

City of Scottsbluff, Nebraska

Monday, December 7, 2015

Regular Meeting

Item Pub. Hear.2

Council to conduct a public hearing as advertised for this date at 6:05 p.m. to consider the purchase of the property located at 1303 East Overland.

Staff Contact: Rick Kuckkahn, City Manager

Agenda Statement

Item No.

For meeting of: 11/16/2015

AGENDA TITLE: Council to set Public Hearing for purchase of property at 1303 East Overland.

SUBMITTED BY DEPARTMENT/ORGANIZATION: Public Works Department

PRESENTATION BY: Nathan Johnson

SUMMARY EXPLANATION: Twin City Development is offering the property at 1303 East Overland to the city for \$38,000. This purchase of this property is a high priority for the City in order to eliminate liability and provide for future improvements to the Scottsbluff Drain. The property has one structure located within six feet of the Scottsbluff Drain. TCD has already removed the asbestos from the structure. The Stormwater budget has about \$200,000 set aside solely for the purpose of making improvements to the Scottsbluff Drain. This money can be used for the purchase of this property.

BOARD/COMMISSION RECOMMENDATION: Scottsbluff Drain Operating Committee unanimously supported the purchase of the property at their meeting on Thursday, October 29, 2015.

STAFF RECOMMENDATION: Staff recommends the City proceed with the public hearing in order to purchase the property.

Resolution Ordinance Contract **EXHIBITS** Minutes Plan/Map

Other (specify) _____

NOTIFICATION LIST: Yes No Further Instructions
Mark Bohl, Lynn Garton, Leann Sato

APPROVAL FOR SUBMITTAL: _____
City Manager

AGREEMENT

This Agreement is made on November __, 2015, between Western Nebraska Housing Opportunities, a Nebraska non-profit corporation, (the "Seller") and the City of Scottsbluff, Nebraska, a municipal corporation (the "Buyer").

Recitals:

a. The Seller is the owner of the following described real estate along with all permanent improvements (the "Real Estate"):

Lot One (1) and West One-Half (W1/2) of Lot Two (2), Block 12,
Imperial Subdivision Addition to the City of Scottsbluff, Scotts Bluff
County, Nebraska.

More commonly known as 1303 East Overland, Scottsbluff, NE.

b. The Seller desires to sell and the Buyer desires to purchase the Real Estate according to the terms of this Agreement.

Agreement:

1. Purchase Price:

The purchase price shall be \$38,000.00, payable at the Closing in cash or its equivalent.

2. Closing and Possession:

Possession shall be delivered to the Buyer at the time of closing (the "Closing"). The Closing shall take place on or before November 30, 2015. At the Closing, the Seller shall deliver to the Buyer a Warranty Deed free and clear of all liens and encumbrances, excepting easements, restrictions, reservations, rights-of-way of record and subject to standard exceptions in the title insurance policy.

3. Evidence of Title:

Prior to the Closing, the Buyer shall obtain a title insurance commitment binder showing that the Seller has merchantable title to the Real Estate. The Seller shall have a reasonable time to correct any defects and, if necessary, the Closing shall be delayed accordingly. If it is impossible to perfect title or if defects exist which will require court

action or an unreasonable expense or time to cure, the Buyer shall have the option to terminate this Agreement in writing.

4. Conditional Agreement:

Seller understands and agrees that Buyer is a municipal corporation of the State of Nebraska and must follow statutory law and Open Meeting statutes in order to purchase the Real Estate. This Agreement is conditional upon the Buyer obtaining approval of and authorization from the Scottsbluff City Council to proceed with the purchase. In the event the Scottsbluff City Council does not approve or authorize the purchase, then this Agreement shall become null and void, and the Buyer shall be released from the terms of this Agreement.

5. Taxes:

The Seller shall pay all real estate taxes levied against the Real Estate for all years prior to the year of the Closing along with all special assessments levied on the Real Estate in full. The real estate taxes for the year of the Closing shall be prorated between the parties to date of the Closing based on the most recent tax statement available. The Seller has not received any notice of any special assessments which affect the Real Estate and to the Seller's knowledge, no such assessments are pending or contemplated.

