

## **RESOLUTION 2024-19**

### **A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF BROKEN BOW, NEBRASKA TO AUTHORIZE AND APPROVE THE PURCHASE OF REAL PROPERTY, PURCHASE AGREEMENT AND FURTHER ACTIONS.**

WHEREAS, the City of Broken Bow desires to purchase property legally described as:

**A tract of land in the SE1/4 of the NW1/4, Sec 33, Township 17 North, Range 20 West; more specifically described as follows:**

**Commencing at the center corner (SE1/4 of NW1/4 of Sec. 33) of said Sec. 33, thence westerly along the south line of the NW1/4 of Sec. 33 to the southwest corner of the SE1/4 of the NW1/4 of Sec. 33, thence at an angle to the right of 90 degrees, more or less, and in a northerly direction for a distance of 520.0 feet along the division line between the E1/2 and W1/2 of said NW1/4, thence at an angle of 90 degrees right, and in an easterly direction, for a distance of 30.0 feet to the point of beginning.**

**Thence Continuing easterly from the point of beginning along the last described course above for a distance of 260.0 feet, thence at an angle of 90 degrees to the left, and in an northerly direction for a distance of 240.0 feet, thence at and angle of 90 degrees to the left, and in a westerly direction, for a distance of 260.0 feet, thence at an angle of 90 degrees to the left, and in a southerly direction, for a distance of 240.0 feet, to the point of beginning. The above tract of land containing 1.43 acres, more or less.**

WHEREAS, the City of Broken Bow desires to purchase property for public improvements and purposes.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Broken Bow find and determine that:

- 1.) Pursuant to Nebraska Statutes, the City Council, before purchasing an interest in real property, must authorize said acquisition by action at a public meeting after notice and public hearing; and
- 2.) The City posted notice of the City Council meeting on the proposed purchase of the Property, to be held during the regular City Council meeting on December 10, 2024; and

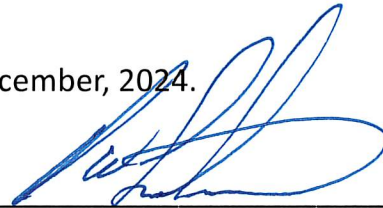
- 3.) Prior to completion of the sale, all applicable statutory requirements related to the proposed purchase will have been satisfied; and
- 4.) A purchase agreement for the Property has been presented in form and content attached hereto as Exhibit 1 and incorporated herein by this reference ("Purchase Agreement").

BE IT FURTHER RESOLVED, that, in consideration of the foregoing, the Mayor and City Council hereby adopt and approve the following actions:

- 1.) For the purposes of this Resolution the foregoing recitals are incorporated herein by reference; and
- 2.) Purchase of the Property at a price of \$270,000.00 is approved; and
- 3.) The Purchase Agreement as presented in form and content at this meeting is approved and shall be used to carry out the purchase of the Property.

BE IT FURTHER RESOLVED, that the Mayor or City Administrator is hereby authorized to take all actions he determines necessary or appropriate to carry out this Resolution or the actions approved herein.

PASSED AND APPROVED this 10<sup>th</sup> day of December, 2024.



Rodney W. Sonnichsen, Mayor

Attest:



Jennifer A. Waterhouse, City Clerk



## AGREEMENT FOR SALE OF REAL ESTATE

This Purchase Agreement (the "Agreement") is made on this \_\_\_\_\_ day of \_\_\_\_\_, 2024 (the "Effective Date"), by and between State of Nebraska, through the Department of Administrative Services, an agency of the State of Nebraska (the "Seller"); and the City of Broken Bow, Nebraska (the "Purchaser").

Seller is the owner of certain real property (the "Property") legally described as:

**A tract of land in the SE1/4 of the NW1/4, Sec 33, Township 17 North, Range 20 West; more specifically described as follows:**

**Commencing at the center corner (SE1/4 of NW1/4 of Sec. 33) of said Sec. 33, thence westerly along the south line of the NW1/4 of Sec. 33 to the southwest corner of the SE1/4 of the NW1/4 of Sec. 33, thence at an angle to the right of 90 degrees, more or less, and in a northerly direction for a distance of 520.0 feet along the division line between the E1/2 and W1/2 of said NW1/4, thence at an angle of 90 degrees right, and in an easterly direction, for a distance of 30.0 feet to the point of beginning.**

**Thence Continuing easterly from the point of beginning along the last described course above for a distance of 260.0 feet, thence at an angle of 90 degrees to the left, and in an northerly direction for a distance of 240.0 feet, thence at an angle of 90 degrees to the left, and in a westerly direction, for a distance of 260.0 feet, thence at an angle of 90 degrees to the left, and in a southerly direction, for a distance of 240.0 feet, to the point of beginning. The above tract of land containing 1.43 acres, more or less.**

Seller agrees to sell to Purchaser, and Purchaser agrees to purchase from Seller, the Property upon the terms and conditions set forth below.

