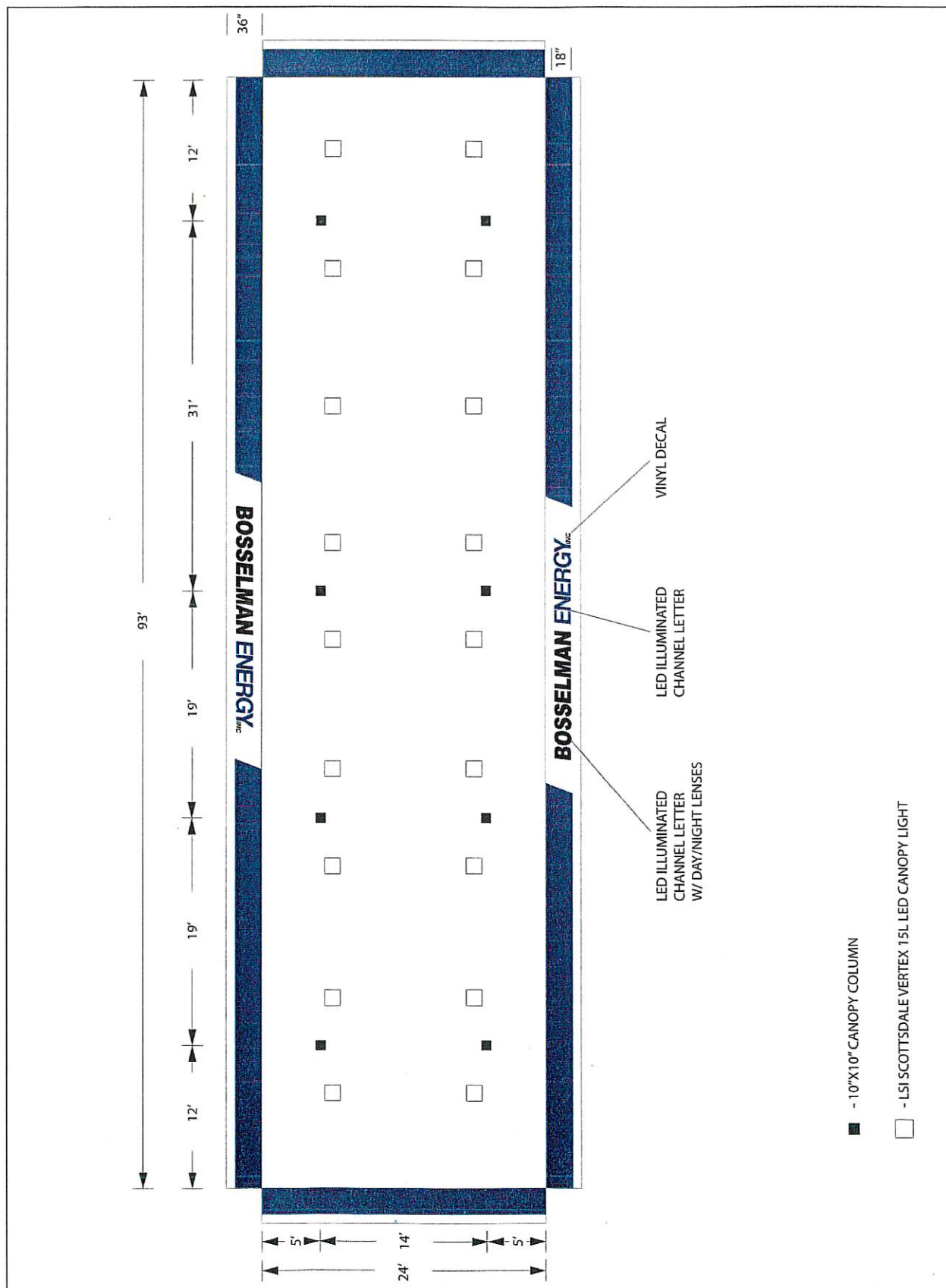
3123 W. Stolley Park Road, Suite B • PO Box 1567 • Grand Island, NE 68802-1567  
308-381-6900 • 308-381-0972 fax • [www.bosselmanenergy.com](http://www.bosselmanenergy.com)













