



# **City of Grand Island**

**Tuesday, March 23, 2004**

**Council Session**

## **Item E1**

**Public Hearing on Acquisition of Property at 1209 - 1219 W. North  
Front Street - Utilities Department**

**Staff Contact: Gary R. Mader**

# **Council Agenda Memo**

**From:** Gary R. Mader, Utilities Director  
Doug Walker, City Attorney

**Meeting:** March 23, 2004

**Subject:** Property Acquisition: 1209 - 1219 W. North Front Street

**Item #'s:** E-1 & G-6

**Presenter(s):** Gary R. Mader, Utilities Director

## **Background**

The Electric Department, Line Division and Underground offices, shops and storage facilities are located in the 1100 block of West North Front Street. The current buildings were first built over 35 years ago. As the City has grown, so have the Utility's electric distribution divisions. Rather than abandon the current site and build new to meet this growth, the Utilities Department has acquired suitable adjacent properties as they have become available and integrated those facilities into the previously constructed facilities. The old YMCA property, which was located on the same block, was acquired in the 70's. A private residence in that same block was acquired in the 80's, and a commercial business in the block just east was acquired in the 90's. These acquisitions have been fully integrated into the Line Division's operations, and have provided well for the needed growth.

Recently the Utilities Department became aware of another property in the area which would be suitable to meet future growth needs. That property is located at 1209 – 1219 W. North Front and is generally referred to as the old Thompson Building.

## **Discussion**

The Thompson Building warehouse facility is just west of the Line Division block on the opposite (south) side of North Front Street and immediately adjacent to the west side of the City Shop-Garage.

This building is planned to be used to provide covered storage for equipment and materials used by the Line and Underground Distribution Crews into the future. The location is convenient to the existing Electric Department facilities in the area, and close to the Public Works Department shops. And while it is not a particularly attractive

structure, its' previous use as a warehouse provides high ceilings and relatively open architecture, suitable for storage of the large materials and construction equipment used for power system construction.

Utilities and Legal staff have met with the owner's representative and negotiated a proposed purchase price of \$350,000. The original asking price was \$395,000. In 2003, the Utilities Department commissioned an appraisal of the property which set a market value of \$430,000. The taxable value from the Hall County Assessor's Office is \$334,757. A proposed Purchase Agreement is attached.

### **Alternatives**

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

1. Approve the purchase of the property.
2. Deny the purchase of the property.
3. Direct a revised purchase price offer.
4. Modify the Purchase Agreement to meet the wishes of the Council.

### **Recommendation**

City Administration recommends that the Council approve the purchase of the property at 1209 – 1219 West North Front Street and that the Mayor be authorized to execute the Purchase Agreement for the property.

### **Sample Motion**

Approve the purchase of the property at 1209 – 1219 West North Front Street and authorizing the Mayor to execute the Purchase Agreement for that property.



**Da-Ly Realty**  
**2514 South Locust St.**  
**Grand Island, NE 68801**  
**Phone: 308-384-1101, Fax: 308-384-9647**



THIS IS A LEGALLY BINDING AGREEMENT, IF NOT UNDERSTOOD, SEEK LEGAL ADVICE  
 The REALTOR® negotiating this agreement is a member of the Nebraska REALTORS® Association  
 And as such is governed by its Code of Ethics and Rules and Regulations.

**COMMERCIAL  
 PURCHASE AGREEMENT**

Da-Ly Realty, 2514 S. Locust Street, Grand Island, NE 68801  
 (firm and address)

16 March, 2004  
 (date)

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

Address:

1212 W. North Front Street, Grand Island, NE 68801

Legal Description:

Lots One (1), Two (2), Three (3) and Four (4) in Block Five (5), Arnold and Abbott's Addition to the City of Grand Island, Hall County, Nebraska, together with the easterly Forty Feet (40') of Vacated Adams Street, in the City of Grand Island, Hall County, Nebraska; and Improvement on Leased Land described as an 8,180 square foot tract of land with dimensions of Fifty Feet (50') by One Hundred Sixty-two Feet (162') adjacent to the south side of a portion of Lots One (1) and Two (2) of Block Five (5), Arnold and Abbott's Addition to the city of Grand Island, Hall County, Nebraska on the Union Pacific Railroad Right-of-Way as shown on "Exhibit A," attached hereto and incorporated herein by reference.

