



APPROVED
2/23/2023

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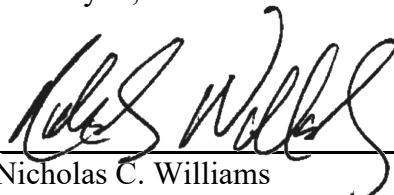
TO: Board of County Commissioners of the County of Tulsa ("BOCC")

DATE: February 23, 2023

RE: Agreement for the Purchase and Sale of Real Estate – 211 N. Cabaniss Ave., Bixby, OK 74008 (a/k/a the Bixby Community Center) to City of Bixby

Respectfully submitted for your approval is the attached Agreement for the Purchase and Sale of Real Estate ("Agreement"). This Agreement conveys to the City of Bixby the BOCC's interest in certain real property located at the physical address of 211 N. Cabaniss Ave., Bixby, OK 74008 (a/k/a the Bixby Community Center).

Thank you,



Nicholas C. Williams
Assistant District Attorney

CMF# 20230283

AGREEMENT FOR THE PURCHASE AND SALE OF REAL ESTATE

This Agreement is made on February 27, 2023 (“Effective Date”) between **THE CITY OF BIXBY**, an Oklahoma municipal corporation, (“City”), and **THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF TULSA COUNTY, OKLAHOMA**, an Oklahoma body corporate and politic (“County”) (City and County are each a “Party” and together, the “Parties”).

RECITALS

WHEREAS, County represents that it owns property described as **Tract 1 and Tract 2** on Exhibits “A” and “B” to this Agreement together with: all improvements, fixtures, rights, privileges and appurtenances thereto, (the “County Property”); and

WHEREAS, Pursuant to 19 O.S. 349 A, the county commissioners of counties of the State of Oklahoma are authorized and empowered to execute offers to convey lands and to execute deeds of conveyance to political subdivisions for a consideration to be determined by the commissioners to aid the political subdivision, for needful public buildings and other purposes; and

WHEREAS, County has determined the County Property is not needed for courthouse or jail or any other county purposes; and

WHEREAS, City desires to purchase the County Property for the purposes of an updated community center, and for the benefit of the City and citizens of Tulsa County, Oklahoma,

NOW, THEREFORE, in consideration of the premises stated and of the mutual obligations undertaken herein, the Parties hereby agree as follows:

1. Agreement of Sale

County does hereby agree to grant, bargain, sell and convey unto City the County Property and City does hereby agree to purchase from County the County Property for the purchase price of Five Hundred Twenty-Five Thousand and 00/100 Dollars (\$525,000.00) to be paid to County at closing as set forth herein. The Parties agree that County makes no warrants or representations about the condition of the County Property and that City is purchasing the County Property as-is, where-is, with any and all defects, liens claims and encumbrances whether known or unknown.

2. Title Examination and Environmental Assessment

City shall bear its own expense in obtaining any title opinions, title commitments, abstracts, surveys and environmental assessments for the County Property it intends to purchase by this Agreement. County has no obligation to provide any such documents.

3. Access and Inspection for Due Diligence

For thirty (30) days following the Effective Date, the County shall permit City, its representatives or agents reasonable access to the County Property for engineering and architectural studies, soil tests, zoning and utility studies, and other reports and tests deemed necessary by City. All such studies, inspections, reports and tests shall be at the sole expense of the City.

4. Due Diligence Period and Right to Terminate

For thirty (30) days following the Effective Date (“Due Diligence Period”) City may provide notice to the County of objections regarding defects in title or environmental issues affecting the property. Provided the County is not obligated to incur any expenses, County shall make reasonable efforts to cure City’s objections. The Parties may execute a subsequent amendment to this Agreement to extend the Due Diligence Period in order to accommodate the curing of any such objections. If City’s objections are not cured within the Due Diligence Period, without penalty to either Party, City may terminate this Agreement or may waive its objections and proceed to closing. Notice of termination must be in writing and delivered by the City to County.

