



Memorandum Regarding Resolution No. 2024-27: A Resolution ratifying the execution of a Real Estate Purchase and Sale Agreement for certain real estate related to the West Regional Collection System.

Background:

The City has filed a condemnation action in Christian County Circuit court to seek by eminent domain certain real estate and property interests which are required to complete the West Regional Collection System Project. Said Project entails the construction of a new sanitary sewer lift station. City staff have secured a settlement agreement with the property owners who currently own the real estate where the lift station is to be located.

Analysis:

City staff have negotiated and executed the Real Estate Purchase and Sale Agreement with the property owners. As part of the approval of the Agreement, City Council must ratify the agreement in order to close on the property.

Recommendation:

Because securing the property where the lift station is to be located is critical for securing the other needed property interests, City staff recommends approval of this Resolution.

MEMO SUBMITTED BY:

Nick Woodman | City Attorney

Attachments:

Resolution No. 2024-27.

Resolution Exhibit A – Executed Real Estate Purchase and Sale Agreement

RESOLUTION NO. 2024-27

1 **A RESOLUTION OF THE COUNCIL OF THE CITY OF NIXA RATIFYING THE**
2 **EXECUTION OF A REAL ESTATE PURCHASE AND SALE AGREEMENT FOR**
3 **CERTAIN REAL ESTATE RELATED TO THE WEST REGIONAL COLLECTION**
4 **SYSTEM.**

5 _____
6
7 **WHEREAS** the City has filed a condemnation action in Christian County Circuit
8 Court to seek by eminent domain certain real estate and property interests required to
9 complete the West Regional Collection System Project (Case No. 24CT-CC00039); and

10
11 **WHEREAS** the City has negotiated a settlement agreement with the property
12 owners where the lift station infrastructure is to be located as part of the West Regional
13 Collection System Project; and

14
15 **WHEREAS** said agreement allows the City to purchase the real estate without the
16 need for continuing the condemnation action against said property owners; and

17
18 **WHEREAS** the City Council desires to authorize the execution of the agreement
19 attached hereto as "Resolution Exhibit A".

20
21 **NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF**
22 **NIXA, AS FOLLOWS, THAT:**

23
24 **SECTION 1:** The City Council hereby ratifies the execution of the Real Estate
25 Purchase and Sale Agreement attached hereto, and incorporated herein by this
26 reference, as "Resolution Exhibit A."

27
28 **SECTION 2:** The City Administrator and the officers of the City are hereby
29 authorized to do all things necessary or convenient to carry out the terms and intent of
30 this Resolution.

31
32 **SECTION 3:** This Resolution shall be in full force and effect from and after its final
33 passage by the City Council and after its approval by the Mayor, subject to the provisions
34 of section 3.11(g) of the City Charter.

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37 **[Remainder of page left intentionally blank. Signatures follow on the next page.]**
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RESOLUTION NO. 2024-27

47 **ADOPTED BY THE COUNCIL THIS 8th DAY OF April, 2024.**

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49

ATTEST:

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51

PRESIDING OFFICER

CITY CLERK

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55 **APPROVED BY THE MAYOR THIS _____ DAY OF _____, 2024.**

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ATTEST:

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59

MAYOR

CITY CLERK

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62

63 APPROVED AS TO FORM:

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CITY ATTORNEY

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Recording Date/Time: 03/25/2024 at 02:01:34 PM

Instr #: 2024L02880

Book: 2024 Page: 2845

Pages: 7

Fee: \$42.00 8 20240002827

NIXA MISSOURI CITY OF



Kelly Hall
Recorder of Deeds

TITLE OF DOCUMENT: Real Estate Purchase and Sale Contract

DATE OF DOCUMENT: March 25, 2024

GRANTOR(S): Adriel Schmitt and Kellee Schmitt

GRANTEE: City of Nixa, Missouri

MAILING ADDRESS OF GRANTOR(S): 1497 W. Gooch Rd. Nixa Mo. 65714

MAILING ADDRESS OF GRANTEE: PO Box 395, Nixa, Mo. 65714

LEGAL DESCRIPTION: See Exhibit A

REFERENCE BOOK AND PAGE:

REAL ESTATE PURCHASE AND SALE CONTRACT

THIS REAL ESTATE PURCHASE AND SALE CONTRACT (the "Contract") is made and entered into upon its execution by **Adriel Schmitt and Kellee Schmitt**, a married couple ("Seller"), having an address at 1497 W. Gooch Rd. Nixa Mo. 65714, and the **City of Nixa, Missouri**, a constitutional charter city of the state of Missouri ("Buyer"), having an address at PO Box 395, Nixa, Mo. 65714.

WHEREAS Seller is the owner of the Property (as hereinafter defined); and

WHEREAS subject to the terms and conditions of this Contract, the Seller desires to sell to Buyer the Property and Buyer desires to purchase the Property from Seller.