(Property) including all fixtures and equipment permanently attached to Property owned by Seller provided Seller has a marketable title in fee simple.  
 The only personal property included as follows:

Buyer shall be furnished a current title insurance commitment before closing and a title insurance policy insuring marketability. The cost of title insurance issued for this sale shall be paid as follows:

split equally

Buyer agrees that should a valid title defect exist, Seller has a reasonable time to correct said defect not to exceed 30 days from the date of the title commitment. If the title defects are not cured within such time period, Buyer may declare this agreement null and void, and the earnest money shall be refunded. Seller agrees to convey to Buyer by warranty deed or equivalent

free and clear of all liens and encumbrances except none

and subject to all easements and restrictions or covenants now of record. Special assessments for items such as paving, curbing, sidewalk or utilities previously constructed, now under construction, or ordered to be constructed by public authority, levied, assessed or not yet assessed as of the date of this agreement shall be ☒ paid by Seller ☐ assumed by Buyer. The documentary stamp tax shall be paid by Seller.

**Personal Property.** ☐ If checked, the purchase price includes all furniture and furnishings and any other personal property owned by Seller and used in the operation of the property per attached signed inventory, receipt of which is hereby acknowledged. The inventory is hereby made an integral part of this agreement upon its execution by both parties. Said personal property is to be transferred by Bill of Sale in favor of Buyer at closing.

**Price.** Buyer agrees to pay \$ 350,000.00 on the following terms: an earnest money deposit of \$ 5,000.00 at this time as shown by the receipt herein. If paid by check, it will be cashed. The earnest money will be transferred to the listing broker on acceptance, if the selling broker is other than the listing broker. All monies shall be deposited in a trust account, to be held until the time of closing or until transferred to an escrow agent by agreement of Buyer and Seller; balance to be paid as shown in the following Paragraph(s) # A :

**#1 All Cash:** Balance shall be paid in cash, or by certified or cashier's check at time of delivery of deed, no financing being required.

**#2 Conditional Upon Loan:** Balance of \$ N/A shall be paid in cash, or certified or cashier's check at time of delivery of deed, contingent upon Buyer's ability to obtain a loan, to be secured by first mortgage or deed of trust, on above described Property in the amount of \$ N/A on the following terms: initial interest not exceeding N/A % per annum; amortized over not less than N/A years; points not to exceed N/A. Loan origination or service fees shall be paid by Buyer. Buyer agrees to make application for the loan within

N/A 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. If processing of the application has not been completed by the closing date stated elsewhere in this Agreement, such time limit shall be automatically extended until the lending agency has, in the normal course of its business, advised either approval or rejection. Seller may cancel this agreement any time after N/A unless Buyer shall have previously provided to Seller a copy of Buyer's written, non-contingent loan approval from a regulated lender.

**#3 Other Provisions:**

1. Buyer understands that Seller has negotiated, received, and paid in full a 20-year lease agreement with the Union Pacific Railroad for improvements that are on RR property. Seller will work with the buyer's representative and the railroad to obtain a revised lease agreement whereby the RR will permit the City of Grand Island to assume this lease. If seller cannot successfully obtain a revised lease agreement from the RR, this contract shall be deemed void and all earnest monies returned to buyer.
2. A survey is to be done to verify the exact boundaries per the legal description and how the building sits on the lots. Cost of the survey to be split equally. If total cost of a survey exceeds \$1,000.00, buyer will pay the amount over and above. A survey will be ordered by Buyer within 10 days of acceptance of this contract.
3. If the survey indicates that the improvements are not completely located within the boundaries of this

PREPARED BY AGENT: Jackie Beltzer, Sales Associate

Commercial Purchase Agreement, Nebraska REALTORS® Association  
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Buyer(s) \_\_\_\_\_