1. **SALE AND PURCHASE:** In accordance with this Agreement, Seller will sell and Purchaser will purchase the tract of land and any improvements affixed or appurtenant thereto legally described above.
2. **RESERVATIONS:** Purchaser will purchase and hold Property so long as the land does not obtain a conservation easement or any other restriction imposing a limitation upon the rights of the landowner or an affirmative obligation upon the owner appropriate to the purpose of retaining or protecting the property in its natural scenic, or open condition, assuring its availability for horticultural, forest, recreational, wildlife habitat, or open space use, protecting air quality, water quality or other natural resources. Should any such restriction be imposed on the land, all interest of Purchaser and its heirs, successors, and assigns shall be forfeited and shall revert automatically to Seller without the necessity of any act on their part. On the occurrence of this forfeiture, the property shall immediately pass to the GRANTOR, as if this transaction had not been made.

TO HOLD ONLY SO LONG AS the land is not sold to a foreign adversary. Should any such sale be made to a foreign adversary, all interest of GRANTEE and its heirs, successors, and assigns shall be forfeited and shall revert automatically to GRANTOR without the necessity of any act on their part. On the occurrence of this forfeiture, the property shall immediately pass to the GRANTOR, as if this transfer had not been made.

3. **PURCHASE PRICE:** The purchase price for Property is Two hundred seventy thousand dollars (\$270,000.00) (the "Purchase Price") payable in a lump sum by either cashier's check or certified funds payable to the State of Nebraska on or before Closing.
4. **CLOSING AND POSSESSION:** The transactions contemplated by this Agreement (the "Closing") will be consummated on or before \_\_\_\_\_, (the "Closing Date") by means of notice to the Seller delivered by Purchaser at least five (5) business days prior to the Closing Date. At Closing, Seller will convey to Purchaser whatever interest it has in the Property, less the reservation provided herein.
5. **TITLE INSURANCE AND CONVEYANCE OF DEED:** At Closing, Seller will convey title to the Property to Purchaser, by Quitclaim Deed. At Closing, Purchaser may obtain, at Purchaser's expense, a standard form ALTA Owner's Title Insurance Policy (the "Policy") issued by a Title Company, insuring title to Purchaser in the full amount of the Purchaser Price.
  - a. Purchaser will thereafter certify in writing to Seller any defects impairing the marketability of title.
  - b. In the event of title defects which cannot be removed by Seller prior to Closing, Purchaser may rescind this Agreement, and this Agreement will become null and void and Purchaser's down payment will be immediately refunded to them.
  - c. Conveyance will be by Quitclaim Deed free and clear of all encumbrances, EXCEPT subject to reservations, easements, and covenants of records.

Title standards approved by the Nebraska State Bar Association to the date of examination of title will serve as a guide to marketability of title.

6. **REFUSAL OF POLICY:** If Purchaser refuses the option to purchase a Policy, then Purchaser will place their initial hereunder confirming that no Policy will be purchased and issued to Purchaser.
7. **CONDITION OF PROPERTY:** Notwithstanding anything to the contrary contained in this Agreement, it

is expressly understood and agreed that Purchaser is buying the Property "as is" and "where is" as of the time of Closing, and with all faults and defects, latent or otherwise, and that except as provided for herein Seller is making no representations or warranties, either expressed or implied, by operation of law or otherwise, with respect to the quality, physical conditions or value of the Property, the Property's habitability, suitability, merchantability or fitness for a particular purpose, the presence or absence of conditions on the Property that could give rise for personal injury, property or natural resource damages; the presence of hazardous or toxic substances, materials of wastes, substances, contaminants, or pollutants on, under or about the Property; or the income or expenses from or of the Property. This Section will survive the Closing or earlier termination of the Agreement.