## Agency Disclosure Information for Buyers and Sellers

Company Berkshire Hathaway HomeServices Da-Ly Realty Agent Name Tracy Babcock

Nebraska law requires all real estate licensees provide this information outlining the types of real estate services being offered. For additional information on Agency Disclosure and more go to: <http://www.nrec.ne.gov/consumer-info/index.html>

The agency relationship offered is (initial one of the boxes below, all parties initial if applicable):

<p style="text-align: center;"><u>                    </u> <b>Limited Seller's Agent</b></p> <ul style="list-style-type: none"> <li>Works for the seller</li> <li>Shall not disclose any confidential information about the seller unless required by law</li> <li>May be required to disclose to a buyer otherwise undisclosed adverse material facts about the property</li> <li>Must present all written offers to and from the seller in a timely manner</li> <li>Must exercise reasonable skill and care for the seller and promote the seller's interests</li> </ul> <p><u>A written agreement is required to create a seller's agency relationship</u></p>	<p style="text-align: center;"><u>                    </u> <b>Limited Buyer's Agent</b></p> <ul style="list-style-type: none"> <li>Works for the buyer</li> <li>Shall not disclose any confidential information about the buyer unless required by law</li> <li>May be required to disclose to a seller adverse material facts including facts related to buyer's ability to financially perform the transaction</li> <li>Must present all written offers to and from the buyer in a timely manner</li> <li>Must exercise reasonable skill and care for the buyer and promote the buyer's interests</li> </ul> <p><u>A written agreement is not required to create a buyer's agency relationship</u></p>
<p style="text-align: center;"><u>                    </u> <b>Limited Dual Agent</b></p> <ul style="list-style-type: none"> <li>Works for both the buyer and seller</li> <li>May not disclose to seller that buyer is willing to pay more than the price offered</li> <li>May not disclose to buyer that seller is willing to accept less than the asking price</li> <li>May not disclose the motivating factors of any client</li> <li>Must exercise reasonable skill and care for both buyer and seller</li> </ul> <p><u>A written disclosure and consent to dual agency required for all parties to the transaction</u></p>	<p style="text-align: center;"><u>TLA</u> <b>Customer Only</b> (list of services provided to a customer, if any, on reverse side)</p> <ul style="list-style-type: none"> <li><b>Agent does not work for you, agent works for another party or potential party to the transaction as:</b>  <u>          </u> Limited Buyer's Agent <u>✓</u> Limited Seller's Agent  <u>          </u> Common Law Agent (attach addendum) </li> <li>Agent may disclose confidential information that you provide agent to his or her client</li> <li>Agent must disclose otherwise undisclosed adverse material facts: <ul style="list-style-type: none"> <li>- about a property to you as a buyer/customer</li> <li>- about buyer's ability to financially perform the transaction to you as a seller/customer</li> </ul> </li> <li>Agent may not make substantial misrepresentations</li> </ul>
<p><u>          </u> <b>Common Law Agent for</b> <u>          </u> <b>Buyer</b> <u>          </u> <b>Seller</b> (complete and attach Common Law Agency addendum)</p>	

**THIS IS NOT A CONTRACT AND DOES NOT CREATE ANY FINANCIAL OBLIGATIONS.** By signing below, I acknowledge that I have received the information contained in this agency disclosure and that it was given to me at the earliest practicable opportunity during or following the first substantial contact with me and, further, if applicable, as a customer, the licensee indicated on this form has provided me with a list of tasks the licensee may perform for me.

### Acknowledgement of Disclosure

(Including Information on back of form)

DocuSigned by:  
Travis Hasselman, for Bosselman Energy, Inc  
 (Client or Customer Signature) (Date) 6/10/2020

Travis Hasselman, for Bosselman Energy, Inc

(Print Client or Customer Name)

(Client or Customer Signature) (Date)

(Print Client or Customer Name)

**FARM, RANCH or LAND PURCHASE AGREEMENT**

BHHS Da-Ly Realty 2514 S. Locust Street, Grand Island, NE 68801 June 10, 2020  
(Firm and address) (date)

Agency Confirmation: The following agency relationship(s) are hereby confirmed for this transaction.

