

CITY OF HOBBS

RESOLUTION NO. 6688

A RESOLUTION TO APPROVE PUBLICATION OF TERMS AND CONDITIONS FOR THE DISPOSITION OF REAL PROPERTY LOCATED AT 3425 N. NORTHWEST.

WHEREAS, the City of Hobbs holds fee simple tenancy in real property located at 3425 N. Northwest; and

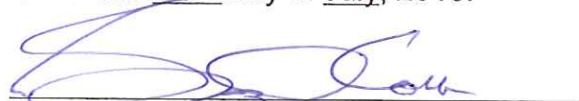
WHEREAS, it is the desire of the Governing Body to convey said property to the private sector; and

WHEREAS, the publication of the attached Terms and Conditions offers a full, fair and open competition process for a public sale in compliance with NMSA 3-54-1(C), and being in the best interest of the City.

NOW, THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF HOBBS, NEW MEXICO, that

1. The City of Hobbs hereby approves the Terms and Conditions, which are attached hereto and made a part of this Resolution and the Mayor, and/or his designee, is hereby authorized to execute the same.
2. That City staff and officials are authorized to do any and all deeds to carry out the intent of this Resolution.

PASSED, ADOPTED AND APPROVED this 16th day of July, 2018.



Sam D. Cobb, Mayor

ATTEST:



Jan Fletcher, City Clerk



City of Hobbs

Terms and Conditions for disposition of Real Property

Located at 3425 N. Northwest

1. **AUTHORITY:** On July 16, 2018, the City of Hobbs Commission, per Resolution # **6688** resolved to dispose of certain excess real property whose fee-simple title is held by the City of Hobbs, a New Mexico Municipal Corporation, pursuant to a public sale process as allowed in NMSA 3-54-1(C).
2. **ADVERTISEMENT:** The property shall be offered to the public and is subject to the requirements for full, fair, and open competition. Private sales are prohibited during the term of the public sale. This notification shall appear one day, for each of three consecutive weeks in a newspaper of general circulation within the municipality and is available at the Office of the City Clerk at 200 E. Broadway, Hobbs, NM 88240.
3. **CONDITION:** The property shall be sold in "AS IS" condition at the time of sale, including any hidden defects of any nature, known or unknown, with no representations, warranties, or guarantees whatsoever. No statement anywhere, whether express or implied, shall be deemed a warranty or representation by the City of Hobbs regarding the property. If applicable, the City of Hobbs shall have no obligation or responsibility to reconnect utilities for the purpose of inspection, or for any other reason.
4. **INSPECTION:** Offerors are invited, urged, and cautioned to inspect the property and any appurtenant structure, building, or residence to be sold within its legal description. The City of Hobbs will supervise the inspection, but will not furnish any labor for the purpose of an offeror's inspection. In no case will failure to inspect constitute grounds for a claim, the withdrawal of a successful offer, or rescission of a contract for purchase and sale. Personal property may be present, but is not included in the sale.
5. **INSPECTION PERIOD:** A public inspection of the property identified herein will occur between the hours of 1:00 p.m. and 3:00 p.m. on Saturday, July 28, 2018, Saturday, August 4, 2018, and Saturday, August 11, 2018 respectively.
6. **OFFER TO PURCHASE:** Any interested party with the financial capability to complete the sale may submit a competitive offer no less than five percent (5%) below the qualified appraisal of One Hundred Fifty Eight Thousand Dollars (\$158,000.00). The appraisal established a starting offer and does not necessarily imply the range for an acceptable final offer. An offeror has only one opportunity to submit an offer, and is, therefore, encouraged to submit his/her absolute best offer to purchase the property. An offeror who withdraws his/her offer prior to the opening date will be disqualified from the process. The opening date for receipt of all competitive offers is 12:00 noon on Monday, August 27, 2018. Offers received after this date and time will not be considered.
7. **METHOD OF TRANSMISSION:** An offer as described in paragraph 6 may be delivered in person, or via U.S. mail, courier, or other delivery system (e.g., Federal Express, UPS, etc.) to:

City of Hobbs
Attn: Legal Department
200 E. Broadway
Hobbs, NM 88240

The package or envelope delivered to the City of Hobbs shall contain:

- a. One offer envelope with the words "Offer" and the address 3425 N. Northwest written on the center of the face of the envelope. The offer envelope shall contain the completed amount of the offer typed or written clearly in U.S. dollars; and
- b. A second envelope with the words "Contract" written on the center of the face of the envelope. The Contract package shall be fully executed by offeror & notarized; any alterations or redactions will disqualify the offer. A party interested in submitting an offer may obtain a contract package at the address and department as stated above.