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Seller(s) \_\_\_\_\_

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- property as set forth in the legal description above, then buyer may cancel this agreement and all earnest monies be returned to buyer.
4. Seller had a Phase I environmental assessment done on the property in October, 1995, and will provide a copy of this study to Buyer. If Buyer chooses to obtain a Phase I and II study as well as an inspection to determine if there is asbestos or other hazardous materials, this will be at buyer's expense. Buyer desires to verify that there are no potential issues of pollution or brown field liability on the premises. If pollution, brown field, asbestos or other hazardous materials become evident on this property or if pollution on adjacent property will affect this real estate, buyer may cancel this agreement and all earnest monies be returned to buyer.
  5. Purchase is subject to approval of the Grand Island City Council.
  6. Buyer requests an August 1, 2004 close date in order to accomplish the necessary studies and/or inspections.

**#4 Addendum:** The attached addenda shall be made a part of the Purchase Agreement. (List Addenda)

Consent to Dual Agency

(Seller        /       ) (Buyer        /       )

**Real Estate Taxes/Prorations:** Seller shall pay all taxes to and including 2003. Taxes for the calendar year 2004, together with interest, rents, prepaid services, and other expenses of the property, if any, shall be prorated to the date of possession/closing. Taxes shall be prorated on the basis of the county assessor's valuation at the date of closing and the most recently certified mill levy.

**Compliance with Law:** Seller shall comply with any federal, state or local law applicable to the sale or transfer of the property, including but not limited to installing smoke detectors or providing inspections.

**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, the building, the heating, air conditioning, water heater, sewer, plumbing, electrical system, any appliances and the lawn.

**Insects:** ☒ If checked, Buyer requests a termite and wood destroying insect inspection of the property and all buildings thereon at Buyer's expense. Should evidence of termites or wood destroying insects be found, the property shall be treated at Seller's expense. Buyer agrees to accept the treated property. If visible evidence of previously treated infestation, which is now inactive, is found, treatment shall not be required. Should damage from such insects be found, the damage shall be corrected at Seller's expense. However, if the cost required for repairs exceeds 1% of the purchase price, either Seller or Buyer may rescind this agreement.

**Liability Limit:** Except for the costs required by the preceding three paragraphs, Seller's total liability for any costs for maintenance, repairs or replacements required by terms of this agreement or by Buyer's lender, shall not exceed \$0. Should maintenance, repairs or replacement exceed the stated amount Seller may elect to pay the cost in excess of such amount. If Seller does not, Buyer may elect to take the Property without the repairs or maintenance and such amount (the full limit) shall be a credit to the purchase price. Otherwise, either party may rescind this agreement.

**Inspections:** Unless otherwise provided specifically in this agreement, 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 See #3 Other Provisions which is the inspection deadline. Buyer shall have 30 calendar days after the inspection deadline to give notice to the Seller of any unsatisfactory conditions of the property (the "rescission deadline"). If the Buyer fails to notify the Seller of an unsatisfactory condition Buyer agrees to accept the property in its condition on the inspection deadline. If such a notice is received by the Seller as set forth above, this agreement shall terminate on August 01, 2004, the settlement deadline, unless Seller and Buyer have agreed to a settlement in writing or Buyer has waived such condition in writing.

**Access to Property:** Seller shall provide reasonable access to Buyer, his inspectors or agents to timely fulfill this agreement and to representatives of Buyer's Lender to accommodate financing.

**Condition of Property:** Seller represents (1) that to the best of Seller's knowledge, there are no defects in the property that are not readily ascertainable and which significantly affect the desirability or value of the property, or which the Seller has not disclosed to Buyer in writing dated N/A and (2) that Seller has no notice of violations of any local state or federal laws, rules and regulations relating to the property. ☐ If checked, a disclosure is attached.

**Risk of Loss:** Risk of loss or damage to Property, prior to closing date, shall be the responsibility of Seller. If, prior to closing, the Property is materially damaged by fire, explosion or any other cause, Buyer shall have the right: i) to require the premises to be restored to the condition at execution hereof; ii) to adjust the price to the value subject to the damage; or, iii) to rescind this agreement.