Agent: Tracy Babcock

of BHHS Da-Ly Realty (company)  
(308) 390-5904 (agent's cell)

Is the agent of: ☒ Seller exclusively ☐ Buyer exclusively ☐ both the Buyer and Seller (Limited Dual Agent)

Agent: Tracy Babcock

of BHHS Da-Ly Realty (company)  
(308) 390-5904 (agent's cell)

Is the agent of: ☒ Seller exclusively ☐ Buyer exclusively ☐ both the Buyer and Seller (Limited Dual Agent)

The undersigned, as Buyer, agrees to purchase the following property on the following terms:

1. Address: 3231 West Schimmer Drive, Grand Island, NE 68803
2. Legal Description: PLATTE VALLEY INDUSTRIAL PARK THIRD SUB TO THE CITY OF  
Grand Island lot 2

☒ with all mineral rights; ☒ with all water rights. ☐ Seller reserves all mineral rights; ☐ Seller reserves all water rights.

3. Personal Property. The purchase price includes all fixtures permanently attached to the real estate including wind mills, well pumps, fencing, etc. The personal property to be included is as follows:  
none

4. Price and Financial Terms. Buyer agrees to pay \$135,000.00, allocated \$135,000.00 for land and buildings and \$ for the personal property, on the following terms: an earnest money deposit of \$5,000.00 to be applied to the purchase price is paid herewith as shown by the receipt herein. If paid by check, it will be cashed upon acceptance. The earnest money will be transferred to: ☒ escrow agent or ☐ listing broker. Balance to be paid per the following paragraph(s): a.

☒ A. Cash at Closing – No Financing Being Required: Balance of \$130,000.00 shall be paid in cash, or by certified or cashier's check at time of closing. Buyer to provide Seller a letter from a government regulated depository showing evidence of said funds within 7 calendar days of acceptance of this offer or this offer shall be null and void with the earnest money forfeited to the Seller.

☐ B. Contingent Upon Loan: Balance of \$ shall be paid in cash, or by certified or cashier's check at time of closing, contingent upon Buyer's ability to obtain a loan, to be secured by deed of trust, on above described Property in the amount of \$ with terms providing for an initial interest rate not to exceed 0.000 % per annum if required, with a term of no less than years. Buyer agrees to make application for the loan within 7 calendar days of acceptance of this offer, sign all papers, pay all costs, except as provided herein, and to establish escrow reserves for taxes and insurance if required by Lender. Buyer agrees to pay all loan fees, closing costs and prepaid items required by Lender. If the original loan application is denied, the Buyer authorizes and shall instruct the Lender to immediately notify in writing all real estate licensees involved in the transaction. Upon written notice of denial by the lender, this Purchase Agreement shall be void and the earnest money will be refunded to Buyer.

Page 1 of 6

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CENTURY 21 Da-Ly Realty South, 2514 S Locust St Grand Island NE 68801  
Phone: 308-384-1101 Fax: 308-384-9647 Tracy Babcock

Seller: / Buyer: TUA /  
Date: Date: 06/10/2020

City of Grand

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(subject to paragraph 24) unless Seller and Buyer mutually agree in writing within five (5) calendar days from receipt of notification of loan denial that an additional loan application will be made or that additional loan information will be submitted to the original Lender. Seller shall have the right to cancel this after \_\_\_\_\_ calendar days from the acceptance of this Agreement, unless they have received either a non-contingent loan commitment or a loan commitment with all contingencies satisfied. In the event of Seller's cancellation, the earnest money (subject to paragraph 24) shall be returned to the Buyer.

**5. Other Provisions.** Buyer understands there will be a 30 day remonstrance period after the acceptance of any offer. Earnest deposit will be delivered to the office of Berkshire Hathaway Home Services Da-Ly Realty upon acceptance of the agreement

**6. Title.** Seller agrees to convey marketable title to Buyer by warranty deed or equivalent free and clear of all liens, encumbrances, special assessments levied or assessed and subject to all easements and restrictions or covenants now of record. Buyer shall be furnished a current title insurance commitment before closing and a title insurance policy insuring good and marketable title. The cost of the title insurance shall be paid as follows:

- |  |                                 |                                |   |
|--|---------------------------------|--------------------------------|---|
| <input checked="" type="checkbox"/> Title Insurance policy paid by: (select one) | <input type="checkbox"/> Seller | <input type="checkbox"/> Buyer | <input checked="" type="checkbox"/> Divided equally |
| <input type="checkbox"/> Lenders Policy paid by: (select one)                    | <input type="checkbox"/> Seller | <input type="checkbox"/> Buyer | <input type="checkbox"/> Divided equally            |
| <input type="checkbox"/> Endorsements paid by: (select one)                      | <input type="checkbox"/> Seller | <input type="checkbox"/> Buyer | <input type="checkbox"/> Divided equally            |

Buyer selects Grand Island Abstract as the title insurance company. Buyer agrees that should a valid title defect exist, Seller has a reasonable time to correct said defect, not to exceed 30 calendar days from the date of the title commitment. If the title defects are not cured within such time frame, the Buyer may declare this Agreement null and void, and be entitled to full return of the earnest money (subject to paragraph 24). Seller agrees to pay any assessments for items such as paving, curbing, sidewalk or utilities previously constructed, now under construction, or ordered to be constructed by public authority not yet assessed. The documentary stamp tax shall be paid by the Seller.

**7. Tenancy.** ☐ If checked, the property is sold subject to the rights of the existing tenant. Notice of termination of lease was given to the tenant on \_\_\_\_\_. Note: Written notice to terminate a lease (even an oral one) must be given before September 1 to terminate lease March 1 the following year. Rent shall be paid to ☐ Seller ☐ Buyer or ☐ prorated to date of closing.

**8. Lead-Based Paint Disclosure.** ☐ If checked, the house upon the property was built prior to 1978. Attached hereto is a statement, disclosure and acknowledgement regarding lead based paint which is incorporated herein by this reference.

**9. Seller Property Condition Disclosure.** ☐ This property is not used primarily for residential purposes. [or] ☐ Buyer acknowledges receipt of the Seller Property Condition Disclosure Statement dated \_\_\_\_\_

**10. Condition of Property.** This Agreement is based upon Buyer's personal inspection or investigation of Property and not upon any representation or warranties of condition by Seller or any Agent involved in this transaction. Buyer acknowledges he has been advised to make independent investigation. Buyer agrees to accept Property in its present condition AS IS, except as provided in this Agreement.

**11. Inspections.** (check one)

☒ **Buyer Waives All Inspections:** Buyer accepts the property "AS IS". However, Buyer does not waive, release or relinquish any right or claim Buyer may have by reason of any misrepresentation or fraudulent concealment by Seller.

**OR**

☐ **Contingent Upon Inspection:** This agreement is contingent upon Buyer's satisfaction of the property after the opportunity for inspections. Buyer, or any designee, at Buyer's expense (or as otherwise agreed), shall have the right to any inspections desired of the real estate and personal property to be sold hereunder on or before \_\_\_\_\_ (date) (the "inspection deadline"). Buyer shall give written notice to the Seller of any unsatisfactory conditions of the property or rescission of this agreement on or before \_\_\_\_\_ days after the inspection deadline (the "rescission deadline"). If the Buyer fails to notify the Seller of any unsatisfactory conditions or rescission by such deadline, Buyer agrees to accept the property in its condition on the inspection deadline. If such a notice of unsatisfactory condition is received by the Seller as set forth above, this Agreement shall terminate \_\_\_\_\_ days after the rescission deadline (the "settlement deadline") unless Seller and Buyer have agreed to a settlement in writing or Buyer has waived such condition in writing.

Page 2 of 6

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Seller: \_\_\_\_\_ / \_\_\_\_\_ Buyer: TLA / \_\_\_\_\_  
Date: \_\_\_\_\_ Date: 06/10/2020

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City of Grand



Inspections may include, but are not limited to, the following: Well & Septic, Survey, Environmental Conditions, Crop Base and Farm Program participation.

By acceptance of this agreement Seller gives Buyer permission to review records of all farm programs of which this property participated and gives consent to the appropriate agency to release such information to the Buyer.

**12. Access to Property.** Seller shall provide reasonable access to Buyer, Buyer's inspectors or agents to timely fulfill this Agreement and to representatives of Buyer's lender to accommodate financing.

**13. Crop Base.** If this transaction divides an existing USDA farm, Seller and Buyer shall take all action required to have the USDA crop base fairly and equitably assigned and allocated to the Real Estate through the FSA office.