NOW, THEREFORE, for the considerations herein expressed, it is mutually agreed by and between the Buyer and the Seller as follows:

1. Sale of Property. Seller agrees to sell, and Buyer agrees to purchase the real property described on **EXHIBIT A**, which is attached hereto and incorporated herein by this reference (the "Property"), along with all rights appurtenant to the Property, if any, including without limitation, any strips and gores abutting the Property, and any land lying in the bed of any street, road, or avenue in front of, or adjoining the Property, to the center line thereof.

2. Conveyance. The Property shall be conveyed by the Seller to the Buyer on or before the Closing Date, by a good and sufficient general warranty deed conveying good and clear title to the same in fee simple, free from all encumbrances, other than recorded easements.

3. Purchase Price and Deposit. The purchase price for the Property is **\$24,683.00**, which Buyer agrees to pay as follows:

3.1. Deposit. A deposit in the form of a check in the amount of **\$1,000.00** delivered at the time both parties have signed this Contract and payable to Seller, which is acknowledged by Seller by their execution of this Contract. If Seller shall be unable to give title or to make conveyance as provided herein, any payments made under this Contract shall be refunded.

3.2. Balance Due from Buyer. The remaining amount due, as adjusted by the Closing Agent by way of settlement statement approved by both parties, shall be paid at closing by Buyer to Closing Agent in guaranteed funds or by check.

4. Closing Agent. Buyer is authorized to arrange for closing services through a title company or other professional (the "Closing Agent"). If Buyer does not hire a Closing Agent within ten days after the Effective Date, then Seller may hire such a Closing Agent. The Buyer shall be responsible for the costs of the Closing Agent and any other expenses or costs related to this closing not otherwise provided for herein.

5. Closing, Possession, and Costs. Subject to the terms and provisions of this Contract, the purchase price shall be delivered to the Closing Agent, and any escrow shall be closed, on or before April 19, 2024 (the "Closing Date"). Seller agrees to deliver possession to Buyer on or before the Closing Date at 5:00 pm. Buyer shall pay all recording fees, title insurance premiums, and other miscellaneous closing costs.

6. Closing Adjournment. Buyer shall be entitled to adjourn the Closing Date one or more times, not to exceed 180 days in the aggregate, by delivering written notice to Seller at least 10 days prior to the scheduled Closing Date.

7. Examination and Evidence of Title. Evidence of title shall be in the form of a title commitment by a title insurance company licensed to do business in Missouri to be paid for by Buyer. Buyer shall have fifteen (15) days from receipt of the title commitment to examine the title and make any objections to title, which objections shall be made in writing. If Buyer fails to make written objections by that date, then Buyer shall be deemed to have waived any right to make such objections. Seller shall use due diligence to meet Buyer's objections by removing any reasonably objected-to encumbrance or defect; if Seller is unable to do so by Closing, then Buyer may terminate this agreement, and Buyer shall have the deposit returned.

8. Taxes, Prorations, and Assessments. Real property taxes, assessments, homeowner association dues, and all other items that are accruing against the Property shall be computed on a daily basis and prorated between the Purchaser and Seller as of the Closing Date. Seller shall disclose to Buyer any information relating to special assessments or fees known to Seller.

9. Casualty Insurance and Risk of Loss. Risk of casualty loss shall be with the party having possession at the time of the loss. Seller shall be obligated to maintain the existing Insurance policy until possession is delivered to Buyer. If the Property suffers a casualty loss prior to Buyer's possession, then Seller is obligated, at Seller's expense, to repair the Property if the repairs can be finished before the Closing Date. If the repairs cannot be finished before closing, or if the Property damage exceeds the amount of Insurance plus deductible, then Buyer shall have the option of (i) declaring this Contract void, and shall have the deposit returned, or (ii) Buyer may elect to take the Property under this Contract and also to receive all insurance proceeds due the Seller, plus a credit for any deductible amount.

10. Inspection and Inspection Contingencies. After this Contract is effective, and the deposit paid, Seller shall promptly furnish Buyer with copies of all Property-related inspections available to Seller. Buyer may order inspections, and a property survey, at Buyer's expense, at any time before closing, and Seller shall allow reasonable access to the Property for this purpose. Buyer has until fifteen (15) days before the Closing Date to make any objections based on these inspections, which shall be in writing and delivered to the Seller and Closing Agent. If Seller is unable to cure any objection before the Closing Date, then Buyer shall be entitled to the return of the Deposit, less any amounts due

hereunder, and this Contract shall no longer be effective.

11. Seller Warranties. The Seller makes the following express warranties:

11.1. There are presently no mechanic's liens placed against the Property, or work done on the Property that threaten such liens.

11.2. There are no leases now on the Property.

12. Maintenance. Seller shall generally maintain the Property and keep all utilities on and in good repair until possession of the Property is delivered to Buyer.

13. Attorney Fees. If Seller shall default in their performance under this Contract, which results in the expenditure for attorney fees to enforce the terms of this Contract or to recover damages for breach of this Contract, then the Buyer shall receive from Seller the reasonable and actually incurred attorney fees in addition to any other damages recovered or equitable remedies received, should the Buyer prevail in such enforcement.

