

Agenda Item: 7.

Memorandum

To: FEL Subcommittee
From: Amanda Grint, Water Resources Engineer
Date: November 4, 2013 UPDATED November 13, 2013
Re: Review and Recommendation on Sale of Elk Ridge Lots

From April 2012 through October 2013, Lots 8-14 Elk Ridge Replat 2 and Lots 114-115 Elk Ridge were listed with Jim O'Neal, Deeb Realty. See attached map for lot locations. These lots were acquired from Dial Realty as part of the Dam Site 13 (Youngman Lake) agreements. In October 2013, Lot 8, Elk Ridge Replat 2, was sold for \$80,000, through Deeb Realty.

Recently, Boyer Young made an offer of \$325,000 for the eight remaining District-owned lots. District staff discussed the offer with Boyer Young and noted that the appraised value of the lots in a bulk sale condition was \$484,000 based on our June 2013 appraisal. Boyer Young has submitted a revised offer of \$380,000 for the eight lots. The purchase agreement is attached for consideration.

Staff recommends that the Subcommittee recommend to the Board that the General Manager execute the purchase agreement with Boyer Young for the sale of Lots 9-14 Elk Ridge Replat 2 and Lots 114-115 Elk Ridge in the amount of \$380,000 subject to changes deemed necessary the General Manager and approval as to form by District Legal Counsel.



Printed: Feb 17, 2012



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PURCHASE AGREEMENT

This Agreement made and entered into this 1st day of November, 2013, by and between., Papio-Missouri River Natural Resource District hereinafter referred to as "Seller" and the BOYER YOUNG DEVELOPMENT CO LLC hereinafter referred to as "Purchaser".

PRELIMINARY STATEMENT

The Seller is "Owner" of certain real property located approx Elk Ridge Drive in Douglas County, Nebraska, more particularly described as follows:

" Legal, Lots 114-115 Elk Ridge and Lots 9-14 Elk Ridge Replat 2".
(See attached "Exhibit A")

The Seller has indicated willingness to sell approximately 8 home sites to Purchaser. For the purpose of developing a residential subdivision.

TERMS AND PROVISIONS

In consideration of the foregoing Preliminary Statement and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Sale. The Seller hereby agrees to sell, and the Purchaser hereby agrees to purchase the property upon the terms and conditions herein set forth.
2. Purchase Price. The purchase price for the property shall be Three Hundred Eighty Thousand (\$380,000.00) Dollars.
3. Payment of the Purchase Price. The total purchase price shall be paid as follows:
 - a) Earnest Money Deposit. Ten Thousand (\$ 10,000) Dollars the receipt of which is hereby acknowledged by Seller as earnest deposit. Such amount shall be credited against the purchase price at closing if all of the terms hereof are met. Earnest money check shall not be deposited until this Agreement is accepted by Seller.
 - b) The balance at closing in cash.
4. Survey. Purchaser shall obtain a land survey from a registered Nebraska surveyor reflecting the quantity and exact legal description of the land to be purchased by Purchaser as well as the existence and location of all easements benefiting or burdening the property. The cost of such survey shall be paid for by Purchaser. A copy of the survey with the surveyor's certificate shall be provided to Seller. Seller, at Seller's expense, may hire its own surveyor to verify Seller's survey for accuracy. In the event of a disagreement between the two surveys, the two surveyors shall select a third whose survey shall be determined final and binding. The cost of the third surveyor shall be split between the parties.
5. Construction. Seller understands and agrees that the Purchaser is purchasing the property for the purpose of constructing single family homes. As such, Purchaser may enter upon the property to survey and conduct engineering and soil tests. Purchaser will repair any damage caused by such work and will discharge any construction lien filed resulting there from.
6. Title. Upon execution of this Agreement, Purchaser shall, within thirty (30) days, obtain a Commitment for Title Insurance From Premier Land Title Company showing marketable title in Owner. In the event that there is a defect in the title of Owner, Purchaser shall have the right to specify its objections in writing to Seller within ten (10) days of receipt of such Commitment. In the event that Seller is unable to or elects not to correct such defects in title within ten (10) days of such notice, then Purchaser or Seller shall have the right to cancel and terminate this

