

Agenda Item: 6.

Memorandum

To: FEL Subcommittee
From: Amanda Grint, Water Resources Engineer
Date: March 27, 2012
Re: Review and Recommendation on Agreement with Deeb Realty to List Lots on Youngman Lake

On February 17, 2012, a Request for Proposal (RFP) was mailed to NP Dodge, Prudential, CBS Real Estate and Deeb Realty to list Lots 114-115 Elk Ridge and Lots 8 – 14 Elk Ridge Replat 2. These nine lots were acquired from Dial Realty as part of the Dam Site 13 agreements. See attached map for location of lots. One bid was received from Jim O'Neal, Deeb Realty.

The proposal from Mr. O'Neal was complete and provided a market analysis of the lots, sales strategy, and an Estimated Sellers Net Sheet (attached). The proposed listing price is \$65,000 for the three interior lots and \$95,000 for the lakeside lots. The current proposal is to list the nine lots for 180 days as specified in the RFP.

Staff has met with Mr. O'Neal to discuss the sale price of the lots and the marketing strategy and recommends that the District enter in to an agreement with Deeb Realty to list the nine lots on Youngman Lake. Each of the nine lots will have a separate agreement and one is attached for review.

Staff recommends that the Subcommittee recommend to the Board of Directors that the General Manager be authorized to execute Listing Contracts with Deeb Realty for Lots 114 & 115 Elk Ridge and Lots 8 – 14 Elk Ridge Replat 2 for 180 days.



Printed: Feb 17, 2012



www.dcgis.org/dogis

COMMISSION RATE

DEEB Realty listing commission on sale of Papio-Missouri NRD, Elk Ridge Lots to be 6% of the final sale price. An additional \$225 will be paid to the Listing Broker for administrative costs associated with the processing of this transaction.

Commission compensation payout to the buyers agent to be 3%.

ESTIMATED SELLERS NET SHEET

Estimated Sale Price-	\$65,000	\$90,000
Sale Price/ Credit-	\$65,000*	\$90,000*
County Record Release-	-\$15	-\$15
Title Insurance- (½ of Expanded Premium)	-\$176	-\$222
State Doc Tax- (\$2.25 per \$1000)	-\$146	-\$203
Escrow Closing Fee- (DEEB Title Services)	-\$175	-\$175
Fee for Professional Services-	-\$3900	-\$5400
Broker Administrative Commission-	-\$225	-\$225
Estimated Net to Seller-	\$60,168	\$83,760

*Estimate is based on a single lot sale. Estimate does not include any possible purchaser requested closing costs, lot staking pinning, or recorded lien(s) payoffs.

DEEB Realty
LISTING CONTRACT

(This is a legally binding contract. If not understood, seek legal advice.)

1. **NAME OF BROKER FIRM ("Broker"):** DEEB Realty Omaha Nebraska.
2. **APPOINTMENT OF BROKER:** In consideration of Broker's agreement to list and offer for sale the property described below, and to use Broker's efforts to find a purchaser therefore, Seller (whether one or more) hereby gives Broker the sole and exclusive right for sale of real property legally described as Elk Ridge Lot 115 Irregular