14. Notices. Notices under this Contract may be delivered by e-mail, overnight service, or mail, as and to whom the parties may direct, and shall be effective when sent in a commercially reasonable manner with copies to all parties and the Closing Agent.

15. Successors in Interest. This Contract shall be binding upon the parties hereto, their heirs, personal representatives, successors, and assigns.

16. Entire Agreement. This constitutes the entire agreement between the parties and supersedes all previous discussions and agreements and may not be modified by any party except in writing, executed by both parties.

17. Additional Terms and Conditions.

17.1. Buyer agrees to allow Seller to log any trees located on the Property until Buyer begins construction activities on the Property. Buyer shall give Seller at least 10 days' notice of when Buyer anticipates construction activities to begin.

17.2. Seller agrees to see that any lenders or other applicable persons provide for the appropriate measures to release any deeds of trust or other secured interests which apply to the Property prior to the Closing Date. Seller shall inform Buyer if Seller has failed to accomplish this within 15 days before the Closing Date.

17.3. Buyer agrees, as part of its construction activities to clear out brush and other vegetation within the fence along the east side of the property located at 1497 W. Gooch Rd., Nixa, Mo. 65714.

17.4. Closing is contingent upon Buyer obtaining approval to subdivide the Property pursuant to the requirements of applicable Christian County, Missouri

regulations regarding the subdivision of real property. Seller shall reasonably cooperate with Buyer to see that an approved final plat is recorded for the Property prior to the Closing Date.

17.5. Contract is contingent upon the approval of a ratifying Resolution of Buyer's City Council.


IN WITNESS WHEREOF, the parties have set their hands on the day and year herein stated.

BUYER


Jimmy Liles, City Administrator

Date: 3/25/24

SELLER


Adriel Schmitt

Date: 3/25/2024

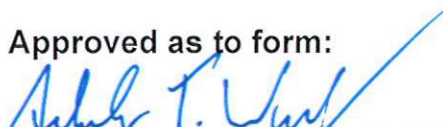
ATTEST:


Rebekka Coffey, City Clerk


Kellee Schmitt

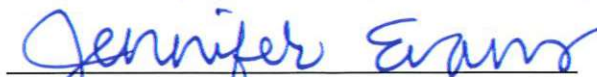
Date: 3.25.2024

Approved as to form:


Nick Woodman, City Attorney

Director of Finance Certification:

I certify that this contract is within the purpose of the appropriation to which it is to be charged and that there is an unencumbered balance to the credit of such appropriation sufficient to pay therefore, and that the appropriate accounting entries have been made.


Jennifer Evans, Director of Finance

SELLER VERIFICATION

STATE OF MISSOURI)
) ss
COUNTY OF CHRISTIAN)

On this 25th day of March, 2024, before me personally appeared Adriel Schmitt and Kellee Schmitt, a married couple, known to me to be the persons described in and who executed the above agreement and acknowledged to me that they executed the same as their free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the county and state aforesaid, the day and year first above written.

A. Voelker
Notary Public

My commission expires: March 29, 2024

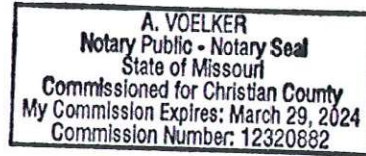


EXHIBIT A

SOURCE OF DESCRIPTION: BOOK 2020 AT PAGE 13287 AND BOOK 2022 AT PAGE 13907 IN THE CHRISTIAN COUNTY RECORDER'S OFFICE.

THAT CERTAIN PARCEL OR TRACT OF LAND BEING A PART OF THE SOUTHEAST QUARTER (SE1/4) OF THE NORTHEAST QUARTER (NE1/4) OF SECTION 21, TOWNSHIP 27 NORTH, RANGE 22 WEST, CHRISTIAN COUNTY, MISSOURI, SAID TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT AN EXISTING ALUMINUM MONUMENT STAMPED "LS 2427" AT THE SOUTHEAST CORNER OF SAID SE1/4 OF THE NE1/4; THENCE N01°42'54"E, ALONG THE EAST LINE OF SAID SE1/4 OF THE NE1/4, A DISTANCE OF 684.05 FEET FOR A POINT OF BEGINNING; THENCE N88°17'06"W, LEAVING SAID EAST LINE, A DISTANCE OF 226.81 FEET; THENCE N01°42'54"E, PARALLEL WITH THE EAST LINE OF SAID SE1/4 OF THE NE1/4, A DISTANCE OF 121.45 FEET; THENCE N57°42'43"E, A DISTANCE OF 197.63 FEET; THENCE S88°17'06"E, A DISTANCE OF 62.97 FEET TO A POINT ON THE EAST LINE OF SAID SE1/4 OF THE NE1/4; THENCE S01°42'54"W, ALONG THE EAST LINE OF SAID SE1/4 OF THE NE1/4, A DISTANCE OF 231.97 FEET TO THE POINT OF BEGINNING. SAID TRACT OF LAND CONTAINS 1.000 ACRES (MORE OR LESS) AND IS SUBJECT TO ANY EASEMENTS, RIGHT-OF-WAY, AND RESTRICTIONS OF RECORD.