8. **CONDEMNATION:** If, prior to the Closing, all or any part of the Property is condemned by governmental or other lawful authority, Purchaser may: (i) complete the purchase of the Property, in accordance with this Agreement, in which event Seller will assign to Purchaser all condemnation proceeds or Claims thereof; or (ii) cancel this Agreement and receive a refund of the Deposit in which event Purchaser will make no claim for any condemnation proceeds or any other reimbursement related to the property.
9. **TAXES AND ASSESSMENTS:** At Closing, the parties will prorate and adjust any real property taxes, water rates, sewer charges and rents based on the actual days in the calendar year, Seller to have the last day, to the date of Closing. Purchaser will pay any taxes which become due or which are levied as a result of a change in the use of the Property in implementing Purchaser's plan for the development of the Property. If Closing occurs before the tax rate is fixed for the then-current years, the parties will estimate and apportion the taxes upon the basis of the tax rate for the preceding year applied to the latest assessed valuation. The Seller will provide to the Purchaser such real property tax information for the Property as Purchaser reasonably requests and Seller has in its possession. Purchaser agrees to pay any revenue stamps, transfer tax, documentary stamps or excise tax relating to the sale of the Property, and Purchaser agrees to pay any recording fees. Both parties agree to execute any tax returns required to be file in connection with any such taxes.
10. **NOTICE OF DEFAULT:** In the event either party is in default of any provision hereof, the non-defaulting party, as a condition precedent to its remedies, must give the defaulting party written notice of the default. The defaulting party will have ten (10) days from receipt of such notice to cure the default. If the default is timely cured, this Agreement will continue in full force and effect. If the default is not timely cured, the non-defaulting party may pursue its applicable remedies set forth in Sections 11 or

- 12.
11. **REMEDIES OF SELLER:** If Purchaser defaults under this Agreement, Seller may retain the Deposit as liquidated damages, and cancel this Agreement.
12. **REMEDIES OF PURCHASER:** If Seller defaults under this Agreement, Purchaser may, as its sole and exclusive remedy, cancel this Agreement in which case the Seller will return the Deposit to Purchaser.
13. **RIGHT OF ENTRY, DUE DILIGENCE, AND INSPECTION:** With Seller's approval, not to be unreasonably withheld, prior to Closing, Purchaser or its authorized agents may, at Purchaser's sole expense, enter upon the Property for any lawful purpose, including making inspections. Purchaser agrees to defend, indemnify, and hold harmless Seller from any damages or liability to persons or property that might arise therefrom, and Purchaser agrees to repair at its sole cost and responsibility, or pay to Seller the cost of, any damages caused to Property by such entry. Purchaser further agrees that the inspections will in no way interfere with Seller's use or possession of the Property. Purchaser may select qualified professionals to make "inspections" (including tests, borings, environmental surveys, studies, investigations, and interviews of persons familiar with the Property) concerning the Property, including but not limited to tests of structures, wells, septic tanks, underground storage tanks, soils geologic hazard, if applicable, utility lines and systems and environmental hazards. Purchaser will keep the Property free of any liens.
14. **BROKERAGE FEES:** Both parties represent to the other that the representing party has not entered into any agreement or incurred any obligation which might result in the obligation of the other party to pay a sales or brokerage commission, or finder's fee, with respect to the sale of the Property, to any party or company. Purchaser will hold harmless Seller from any such claims related to brokerage or finder fees.
15. **WARRANTIES:** Seller and/or Purchaser, as applicable below, make the following representations and warranties which are true and accurate as of the date of this Agreement and as of Closing:
- a. The individuals signing this Agreement on behalf of Seller have the authority to bind the Seller to the agreements set forth herein.
  - b. The individual signing this Agreement on behalf of Purchaser has the authority to bind the Purchaser to the agreements set forth herein.
16. **NOTICES:** All notices and communications required or permitted to be given hereunder will be in writing and mailed by certified or registered mail, postage prepaid, or by Federal Express, Airborne

Express, or similar overnight delivery service, addressed as follows:

If to Seller:

State of Nebraska  
1526 K Street, Suite 160  
Lincoln, NE 68508  
Attn: Brent Flachsbart  
Email: [brent.flachsbart@nebraska.gov](mailto:brent.flachsbart@nebraska.gov)

If to Purchaser:

City of Broken Bow  
314 S. 10<sup>th</sup> Ave.  
Broken Bow, NE 68822  
Email:  
[dschmidt@cityofbrokenbow.org](mailto:dschmidt@cityofbrokenbow.org)

Notice will be deemed to have been given upon receipt or refusal.