6. Risk of Loss:

Risk of loss for all improvements to the Real Estate shall remain with the Seller until the Closing. In the event that the improvements are substantially destroyed prior to the Closing, either party may declare this Agreement null and void.

7. Inspection and Disclosures:

a. The Buyer has inspected the Real Estate and is entering into this Agreement based on that inspection and not on any representations or warranties, express or implied, made by the Seller, except as otherwise provided for in this Agreement.

b. The Seller agrees to deliver the Real Estate to the Buyer in its present condition, reasonable wear and tear excepted.

c. The Seller has provided to the Buyer (1) a Notice to Purchasers of Housing Constructed before 1978 issued by the U.S. Department of Housing and Urban Development, and (2) a copy of the pamphlet "Protect your Family from Lead in Your

Home,” issued by the Environmental Protection Agency. The Real Estate was improved after 1978. No lead based paint will be present in the improvement and the Buyer waives the right to conduct an inspection.

8. Seller's Representations:

The Seller represents to the Buyer that to the best of the Seller's knowledge:

a. No sources of contamination exist on the Real Estate which would obligate the Buyer to clean up expenses under Federal or State environmental laws and regulation, and the Seller has received no notice of the existence of such contamination. In addition, the Seller has received no notice of any action or proposed action by governmental authorities concerning contamination of the Real Estate.

b. The Seller has received no notices from any governmental authority, indicating that the Real Estate is in violation of any zoning, building, environmental, fire or health codes or similar statutes or that the current operation of the Real Estate does not comply with all applicable governmental laws, rules, and regulations.

c. There is no actual or threatened, suit or claim resulting from any controversy which may adversely affect the Real Estate or its ownership.

d. There are no claims for construction liens or any unpaid amounts for labor or material which would give rise to construction liens.

9. Expenses of Sale:

The cost of the owner's title insurance coverage, the preparation of this Agreement and the cost of preparing the closing statement and the closing, if required, along with the cost to prepare the warranty deed shall be equally divided between the Seller and Buyer. The Documentary Stamp tax, if any, shall be paid by the Seller. The Buyer shall pay to record the warranty deed.

10. Default:

Time is of the essence. If either party shall default in the performance of this Agreement, the other party shall have all legal remedies available to them.

11. General Provisions:

- a. This Agreement shall not be assignable by either party without the consent of the other party.
- b. This Agreement is binding upon and inures to the benefit of the parties and their respective successors and permitted assigns; provided, however, no assignment of all or any portion of this Agreement shall relieve any party of its obligations under this Agreement.
- c. No waiver of any breach of any provision of this Agreement will be deemed a waiver of any other breach of this Agreement. No extension of time for performance of any act will be deemed an extension of the time for performance of any other act.
- d. This Agreement may be executed in one or more counterparts, each of which may be considered as an original.
- e. This Agreement shall be construed according to the laws of Nebraska.
- f. This Agreement contains the entire agreement of the Parties. This Agreement may be amended only in writing signed by all parties.

Western Nebraska Housing Opportunities,
a Nebraska non-profit corporation, Seller

City of Scottsbluff, Nebraska, Buyer

, President

BY _____
Randy Meininger, Mayor

NOTICE OF PUBLIC HEARING

Notice is given the Scottsbluff City Council will conduct a public hearing in regard to the acquisition of real estate legally described as: Lot One (1) and the West One-Half (W1/2) of Lot Two (2), Imperial Subdivision Addition to the City of Scottsbluff, Scotts Bluff County, Nebraska, more commonly known as 1303 East Overland, Scottsbluff, NE. The public hearing will be conducted on November _____, 2015 at 6:00 p.m., or as soon thereafter as can be held, in the City Council Chambers at Scottsbluff City Hall located at 2525 Circle Drive, Scottsbluff, NE.

City Clerk