

CITY OF LOCKHART
NOTICE OF PROPOSED LAND SALE

The City of Lockhart, Texas hereby gives Notice, as required by Sec. 272.001, Texas Local Government Code, of its intent to sell the following land including all structures:

TRACT ONE: 0.322 acres, more or less, in the Byrd Lockhart League, A-17, City of Lockhart, Caldwell County, Texas.

TRACT TWO: 0.322 acres, more or less, in the Byrd Lockhart League, A-17, City of Lockhart, Caldwell County, Texas.

Both tracts are described in a General Warranty Gift Deed from St. Paul's United Church of Christ of Lockhart, Texas to the City of Lockhart recorded on January 11, 2018 under Clerk's Document No. 2018-000187 Official Records, Caldwell County, Texas, such land being located at 728 S. Main Street, Lockhart, Texas.

The sale of the Property shall be awarded, at the discretion of the City Council to the bidder submitting a bid in accordance with the provisions of sale and providing the best value to the City. The City Council reserves the right to reject any and all bids. Provisions of sale and a bid proposal form required for submitting a bid are contained in a bid packet available at the office of City Secretary at City Hall, 308 W. San Antonio Street in Lockhart.

Bids shall be delivered in writing on the bid proposal form signed by the bidder and enclosed in a sealed envelope to the City of Lockhart, City Finance Director, 308 W. San Antonio St. Lockhart, Texas 78644. All bids shall be plainly marked "**SEALED BID TO PURCHASE REAL PROPERTY.**" Bids must be received before 5:00 pm, February 25, 2020 to be considered.

City staff will publicly open, read and tabulate the bids at 2:00 pm, February 26, 2020 at 308 W. San Antonio St., Lockhart, TX 78644.

Bidders may contact the Pam Larison, Director of Finance at (512) 398-3461 for clarifications and questions.

BID
FORM

CITY OF
Lockhart **PROPOSAL**
TEXAS

I hereby submit my proposal for the purchase of the property at:

Property Address: 728 S. Main St., Lockhart, TX 78644

Legal Description: Tract One: 0.322 acres, more or less, in the Byrd Lockhart League, A-17, City of Lockhart, Caldwell County, Texas.

Tract Two: 0.322 acres, more or less, in the Byrd Lockhart League, A-17, City of Lockhart, Caldwell County, Texas.

MINIMUM BID AMOUNT IS \$250,000.00

Bid Amount: _____

THE CITY OF LOCKHART RESERVES THE RIGHT TO REJECT ANY AND ALL BIDS AND/OR WAIVE ANY INFORMALITIES.

I understand that the property is purchased "as is, where is, with all faults." I further understand that that if my bid is accepted by the Lockhart City Council, the parties shall enter into a contract for purchase and sale in substantially the form attached to this bid proposal form, and the earnest money deposit shall be paid in full by cashier's check or money order, payable to the City of Lockhart within three calendar days of the award notification (see earnest money deposit). I hereby certify that I have read and understand the terms of this agreement as specified in the notice of sealed bid for sale of real property. I hereby approve and accept all of the conditions of this agreement.

(Bidder's Signature)

(Bidder's Name)

(Address)

(Telephone Number)

(Date)

CONTRACT FOR PURCHASE AND SALE

This **Purchase and Sale Agreement** ("Agreement") to buy and sell real property is entered between Seller and Buyer as identified below and is effective on the date set forth in Section 17. Miscellaneous (e.) *Effective date*. ("Effective Date") of the last of the signatures by Seller and Buyer as parties to this Agreement, acknowledgement by Title Company of receipt of this Agreement.

Seller: City of Lockhart, Texas

Seller's Address 308 W. San Antonio St., Lockhart, Texas 78644

Seller's Attorney Monte Akers, Messer-Fort-McDonald.

Purchaser:

**Purchaser's
Attorney**

Property: Tract One: 0.322 acres, more or less, in the Byrd Lockhart League, A-17, City of Lockhart, Caldwell County, Texas.

Tract Two: 0.322 acres, more or less, in the Byrd Lockhart League, A-17, City of Lockhart, Caldwell County, Texas.

Both tracts described in a General Warranty Gift Deed from St. Paul's United Church of Christ, Lockhart, Texas to the City of Lockhart recorded on January 11, 2018 under Clerk's Document No. 2018-000187 Official Records, Caldwell County, Texas such land being located at 728 S. Main Street, Lockhart, Texas.