**14. Agricultural Program Payments.** ☐ If checked, the Seller receives Agricultural Program Payments related to this property. Seller shall receive all USDA, NRCS, or other agricultural program payments arising out of or related to the \_\_\_\_\_ crop and crop year and all prior years. Buyer shall receive all such payments in subsequent years.

**15. Compliance with Law.** Seller shall comply with all federal, state and local laws applicable to the sale or transfer of the property, including but not limited to installing smoke detectors and carbon monoxide detectors.

**16. Maintenance/Repairs/Replacements Cost to Seller.** Seller agrees to maintain the property in its condition on the date hereof until initial delivery of possession which maintenance shall include, but not be limited to: fixtures, fences, wells and pumps, the buildings, heating, air conditioning, water heater, sewer, plumbing, electrical system, underground sprinkler system, personal property, lawn care and snow removal.

**17. Final Walk Through.** Buyer shall have the right to make a final inspection of the property prior to closing to assure that all conditions of this Agreement have been met.

**18. Responsibility of Insurance and Risk of Loss.** Seller shall insure the property for fire, wind, hail, explosion, water or any other cause at no less than purchase price until closing. Risk of loss or damage to Property, prior to closing, shall be the responsibility of Seller. If prior to closing the structure on the Property is materially damaged, Seller shall immediately notify the Buyer in writing of the damage. Buyer, at Buyer's choice, may: 1) Rescind this Agreement OR 2) Take the property subject to the damage with the Seller paying to the Buyer the insurance proceeds and deductible for the restoration of the property or at a price discounted by the cost of restoration of the premises.

**19. Real Estate Taxes and Prorations.** Seller shall pay all taxes for the years prior to the year of closing. Taxes for the year of closing shall be ☐ paid by the party who receives the rents/harvest [or] ☒ prorated to date of closing. Prepaid utilities, propane or heating fuel, if any, shall be prorated to the date of closing. Taxes shall be prorated based upon the county assessor's valuation at the date of closing and the most recently certified mill levy.

**20. Closing and Possession.** The closing of the sale shall be on the 10th day of August 2020. Possession of Property shall be given upon closing. This Agreement shall in no manner be construed to convey the Property or to give any right of possession.

**21. Escrow Closing.** Buyer and Seller agree that the closing of the sale may be handled by an escrow agent. If so, any broker holding the earnest money or other trust funds is authorized to transfer such items to the escrow agent. All documents and other items received by any broker in connection with the sale shall also be transferred to the escrow agent. After the transfer, a broker shall have no further responsibility or liability to Buyer or Seller to account for funds or preparation of documents in connection with the closing of the sale. Escrow agent will not be required to disburse funds, deliver or record any documents until it has received sufficient certified funds or equivalent and all terms of this Agreement have been satisfied. Escrow closing charges shall be equally divided between Buyer and Seller.

**22. Compensation.** In addition to any compensation offered by Seller's limited agent to Buyer's limited agent for cooperation, Buyer agrees to pay Buyer's agent compensation of \$ \_\_\_\_\_ n/a at closing. If this compensation is paid by Buyer to buyer's agent, Seller and Buyer agree that buyer's agent, which may be the same as the Seller's agent, may collect compensation from both Seller and Buyer.

**23. Counterparts, E-Mail, and Fax Transmission.** This Agreement may be executed in one or more counterparts, each of which is deemed to be an original hereof, and all of which shall together constitute one and the same instrument. The facsimile or e-mail transmission of a signed copy hereof or any counter offer to the other party or their agent with confirmation of transmission shall constitute delivery. The parties agree to confirm delivery by mail or personal delivery of a signed copy to the other party or their agent.

Page 3 of 6

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Seller: \_\_\_\_\_ / \_\_\_\_\_ Buyer: TU / \_\_\_\_\_  
Date: \_\_\_\_\_ Date: 06/10/2020

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City of Grand



**24. Default, Rescission, Failure of Contingency or Termination.** If Buyer defaults on the performance of this Agreement, Seller may, at Seller's option, retain the earnest money as liquidated damages for such failure, or utilize such other legal remedies as are available to Seller by reason of such failure. If this Agreement is void by failure of contingency or is rescinded or terminated by either party without fault as allowed hereby, each party shall bear their costs and the earnest money shall be refunded to the Buyer.