also known as: Address 732 Elk Ridge Drive City Omaha State NE Zip 68122

3. **DUTIES AND RESPONSIBILITIES OF BROKER:** Broker shall have the following duties and obligations.
- a.) To perform the terms of this agreement;
 - b.) To exercise reasonable skill and care for Seller;
 - c.) To promote the interest of Seller with the utmost good faith, loyalty and fidelity including:
 - 1.) Seeking the price and terms which are acceptable to Seller except that Broker shall not be obligated to seek additional offers to purchase the property while the property is subject to a contract for sale;
 - 2.) Presenting all written offers to and from Seller in a timely manner regardless of whether the property is subject to a contract for sale;
 - 3.) Disclosing in writing to Seller all adverse material facts actually known by Broker, and
 - 4.) Advising Seller to obtain expert advice as to material matters of that which Broker knows but the specifics of which are beyond the expertise of Broker;
 - d.) To account in a timely manner for all money and property received;
 - e.) To comply with the requirements of agency relationships as defined in Neb. Rev. Stat. 76-2401 through 76-2430, the Nebraska Real Estate license act, and any rules or regulations promulgated pursuant to such sections or act; and
 - f.) To comply with any applicable federal, state, and local laws, rules, regulations, and ordinances, including fair housing and civil rights statutes and regulations.
4. **DUTIES AND RESPONSIBILITIES OF SELLER'S LIMITED AGENT AS A LIMITED DUAL AGENT:** Seller's Limited Agent (as described below) has disclosed to Seller that Broker permits Seller's Limited Agent to act as an agent for sellers of property or for buyers of property, and with the informed written consent of both the seller and buyer of a particular property, to act as a Limited Dual Agent for both. Seller's Limited Agent agrees to promptly notify Seller whenever a Seller's Limited Agent is also representing a buyer when that buyer becomes interested in acquiring Seller's property. Seller consents to Seller's Limited Agent also serving as an agent of the buyer for Seller's property and acknowledges that Seller's Limited Agent will then be a Limited Dual Agent of both Seller and buyer, serving both Seller and buyer as clients. As a Limited Dual Agent, Seller's Agent will owe to the buyer the following duties and obligations as a buyer's Agent:
- a.) To perform the terms of the written agreement made with the buyer;
 - b.) To exercise reasonable skill and care for the buyer;
 - c.) To promote the interests of the buyer with utmost good faith, loyalty, and fidelity, including:
 - 1.) Seeking a price and terms which are acceptable to the buyer, except that the licensee shall not be obligated to seek other properties while the buyer is a party to a contract to purchase property;
 - 2.) Presenting all written offers to and from the buyer in a timely manner regardless of whether the buyer is already a party to a contract to purchase property;
 - 3.) Disclosing in writing to the buyer adverse material facts actually known by the buyer's Limited Agent;
 - 4.) Advising the buyer to obtain expert advice as to material matters about which the licensee knows but the specifics of which are beyond the expertise of the buyer's Limited Agent;
 - d.) To account in a timely manner for all money and property received;
 - e.) To comply with all requirements of sections 76-2401 to 76-2430, the Nebraska Real Estate License act, and any rules and regulations promulgated pursuant to such sections or act; and
 - f.) Comply with any applicable federal, state, and local laws, rules, regulations, and ordinances, including fair housing and civil rights statutes or regulations
- As a limited Dual Agent, Seller's Limited Agent also continues to owe Seller the duties and obligations as a Seller's Limited Agent set out in paragraph 3, and the Seller's Limited Agent also continues to owe to buyer the duties and obligations as a buyer's Limited Agent described above, except that a Limited Dual Agent can disclose to one client any information the Limited Dual Agent has gained from the other client which is relevant to the transaction or client, provided that Limited Dual Agent cannot disclose, without the informed written consent of the client to whom the information pertains:
- a.) That Seller is willing to accept less than the asking price for the property;
 - b.) That buyer is willing to pay more than the purchase price offered for the property;
 - c.) What the motivating factors are for any client buying or selling the property;
 - d.) That either client will agree to financing terms other than those offered by that client;
 - e.) Any other confidential information about the client unless the disclosure is required by statute, rule, or regulation or failure to disclose the information would constitute fraudulent misrepresentation. In the event that Seller's Limited Agent becomes a Limited Dual Agent, Seller's Limited Agent will prepare and present to Seller an Informed Written Consent at or before the time an offer to or from the buyer is first presented. The Informed Written Consent will identify the buyer and disclose the compensation agreement between Seller's Limited Agent and buyer, if any. Seller's Limited Agent will be allowed to continue in the transaction as a Limited Dual Agent only if the Informed
5. **CONFIDENTIAL INFORMATION AND ADVERSE MATERIAL FACTS:** Broker shall not disclose any confidential information about Seller, without Seller's written permission, unless disclosure is required by statute, rule or regulation, or failure to disclose the information would constitute fraudulent misrepresentation. Broker is required to disclose adverse material facts to any prospective purchaser. Adverse material facts may include any environmental hazards affecting the property which are required by law to be disclosed, physical condition of the property, any material defects in the property, any material defects in the title to the property, or any material limitation on Seller's ability to perform under the terms of the contract.
6. **LISTING PERIOD:** The term of this contract shall begin _____ and continue through _____ (Expiration Date).

Listing Contract - cont.