Title Company: Flowers-Mc Dowell Abstract Company
119 S. Main St.
Lockhart, Texas 78644

Inspection Period: See Section 3. Inspection Period.

Earnest Money: \$12,500; See Section 17. Miscellaneous (f) *Earnest Money Deposit*.

Closing Date: 10 days after expiration of the Inspection Period or as provided in Sec. 8.

Purchase Price:

RECITALS

- A. Seller owns certain real property (the “**Land**”) located in the City of Lockhart, Caldwell County, Texas, containing 0.644 acres, more or less, in the aggregate, more particularly described in Section 1 of this Agreement.
- B. The Lockhart City Council voted to authorize the City Manager to bid for sale of certain land and to execute the Purchase Agreement (herein so-called) for said land by and between the City of Lockhart and a Seller.
- C. In settlement and compromise of such acquisition, Seller has agreed to sell, and Buyer has agreed to purchase the Land and the Property (defined in Article 1) on the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **Sale and Purchase.** Seller agrees to sell, and Purchaser agrees to purchase the Property as provided in this Agreement for the Purchase Price, which is commonly known as 728 S. Main St., Lockhart, Texas, and more particularly described as Tract One: 0.322 acres, more or less, in the Byrd Lockhart League, A-17, City of Lockhart, Caldwell County, Texas and Tract Two: 0,322 acres, more or less, in the Byrd Lockhart League, A-17, City of Lockhart, Caldwell County, Texas.
2. **Title, Survey, and Environmental Reports.**
 - (a) Not later than ten (10) days after the Effective Date, Seller shall, at Seller’s expense, deliver to Purchaser:
 - (i) a current commitment for an Owner’s Policy of Title Insurance for the Land from the Title Company, setting forth the state of title to the Property together with any easements or restrictions (existing or created pursuant hereto) benefiting or burdening the Property, together with all exceptions or conditions to such title;
 - (ii) legible copies of all documents referenced in the Title Commitment;
 - (iii) any environmental or geotechnical studies or reports that Seller may have in its possession with respect to the Property; and,
 - (iv) tax certificate(s) regarding the payment of ad valorem taxes for current and prior years.
 - (b) Purchaser shall, not later than twenty (20) days after the Effective Date, and at Purchaser’s expense, obtain a survey of the Property and deliver same to Seller. “Survey” means an on-the-ground, staked plat of survey and metes-and-bounds description of the Property, prepared by a Texas Registered Property Land Surveyor or another surveyor satisfactory to Title Company, dated after the Effective Date, and certified to comply with the current standards and specifications as published by the Texas Society of Professional Surveyors required for obtaining deletion of the survey exception in the Title Policy. The Survey shall

show the boundaries of the Property and all improvements located thereon. Purchaser and Seller agree that the legal description set forth in the Survey shall be used for the deed and other documents prepared and executed at Closing. The parties' agreement that if the survey indicates a difference in the area of the Property than the area set forth in this Agreement, there shall be no adjustment in the Purchase Price.

- (c) Purchaser shall, not later than ten (10) days after Purchaser's receipt of the last of the Survey and Title Commitment, notify Seller and Title Company of any objections to the Survey or Title Commitment. If there are objections by Purchaser, Seller shall in good faith attempt to satisfy them prior to Closing, but Seller shall not be required to incur any cost to do so. If Seller delivers written notice to Purchaser not later than the ten (10) calendar day after Seller's receipt of Purchaser's objections that Seller is unable to satisfy such objections, the Purchaser may either waive such objections or accept title as Seller is able to convey or terminate this Agreement by written notice to Seller and the Title Company prior to the expiration of the Inspection Period and the Earnest Money shall be refunded to Purchaser.

