

City of Scottsbluff, Nebraska

Monday, April 3, 2023

Regular Meeting

Item Reports2

Council to discuss and consider approving and ratifying the revised language of paragraph 8 in Real Estate Purchase Agreement with Scotts Bluff County.

Staff Contact: Kevin Spencer, City Manager

REAL ESTATE PURCHASE AGREEMENT

This Real Estate Purchase Agreement (the "Agreement") is made on March _____, 2023 by and between Scotts Bluff, County, Nebraska, a political subdivision of the State of Nebraska (the "Seller") and the City of Scottsbluff, Nebraska a municipal corporation (the "Buyer").

1. Recitals:

- a. The Seller owns the following described real estate (the "Real Estate"):

Scotts Bluff Assessor Parcels #010304193, #010304185, except and excluding Parcel #0010304207

Please See the attached two page Exhibit A for a metes and bounds description.

- b. The Seller desires to sell and the Buyer desires to buy the Real Estate, under the terms and conditions set forth below.

2. **Purchase Price:** The "Purchase Price" shall be \$20,000.00, payable in cash or the equivalent at Closing.

3. **Closing and Possession:** Closing shall occur within Thirty (30) days after all conditions to Closing in paragraph 5 below have been met. Closing shall occur at a time and place mutually agreeable to the parties. At Closing, the Seller shall deliver to the Buyer a Warranty Deed to the Real Estate. The Buyer shall take possession of the Real Estate at Closing.

4. Performance at Closing:

- a. The Buyer shall provide or execute at or before Closing:

- i. The Purchase Price.
- ii. Evidence that the persons executing the documents on behalf of the Buyer, if applicable, are duly entitled and authorized to do so.
- iii. A closing or settlement statement mutually agreeable to the parties.

- b. The Seller shall provide or execute at or before Closing:

- i. A Warranty Deed to the Real Estate.
- ii. Evidence that the persons executing the documents on behalf of the Seller are duly entitled and authorized to do so.
- iii. Satisfactory evidence of the release or full payment of any and all indebtedness secured by a mortgage or deed of trust on the Real Estate, if any.

iv. Satisfactory title commitment insurance binder showing marketable title in Seller.

v. A closing or settlement statement mutually agreeable to the parties.

S. Conditions to Closing:

a. Closing of this Agreement is conditional upon the City Council of the Buyer authorizing the purchase after a public hearing, and notice thereof, on the matter as set forth in Neb. Rev. Stat. § 18-1755. The Buyer specifically reserves the right to terminate this Agreement with or without cause following the public hearing on the purchase.

b. Closing of this Agreement is conditional upon the Buyer receiving a title commitment insurance binder showing marketable title can be conveyed by Seller.

c. Closing of the Agreement is further conditional upon the Seller completing the statutory requirement set forth in Neb. Rev. Stat. § 23-107.01.

6. Evidence of Title:

The Buyer agrees to pay the cost of a title commitment insurance binder for the Real Estate. If the title commitment insurance binder shows defects in title that make the Real Estate not marketable, the Seller may correct any defects in title before Closing, at Seller's expense. If the Seller elects not to correct any defects in title, the Buyer shall have the option to terminating this Agreement or waiving the defect in title at Closing.

7. Taxes:

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

8. Maintenance of Roadway:

Buyer understands and agrees that a portion of the Real Estate described in Exhibit A is a roadway known as South Beltline Highway. In addition to the Purchase Price, and as additional consideration for the purchase, the City agrees to assume the duty to repair and maintain the bridge structure and support members along the roadway, adjacent to the NPPD property, including performing surface maintenance such as snow removal and debris removal of the South Beltline Highway from 9th Avenue in Scottsbluff and east until it ends at Highway 26.

9. Inspection and Warranties:

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

Estate and the Buyer agrees to accept the Real Estate in its present condition "as is", "where is" and without any repair or correction, reasonable wear and tear excepted.

10. Expenses of Sale: Expenses of sale shall be paid by the Buyer.

11. Termination:

a. Unless otherwise set forth in this Agreement, this Agreement may be terminated before Closing by mutual agreement of the parties.

b. If this Agreement terminates according to any of its terms and conditions, it will have no further force or effect except for any provision intended to survive the termination of this Agreement. The parties' rights under this paragraph are cumulative and are in addition to the other rights and remedies available to them under any other agreement or applicable law.

12. Covenants:

a. Seller agrees and states that it has not entered into any other sales agreement for the Real Estate, and shall not enter into any other agreement after the execution of this Agreement until this Agreement is terminated.

b. Seller shall not sell, assign, or convey any right, title, or interest in or to the Real Estate, or create or permit to attach any new lien, security interest, easement, encumbrance, charge, or condition affecting the Real Estate.

c. There are no leasehold or tenancy interests on the Real Estate that shall survive the Closing, and the Seller shall not enter into any new leases, tenancies, or other occupancy arrangements affecting any portion of the Real Estate, unless otherwise authorized to do so by the Buyer.

d. To the best of Seller's knowledge, there is no actual or threatened suit or claim resulting from any controversy which may adversely affect the Real Estate or its ownership.

e. To the best of Seller's knowledge, there are no claims for construction liens or any unpaid amounts for labor or materials which would give rise to construction liens on the Real Estate.

f. 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 Seller's use of the Real Estate does not comply with all applicable governmental laws, rules and regulations.

g. To the best of Seller's knowledge, there are no latent defects in the Real Estate.

13. Notices: Any notices or other communications to the Seller or the Buyer which are required to be or may be given under this Agreement shall be in writing and shall be deemed to have been given if sent by regular U.S. first class mail, or by certified mail, return receipt

[SIGNATURE PAGE FOR REAL ESTATE PURCHASE AGREEMENT]

SELLER: Scotts Bluff County, Nebraska

BY _____
Ken Meyer, Chairperson Board of Commissioners

Date: _____

BUYER: The City of Scottsbluff, Nebraska

BY Jeanne McKerrigan
Jeanne McKerrigan, Mayor

Date: 3/6/2023

EXCEPT AND EXCLUDING THE FOLLOWING

A parcel of land in the Northeast Quarter (NE $\frac{1}{4}$) of Section Thirty-One (31), Township Twenty-Two (22) North, Range Fifty-Four (54) West of the Sixth (6th) Principal Meridian (P.M.), Scotts Bluff County, Nebraska, more particularly described as follows:

Commencing at the North Quarter Corner of Section 31; thence, easterly along the North line of the Northeast Quarter, a distance of 503.70 feet to the point of intersection with the South Right of Way Line of the C.B. & Q., Railroad; thence, a deflection angle right of 23 degrees, 08 minutes, 20 seconds, along said South Right of Way Line, a distance of 1094.68 feet to the point of beginning; thence, continuing along said South Right of Way Line, a distance of 120.00 feet; thence a deflection angle right of 90 degrees, 00 minutes, 00 seconds, a distance of 219.15 feet; thence, a deflection angle right of 103 degrees, 48 minutes, 35 seconds, a distance of 123.50 feet; thence, a deflection angle right of 76 degrees, 11 minutes, 25 seconds, a distance of 189.72 feet to the point of beginning, containing an area of 0.56 acres, more or less.