7. **PRICE AND TERMS:** The listing price for the property shall be _____ (\$ _____) on the following terms: ☒ Cash, ☒ Conventional, ☐ PMI, ☐ Seller Financing, ☐ Loan Assumption, ☐ FHA, ☐ VA (Release Required ☐ Y ☒ N) (Substitution Required ☐ Y, ☒ N), or any other price, terms, including but not limited to exchange option or other method, acceptable to the Seller.
8. **COMMISSION:** Seller agrees to pay Broker a cash commission of ☐ 7% or 6% of the sale price. An additional \$ 225 will be paid at closing to Listing Broker for administrative costs associated with the processing of this transaction. This commission shall be payable on the happening of any one or more of the following events:
- if a sale or exchange is made, or purchaser found, who is ready, willing and able to purchase or exchange the Property, before the Expiration Date of this listing, or
 - if a purchaser is found who executes an option to purchase or a lease with option to purchase ("Option") and if the Option is subsequently exercised, whether or not the Option is exercised during the term of this Uniform Listing Contract, by Broker, Seller or any other person at the above price and terms or for any other price and terms Seller may agree to accept, or
 - if this agreement is revoked or violated by Seller, or
 - if Broker is prevented in closing the sale of this Property by existing claims, liens, judgments or suits pending against the Property, or the Seller thereof, or
 - if Broker is unfairly hindered by Seller in the showing of or attempting to sell the Property, within said period, or
 - if within 90 days after the Expiration Date of this listing Seller conveys, exchanges or options the Property to anyone due to Broker's efforts or advertising, performed under this Uniform Listing Contract, unless the Property is listed with another Broker. Seller authorizes Broker to compensate ☐ Seller's Subagents; ☒ Purchaser's Agents; ☒ Agents acting for both Purchaser and Seller (Dual Agents).
9. **EQUAL OPPORTUNITY:** The Property, as required by law, is offered without respect to race, color, religion, sex, handicap or disability, familial status, national origin, or age.
10. **PRICE TO INCLUDE:** The Price shall include all attached equipment and fixtures, except N/A
11. **PERSONAL PROPERTY:** The following personal property shall be included in the sale N/A
12. **SMOKE DETECTORS:** Prior to closing, Seller agrees to install at Seller's expense any smoke detectors required by law.
13. **SELLER PROPERTY CONDITION DISCLOSURE STATEMENT:** Seller represents to the Broker, solely for the purposes of this Uniform Listing Contract, that Seller has completed the Seller Property Condition Disclosure Statement fully and correctly to the best of the Seller's knowledge. Seller further states that all oral representations made to Broker are accurate. Broker shall not accept nor attempt to solicit any offers to purchase until the Seller Property Condition Disclosure Statement is completed by Seller and received by Broker.
14. **SELLER'S CERTIFICATION:** Seller certifies that to the best of Seller's knowledge, information and belief, the following describes the true condition of the Property:
- All items set forth in paragraphs 10 and 11 above to be included in the sale are and will be in good working order on possession;
 - There are no structural defects, either latent or apparent;
 - There is no evidence of wood infestation on the Property; and
 - The lower level or basement level of all structures are free from leakage or seepage of water;
 - There are no known conditions present or existing with respect to the Property, unless provided in writing, which may give rise to create Environmental Hazards or Liabilities, and that there are no enforcement actions pending or threatened in connection therewith. Seller agrees to inform Broker if any such Environmental Hazards or Liabilities are discovered during the term of this Uniform Listing Contract or any extension thereof, and to provide Broker with full information with respect thereto. However, if any of the above conditions are found on the Property and it is known or discovered that any such condition existed prior to closing, Seller agrees to indemnify and hold harmless Broker, and Broker's salespersons, employees, associate brokers, cooperating broker or purchaser's representative ("Broker Et Al"), from any and all causes of action, loss, damage or expense to which Broker Et Al may be subject in connection with this paragraph.
15. **ASSESSMENTS:** Seller agrees to pay any assessments for paving, curb, sidewalk or utilities previously constructed, or ordered, or required to be constructed by the public authority, but not yet assessed.
16. **EARNEST DEPOSIT ("Deposit"):** Broker is authorized to receive and deposit in a trust account Earnest Deposit money from prospective purchasers making written offers to acquire the Property, and Broker shall retain same until the closing unless transferred to an Escrow Agent. In the event of a dispute over the return or forfeiture of any Deposit held by the Broker/Escrow Agent, the Broker/Escrow Agent shall continue to hold the Deposit in its trust account until Broker/Escrow Agent has a written release from all parties consenting to its disposition or until a civil action is filed to determine its disposition at which time the Broker/Escrow Agent may pay it into court. If the Deposit is forfeited by a purchaser, after Broker's expenses are deducted, Seller shall receive one-half (1/2) and Broker one-half (1/2), to apply to damages which the Seller and Broker may suffer as a result of the default by purchaser.
17. **ESCROW AGENT:** Seller agrees that the closing of any sale made by Broker may be handled by an escrow agent ("Escrow Agent") and that the fee charged by the Escrow Agent shall be equally divided between purchaser and Seller, unless purchaser is obtaining a VA or FHA loan, then cost of the Escrow Agent shall be paid by Seller.
18. **TITLE AND CONVEYANCE:** Seller agrees to furnish a complete abstract of title certified to date of sale showing marketable title, or a title Insurance commitment if necessary to complete the sale and to pay any expense incurred in perfecting the title in case the same is found defective, and convey, within a reasonable period from date of sale by warranty deed or Special Warranty Deed executed by all persons having any interest therein, and clear of all encumbrances except easements, deed restrictions, and covenants of record.
19. **POSSESSION:** Possession to be given Closing
20. **KEYS AND LOCK BOX:** Seller grants Broker permission to install and use a lock box containing a key to the Property. Seller acknowledges that:
- A lock box and any other keys available to Broker will permit access to the Property by Broker and cooperating Brokers and their agents together with potential purchasers;
 - Seller will maintain in force adequate insurance to protect Seller in the event of any damage, loss or claims arising from entry to the Property by persons through the above use of the key and agrees to hold the Broker harmless from any loss, claim, or damage resulting therefrom;
 - Seller will obtain and provide to Broker written permission from the occupant of the Property, if it is a person other than the Seller, allowing showings as described above, after giving occupant notice;
 - Seller authorizes Broker to allow access to the property by other persons, including but not limited to appraisers, inspectors, utility company personnel, and others as necessary to complete a sale.
21. **MULTIPLE LISTING SERVICE ("MLS") AUTHORITY:** Seller authorizes Broker to process, advertise and distribute information about the Property through the MLS to its subscribers. Seller ☐ does, ☒ does not want their name and telephone number in the MLS allowing