**25. Do Not Call Provision.** Seller and Buyer authorize telephone, facsimile and other electronic means of contact by individuals on behalf of the Seller's broker and Buyer's broker, if different, as well as other service providers in the transaction.

26. **Addenda.** The attached addenda shall be made a part of the Purchase Agreement. (List Addenda) \_\_\_\_\_

(Seller / Buyer / )

27. **Acceptance Date.** This offer shall expire on July 8, 2020 (date) at noon o'clock \_\_\_\_\_ (hour in the time zone of the office of the Seller's agent) and be automatically null and void unless prior to the time of expiration, Seller's written acceptance is delivered to the Buyer's limited agent or their Broker's office or the Buyer.

**28. Mediation and Arbitration.** ☐ [If checked]

- (a) **Disputes.** The term “Dispute” shall include, without limitation, any controversy, complaint, dispute, claim or disagreement relating to or arising out of the brokerage relationship or the construction, interpretation, enforcement, or breach of the terms of this Agreement or any actions of the parties or their agents in the sale and purchase of the described property including claims of misrepresentation and claims under §21-2120 (Seller Property Condition Disclosure) of the Nebraska Revised Statutes.
- (b) **Mediation.** In the event of any Dispute, any party to the Dispute may seek non-binding mediation in an attempt to resolve the Dispute by giving 15 days written notice of a request for such mediation to all other parties to the Dispute. The request for mediation must be made within 360 days after the party making the request knew, or exercising reasonable diligence and care, should have known, of the Dispute. In no case shall such request be made after the statute of limitations on a civil suit based on the Dispute would have run. Such mediation shall be held in Nebraska. Such mediation may be administered by the American Arbitration Association and shall be conducted according to the American Arbitration Association’s Commercial Rules-Real Estate Industry Arbitration Rules (Including a Mediation Alternative) or such other mediation service versed in real estate practices of the locality.
- (c) **Arbitration.** Any Dispute that is not resolved by informal settlement or mediation shall be resolved exclusively by binding arbitration. Such arbitration shall be held in Nebraska. Such arbitration may be administered by the American Arbitration Association or such other arbitration provider agreed to by the parties. It shall be conducted according to the American Arbitration Association’s Commercial Rules-Real Estate Industry Arbitration Rules (Including a Mediation Alternative). The arbiter(s) shall apply Nebraska substantive and procedural law to the arbitration proceeding. Arbitration shall be commenced by written demand made by any one or more of the parties to the Dispute given to all other parties to the Dispute. The demand for arbitration must be in writing and must be given by personal delivery or certified mail, return receipt requested, within 360 days after the party making the demand knew, or exercising reasonable diligence and care, should have known, of the Dispute. Notwithstanding the previous sentence, in the case that the parties unsuccessfully attempt mediation to resolve a Dispute, the demand for arbitration shall be made within 60 days of the final mediation session. However, in no case shall such demand be made after the statute of limitations on a civil suit based on the Dispute would have run. The prevailing party shall be entitled to costs and fees of the arbitration and, in the discretion of the arbitrator who shall take into account the relative merits of the opponent’s case, the arbiter may award attorney’s fees to the prevailing party. In determining prevailing party, prevailing party shall be that party for whom the result most closely, in the arbiter’s opinion, resembles that party’s last offer for settlement of the controversy.
- (d) **Provisional Remedies.** The filing of a judicial action to enable the reporting of a notice of pending action, for order of attachment, receivership, injunction, or other like provisional remedies, shall not constitute a waiver of mediation or arbitration under this provision, nor shall it constitute a breach of the duty to arbitrate.
- (e) **Exclusions.** The terms of paragraph 28 shall not apply to:
- (1) The filing or enforcement of a construction or similar lien including a commercial broker’s lien.
  - (2) Any complaint of violation of the Code of Ethics of the National Association of REALTORS®;
  - (3) Foreclosure or other action or proceeding to enforce a deed of trust, mortgage or land contract; or
  - (4) An action filed and held in “Small Claims Court” as defined in Neb. Rev. Stat. 25-2801 to 25-2804, provided, however, any attempt to transfer a matter filed in small claims court to county court shall be subject to paragraph 28. <sup>DS</sup>



- (f) **Waiver.** BY SIGNING THIS PURCHASE AGREEMENT, THE PARTIES AGREE THAT EVERY DISPUTE DESCRIBED ABOVE THAT IS NOT RESOLVED BY INFORMAL SETTLEMENT OR MEDIATION WILL BE DECIDED EXCLUSIVELY BY ARBITRATION AND THAT ANY ARBITRATION DECISION WILL BE FINAL AND BINDING. THE PARTIES AGREE THAT THEY WILL RECEIVE ALL THE RIGHTS AND BENEFITS OF ARBITRATION, BUT ARE GIVING UP RIGHTS THEY MIGHT HAVE TO LITIGATE THOSE CLAIMS AND DISPUTES IN A COURT OR JURY TRIAL, OR TO PARTICIPATE AS A REPRESENTATIVE OR MEMBER OF ANY CLASS OF CLAIMANTS IN CONNECTION WITH ANY SUCH DISPUTES. NO PARTY TO THIS AGREEMENT SHALL BE ENTITLED TO JOIN OR CONSOLIDATE DISPUTES BY OR AGAINST OTHERS IN ANY ARBITRATION, OR TO INCLUDE IN ANY ARBITRATION ANY DISPUTE AS A REPRESENTATIVE OR MEMBER OF A CLASS, OR TO ACT IN ANY ARBITRATION IN THE INTEREST OF THE GENERAL PUBLIC OR IN ANY PRIVATE ATTORNEY GENERAL CAPACITY.

**29. Entire Agreement.** This document contains the entire Agreement of the parties and supersedes all prior Agreements or representations oral or written with respect to the Property which are not expressly set forth herein or incorporated herein by reference. This Agreement may be modified only in writing, signed and dated by both parties. All express representations and warranties shall survive closing. Both parties acknowledge that they have not relied on any statements of the real estate agent or broker which are not herein expressed. "Buyer" shall be one or more. "Seller" shall be one or more. Whenever required by context, singular shall include the plural, the plural the singular, and one gender shall include all genders. Time is of the essence in this Agreement.

**30. Authority to Sign.** The undersigned Seller(s) and Buyer(s) each represent and warrant that they are duly empowered and/or authorized, whether individually, on behalf of any entity or as a fiduciary, to enter into this Purchase Agreement and create a valid and binding contract. Seller represents all parties required to transfer title to the Property are parties to this contract.

Buyer reserves the right to withdraw this Offer prior to acceptance. Withdrawal shall be complete if verbal notification of withdrawal is made to the Seller's Limited Agent or Broker of the Seller's Limited Agent or the Seller before the delivery of Seller's written acceptance.

**IF PARAGRAPH 28 IS CHECKED, THIS CONTRACT CONTAINS AN ARBITRATION PROVISION WHICH MAY BE ENFORCED BY THE PARTIES**

DocuSigned by: Travis Hasselman, for Bosselman Energy, Inc DATE 06/10/2020  
BUYER Bosselman Energy, Inc

BUYER \_\_\_\_\_ DATE \_\_\_\_\_

ADDRESS PO Box 1567 ZIP 68802 PHONE (308) 398-6333

NAMES FOR DEED: Bosselman Energy, Inc

Check one: ☐ JTWROS ☐ Tenants in common ☐ Other \_\_\_\_\_

Check one: ☐ Husband and Wife ☐ Single Person ☐ Other \_\_\_\_\_

**RECEIPT FOR EARNEST MONEY**

RECEIVED FROM: Bosselman Energy, Inc the sum of \$5,000.00 by ☒ check ☐ cash ☐ other \_\_\_\_\_ to apply to the purchase price of the Property on terms and conditions as stated. In the event this offer is not accepted by the Seller of the Property within the time specified the earnest money shall be refunded.

BHHS Da-Ly Realty REALTORS® By: Tracy Babcock

Complete only one of A, B or C below:

**A: Acceptance of All Terms:** Seller accepts all of the terms of the above Agreement and agrees to perform all of its terms.