5. No Prorations

County shall, at or prior to the Closing Date, pay in full all taxes, special assessments due against the County Property prior to the Closing Date. Taxes, maintenance expenses and special assessments not due at or before the Closing Date shall be the sole liability of the City.

6. Closing

- a. Closing shall occur at the Office of the Civil Division of the Tulsa County District Attorney’s Office, or another location mutually agreed to by the Parties.
- b. Closing shall occur at a time mutually agreed to by the Parties, within 30 days of the expiration of the Due Diligence Period referred to in Section 4, but no later than March 31, 2023 (“Closing Date”). If either Party fails to close the sale by

the Closing Date, the non-defaulting Party may exercise its remedies contained in Paragraph 7 (“Default”).

- c. At closing:
- i. City shall pay County the amount of \$525,000.00 in good funds.
 - ii. County shall execute and deliver a Quit Claim Deed conveying to City title to the County Property.
 - iii. City and County shall execute and deliver any notices, statements, certificates, and any other documents reasonably required for closing.
 - iv. No liens assessments, security interests, claims or encumbrances will be paid out of the proceeds of the sale of the County Property. The County shall not be liable for any liens or encumbrances upon the County Property; however, any such liens or encumbrances shall remain attached to the County Property until satisfied, discharged or expired by operation of law.

7. Default

If either of the Parties fail to perform its obligations under this Agreement upon five (5) days written notice from the other Party, that Party shall be in default, and the non-defaulting Party may (i) cancel and terminate this Agreement, and (ii) pursue any other remedy at law or in equity which it may have against the defaulting party, including but not limited to specific performance.

8. Notice

Except as otherwise provided in this Agreement, all notices, demands and other communications required by or related to this Agreement shall be in writing and directed as follows:

If to County:

Board of County Commissioners of the
County of Tulsa
218 West Sixth Street, 9th Floor
Tulsa, OK 74119

If to City:

Jared Cottle, City Manager
116 W Needles
P.O. Box 70
Bixby, Oklahoma 74008

Any such notice, demand or other communication shall contain an express reference to this Agreement.

Any Party may change its address for the purposes of this Agreement upon written notice to the other Party.

The following methods of delivery are acceptable: hand-delivery; overnight commercial air courier; or certified first-class U.S. mail, return receipt requested. Any such notice, communication or delivery shall be deemed delivered and effective upon actual receipt by party to whom addressed.

9. Miscellaneous

a. Settlement and Other Expenses

City and County shall bear their own costs and expenses of settlement and closing, including but not limited to: recording fees for conveyances to them, tax certificates, preparation of deed, escrow fees, inspection fees, photos, appraisal fees, hazard insurance, ad valorem and other taxes, courier fees, wire transfer fees, and any other expenses paid by the Parties as buyers and sellers of property. City shall have no claim or interest in the proceeds of the sale of the County Property.

b. Commissions and Fees

Neither of the Parties has been represented by a real estate broker or agent in this transaction, but to the extent either Party incurs any real estate broker commissions, fees or expenses, all fees and expenses shall be borne by the Party incurring same, without deduction from the purchase price paid to the other Party.

c. No Confidentiality

The Parties understand and acknowledge that City and County are subject to the Oklahoma Open Records Act (51 O.S. §24.1 *et seq.*) and therefore cannot assure the confidentiality of contract terms or other information provided by the Parties pursuant to this Agreement that would be inconsistent with the Parties' compliance with its statutory requirements.

d. Casualty Loss

If any part of the County Property is damaged or destroyed by fire or other casualty after the Effective Date, County shall restore the damaged property to its original conditions as soon as reasonably possible, but in any event by the Closing Date. If County fails to do so, City may (a) terminate this contract; (b) extend the time of performance by up to forty-five (45) days and the Closing Date will be extended as necessary; or (c) accept the County Property in its damaged condition and receive credit from the seller in an amount agreed between the Parties in writing.

e. Third Parties

This Agreement is between City and County and creates no rights or duties to any other person. No other person or entity is or shall be deemed a third-party beneficiary of this Agreement.