Agreement upon written notice to the other whereupon all earnest monies shall be returned to Purchaser. In the event however, that Seller is in the process of correcting said objections and correction can be reasonably anticipated then such deadline as above described for correcting said defects shall be extended so as to provide Seller with a reasonable amount of time to comply with the provision of this paragraph but in no event later than closing date without the written consent of the Purchaser. Purchaser shall however, have the further option of closing the Purchase Agreement despite the existence of any such defects provided that Seller is held harmless by Purchaser from any and all claims for expenses and/or diminution in value to the property conveyed. The cost of Title Insurance shall be split between the Purchaser and Seller. Seller shall provide Purchaser, at no cost to Purchaser any surveys, soils tests, environmental tests or other documentation pertaining to the property in its possession. Boyer Young Development Company has an interest in Premier Land Title Company.

7. Due Diligence. Purchaser shall have Thirty (30) days from the date this Purchase Agreement is executed by Seller to perform such due diligence items as it deems necessary. If on or before said due diligence period it gives notice to the Seller that this Purchase Agreement is terminated, the earnest deposit shall be returned to Purchaser and the Purchase Agreement shall be null and void.

8. Default. After such due diligence period should Purchaser shall fail or refuse to consummate the purchase herein provided for any reason other than for failure of marketable title, then the earnest money deposit paid to Seller as hereinbefore specified shall be forfeited to the Seller as sole and exclusive liquidated damages for Purchaser's failure to carry out the purchase. If the Seller is unable to provide marketable title, then all monies paid hereunder shall be returned to the Purchaser.

9. Closing. Closing shall be on or before December 31, 2013.

At closing, title shall be conveyed by general warranty deed, duly executed and acknowledged and in form suitable for recording, conveying to the Purchaser fee simple marketable title to the property free and clear of all liens and encumbrances and all easements, restrictions, reservations or conditions except such matters as are disclosed on the commitment for title insurance to which Purchaser has made no objection and except for easements for state and county road right-of-way easements.

10. Taxes and Prorations. The real estate taxes, the payments of which become delinquent in the year of closing, shall be prorated as of the date of closing. All prior real estate taxes and all special assessments which have become a lien against the property shall be paid by Seller. Purchaser shall pay for all recording fees, testing and development costs. Seller shall pay all documentary stamp taxes.

11. Notices. Any notice, designation, consent or approval required or permitted hereunder shall be in writing and mailed by certified mail, return receipt requested, addressed to the parties at their respective principal business addresses or residences. Any notice forwarded by mail in accordance with the terms of this section shall be deemed to have been delivered to the other party five (5) business days following the date of mailing. Addresses for purposes of this section unless otherwise designated in a subsequent written notice are as follows:

Seller: Papio-Missouri River Natural Resource District, Marlin Petermann

Purchaser: Boyer Young Development Company
9719 Giles Road
LaVista, NE 68128

12. Miscellaneous. This Agreement shall be binding upon the parties hereto, their heirs, successors, personal representatives and assigns. Sellers acknowledge that Purchaser's are licensed real estate brokers in the state of Nebraska.

13. Seller's Right to Affect an Exchange. Purchaser will cooperate with Owner at Owner's expense in an IRC. Sec. 1031 "like-kind exchange".

Contract expiration date is 11/1/13 at 5PM, time is of the essence.

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

SELLER:
Papio-Missouri River Natural Resource District

PURCHASER:
Boyer Young Development Company

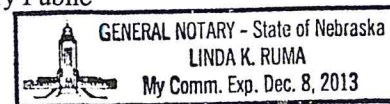
By: _____
Marlin Petermann, Assistant General Manager
Papio-Missouri Natural Resource District

By: 
Mark A. Boyer.

STATE OF NEBRASKA)
) ss.
COUNTY OF _____)

Subscribed and sworn to before me, a Notary Public, this 1st day of November, 2013, by Mark A. Boyer, CEO of Boyer Young Development Co.


Notary Public



STATE OF NEBRASKA)
) ss.
COUNTY OF _____)

Subscribed and sworn to before me, a Notary Public, this _____ day of _____, 2013, by
_____.

Notary Public