17. **CLOSING COSTS:** Notwithstanding anything to contrary contained herein, closing costs will be paid as follows:

By Seller:

- a. Preparation of Quitclaim Deed, affidavits, and any other documents required to convey title.

By Purchaser:

- b. Title insurance examination and standard owner's policy premium if Purchaser so desires;
- c. Revenue stamps, real estate transfer tax, and documentary stamps, if required; and
- d. Recording fees.

Purchaser will pay all closing costs not specifically set forth herein as the responsibility of Seller.

18. **TIME OF ESSENCE:** Time is of the essence in the performance of this Agreement.

19. **ENTIRE AGREEMENT:** This Agreement contains the entire agreement between Seller and Purchaser; this Agreement supersedes any prior arrangements and contains the entire agreement of the parties on the matters covered; there are no other terms, conditions, promises, undertakings, statements, or representations, either written or oral or expressed or implied, concerning the sale contemplated by this Agreement. No other agreement, statement, or promise made by any other party or agent of any party that is not in writing and signed by all the parties to this Agreement will be binding.

20. **HEADINGS:** The Section headings are for convenience of reference only and do not modify or restrict any provisions hereof and will not be used to construe any provisions.

21. **MODIFICATIONS AND WAIVERS:** This Agreement may only be amended or terminated by an instrument in writing signed by both Seller and Purchaser or unilaterally terminated as provided herein. No waiver of any of the provisions of this Agreement will constitute a waiver of any other provision, nor will any waiver be a continuing waiver. Except as expressly provided in this Agreement, no waiver will be binding unless executed in writing by the party making the waiver.

22. **SUCCESSORS:** This Agreement will inure to the benefit of and bind the parties hereto and their respective executors, heirs, administrators, successors, and assigns.
23. **ATTORNEY'S FEES; COURT COSTS:** In any action or proceedings arising out of this Agreement, each party will bear its own attorney's fees, unless otherwise ordered by a court of competent jurisdiction.
24. **EFFECTIVE DATE/DATES OF PERFORMANCE:** The Effective Date of this Agreement will be the date upon which the latter of Seller or Purchaser will so execute this Agreement, such date to be evidenced by the date inserted beneath the signature of Seller and Purchaser. Notwithstanding the foregoing, if the Agreement is not executed by both parties on or before the day of [MONTH] 202\_, then the agreement will be void and the parties will have no further obligations one to the other. If any date for performance of any obligation hereunder falls on a Saturday, Sunday or nationally established holiday, the time for performance of such obligation will be extended until the next business day following such date.
25. **ENFORCEABILITY AND SEVERANCE CLAUSE:** If any provision of this Agreement is held to be illegal, invalid, or unenforceable, such provision will be fully severable. This Agreement is construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part hereof.
26. **COUNTERPARTS:** This Agreement may be executed in multiple counterparts, each of which will be deemed to be an original, but all of which, together, will constitute the same instrument.
27. **GOVERNING LAWS:** This Agreement is made in the State of Nebraska and its validity, construction, and all rights under it will be governed by Nebraska law. Venue for any action pursuant to this Agreement will be determined by Nebraska law, including, but not necessarily limited to, the State Contract Claims Act, Neb. Rev. Stat. §§ 81-8,302 to 81-8,306.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

**SELLER: STATE OF NEBRASKA**

**PURCHASER: CITY OF BROKEN BOW**

By: \_\_\_\_\_  
Lee Will, Director of the  
Department of Administrative Services

By: \_\_\_\_\_  
Rodney W. Sonnichsen

Date: \_\_\_\_\_

**WITNESS OR ATTEST:**

By: \_\_\_\_\_  
Written Name: \_\_\_\_\_

Title: Mayor  
Date: \_\_\_\_\_

**ACKNOWLEDGMENT**

STATE OF NEBRASKA                    )  
  ) ss:  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2024, by  
\_\_\_\_\_, \_\_\_\_\_.

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

(Affix Seal Here)