

# **City of Scottsbluff, Nebraska**

**Monday, August 19, 2019**

**Regular Meeting**

## **Item Public Inp2**

**Council to discuss and consider action on Purchase Agreements for sale of Parking Lots.**

**Staff Contact: Nathan Johnson, City Manager**

## **AGREEMENT**

This Agreement is made on August \_\_, 2019 between the City of Scottsbluff, Nebraska, a Municipal Corporation, (the "Seller") and Western States Bank, a Wyoming corporation, (the "Buyer").

### **Recitals:**

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

Lots Five (5) and Six (6), Block One (1), ORIGINAL TOWN  
ADDITION to the City of Scottsbluff, Scotts Bluff County, Nebraska.

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 \$20,000.00 payable at the time of the Closing in cash or cash equivalent.

#### **2. Closing and Possession:**

Possession shall be delivered to the Buyer at the time of closing (the "Closing"). The Closing shall take place within thirty (30) days after the expiration of time for filing a remonstrance against the sale, but in no event shall the closing be later than November 30, 2019. 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 Seller shall furnish to the Buyer 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 Seller shall have the option to terminate this Agreement upon written notice to the Buyer.

**4. 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, if any, 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.

**5. Risk of Loss:**

Risk of loss for any and all improvements, if any, to the Real Estate shall remain with the Seller until the Closing.

**6. Inspection and Disclosures:**

The Buyer has personally 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. The Buyer is purchasing the Real Estate "AS IS".

**7. Conditional Agreement:**

This Agreement and the Closing are conditional upon the Scottsbluff City Council approving the sale and no remonstrance against the sale being filed. If the Scottsbluff City Council does not approve the sale or a valid remonstrance is filed, the Closing shall not take place and this Agreement shall become null and void. The Buyer acknowledges the Seller is required to pass an Ordinance, provide Notice and publish terms of this Agreement prior to the time the parties are able to close this Agreement.

**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. Buyer is entitled to obtain a Phase I inspection at its expense.

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 preparation of this Agreement shall be paid by Seller. Both parties shall equally divide the cost to prepare the Warranty Deed along with the cost of closing, including any fees by a closing agent, and the cost of any owner's title insurance coverage. The cost of the documentary stamp tax, if any, shall be paid by the Seller. Buyer shall pay the cost to record the Warranty Deed as well as all fees for its attorney, relator or other professional it has used in connection with its purchase.

**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.

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.

CITY OF SCOTTSBLUFF, NEBRASKA  
a Municipal Corporation, Seller,

Western States Bank  
a Wyoming corporation, Buyer

By \_\_\_\_\_  
Mayor

By \_\_\_\_\_, President

\_\_\_\_\_  
City Clerk

State of Nebraska, Scotts Bluff County:

This Agreement was acknowledged before me on August \_\_\_\_, 2019, by Raymond Gonzales, Mayor of the City of Scottsbluff, Nebraska, Seller.

\_\_\_\_\_  
Notary Public

State of \_\_\_\_\_, \_\_\_\_\_ County:

This Agreement was acknowledged before me on August \_\_\_\_, 2019, by \_\_\_\_\_, as President of \_\_\_\_\_, a Wyoming corporation, for and on behalf of the corporation, Buyer.

\_\_\_\_\_  
Notary Public

## **AGREEMENT**

This Agreement is made on August \_\_\_\_, 2019 between the City of Scottsbluff, Nebraska, a Municipal Corporation, (the "Seller") and Chaloupka, Holyoke, Snyder, Chaloupka & Longoria, PC, LLO, a Nebraska professional 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 Four (4), EXCEPT the North Four (4') feet, Block One (1), ORIGINAL TOWN ADDITION to the City of Scottsbluff, Scotts Bluff County, Nebraska.

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 \$12,500.00 payable at the time of the Closing in cash or cash equivalent.

#### **2. Closing and Possession:**

Possession shall be delivered to the Buyer at the time of closing (the "Closing"). The Closing shall take place within thirty (30) days after the expiration of time for filing a remonstrance against the sale, but in no event shall the closing be later than November 30, 2019. 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 Seller shall furnish to the Buyer 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 Seller shall have the option to terminate this Agreement upon written notice to the Buyer.

**4. 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, if any, 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.

**5. Risk of Loss:**

Risk of loss for any and all improvements, if any, to the Real Estate shall remain with the Seller until the Closing.

**6. Inspection and Disclosures:**

The Buyer has personally 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. The Buyer is purchasing the Real Estate "AS IS".

**7. Conditional Agreement:**

This Agreement and the Closing are conditional upon the Scottsbluff City Council approving the sale and no remonstrance against the sale being filed. If the Scottsbluff City Council does not approve the sale or a valid remonstrance is filed, the Closing shall not take place and this Agreement shall become null and void. The Buyer acknowledges the Seller is required to pass an Ordinance, provide Notice and publish terms of this Agreement prior to the time the parties are able to close this Agreement.

**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. Buyer is entitled to obtain a Phase I inspection at its expense.

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 preparation of this Agreement shall be paid by Seller. Both parties shall equally divide the cost to prepare the Warranty Deed along with the cost of closing, including any fees by a closing agent, and the cost of any owner's title insurance coverage. The cost of the documentary stamp tax, if any, shall be paid by the Seller. Buyer shall pay the cost to record the Warranty Deed as well as all fees for its attorney, relator or other professional it has used in connection with its purchase.

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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.

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.

CITY OF SCOTTSBLUFF, NEBRASKA  
a Municipal Corporation, Seller,

Chaloupka, Holyoke, Snyder, Chaloupka  
& Longoria, PC, LLO, a Nebraska  
professional corporation, Buyer

By \_\_\_\_\_  
Mayor

By [Signature]  
Vice \_\_\_\_\_, President

\_\_\_\_\_  
City Clerk

State of Nebraska, Scotts Bluff County:

This Agreement was acknowledged before me on August \_\_, 2019, by Raymond Gonzales, Mayor of the City of Scottsbluff, Nebraska, Seller.

\_\_\_\_\_  
Notary Public

State of Nebraska, Scotts Bluff County:

This Agreement was acknowledged before me on <sup>July</sup> August 31, 2019, by Thomas T. Holyoke, as President of Chaloupka, Holyoke, Snyder, Chaloupka & Longoria, PC, LLO a Nebraska professional corporation, for and on behalf of the corporation, Buyer.

[Signature]

