

City of Scottsbluff, Nebraska

Monday, May 2, 2022

Regular Meeting

Item Resolut.1

Council to discuss and consider action on the Final Plat of Big Dog Meadows Subdivision and authorize the Mayor to sign the Resolution and Contract of Public Improvements.

A tract of land situated in the SE Quarter of the SW Quarter of Section 15, Township 22 North, Range 55 West of the 6th P.M., Scotts Bluff County, NE

Staff Contact: Kevin Spencer & Liz Loutzenhiser, Interim City Man

RESOLUTION NO. 22-__

BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SCOTTSBLUFF, NEBRASKA:

WHEREAS, BE IT RESOLVED, the Final Plat of Lots 1, 2 and 3, Block 1, Big Dog Meadows Subdivision, situated in the SE¼ of the SW¼ of Section 15, Township 22 North, Range 55 West of the 6th P.M., Scotts Bluff County, Nebraska, dated April 22, 2022 duly made, acknowledged and certified, is approved along with the condition that a Contract for Public Improvements be signed by the Owner and approved by the City Council for construction of a street within the 60 foot Utility Easement along the western boundary of the subdivision prior to the time of development to the north, to satisfy 21-1-2 of the Municipal Code, and the Mayor is authorized to sign the Final Plat on behalf of the City of Scottsbluff, Nebraska. Such Final Plat is ordered to be filed and recorded in the office of the Register of Deeds, Scotts Bluff County, Nebraska.

Passed and approved this ____ day of _____, 2022.

Mayor

ATTEST:

City Clerk

CONTRACT FOR PUBLIC IMPROVEMENTS

This Contract for Public Improvements (“Agreement”) is made this _____ day of _____, 2022, between **City of Scottsbluff, Nebraska**, a Municipal Corporation, hereafter called “City”, and LRK Farms, Inc., hereafter called “Owner”.

RECITALS

1. LRK Farms, Inc. owns real estate described as follows:

**Lots 1, 2, and 3, Block 1, Big dog Meadows Subdivision,
a Subdivision of Scotts Bluff County, State of Nebraska
as shown by attached “Exhibit A”**

This real estate will hereafter be called Meadows Lots

2. Certain improvements in the area which are required by the Scottsbluff Municipal Code to be constructed by the Owner have not been constructed. Those would include a roadway, curb and gutters (the “improvements”). The parties desire to memorialize their agreement with respect to the construction of these improvements. For that purpose, Owner desires to bind itself and its successors in interest to construct the improvements in accordance with the Scottsbluff Municipal Code as hereinafter provided.

AGREEMENTS OF THE PARTIES

In consideration of the mutual promises of the parties, it is agreed as follows:

3. When Owner, or its assignee, begins the process to develop the lands north of Meadows Lots Owner, or its assignee, shall cause the 60 foot wide utility easement to be dedicated as a roadway and to construct, all improvements required by the City in accordance with the plans and specifications to be approved by the City, which approval will not be unreasonably withheld. The Owner, or its assigns will pay for the improvements, or agree not to contest the creation of special improvement districts for the purpose of constructing the improvements.

The Owner understands and agrees a building permit will not be issued for construction on the lands north of Meadows Lots and abutting Block 2, until the 60 foot utility easement has be dedicated as a roadway and access has been constructed or an agreement has been signed with a contractor for such construction. In addition, no occupancy permit shall be issued for any building constructed on lands north of Meadows Lots and abutting Block 2 until improvements are completed.

4. The location, size and layout of the improvements shall be as provided for in the plat and subdivision plat. All improvements described in this Agreement, which the Owners agree and acknowledge must be constructed in order to obtain the City’s approval for the plat

and subdivision plat shall be constructed in accordance with plans and specifications approved by the City and in accordance with all ordinances and codes adopted by the City. All the improvements shall become the property of the City immediately upon acceptance of the improvements by the City Council. Owner warrants such improvements for a period of one year from the date of the acceptance of the improvements.

5. Should Owner fail to construct the improvements, the City may do so. Owner shall reimburse the City for all costs expended by the City in constructing such improvements or the City may decide, in its sole discretion, to create special improvement districts to construct the improvements and the improvements may be included in the district. All improvements described in this Agreement shall be constructed in accordance with plans and specifications approved by the City and in accordance with all ordinances and codes adopted 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 Owner of that fact and demand that Owner pay such installment. If Owner fails to do so within thirty (30) days after such notice is mailed, the City may proceed by appropriate action to enforce 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 Owner at the following address:

2530 Pacific Blvd, Gering, NE or as later amended

6. To secure Owner's liability, Owner agrees to provide security consistent with the policies established by the City. The estimated cost of the improvements contemplated by Owner are agreed to be \$ 125,000.00. The parties recite their understanding that this is an estimate only and that the actual cost of the improvements may differ from the estimate. The security furnished by Owner will be in the amount of the actual cost of the improvements. It is contemplated that 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 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 Owner under this Agreement. If the sums collected by the City under the bond or letter of credit are not sufficient to satisfy Owner's liability to the City, 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 described in paragraph 3 hereof and not covered by the bond or letter of credit and not paid for by Owner.

7. Owner agrees to participate in and not object to the creation of any special improvement districts that may be subsequently created to construct and improve a roadway, curb and gutter on west edge of Lot 1, Block 1, Big Dog Meadows Subdivision, a subdivision of

Scotts Bluff County, State of Nebraska. This paragraph will not be deemed a waiver of 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's property.

8. This Agreement 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 Agreement has been executed. Owner shall reimburse the City for the costs of filing this Memorandum of Contract.

IN WITNESS WHEREOF, the parties have set their hands the day and year first herein written.

CITY OF SCOTTSBLUFF, NEBRASKA

Jeanne McKerrigan, Mayor

Dated_____

Attest:

City Clerk

LRK Farms, Inc., Owner

Seal

By_____
Jeffrey Kilthau, President

Dated_____

MEMORANDUM OF CONTRACT

LRK Farms, Inc., a Nebraska corporation ("Owner"), gives notice that it has executed a Contract for Public Improvements dated May __, 2022. This contract involves the following described real estate:

Lots 1, 2 and 3, Block 1, Big Dog Meadows Subdivision, situated in the SE¼ of the SW¼ of Section 15, Township 22 North, Range 55 West of the 6th P.M., Scotts Bluff County, Nebraska.

The contract generally provides for the development of a portion of the real estate described above including the construction of improvements including a sewer main. Parties interested in the real estate described above should inform themselves concerning the details of this contract.

CITY OF SCOTTSBLUFF, NEBRASKA

LRK Farms, Inc.

By _____
Mayor

By _____

Printed Name: Jeff S. Kilthau

Title: President

STATE OF NEBRASKA; COUNTY OF SCOTTS BLUFF) ss.

The foregoing Memorandum of Contract was acknowledged before me this ____ day of _____, 2022 by Jeanne McKerrigan, the Mayor of the City of Scottsbluff, Nebraska, after being duly authorized and on behalf of the City.

Notary Public

STATE OF NEBRASKA; COUNTY OF SCOTTS BLUFF) ss.

The foregoing Memorandum of Contract was acknowledged before me this ____ day of _____, 2022 by Jeff S. Kilthau, the President of LRK Farms, Inc, a Nebraska corporation, on behalf of the corporation.

Notary Public