3. Inspection Period.

- (a) During the Inspection Period, Purchaser and its agents or employees shall have the right to enter upon the Property during regular business hours upon reasonable notice and conduct such inspections, tests and studies as they may deem necessary. If for any reason Purchaser determines not to purchase the Property, Purchaser may terminate this Agreement by notifying Seller and Title Company in writing prior to the expiration of the Inspection Period. In such event, the Earnest Money paid as rent shall be retained by the Seller and neither party shall have any further claim against the other under this Agreement.
- (b) Purchaser may enter the Property to conduct its inspection but shall be solely responsible for any damages caused thereby. **Purchaser shall repair any damage to the Property it causes or that is caused by its agents or invitees, and shall indemnify and defend Seller and hold Seller harmless from and against any and all claims, liabilities or damages to the Property or against Seller caused by the intentional or negligent acts or omissions of Purchaser and/or Purchaser's authorized agents, representatives or employees during the Inspection Period or as a result of any inspection of the Property by such parties.**

4. Closing Date.

- (a) The closing of the sale of the Property shall occur on the Closing Date at the Title Company, or at such other time as may be agreed in writing by the parties.
- (b) The purchase price, as recited herein, shall at closing be paid as follows:
 - (i) Purchase and net to Seller:

5. Closing Deliverables.

- (a) At the closing of the Property, Seller shall deliver to the Title Company:
 - (i) a special warranty deed, in form and substance reasonably acceptable to Seller and

Purchaser, conveying good and indefeasible title to Purchaser, free and clear of any and all encumbrances except the Permitted Exceptions, excluding the mineral rights, such mineral rights being reserved by the Seller;

- (ii) such documents as may be reasonably required by Title Company in order to cause Title Company to issue a Texas owner's policy of title insurance (or equivalent) in the amount of the Purchase Price, insuring such title to the Purchaser;
 - (iii) any Restriction Agreement duly executed by Seller, if any; and
 - (iv) possession of the Property, free of parties in possession, if any, except those occupying under current lease agreements.
 - (v) Building and maintenance warranties including but not limited to roof, mechanical or interior finish out, if any.
- (b) At the Closing, Purchaser shall deliver to Seller through the Title Company:
- (i) the Purchase Price; and Net to Seller:

6. Taxes.

Purchaser understands and acknowledges that the Property is now exempt from the assessment of ad valorem taxes, which status will change upon conveyance of the Property to Purchaser. Seller shall not be responsible for payment of property taxes assessed against the Property for periods after the date of Closing, if any become due and payable.

7. Closing Costs.

- (a) Seller hereby agrees to pay and be responsible for the following closing cost with respect to the closing of the Property:
- (i) the cost of all tax certificates relating to all taxes and other assessments incurred or arising in relation to the Property;
 - (ii) Seller share of Title Company's escrow fees;
 - (iii) the basic premium for the Owner's Policy of Title Insurance;
 - (iv) all costs and expenses incurred by or on behalf of the Seller, including Seller's attorney's fees; and
 - (v) such other incidental costs and fees customarily paid by sellers of real property in Caldwell County, Texas, for transactions of a similar nature to the transaction contemplated herein.
- (b) Purchaser hereby agrees to pay and be responsible for the following closing cost with respect to the closing on the purchase of the Property:

- (i) all fees and premiums for any endorsements to the Basic Owner's Title Policy;
- (ii) all fees and costs for the Survey;
- (iii) all costs and expenses incurred by or on behalf of the Purchaser, including Purchaser's attorneys' fees;
- (iv) all premiums and fees for optional riders and amendments to the Basic Owner's Title Policy.
- (v) such other incidental costs and fees customarily paid by purchasers of property in Caldwell County, Texas, for transactions of a similar nature to the transaction contemplated herein.

8. Conditions to Closing.

Closing on the sale of the Property shall be conditioned upon:

- (i) Seller having delivered marketable title and/or Owner's Policy of Title issuance; and
- (ii) Delivery of special warranty deed.
- (iii) Release of any lien or encumbrance, lis pendens or other title impediment.

If the conditions set forth in (ii) has not been satisfied on or before ten (10) days prior to Closing, the Closing Date shall be extended for a period of thirty (30) days. If the conditions set forth in (ii) has still not been approved by the end of said thirty (30) day period, Purchaser may either (1) extend the Closing Date for an additional thirty (30) day period, (2) waive the condition and proceed to Closing, or (3) terminate this Agreement.

9. Permitted Exceptions.

Purchaser acknowledges and agrees that the Property will be conveyed by Seller at closing subject to the Special Warranty Deed and any acceptable restrictions therein. The (i) zoning, (ii) lien for current taxes, (iii) environmental condition, (iv) matters appearing on Schedule B of the Title Commitment that were not cured and to which Purchaser failed to object or otherwise waived objection shall be deemed to be Permitted Exceptions.