The City of Hobbs is not responsible for lost or misdirected offers, or offers not otherwise received for consideration due to errors not caused by the City of Hobbs or its designees. Use of a delivery method that provides a means of tracking parcels is encouraged.

8. REVIEW OF ALL RECEIVED OFFERS: At 1:00 p.m. on Monday, August 27, 2018, the City of Hobbs shall review all offers received. The highest qualified offer received will be notified by 5:00 p.m. on Monday, August 27, 2018 and required to submit a cashier check, as a non-refundable deposit, in the amount of no less than 10% of the accepted offer to City of Hobbs no later than 5:00 p.m. on Tuesday August 28, 2018.

9. EQUALLY RESPONSIVE OFFERS: In the case multiple offers are deemed to be equally responsive, the submitting parties will be given an opportunity to resubmit an additional offer of a greater value, within a 24 hour time period, using the same process as described above in paragraph 7. This process will repeat until such time as the City of Hobbs receives the highest qualified offer.

10. CLOSING: E&W Title Company shall serve as the licensed closing agent, the successful offeror will be expected to close within 45 days of Commission adoption of the Ordinance. The buyer is responsible for payment of all fees associated with the closing and transfer of title, including those fees customarily paid by Seller. If the successful offeror fails to settle through no fault of the City of Hobbs, the deposit shall be retained by City of Hobbs. The City of Hobbs shall have the right, at its sole discretion, to extend the closing date. If buyer is unable or unwilling to close on the original closing date, the City of Hobbs may elect to terminate the Contract and the buyer will be in default of the Contract of Sale.

11. PAYMENT: Final payment shall be made at closing. The property will not be released prior to verification of the payment by the issuing U.S. bank.

12. DEFAULT: Should the successful offeror fail to complete the sale as scheduled without the City of Hobbs approved extension and in the absence of a breach of Contract by the City of

Hobbs, the successful offeror shall be in breach of the Contract and shall lose his/her rights under the Contract to purchase the property. Upon default or breach of the Contract by the successful bidder, the City of Hobbs may offer to sell the parcel to the next highest offeror, or otherwise proceed with a resale of the parcel.

13. RIGHT TO REJECT/ACCEPT: The City of Hobbs reserves the right to accept or reject any or all offers. Offers containing erasures or changes must contain sufficient explanation to make the offer clear and unambiguous. An ambiguous offer will be rejected. The decision to reject an offer by the City of Hobbs shall be conclusive.

14. CANCELLATION: The City of Hobbs reserves the right to cancel this sales process for any reason and at any time to pursue another sale, marketing, or transfer of title method. An offeror who withdraws his/her offer prior to the closing date will be disqualified from the process.

15. HOLD HARMLESS: Offerors agree to release and hold harmless the City of Hobbs, its agencies, officers, employees, agents, and/or contractors from any and all demands, rights, and causes of action arising from, or to arise from, or by reason of, the seizure, forfeiture, ownership, possession, management, use, sale, inspection and/or transfer of a property.

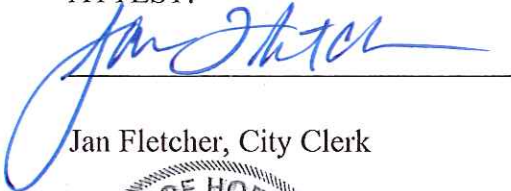
Done and approved on the date first written above.

THE CITY OF HOBBS



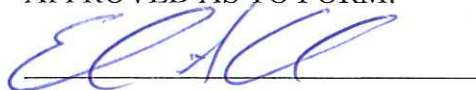
Mayor Sam Cobb

ATTEST:



Jan Fletcher, City Clerk

APPROVED AS TO FORM:



Efren Cortez, City Attorney



REAL ESTATE PURCHASE AGREEMENT
for
3425 N. Northwest

THIS REAL ESTATE PURCHASE AGREEMENT (hereinafter "Agreement"), entered into this _____ day of _____, 2018, between _____, _____, _____ (hereinafter "Purchaser"); and the City of Hobbs, New Mexico, a New Mexico Municipal Corporation (hereinafter "City").

RECITALS:

The City, in consideration of the mutual covenants herein contained, agrees to sell and convey, and Purchaser agrees to purchase the real estate described below, together with all buildings and improvements and all rights, hereditaments, easements and appurtenances thereunto belonging, property located at 3425 N. Northwest, more particularly described as follows, and referred to hereinafter as "Property, " on the terms and conditions set forth herein.