f. Assignment

The Parties may not assign this Agreement without the prior written consent of the other Party.

g. Binding Effect

This Agreement shall be binding upon the Parties and their respective successors, legal representatives and permitted assigns.

h. Further Assurance

The Parties agree to execute, acknowledge and deliver and cause to be done, executed, acknowledged and delivered all such further documents and perform such acts as shall reasonably be requested of it in order to carry out this Agreement and give effect hereto. Accordingly, without in any manner limiting the specific rights and obligations set forth in this Agreement, the Parties declare their intention to cooperate with each other in affecting the terms of this Agreement.

i. Time of the Essence

For purposes herein, the Parties agree that time shall be of the essence and the representations and warranties made are all material and of the essence to this Agreement.

j. Headings

The headings used herein are for convenience only and shall not be used in interpreting this Agreement.

k. No Waiver

A waiver of any breach of any provision of this Agreement shall not constitute or operate as a waiver of any other provision, nor shall any failure to enforce any

provision hereof operate as a waiver of the enforcement of such provision or any other provision.

l. Entire Agreement

This Agreement and any documents incorporated herein constitute the entire agreement of the Parties and supersede any and all prior agreements, oral or otherwise. This Agreement may only be modified or amended in a writing signed by both Parties. Notwithstanding anything to the contrary stated herein or in the attachments to this Agreement, no future agreements, revisions or modifications that may be required under this Agreement are effective or enforceable unless such terms, revisions or modifications have been reduced to writing and signed by City and County.

m. Severability Provision

If any term or provision herein is determined to be illegal or unenforceable, the remainder of this Agreement will not be affected thereby. It is the intention of the parties that if any provision is held to be illegal, invalid or unenforceable, there will be added in lieu thereof a provision as similar in terms to such provision as is possible to be legal, valid and enforceable.

n. Multiple Counterparts

This Agreement may be executed in counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

o. Attorney Fees

In the event of litigation between the parties regarding this Agreement, each party shall be responsible for its own attorneys' fees and costs.

p. Authorization

Each Party hereby warrants and represents that the person signing on its behalf has full power and authority to enter into and perform this Agreement and bind the party to this Agreement, and that the person signing on behalf of each has been properly authorized and empowered to enter this Agreement. Each Party further acknowledges and agrees that it has read this Agreement, understands it, and agrees to be bound by it.

q. Possession

County shall deliver possession to City of the County Property upon City's payment of the purchase price for the County Property and closing.

IN WITNESS WHEREOF, this Agreement has been executed by an authorized officer of each Party in multiple copies on the dates set forth below to be effective as of the Effective Date recited above.

COUNTY:

**BOARD OF COUNTY COMMISSIONERS
OF TULSA COUNTY, OKLAHOMA**

By: *Kelly Dunkerley*
Name: Kelly Dunkerley, Chairperson

APPROVED AS TO FORM:
[Signature]
Assistant District Attorney

ATTEST:
[Signature]
County Clerk

STATE OF OKLAHOMA)
) ss.
COUNTY OF TULSA)

Before me, the undersigned, a Notary Public, in and for said County and State on this 27th day of February, 2023, personally appeared Kelly Dunkerley, to me known to be the identical person who subscribed the name of the **BOARD OF COUNTY COMMISSIONERS OF TULSA COUNTY, OKLAHOMA**, to the foregoing, as its Chairperson, and acknowledged to me that he executed the same as his free and voluntary act and deed and as the free and voluntary act and deed of the **BOARD OF COUNTY COMMISSIONERS OF TULSA COUNTY, OKLAHOMA**, for the uses and purposes therein set forth.

Given under my hand and seal of office the day and year last above written.