**Possession and Closing:** Closing of the sale shall be on August 1, 2004, or within        days after loan approval, whichever shall last occur. Possession of Property shall be given on date of closing but not before closing. This agreement shall in no manner be construed to convey Property or to give any right of possession. Buyer shall have the right to make a final inspection of Property prior to closing to ascertain that all conditions of this agreement have been met. Time is of the essence in this agreement.

**Escrow Closing:** Buyer and Seller agree that the closing of the sale may be handled by an escrow agent. If so, the listing broker is authorized to transfer to the escrow agent the earnest money, other trust funds received by the listing broker and all documents and other items received by the listing broker in connection with the sale. After the transfer, the listing 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 or deliver or record any documents until it has received certified funds or other good, sufficient and collected funds, and all conditions, terms and provisions of this agreement have been satisfied, performed and met.

Closing charges shall be paid as follows:

split equally

(Seller        /       ) (Buyer        /       )

**Rescission, Termination or Default:** If Buyer fails to consummate this purchase according to the terms 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 rescinded or terminated by either party without fault as allowed hereby, each party shall bear his or her costs and the earnest money shall be refunded.

**F.I.R.P.T.A. (Foreign Investment and Real Property Tax Act)** The foreign investment and Real Property Tax Act requires a Buyer of real property to withhold ten percent (10%) of the sale price and to deposit that amount with the Internal Revenue Service upon closing, if the Seller is a

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Commercial Purchase Agreement, Nebraska REALTORS® Association

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Buyer(s)       

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Seller(s)

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foreign person, foreign corporation or partnership, or non-resident alien, unless the property qualifies for an exemption under the act. Unless it is established that the transaction is exempt because the purchase price is \$300,000 or less and the Buyer intends to use the property as his primary residence, Seller agrees to: (a) Provide Broker with a Non-Foreign Seller Affidavit (PPC Form 101-V) stating under penalty of perjury that Seller is not a foreign person; or (b) Provide Broker with a Certificate from the Internal Revenue Service establishing that no federal income tax withholding is required; or (c) Subparagraphs (a) or (b) to be provided to Buyer within 15 days of acceptance or Seller consents to withholding ten percent (10%) from the sale proceeds, to be deposited with the Internal Revenue Service.

**Tax Deferred Exchange.** In the event the Seller wishes to enter into a tax deferred exchange for the real property described herein, or if Buyer wishes to enter into a tax deferred exchange with respect to property owned by him in connection with this transaction, each of the parties agrees to cooperate with the other party in connection with such exchange, including the execution of such documents as may be reasonably necessary to effectuate the same. Provided that: (a) The other party shall not be obligated to delay the closing. (b) All additional costs in connection with the exchange should be borne by the party requesting the exchange, and (c) The other party shall not be obligated to execute any note, contract, deed, or other document providing for any personal liability which would survive the exchange, nor shall the other party be obligated to take title to any property other than the property described in this agreement. The other party shall be indemnified and held harmless against any liability which arises or is claimed to have arisen on account of the acquisition of the exchange property.

**Rights of Persons in Possession.** ☐ If checked, this property is sold subject to the rights of persons in possession. Rents shall be prorated to date of closing. Security deposits, advance rentals or considerations involving future lease credits shall be credited to Buyer. Buyer acknowledges that trade fixtures located in the premises may belong to tenants and may be removed upon the conclusion of the tenancy. ☐ If checked, purchase is subject to Buyer's inspection and approval of the leases which shall be treated as an inspection above. Promptly after execution hereof, Seller shall provide Buyer with copies of all leases and rental agreements, notices to or from tenants, claims made to or by tenants, a statement of rents owing and damage or security deposits held and a summary of all oral agreements with tenants which affect the operation or ownership of the premises. Seller shall warrant the foregoing disclosures as true and correct. Seller agrees that no changes in the existing leases or rental agreements shall be made nor new leases or rental agreements entered into nor shall any substantial repairs or alterations be commenced without the express written consent of the Buyer. Buyer's obligations hereunder are conditioned upon receipt at closing of an estoppel certificate from each tenant acknowledging that the lease or rental agreement is in effect, that no lessor default exists, and stating the amount of any prepaid rent or deposits.