10. Representations and Covenants.

Seller represents and covenants that: (a) it has authority to enter into this Agreement; and (b) no other person has any interests in or claims against the Property (other than as reflected by the Title Commitment), and it will not hereafter encumber the Property. Purchaser represents that it has authority to enter into this Agreement. The only representations made by any party concerning the Property and this Agreement are as set out in this Agreement.

11. Condition of Property Sold As-Is.

- (a) Purchaser represents that as of the Closing Date that it:
 - (i) will have fully inspected the Property; and
 - (ii) will have made all investigations as it deems necessary or appropriate and will be relying solely upon its inspection and investigation of the Property for all purposes whatsoever, including, but not limited to, the determination of the condition of the structures, improvements, soils, subsurface, drainage, surface and groundwater quality, and all other physical characteristics; availability and adequacy of utilities; compliance with governmental laws and regulations; access; encroachments; acreage and other survey matters and the character and suitability of the Property.
- (b) Except with respect to the quality of the title being conveyed by Seller pursuant to this Agreement, Purchaser acknowledges and agrees that Seller has made no representations, warranties, guarantees, statements or information, express or implied, pertaining to the Property, its condition, or any other matters whatsoever, made to or furnished to Purchaser by Seller or any employee or agent of Seller, except as specifically set forth in this Agreement.
- (c) Purchaser waives, releases and forever discharges Seller, its officers, employees and agents and their respective successors and assigns, collectively referred to as the "Released Parties," of and from any and all suits, legal or administrative proceedings, claims or demands, actual damages, punitive damages, losses, liabilities, interest, attorney's fees, expenses of whatever kind in nature, in law or in equity, known or unknown (collectively referred to as "liabilities"), that the Purchaser ever had, now has, or in the future may have, against any of the Released Parties based upon, or arising indirectly or directly out of (i) the condition, status, quality or nature of the Property; and (ii) the existence, presence or conditions of asbestos and any toxic or hazardous material in or under the Property. The Purchaser also agrees to indemnify, defend, and save harmless the Released Parties from and against any and all liabilities that any of the Released Parties may incur or become responsible for, as a result of any claims by any persons or entities whatsoever, including, but not limited to, any governmental authorities, based upon or arising directly or indirectly out of, the matters described in the preceding sentence, but Purchaser's indemnification will only relate to such claims that first arise during and in connection with Purchaser's ownership of the Property, to the extent permitted by law.

The warranties, representations, agreements, indemnification and release set forth in this Paragraph 11 shall survive closing and shall be incorporated into the deed.

12. Risk of Loss.

Seller shall bear the risk of loss if any cause whatsoever until the time of closing. In the event that the improvements and/or the property is substantially damaged or destroyed the Purchaser may terminate this agreement and shall be released from any future obligation to close or pay rent under any prior Lease Agreement.

13. Reservation of Minerals: Waiver of Surface Rights

Purchaser agrees that Seller, for itself and its successors and assigns, as their interests may appear,

reserves from this conveyance unto Seller all oil, gas and other minerals owned by Seller located in and under and that may be produced from the Property to the extent not reserved by prior grantors; provided, however, Seller, for itself and its successors and assigns agrees to waive all surface rights and other rights of ingress and egress in and to the Property, and agrees that in conducting operations with respect to the exploration for and production, processing, transporting and marketing of oil, gas and other minerals from the Property, that no portion of the surface of the Property will be used, occupied or damaged and that fixtures, equipment, buildings or structures used in connection with the exploitation of the reserved mineral, oil and gas rights, shall not be placed on the surface of the Property. Seller shall not be restricted or prohibited from the pooling or unitization of the portion of the mineral estate owned by Seller with land other than the Property; or the exploration or production of the oil, gas, and other minerals by means of wells that are drilled or mines that open on land other than the Property but enter or bottom under the Property, provided that these operations will in no manner interfere with the surface or subsurface support of any improvements constructed or to be constructed on the Property. The foregoing reservation of minerals and Seller's waiver of surface rights set forth above shall survive closing be included in substance in the special warranty deed.