Georgeann L. Hiebert
Notary Public

My commission expires:
07-17-2023



CITY:

APPROVED AS TO SUBSTANCE:

Lared Cotts
City Manager

APPROVED AS TO FORM:

CITY OF BIXBY, OKLAHOMA
A municipal corporation

[Signature]
CITY ATTORNEY

[Signature]
Brian Guthrie
Mayor

DATE:

1/13/23



ATTEST:
[Signature]
CITY CLERK

STATE OF OKLAHOMA)
) ss.
COUNTY OF TULSA)

Before me, a Notary Public in and for said County and State, on the 13 day of January ~~2022~~ ²⁰²³, personally appeared Brian Guthrie, to me known to be the identical person who approved the within and foregoing instrument as Mayor of the City of Bixby, Oklahoma, and acknowledged to me that he approved the within and foregoing instrument as his free and voluntary act and deed and as the free and voluntary act and deed of the City of Bixby, Oklahoma, for the uses and purposes therein set forth.

Vada Diane Ledford
Notary Public

My commission expires:
11-15-2026



EXHIBIT A

TRACT 1

The property, buildings, fixtures, improvements and appurtenances located at

211 North Cabaniss Ave.
Bixby, OK 74008

Tulsa County Assessor Parcel # 57825-73-24-03270

and more particularly described as:

Lots One, Two, Three, Four, Five, Six, Seven, Eight, Nine, Ten, Eleven, Twelve, Thirteen, and Fourteen (1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14), Block Ten (10), MIDLAND ADDITION to the Town of Bixby, Tulsa County, State of Oklahoma, according to the recorded Plat thereof.

AND

The vacated alley South of Lots One (1), Two (2), Three (3), Four (4), Five (5), and Six (6), and North of Lots Seven (7), Eight (8), Nine (9), Ten (10) Eleven (11) Twelve (12), Thirteen (13) and Fourteen (14), Block Ten (10), MIDLAND ADDITION to the Town of Bixby, Tulsa County, State of Oklahoma, according to the recorded Plat thereof, more particularly described as follows, to-wit:

Beginning at the Northwest corner of Lot Seven (7), Block Ten (10), MIDLAND ADDITION to the Town of Bixby; Thence East along the North line of Lot Seven (7), Eight (8), Nine (9), Ten (10), Eleven (11), Twelve (12), Thirteen (13), and Fourteen (14) to the Northeast Corner of Lot Fourteen (14), Block Ten (10), of said Addition; Thence North to the South line of Lot One (1), Block Ten (10), of said Addition; Thence West along the South line of Lots One (1), Two (2), Three (3), Four (4), Five (5) and Six (6) to the Southwest Corner of Lot Six (6), Block Ten (10), MIDLAND ADDITION; Thence South to the Point of Beginning. [Tract 3]

EXHIBIT B

TRACT 2

The property, buildings, fixtures, improvements and appurtenances located at

Northeast Parking Lot at
211 North Cabaniss Ave.
Bixby, OK 74008

Tulsa County Assessor Parcel # 97324-73-24-54229

and more particularly described as:

A part of the abandoned Midland Valley Railroad right-of-way in the West Half (W/2) of the Northwest Quarter of the Northwest Quarter (NW/4 NW/4) of Section Twenty-Four (24) Township Seventeen (17) North, Range Thirteen (13) East, Tulsa County, Oklahoma, being more particularly described as follows:

COMMENCING at the point of intersection of the North line of Lot 15, Block 10, MIDLAND ADDITION to the City of Bixby and the West right-of-way line of the abandoned Midland Valley Railroad; said point being the Northmost Northeast corner of said Lot 15, Block 10; thence Westerly along the North line of said Lot 15, Block 10 and the Southerly right-of-way line of the abandoned Midland Valley Railroad a distance of 138.43 feet to the POINT OF BEGINNING; thence continuing Westerly along said Southerly right-of-way line a distance of 6.89 feet; Thence N 46°31'01" W along the Westerly line of the abandoned Midland Valley Railroad right-of-way a distance of 273.29 feet to a point; thence Due North 118.71 feet; thence N 89°50'10" E a distance of 20.09 feet; thence S 46°31'01" E a distance of 255.12 feet; thence S 00°00'18" W a distance of 131.27 feet to the Point of Beginning.