**IF PARAGRAPH 28 IS CHECKED, THIS CONTRACT CONTAINS AN ARBITRATION PROVISION WHICH MAY BE ENFORCED BY THE PARTIES**

Seller \_\_\_\_\_ Date \_\_\_\_\_  
City of Grand Island

Seller \_\_\_\_\_ Date \_\_\_\_\_

Page 5 of 6

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Seller: \_\_\_\_\_ / \_\_\_\_\_ Buyer: TLH / \_\_\_\_\_  
Date: \_\_\_\_\_ Date: 06/10/2020

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City of Grand



**B. Counter Offer #1 By Seller:** In response to the above Purchase Agreement dated \_\_\_\_\_ for the sale of the Property, all of the terms and conditions of the Purchase Agreement are accepted and shall remain the same with the exception of the following:

This Counter Offer shall expire \_\_\_\_\_ (date), at \_\_\_\_\_ o'clock \_\_\_\_\_ (hour in the time zone of the office of the Seller's agent) and be automatically null and void unless, prior to the time of expiration, Buyer's written acceptance is delivered to the Seller's Limited Agent or their Broker's office or the Seller.

If this Counter Offer is accepted, the Purchase Agreement as amended by this Counter Offer shall become a contract between the parties.

Seller reserves the right to withdraw this Counter Offer prior to acceptance. Withdrawal shall be complete if verbal notification of withdrawal is made to the Buyer's Agent or Broker of the Buyer's Agent or Buyer before the delivery of Buyer's written acceptance.

Seller \_\_\_\_\_ Date \_\_\_\_\_ Seller \_\_\_\_\_ Date \_\_\_\_\_

☐ accept    ☐ reject this Counter Offer \_\_\_\_\_ (date), at \_\_\_\_\_ o'clock

Buyer	Date	Buyer	Date
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**C. Rejection:** The foregoing offer is rejected

Seller	Date	Seller	Date
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### RECEIPTS FOR FULLY EXECUTED PURCHASE AGREEMENT

Buyer acknowledges receipt of executed copy of this Agreement.

(Buyer)	Date	(Buyer)	Date
Bosselman Energy, Inc			

Seller acknowledges receipt of executed copy of this Agreement.

(Seller)	Date	(Seller)	Date
City of Grand Island			

ORDINANCE NO. 9775

An ordinance directing and authorizing the sale of Parcel No. 400401746, addressed as 3231 West Schimmer Drive, City of Grand Island, Hall County, Nebraska to Bosselman Energy, Inc.; providing for the giving of notice of such conveyance and the terms thereof; providing for the right to file a remonstrance against such conveyance; providing for publication and the effective date of this ordinance.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA:

SECTION 1. The conveyance by warranty deed to Bosselman Energy, Inc., (“Buyer”), of the City’s interests in and to Parcel No. 400401746, address as 3231 West Schimemr Drive, Grand Island, Hall County, Nebraska is hereby approved and authorized.

SECTION 2. Consideration for such conveyance shall be One Hundred Thirty Five Thousand Dollars and 00/100 (\$135,000.00) and other valuable considerations.

SECTION 3. As provided by law, notice of such conveyance and the terms thereof shall be published for three (3) consecutive weeks in the *Grand Island Independent*, a newspaper published for general circulation in the City of Grand Island. Immediately after the passage and publication of this ordinance, the City Clerk is hereby directed and instructed to prepare and publish said notice.

SECTION 4. Authority if hereby granted to the electors of the City of Grand Island to file a remonstrance against the conveyance of such within described real estate; and if a remonstrance against such conveyance signed by registered voters of the City of Grand Island equal in number to thirty percent (30%) of the registered voters of the City of Grand Island voting at the last regular municipal election held in such City be filed with the City Council

Approved as to Form	by _____
July 10, 2020	City Attorney

ORDINANCE NO. 9775 (Cont.)

within thirty (30) days of passage and publication of such ordinance, said property shall not then, nor within one (1) year thereafter, be conveyed.

SECTION 5. The conveyance of said real estate is hereby authorized, directed and confirmed; and if no remonstrance be filed against such conveyance, the Mayor shall make, execute and deliver to Buyer, a warranty deed for said real estate, and the execution of such deed is hereby authorized without further action on behalf of the City Council.

SECTION 6. This ordinance shall be in force and take effect from and after its passage and publication, within fifteen (15) days in one issue of the Grand Island Independent as provided by law.

Enacted: July 14, 2020.

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Roger G. Steele, Mayor

Attest:

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RaNae Edwards, City Clerk