Listing Contract - cont.

cooperating agents to call the Seller directly for showing appointments. Seller authorizes Broker to release all information regarding the completed sale of the Property to the Omaha Area Board of REALTORS®, Inc. and its assigns. The Seller agrees that the information provided to any multiple listing service will be accessible by other REALTORS® and subscribers to the Great Plains REALTORS® Multiple Listing Service, Inc., and Seller agrees to the release of this information to the REALTORS®, salespersons and brokers associated with the Designated REALTORS®, and any other entity approved by the Board of Directors of the Great Plains REALTORS® Multiple Listing Service, Inc.

22. **SIGNS AND ADVERTISING:** Broker is authorized to advertise and promote the sale of the Property, erect a "For Sale" sign thereon, and when sold, to place a "Sold" sign thereon, except where prohibited by law.
23. **REMUNERATION:** Seller acknowledges and understands that Broker and/or its agents may receive financial remuneration from the sale of title insurance or other forms of insurance or services.
24. **RELEASE OF LOAN INFORMATION:** Seller authorizes their present lender to provide Broker information regarding the status of loan # N/A. Lender: _____ Address: _____ Phone #: _____
If Seller's loan is an FHA loan secured on or before August 2, 1985, Seller understands that Seller must give written notice of payoff to their lender at least one full calendar month prior to actually paying off the loan to avoid lender charging Seller an additional 30 days of interest.
25. **HOME WARRANTY:** (Initial one):
_____ Home Warranty coverage accepted by Seller, Plan selected is _____ (\$ _____)
☒ Home Warranty coverage which was presented to Seller is rejected.
26. **HOME INSPECTION:** (Initial one):
_____ Seller elects to have a home inspection performed by _____
☒ Seller rejects a home inspection.
27. **ACKNOWLEDGMENTS:** For the purpose of this Uniform Listing Contract, the affiliated licensee(s) signing below as "Agent" shall constitute the specific Seller's Limited Agent, together with such other licensee(s) affiliated with Broker as may be assigned by Broker in writing. The affiliated licensee(s) named and the Seller's Limited Agents who may be appointed by the Broker are collectively referred to in this Uniform Listing Contract as Seller's Limited Agents. All responsibilities and duties of Broker shall also be the responsibilities and duties of the Seller's Limited Agent. Seller and Broker acknowledge that they have read this contract, that all information contained in this contract is true and accurate to the best of their knowledge and they have each received a copy of the executed contract. Seller acknowledges Broker has advised Seller as to Broker's policies regarding cooperation with and the amount(s) of compensation that will be offered to subagents, buyer agents, and others.
28. **Price Change Authorizations:** Seller(s) and Broker hereby mutually agree to waive any signature requirement for subsequent price changes. Upon seller's direction, seller authorizes Broker to make changes to this listing price or subsequent price changes via electronic mail (email).
29. No Sellers Property Disclosure Statement, Property is Land Only
Compensating payout to buyers agents brokerage company 3% of the final sale price

IN WITNESS WHEREOF, the undersigned parties executed this AGREEMENT, consisting of three pages.

Date: _____

Papio Missouri River Natural Resources District
(Seller Name Typed/Printed)

DEEB Realty

(Name of Broker or Firm)

2611 S. 117th Street 402.491.0100
(Broker Address) (Office Phone)

Omaha Nebraska 68144
(City) (State) (Zip)

By: [Signature] NE Lisc# 20040515
(Seller Limited Agent Signature)

Signature of Pap. Mo. NRD Legally Qualified Representative

Tax ID Number

8901 South 154th Street, Omaha, NE 68138
(Seller Address)

402.444.6222 402.895.6543
Office# Fax#

732 Elk Ridge Drive, Omaha, NE 68022
Property Address