14. Remedies.

If Purchaser defaults, Seller's sole remedy shall be to terminate this Agreement and retain the Earnest Money. If Seller defaults, Purchaser's sole remedy shall be to terminate this Agreement and obtain a refund of the Earnest Money. No termination shall occur pursuant to a default until the non- defaulting party has provided written notice of default not less than ten (10) days prior to the proposed date of termination and the defaulting party has failed to cure the default; provided, however, if all parties have fully performed and all conditions to Closing have been satisfied other than the signing of documents close on the sale of the Property and one party fails to perform such necessary acts to deliver funds and execute documents required for Closing, on the date of Closing, then this Agreement shall terminate one (1) business day after demand is made to the non-performing party and the party continues to fail to close on the transaction, with the Earnest Money being paid to the party ready, willing, and able to close on the sale.

15. Notices.

Notices must be in writing and may be hand delivered and/or mailed by certified mail with return receipt requested to the addresses stated above. Notice given by delivery service shall be effective upon receipt at the address of the addressee; notice given by mail shall be effective upon earlier of actual receipt or three (3) days after placing the notice in a receptacle of the United States Postal Service, postage prepaid and properly addressed. In addition, copies of notices shall be provided to the party's attorney at the addresses indicated above.

16. Term.

This Agreement shall be effective on the Effective Date and, except for the provisions of this Agreement that survive termination, shall terminate:

- (a) on the closing date of the sale of the Property to Purchaser;
- (b) on the date mutually agreed by the parties; or
- (c) the date the Agreement is terminated pursuant to Sections 2, 3, 8, 12, or 13 above.

17. **Miscellaneous.**

This Agreement is subject to the following additional provisions and conditions:

- (a) *Entireties.* This Agreement contains the entire agreement of the parties pertaining to the Property.
- (b) *Modifications.* This Agreement may only be modified by a written document signed by both parties.
- (c) *Assignment.* Purchaser may not assign its rights under this Agreement to any entity without the express written consent of Seller; provided, however, that Purchaser may, upon written notice to Seller but without the requirement of prior written consent from Seller, assign this Agreement to an entity in which Purchaser or its principals owns a majority interest or to an entity that is controlled by another entity in which Purchaser or its principals owns a majority interest.
- (d) *Time is of the Essence.* Time is of the essence with respect to the performance by the parties of their respective obligations hereunder.
- (e) *Effective Date.* The Effective Date of this Agreement shall be the last date on which the authorized representatives of all parties have signed this Agreement.
- (f) *Earnest Money Deposit.* An earnest money deposit will be required three (3) days after the *effective date*, the Buyer must deliver \$12,500 as earnest money to Flowers-McDowell, as escrow agent, at 119 S. Main St., Lockhart, Texas 78644. If the last day to deliver the earnest money falls on a Saturday, Sunday, or legal holiday, the time to deliver the earnest money is extended until the next day that is not a Saturday, Sunday, or legal holiday.
- (g) *Non-Business Day.* If the final date of any period provided herein for the performance of an obligation or for the taking of any action falls on a Saturday, Sunday, federal holiday, or a day on which Seller's main offices are not open for regular business, then the end of such period shall be extended to the next day that is not one of the foregoing described days.
- (h) *Zoning.* Seller assumes no obligation to change the current zoning on the Property.
- (i) *Brokers.* The parties represent and warrant that they have not worked with any broker relative to this transaction and that the brokerage commission is due and payable upon the Closing under separate agreement. To the extent allowed by law, each party shall indemnify each other from any claim for brokers' commissions relative to the sale of the property and alleged to be due. Purchaser does represent and disclose that certain of its officers and employees are licensed real estate agents or brokers in the State of Texas.
- (j) *Counterparts.* This Agreement may be executed in any number of counterparts, each of which shall be deemed an original for all purposes and constitute one and the same instrument; but in making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart.
- (k) *Legal Construction.* In the event any one or more of the provisions contained in this

Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

- (l) *Law Governing.* This Agreement shall be construed under and in accordance with the laws of the State of Texas; and venue for any action arising from this Agreement shall be in the State District Court of Caldwell County, Texas. The parties agree to submit to the personal and subject matter jurisdiction of said court.

- (m) *Survival of Covenants.* Any of the representations, warranties, covenants, and obligations of the parties, as well as any rights and benefits of the parties, pertaining to a period of time following the termination of this Agreement shall survive.

SIGNED AND AGREED this the _____ day of _____, 2020.

By: _____

SIGNED AND AGREED this the _____ day of _____, 2020

By: _____

RECEIPT OF CONTRACT

Title Company acknowledges receipt of a copy of this Agreement executed by both Seller and Purchaser on the _____ day of _____, 2020.

By: _____

Name: _____

Title: _____