LEGAL DESCRIPTION

Lot 7, Block 26, Unit 16 of the Lincoln Park Addition to City of Hobbs, Lea County, New Mexico.

NOW THEREFORE THE FOLLOWING IS AGREED BY THE PARTIES:

1. Earnest Money Deposit.

Purchaser will make a non-refundable earnest money deposit with the Closing Agent in the sum of no less than ten percent (10%) of the purchase price, within 24 hours of Commission Approval of this agreement.

2. Purchase Price.

The purchase price for the Property shall be \$_____ of which the amount paid as earnest money shall be a part.

3. Closing Date.

Closing for the sale of the Property shall occur on a mutually agreeable date, at least forty-five (45) days, but not more than one hundred eighty (180) days after the adoption of the ordinance authorizing the sale by the City, unless a referendum election is held pursuant to 3-54-1, NMSA, 1978, as amended. The parties may extend the Closing Date by mutual agreement, not to exceed 365 days following the date of the ordinance.

4. Title.

At closing, the City shall execute and deliver a Special Warranty Deed conveying the Property to the Purchaser and/or his assigns, in fee simple, subject to all patent reservations and to all other existing liens, encumbrances and other exceptions of record.

5. Risk of Loss.

All risk of loss or damage to the Property will pass from the City to Purchaser at closing. In the event that material loss or damage occurs prior to closing, Purchaser may, without liability, refuse to accept the conveyance of title, in which event the earnest money deposit, if any, shall be refunded. Possession of the Property by Purchaser shall occur at closing. Before closing, Purchaser shall be solely responsible to insure Purchaser's interest in the Property if Purchaser so chooses.

6. Default and Remedy.

A. Default by City. If City defaults in the performance of this Agreement, Purchaser may terminate this Agreement and receive a refund of the earnest money deposit, if any, or may waive default, enforce performance of this contract, and seek whatever legal remedy may be provided by law.

B. Default by Purchaser. If Purchaser defaults in the performance of this Agreement prior to closing, City may terminate this Agreement and retain the earnest money deposit.

C. Notice and Demand for Performance. In the event that either party fails to perform such party's obligations hereunder (except as excused by the other's default), the party claiming default will give written notice of demand for performance. If the party to whom such notice and demand is given fails to comply with such written demand within ten (10) days after receipt thereof, the non-defaulting party may pursue the remedies provided in this paragraph.

7. Costs and Fees.

The closing costs shall be paid as follows:

A. All closing costs shall be paid by the Purchaser, including title insurance premium costs up to or in excess of the purchase price.

B. The Purchaser and City shall each pay for their respective legal fees.

8. Notice.

All notices given pursuant to or in connection with this Agreement shall be made in writing and posted by certified mail, postage prepaid, to the City, at City of Hobbs, ATTN: City Manager, 200 East Broadway, Hobbs, NM 88241; and to Purchaser, at _____, _____, _____, or to such other address as requested by either party. Notice shall be deemed to be received on the fifth day following posting.

9. Attorney's Fees and Costs.

Both parties agree that if either is found by a court to have breached this agreement, the other party may recover reasonable attorney's fees and cost of litigation, including the costs of a City Attorney as a staff person.

10. Counterparts.

This Agreement may be executed in one or more identical counterparts, and all counterparts so executed shall constitute one agreement which shall be binding on all of the parties.

11. Successors and Assigns.

This Section refers to assignability of this Purchase Agreement and not to assignability of the Property after the land purchase has been completed. This Agreement may not be assigned by Purchaser without the prior written consent of the City. Subject to the foregoing provision, this Agreement shall inure to the benefit of and be binding upon the parties to this Agreement and their respective successors and assigns; provided that upon any assignment of this Agreement by either party, the other party shall not be released from any obligation under, or liability accruing pursuant to this Agreement. Except that Purchaser is permitted, upon City approval, to assign its interest to a Partnership or Corporation in which he is the principal party. Consent shall not unreasonably be withheld by either party.

12. Compliance with New Mexico State Statutes.

The City states that it has complied with the requirements of Section 3-54-1, NMSA, 1978, as amended, and that it has authorization to sell property pursuant to the Hobbs Municipal Code, as amended.

13. Governing Laws.

This Agreement shall be governed by the laws of the State of New Mexico. Jurisdiction and venue relating to any litigation or dispute arising out of this Agreement shall be in the District Court of Lea County, New Mexico, only. If any part of this contract shall be deemed in violation of the laws or Constitution of New Mexico, only such part thereof shall be thereby invalidated, and all other parts hereof shall remain valid and enforceable.

