

City of Scottsbluff, Nebraska

Monday, November 16, 2020

Regular Meeting

Item Subdiv.1

Council to discuss and consider action on the Contract for Public Improvements between the City of Scottsbluff and Smith Land Company, LLC and authorize the Mayor to execute the Contract.

Staff Contact: Gary Batt, Code Administrator

AGENDA STATEMENT

Item No.
For Meeting of: November 16, 2020

AGENDA TITLE: On November 9, 2020, the Smith Land Company brought before the Planning Commission a Final Plat for Blocks 1 & 2, Webber Manor Fourth Addition to the City of Scottsbluff, Scotts Bluff County, Nebraska. The Final Plat was approved by the Planning Commission.

The Smith Land Company had previously brought a Preliminary Plat on June 8, 2020 to the Planning Commission for Blocks 1 & 2, Webber Manor Fourth Addition to the City of Scottsbluff, Scotts Bluff County, Nebraska was approved.

The Smith Land Company presented a Contract for Public Improvements drawn up by Rick Ediger of Simmons Olsen Law Office. This contract was held until the Planning Commission could meet on November 9, 2020 with the Final Plat being approved along with the Contract For Public Improvements.

SUBMITTED BY DEPARTMENT/ORGANIZATION: Development Services Department

SUMMARY EXPLANATION: The Scottsbluff Planning Commission met in a regular scheduled meeting on November 9, 2020 to address an application presented by Smith Land Company for a Final Plat of Blocks 1 & 2, Webber Manor Fourth Addition to the City of Scottsbluff, Scotts Bluff County, Nebraska. The owner Mark Smith presented a Contract for Public Improvements (Developers Agreement) that he has agreed to, containing 9 items for the development of the property. The addition had previously been preliminary platted in June, 2020.

BOARD COMMISSION RECOMMENDATION: Planning Commission approved the Final Plat.

STAFF RECOMMENDATION:

Resolution	Ordinance	Contract	Minutes	Plan/Map
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Other (specify) _____

NOTIFICATION LIST: Yes	No	Further Instructions
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APPROVAL FOR SUBMITTAL: _____
City Manager

CONTRACT FOR PUBLIC IMPROVEMENTS

This Contract is made on October 8, 2020, between City of Scottsbluff, Nebraska, a Municipal Corporation (the "City") and Smith Land Company, LLC (the "Owner").

Recitals:

a. The Owner owns the real estate which has preliminarily been platted as described below (the "Real Estate"):

Blocks 1 and 2, Webber Manor Fourth Addition to the City of Scottsbluff, Scotts Bluff County, Nebraska

The proposed final plat (the "Plat") for the Real Estate is made a part of this Contract by reference.

b. The Plat provides for 31st Street to be extended along the south side of Block 1 and the north side of Block 2.

c. Certain improvements which are required by the Scottsbluff Municipal Code to be constructed by the Owner, to include the extension of 31st Street, sanitary sewer and storm water drainage (the "Improvements") have not been constructed. The parties desire to memorialize their agreement with respect to the construction of the Improvements. For that purpose, the Owner desires to bind itself and its successors in interest to construct the Improvements in accordance with the Scottsbluff Municipal Code and as provided for in this Contract.

Agreements:

1. The Owner understand that a building permit will not be issued for construction on the Real Estate until an agreement has been signed with a contractor for the construction of the Improvements. No occupancy permit shall be issued for any buildings constructed on the Real Estate until the Improvements are completed.

2. The location, size and layout of the Improvements shall be as provided for in the Plat. The actual construction of the Improvements shall be according to (i) plans and specifications approved by the City, which approval will not be unreasonably withheld, and (ii) all ordinances and codes adopted by the City, as in effect at the time that the Improvements are constructed. The Improvements shall become the property of the City immediately upon acceptance of the Improvements by the City Council. If constructed by the Owner (and not by the City), the Improvements shall be warranted for a period of one year from the date of the acceptance of the Improvements.

3. The Owner agrees that the Improvements shall either be:

a. Paid for at the time of completion of each of the Improvements, or

b. The Owner may request that the City construct all or certain Improvements and that a special improvement district be created to construct each of the types of the Improvements, where the Improvements may be included in such a district, subject to the City agreeing to create such a district.

4. The Owner agrees that following construction of the Drainage Easement (as provided for on the Plat), it will be responsible for the maintenance and operation of the Drainage Easement, and shall perform regular maintenance in a timely manner, to include upon receipt of written notice of the need for maintenance from the City.

5. Should the Owner fail to construct the Improvements, as agreed to in this Contract, the City may do so. The Owner shall reimburse the City for all costs expended by the City in constructing the Improvements. If so constructed by the City, the City may at its option, assess all or any part of the unreimbursed cost of the Improvements against the properties benefitted by the Improvements. When any installment of special assessments is unpaid for a period of six (6) months after the same is delinquent, the City may mail written notice to the Owner of that fact and demand that the Owner pay such installment. If the Owner fails to do so within thirty (30) days after such notice is mailed, the City may proceed by appropriate action to enforce the Owner's liability as described in this paragraph. In any such action, the City shall not be limited to the installments which are currently due but shall be entitled to collect the entire cost of the Improvements, plus interest, less sums previously paid. Any forbearance by the City to exercise any right granted to it in this Contract shall not be considered a waiver of the City's rights. Any notice under this paragraph shall be deemed properly sent if sent by certified U.S. mail, postage prepaid, to the Owner at the following address:

Smith Land Company, LLC
3563 Gold Hill Drive
Loveland, CO 80538-5243
Att: Mark E. Smith

6. To secure the Owner's liability, the Owner agrees to provide security consistent with the policies established by the City. Prior to commencing the construction of the Improvements, the Owner shall present an estimate of the cost of the Improvements to the City. The parties understand that this will be an estimate only and that the actual cost of the Improvements may differ from the estimate. The security furnished by the Owner will be in the amount of the actual cost of the Improvements. It is contemplated that unless other arrangements are agreed to, the Owner will enter into a contract for the construction of the Improvements. The actual cost of the Improvements will be determined by the provisions of such contract. If the security furnished by the Owner is a bond or letter of credit, the bond or letter of credit shall provide that upon demand by the City, the City shall be paid all sums which the City is entitled to collect from the Owner under this Contract. If the sums collected by the City under the bond or letter of credit are not sufficient to satisfy the Owner's liability to the City, the Owner will remain liable for the balance. The City may, at its option, assess all or any part of the amounts owed for the Improvements and not covered by the bond or letter of credit and not paid for by Owner.

7. The Owner, for itself and on behalf of all future grantees, covenants and agrees to participate in and not object to the creation of any special improvement districts that may be subsequently created, as provided for in this Contract, to construct and improve the Improvements. It is the intent of the Owner that this paragraph bind all future grantees, heirs and owners, and that this covenant and contract runs with the land as it touches and concerns the Real Estate. The Owner further agrees that all future transfers or conveyances of lots within the Real Estate shall be subject to and conditioned upon a provision in the deed or conveying document that the grantee will participate in and not object to the creation of any special improvement districts that may be subsequently created to construct the Improvements. This paragraph and the covenants in it will not be deemed a waiver of the Owner's or subsequent owner's right to contest the extent to which it is benefitted by such special improvement district, or to contest the amount of any assessments levied against the Owner or any subsequent owner.

8. This contract shall run with the land and shall bind, in addition to the parties, the successors and assigns of the respective parties.

9. The parties agree to execute a Memorandum of Contract suitable for filing in the Office of the Register of Deeds of Scotts Bluff County, Nebraska, to give notice of the fact that this Contract has been executed. The Owner shall reimburse the City for the costs of filing the Memorandum of Contract.

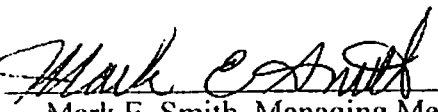
City of Scottsbluff, Nebraska

By _____
Mayor

Attest:

City Clerk

Smith Land Company

By: 
Mark E. Smith, Managing Member

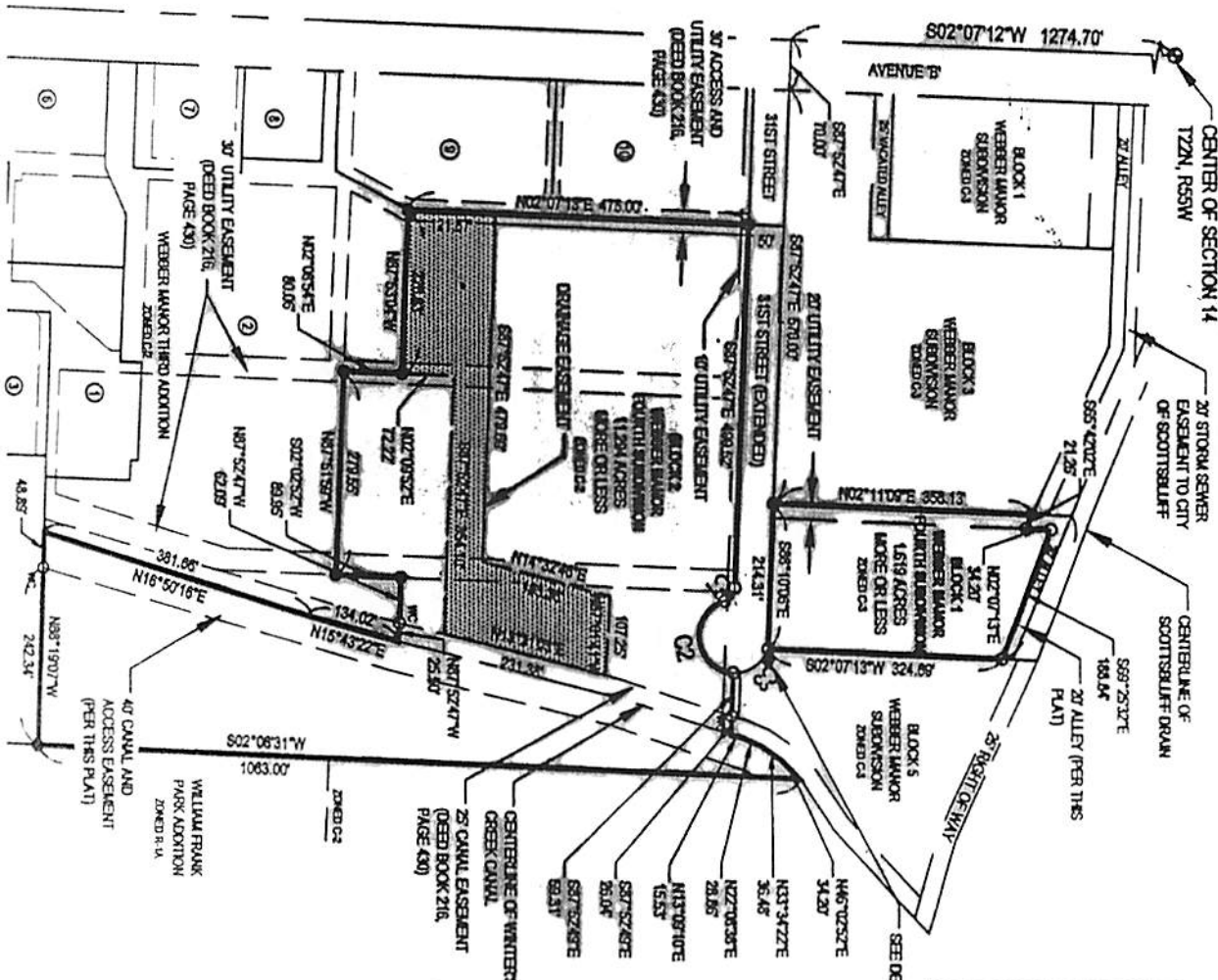
**FINAL PLAT OF
BLOCKS 1 AND 2, WEBBER MANOR FOURTH ADDITION
TO THE CITY OF SCOTTSBLUFF,
SCOTTS BLUFF COUNTY, NEBRASKA**

SITUATED IN THE SOUTHEAST QUARTER OF SECTION 14, TOWNSHIP 22 NORTH, RANGE 55 WEST OF
THE 6TH PRINCIPAL MERIDIAN, SCOTTS BLUFF COUNTY, NEBRASKA

Sheet Revisions		Final Plat of Blocks 1 and 2, Webber Manor Fourth Addition	
DATE	REVISION	Plan Sheet	
06-23-20	QUALIFIED SURVEY	Baker Project Number: 6412-001-19	
		Project Location: Scottsbluff, Scotts Bluff County Nebraska	
		Owner: Smith Land Company	
		Topographer: Scott M. Bosse	
		Surveyor: Scott M. Bosse	
		Record No.	

Curve Table

Curve #	Length	Radius	Delta	Chord Direction	Chord Length
C1	24.84	20.00	71.17	N52° 17' 47" W	23.28
C2	140.64	50.00	161.17	N82° 42' 13" E	98.65
C3	62.40	50.00	71.51	N33° 38' 01" W	58.43



SURVEYOR'S CERTIFICATE

I, SCOTT M. BOSSE, NEBRASKA REGISTERED LAND SURVEYOR NUMBER 603, DO HEREBY CERTIFY THAT I HAVE SURVEYED BLOCKS 1 AND 2, WEBBER MANOR TO THE CITY OF SCOTTSBLUFF; THAT THE ACCOMPANYING DRAWINGS ARE A CORRECT DELINEATION OF SAID SURVEY DRAWN TO A SCALE OF 200 FEET TO THE INCH; THAT SAID SURVEY AND DRAWING WAS CONDUCTED BY ME OR UNDER MY DIRECT SUPERVISION; THAT THE DISTANCES ARE GIVEN IN FEET AND DECIMALS OF A FOOT; AND THE MONUMENTS WERE FOUND OR SET AS INDICATED AND THE BOUNDARY IS DEPICTED BY A THICKENED SOLID LINE.

WITNESS MY HAND AND SEAL this _____ day of _____, 2020.

Scott M. Bosse
NEBRASKA REGISTERED LAND SURVEYOR NUMBER 603

DETAIL VIEW
NOT TO SCALE

15.12
818° 21' 08"

● - CORNER FOUND AS NOTED
○ - CORNER SET
○ - CORNER SET REBAR WITH PINK PVC CAP STAMPED "SCOTT M. BOSSE" LS 603
○ - WITNESS CORNER SET
○ - 5/8" x 24" REBAR WITH PINK PVC CAP STAMPED "SCOTT M. BOSSE" LS 603
(M) - MEASURED DISTANCE
(R) - RECORDED DISTANCE