**Income/Expense.** ☐ If checked, the purchase is subject to Buyer's inspection and approval of the operating statement of the premises. Promptly after execution hereof Seller shall provide a statement of rental income and expenses for the premises which Seller shall warrant as true and correct. Such inspection shall be treated as an inspection above.

**Service Contracts.** Seller agrees to provide to Buyer a copy of any service and/or equipment contracts with respect to the property which extend beyond closing. Buyer agrees to assume such contracts.

**Environmental.** ☐ If checked, the purchase is contingent upon the satisfactory environmental quality of the Property. On or before the inspection deadline, Buyer may request a Phase I environmental review at its expense which shall be promptly ordered. If the results raise a question of environmental quality, Buyer may request further study and delay closing as necessary, accept the property as is or rescind the agreement. If further study is requested, Buyer shall have ten days after receipt of the study results to accept the property as is or rescind this agreement. Copies of all requests for environmental investigation and the results thereof shall be provided to both Buyer and Seller. If the environmental investigation is not completed by August 1, 2004 either party may rescind this agreement.

**Use.** ☒ If checked, Buyer intends to use the premises for a specific purpose. Buyer may rescind this agreement on or before the rescission deadline if Buyer determines that zoning or land use restriction prohibits such intended use. The purpose is as follows:  
for City Utilities Department

**Acceptance Date:** This offer is null and void if not accepted by Seller on or before March 11, 2004 at 3 o'clock P.M.

**Counterparts:** 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.

**Fax Transmission:** The facsimile transmission of a signed copy hereof or any counter offer to the other party or his/her agent followed by faxed acknowledgment of receipt, shall constitute delivery of said signed document. The parties agree to confirm such delivery by mailing or personally delivering a signed copy to the other party or his/her agent.

**Entire Agreement:** This document contains the entire agreement of the parties and supercedes 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 by a 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 except

City of Grand Island  
100 East First Street, Grand Island, NE 68801  
Bus.#: 308-385-5444 ext 130 Fax #: 308-385-5427

BUYER \_\_\_\_\_ DATE \_\_\_\_\_  
By: Mayor Jay Vavricek

BUYERS' limited agent is Jackie Beltzer [agent] of Da-Ly Realty [company]

NAMES FOR DEED: \_\_\_\_\_

#### RECEIPT FOR EARNED MONEY

RECEIVED FROM: \_\_\_\_\_ \$ 5,000.00 (by check) to apply

PREPARED BY AGENT: Jackie Beltzer, Sales Associate  
Commercial Purchase Agreement, Nebraska REALTORS® Association  
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Seller(s) \_\_\_\_\_ Page 3 of 5

to the purchase price of 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, or if there are any defects in the title which cannot be cured as specified above, the Deposit shall be refunded.

Da-Ly Realty REALTOR® By: \_\_\_\_\_

#### ACCEPTANCE

Seller accepts this agreement on the terms stated and agrees to convey title to Property, deliver possession, and perform all the terms and conditions set forth.

TOBA, Inc.  
2636 W. Stolley Park Rd, P.O. Box 1466, Grand Island, NE 68802-1466  
Bus. #: 308-382-6501 Fax #: 308-382-1813

SELLER \_\_\_\_\_ DATE \_\_\_\_\_  
By: Anthony Wald

SELLER \_\_\_\_\_ DATE \_\_\_\_\_  
Gene M. Reab  
2617 Lakewood Drive, Grand Island, NE 68801  
Home #: 308-384-0826

SELLER \_\_\_\_\_ DATE \_\_\_\_\_  
Ellenor K. Reab  
2617 Lakewood Drive, Grand Island, NE 68801  
Home #: 308-384-0826

SELLERS' limited agent is Jackie Beltzer [agent] of Da-Ly Realty [company]

STATE OF NEBRASKA )  
COUNTY OF \_\_\_\_\_ ) ss  
STATE OF NEBRASKA )  
COUNTY OF \_\_\_\_\_ )

The foregoing purchase agreement was acknowledged  
before me on \_\_\_\_\_

\_\_\_\_\_ by \_\_\_\_\_

Notary Public  
Commission Expires \_\_\_\_\_

The foregoing purchase agreement was acknowledged  
before me on \_\_\_\_\_

\_\_\_\_\_ by \_\_\_\_\_

Notary Public  
Commission Expires \_\_\_\_\_

#### RECEIPTS FOR FULLY EXECUTED PURCHASE AGREEMENT

Buyer acknowledges receipt of executed copy of this agreement.

City of Grand Island  
BUYER \_\_\_\_\_ DATE \_\_\_\_\_  
By: Mayor Jay Vavricek

Seller acknowledges receipt of executed copy of this agreement.

TORA, Inc.  
SELLER \_\_\_\_\_ DATE \_\_\_\_\_  
By: Anthony Wald  
SELLER \_\_\_\_\_ DATE \_\_\_\_\_  
Gene M. Reab  
SELLER \_\_\_\_\_ DATE \_\_\_\_\_  
Ellenor K. Reab





**Da-Ly Realty**  
**2514 South Locust St.**  
**Grand Island, NE 68801**  
**Phone: 308-384-1101, Fax: 308-384-9647**



Instructions: This form should be used at the start of a dual agency situation; for instance, you discuss one of your listings with a buyer you represent.

This is a legally binding agreement. If not understood, seek legal advice. Professional Service Fees and Agreement Terms are not regulated by law.

The REALTOR® negotiating this agreement is a member of the Nebraska REALTORS® Association and as such is governed by its Code of Ethics and Rules and Regulations.

## CONSENT TO DUAL AGENCY

Jackie Beltzer (REALTOR®) of Da-Ly Realty (company) has a written brokerage agreement with Seller to sell the real estate located at 1219 W. North Front Street, Grand Island, NE 68801 and the Seller previously consented to the REALTOR® acting as a dual agent. REALTOR® has a written or statutory non-written brokerage agreement with Buyer and the Buyer has consented to REALTOR® acting as a dual agent.

Buyer and Seller agree that:

1. **Dual Agency.** REALTOR® shall act as a Dual Agent for the sale of the described property, pursuant to Nebraska Statute. The REALTOR® as a Dual Agent shall be a limited agent for both the Seller and Buyer and shall have the duties and obligations required of a Seller's Agent and those duties and obligations required of a Buyer's Agent. In a leasing situation, Seller's agent when used herein means Landlord's Agent and Buyer's agent when used herein means Tenant's Agent.
2. **Duties and Obligations of a Seller's Agent.** A REALTOR® representing a Seller as a Seller's Agent shall be a limited agent with the following duties and obligations:
  - (a) To perform the terms of any written agreement made with the client;
  - (b) To exercise reasonable skill and care for the client;
  - (c) To promote the interest of Seller with the utmost good faith, loyalty and fidelity including:
    - (i) Seeking the price and terms which are acceptable to Seller except that REALTOR® shall not be obligated to seek additional offers to purchase the Property while the Property is subject to a contract for sale or to seek additional offers to lease the Property while the Property is subject to a lease or letter of intent to lease.
    - (ii) Presenting all written offers to and from Seller in a timely manner regardless of whether the Property is subject to a contract for sale or lease or letter of intent to lease;
    - (iii) Disclosing in writing to Seller and the clients all adverse material facts actually known by REALTOR®; and
    - (iv) Advising Seller to obtain expert advice as to material matters of that which REALTOR® knows but the specifics of which are beyond the expertise of REALTOR®;
  - (d) To account in a timely manner for all money and property received;
  - (e) To comply with all requirements of Neb. Rev. Stat. Sections 76-2401 to 76-2430, the Nebraska Real Estate License Act, and any rules and regulations promulgated pursuant to such sections or act; and
  - (f) To comply with any applicable federal, state, and local laws, rules, regulations, and ordinances, including fair housing and civil rights statutes or regulations.
3. **Duties and Obligations of a Buyer's Agent.** A REALTOR® representing a Buyer as Buyer's Agent shall be a limited agent with the following duties and obligations:
  - (a) To perform the terms of any written agreement made with the client;
  - (b) To exercise reasonable skill and care for the client;
  - (c) To promote the interests of the client with the utmost good faith, loyalty, and fidelity, including:
    - (i) Seeking a price and terms which are acceptable to the client, except that the REALTOR® shall not be obligated to seek other properties while the client is a party to a contract to purchase property or to a lease or letter of intent to lease;
    - (ii) Presenting all written offers to and from the client in a timely manner regardless of whether the client is already a party to a contract to purchase property or is already a party to a contract or a letter of intent to lease;
    - (iii) Disclosing in writing to the client adverse material facts actually known by the REALTOR®; and
    - (iv) Advising the client to obtain expert advice as to material matters about which the REALTOR® knows but the specifics of which are beyond the expertise of the REALTOR®;
  - (d) To account in a timely manner for all money and property received;
  - (e) To comply with all requirements of Neb. Rev. Stat. Sections 76-2401 to 76-2430, the Nebraska Real Estate License Act, and any rules and regulations promulgated pursuant to such sections or act; and
  - (f) To comply with any applicable federal, state, and local laws, rules, regulations, and ordinances, including fair housing and civil rights statutes or regulations.
4. **Disclosure of information.** A dual agent may disclose to one client any information that is gained from the other if the information is relevant to the transaction, provided, however, confidential information will not be disclosed unless the disclosure of such information is required by statute, rule or regulation or the failure to disclose such information would constitute fraudulent misrepresentation. Confidential information is information made confidential by statute, rule, regulation, or written instructions from the client unless that information is made public by the acts of such client or another source. In addition, the following information cannot be disclosed without written consent of the client to whom the information pertains which consent is indicated by initialing the box following:

PREPARED BY AGENT: Jackie Beltzer, Sales Associate  
 Consent To Dual Agency - Nebraska REALTORS® Association

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Buyer(s) \_\_\_\_\_ 03/16/04 11:55:03

Seller(s) \_\_\_\_\_ Page 1 of 2

- (a) That a buyer or tenant is willing to pay more than the purchase price or lease rate offered.  
[Buyer consents to disclosure \_\_\_\_\_/\_\_\_\_\_] ]
- (b) That a seller or landlord is willing to accept less than the asking price or lease rate for the property.  
[Seller consents to disclosure \_\_\_\_\_/\_\_\_\_\_] ]
- (c) What the motivating factors are for any client buying, selling, or leasing the property.  
[Seller consents to disclosure \_\_\_\_\_/\_\_\_\_\_] ] [Buyer consents to disclosure \_\_\_\_\_/\_\_\_\_\_] ]
- (d) That the seller or buyer will agree to financing terms other than those offered.  
[Seller consents to disclosure \_\_\_\_\_/\_\_\_\_\_] ] [Buyer consents to disclosure \_\_\_\_\_/\_\_\_\_\_] ]
5. a. A Dual Agent does not terminate the dual agency relationship by making any required or permitted disclosure.  
b. In a dual agency relationship there shall be no imputation of knowledge or information between any client and the Dual Agent or among persons within an entity engaged as a Dual Agent.
6. REALTOR® Compensation Disclosure. Seller and Buyer agree that the professional fee to be paid to REALTOR® for this transaction shall be paid by the Seller. REALTOR® may accept compensation or profits from any entity providing services for or participating in this transaction.

City of Grand Island  
BUYER \_\_\_\_\_ DATE \_\_\_\_\_  
By: \_\_\_\_\_

TOBA, Inc.  
SELLER \_\_\_\_\_ DATE \_\_\_\_\_  
By: Anthony Wald  
SELLER \_\_\_\_\_ DATE \_\_\_\_\_  
Gene M. Reab  
SELLER \_\_\_\_\_ DATE \_\_\_\_\_  
Ellenor K. Reab