14. Termination.

This agreement shall be terminated on the closing date for sale of property. All of the City's warranties, representations, certifications, and agreements contained herein shall be and remain true at the time of closing.

15. Conditions For Completing The Purchase.

The following actions must occur and be performed prior to Purchaser satisfactorily closing on the Property:

- A. The City Commission must have approved the necessary Ordinance for the Sale of the Property, subject only to the referendum election issue as specified in 3-54-1 et. seq., NMSA, as amended.
- B. There shall be no material adverse change in the condition of the Property as of closing.
- C. The representations and warranties contained in this Agreement are true and correct as of the date of closing.

16. Representations and Certifications Made By The City As A Part Of This Agreement.

The City represents and warrants to the Purchaser that the following shall be true and correct, as of the date hereof and as of the date of closing:

- A. The City owns title to the Property subject only to easements, restrictions and reservations of record.
- B. There are no public improvements which have been commenced or completed for which special real property tax assessments may be or have been levied against the Property.
- C. There are no known existing violations of applicable law with respect to the Property.
- D. There is no litigation pending or threatened against the Property which might result in a lien on the Property, or might interfere with the City's ability to sell or convey the Property, or which might have a material adverse change upon the Property.
- E. The execution and delivery of the Purchase Agreement and closing of the sale by the City will not result in the breach of any agreement, decree or order to which the City is a party or by which the Property is bound.

F. There are no condemnation proceedings pending or threatened with respect to all or any portion of the Property.

G. The City is not a party to any contracts relating to the Property, except for this Agreement.

17. Time of Essence.

Time is declared to be of the essence of this Agreement.

18. Additional Documents.

The parties agree to execute further documents as may be reasonably required to effectuate the purchase and sale of the Property as provided by this Agreement.

19. Entire Document.

This instrument constitutes the entire agreement between the City and the Purchaser, and there are no agreements, understandings, warranties, or representations between the Purchaser and the City except as set forth herein. This Agreement cannot be amended except in writing executed by the Purchaser and the City.

Done and approved on the date first written above.

THE CITY OF HOBBS

PURCHASER

Mayor Sam Cobb

ATTEST:

APPROVED AS TO FORM:

Jan Fletcher, City Clerk

Mike H. Stone, City Attorney

STATE OF NEW MEXICO)
 (SS.
COUNTY OF LEA)

The foregoing instrument was acknowledged before me on this ____ day of _____, 2018 by _____, to me personally known, and _____ acknowledged said instrument, and acknowledged that he/she executed the same as his/her free act and deed.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal in the County and State aforesaid and year first written above.

Notary Public _____

My Commission Expires: _____



RELATED PARTY DISCLOSURE FORM

1. Are you indebted to or have a receivable from any member of the City of Hobbs Commission, administration officials, department heads, and key management supervisors with the City of Hobbs?

YES ___ NO ___

2. Are you an employee of the City of Hobbs or a member of your family an employee of the City of Hobbs?

YES ___ NO ___

3. Are you related to any member of the City of Hobbs Commission, administration officials, department heads, key management supervisors of the City of Hobbs?

YES ___ NO ___

The answers to the foregoing questions are correctly stated to the best of my knowledge and belief.

Signature of Owner or Company President _____ **Date** _____

(Print Name and Title): _____

NON-COLLUSION AFFIDAVIT

STATE OF _____)

City OF _____)

_____ (name) being first duly sworn, deposes and
says that he/she is (title) _____
of (organization) _____

who submits herewith to the City of Hobbs, an offer:

That all statements of fact in such offer are true:

That said offer was not made in the interest of or on behalf of any undisclosed person, partnership, company, association, organization or corporation;

That said offer has not, directly or indirectly by agreement, communication or conference with anyone attempted to induce action prejudicial to the interest of the City of Hobbs, or of any offer of anyone else interested in the property; and further,

That prior to the public opening and reading of offers, said offeror;

1. Did not directly or indirectly, induce or solicit anyone else to submit a false or sham offer
2. Did not directly or indirectly collude, conspire, connive or agree with anyone else that said offeror or anyone else would submit a false or sham offer, or that anyone should refrain from offering or withdraw his/her offer;
3. Did not in any manner, directly or indirectly, seek by agreement, communication or conference with anyone to raise or fix the offer of said offeror or of anyone else.

By: _____

Title: _____

SUBSCRIBED and sworn to before me this _____ day of _____, 20_____

Notary Public: _____

My Commission Expires: