

REQUEST FOR COUNCIL ACTION

SUBJECT: Real Estate Contract between Dinawa, LLC, and the City of West Jordan.

SUMMARY: Dinawa, LLC, owns a parcel of real property located at 1210 West Hall Drive in West Jordan. The attached Real Estate Contract authorizes the City to purchase this property for the City's future 7000 South road widening project.

FISCAL AND/OR

ASSET IMPACT: \$125,000 plus closing costs up to \$5,000.

STAFF RECOMMENDATION:


Staff recommends approval.

MOTION RECOMMENDED:

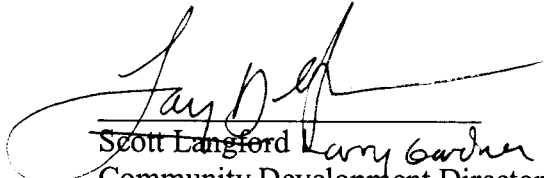
"I move to adopt Resolution No. 19-205 authorizing the Mayor to execute the attached Real Estate Contract between Dinawa, LLC, and the City of West Jordan, and authorizing the City's Real Property Administrator to sign all documents necessary to satisfy the terms of the Contract and close the transaction."

Roll Call vote required

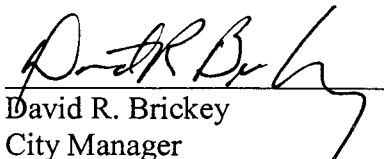
Prepared and to be Presented by:


David Clemence
Real Property Administrator

Recommended by:


Scott Langford
Community Development Director

Authorized for Council Consideration:


David R. Brickey
City Manager

Reviewed for Legal Sufficiency:


Anna J. Manning
City Attorney's Office

BACKGROUND DISCUSSION:

Andrew D. Bolander owns property in the Normandy Mobile Home Estates along 7000 South Street, specifically located at 1431 West Bridgeport Way, West Jordan. Mr. Bolander recently removed a mobile home from his property in anticipation of constructing a new home in its place, but he has agreed to relocate to a new parcel if the City can provide a suitable replacement site.

Mr. Bolander has agreed that 1210 West Hall Drive is a suitable replacement site and is willing to trade parcels with the City if the City can acquire the Hall Drive property. Upon closing the attached Real Estate Contract with Dinawa, LLC, for the Hall Drive property, the City can then trade properties with Mr. Bolander.

Please note that if City staff and Mr. Bolander cannot reach a final trade agreement to bring before the City Council, then another parcel owner along 7000 South Street in the Normandy Mobile Home Estates would like to trade for the Hall Drive property in Mr. Bolander's place, which would also be advantageous for the City. In any event, the City is not obligated to close on the attached Contract unless the City is able to come to an agreement with one of the Normandy Mobile Home Estates owners.

Attachments:

Resolution

Real Estate Contract

Reference Map

THE CITY OF WEST JORDAN, UTAH

A Municipal Corporation

RESOLUTION NO. 19-205

**A RESOLUTION AUTHORIZING THE CITY TO PURCHASE REAL PROPERTY
FROM DINAWA, LLC**

Whereas, the West Jordan City Council has reviewed the attached Real Estate Contract between Dinawa, LLC, and the City of West Jordan (the "Contract"); and

Whereas, the City Council desires that the Contract be executed by the Mayor; and

Whereas, the Mayor is authorized to execute the Contract pursuant to the Utah State Code.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WEST JORDAN, UTAH, THAT:

Section 1. The Mayor is authorized to execute the attached Real Estate Contract after it has been approved as to legal form by the City Attorney.

Section 2. The City's Real Property Administrator is authorized to act on behalf of the City to sign all documents necessary to satisfy the terms of the Contract and close the transaction.

Section 3. This Resolution shall take effect immediately.

Adopted by the City Council of West Jordan, Utah, this 4th day of December 2019.

CITY OF WEST JORDAN

ATTEST:

By: _____
JIM RIDING
Mayor

JAMIE BROOKS
Interim City Clerk/Recorder

Voting by the City Council	"YES"	"NO"
Council Member Chad Lamb	_____	_____
Council Member Kayleen Whitelock	_____	_____
Council Member Chris McConnehey	_____	_____
Council Member Dirk Burton	_____	_____
Council Member Zach Jacob	_____	_____
Council Member Alan Anderson	_____	_____
Mayor Jim Riding	_____	_____

**City of West Jordan
Real Estate Contract**

Project: 7000 South Road Project between 1300 West and Bangerter Highway
Tax ID: 21-26-104-015
County of Property: Salt Lake
Property Address: 1210 West Hall Drive, West Jordan, UT 84084
Owner/Grantor(s): Dinawa, LLC
Owner/Grantor Mailing Address: PO Box 850, Sharpsburg, GA 30277-0850

This Real Estate Contract, dated the _____ day of _____, 2019, is by and between DINAWA, LLC (hereinafter referred to as "Grantor"), whose principal address is 8338 Highway 54, Sharpsburg, GA 30277, and the CITY OF WEST JORDAN, a Utah municipal corporation and political subdivision of the State of Utah, (hereinafter referred to as "City"), whose principal office address is 8000 South Redwood Road, West Jordan, Utah 84088.

RECITALS/CONSIDERATIONS

A. Grantor owns a parcel of real property in Salt Lake County, State of Utah, at approximately 1210 West Hall Dr, West Jordan, Utah, 84084, which can also be found under Salt Lake County Tax Parcel Number 21-26-104-015 (the "Property"), and which contains approximately 0.18 acres and is more particularly described as follows:

Lot 32, JORDAN MOBILE ESTATES #2, according to the official plat thereof, on file and of record in the office of the Salt Lake County Recorder.

B. City has determined that acquiring the Property will be necessary to relocate one of the mobile home owners currently located on Bridgeport Way, West Jordan, Utah 84084 due to the eventual widening of 7000 South Street in accordance with the City's current Master Planned Road system.

C. Grantor has determined that the Property is surplus to its needs and is voluntarily willing to sell said Property.

D. The fair market value (the "FMV") of the Property was determined by an appraisal prepared by Trent Bodell, SRA of Bodell Appraisers, Inc. and both Grantor and City have agreed to use the appraisal as the valuation basis and just compensation for this transaction.

E. Grantor and City (each a "Party," and collectively "Parties") have agreed to proceed with this Real Estate Contract ("Contract") pursuant to the terms and conditions set forth herein.

AGREEMENT

1. Incorporation of Recitals. The foregoing Recitals are hereby incorporated into this Contract and are made a part hereof.

2. Purchase Price: City agrees to pay Grantor the total sum of ONE HUNDRED TWENTY-FIVE THOUSAND and 00/100 DOLLARS (\$125,000.00), exclusive of closing, inspection and other related costs and fees, subject to the terms and conditions set forth below, in exchange for Grantor conveying the Property and Mobile Home to City (the "Purchase Price").

3. Risk of Loss for Damage to Improvements. Grantor shall be responsible for any risk of loss to the Property and Mobile Home prior to closing.

4. Deed. Grantor shall cause title to the Property and Mobile Home to be transferred to City by Warranty Deed in a form and format substantially similar to that which is attached hereto and incorporated herein as Exhibit "A". Grantor shall transfer title to City free and clear of all liens and encumbrances, subject only to the following: a) those matters deemed acceptable by City in Schedule B of that certain preliminary title commitment issued by North American Title, LLC, under Order No. 40904-19-17317; and b) those matters identifiable by viewing the Property, including but not limited to unrecorded easements, rights-of-way and property lines.

5. Closing Costs and Prorations. The Purchase Price shall be due in full at closing, and the date of closing shall be used for proration of all property taxes due and owing on the Property and Mobile Home, which will all be paid at Grantor's sole cost and expense. At Closing, Grantor shall pay for and cause to be issued to City the most current version of an ALTA standard owner's policy of title insurance to cover the Property in the amount of the Purchase Price, and Grantor and City shall each pay one half of the fees charged by the escrow company to close this transaction. The escrow company is authorized and directed to withhold from Grantor's proceeds at Closing, sufficient funds to pay off all mortgages, trust deeds, judgments, mechanic's liens, tax liens, warrants and any other monetary encumbrances that may attach to the Property and Mobile Home. City shall pay the recording fees associated with filing the Warranty Deed in the office of the Salt Lake County Recorder.

6. Funding Approval. City intends to pay the Purchase Price with funding approved by the West Jordan City Council (the "Council"); therefore, this transaction is subject to review and approval by the Council. If the Council does not approve this transaction, this Contract becomes null and void.

7. Other Documents. This transaction must comply with state and federal property acquisition guidelines; therefore, Grantor and City shall voluntarily execute documents substantially similar to the "Warranty Deed", "Offer to Purchase" and the "Voluntary Acquisition" forms attached hereto and incorporated herein as Exhibits "A, B and C", respectively. Grantor and City shall also voluntarily execute any other document necessary to close this transaction.

8. Possession and Closing Date. Grantor shall provide possession of the Property and Mobile Home to City on the date of closing, free of all debris and any hazardous materials. Grantor shall leave the Property and Mobile Home in the same condition as it existed when the Contract was signed; no work or alteration will be done to the Property or Mobile home other than what may be provided for in this Contract, provided, however, that Grantor agrees to maintain the Property and Mobile Home until the date of Closing. Closing shall be on or before Friday, January 31, 2020; provided, however, that the Parties may extend the date of closing to a mutually agreeable date if necessary; also provided that this transaction is subject to the City successfully closing a similar transaction with one of the mobile home owners currently located on Bridgeport Way, West Jordan, Utah 84084, due to the eventual widening of 7000 South Street

in accordance with the City's current Master Planned Road system. If City does not close the Bridgeport Way transaction by January 31, 2020, this contract shall be void and shall have no force or effect unless mutually agreed to by Addendum.

9. Inspection Rights. City has had full opportunity to inspect and investigate the Property to its satisfaction. City is fully satisfied with the condition of the Property and has agreed to accept the Property in its present condition, "as-is", subject to the provisions of this Contract. Grantor makes no representation or warranties as to the condition of the Property or its suitability for City's intended use, except representations specifically set forth herein.

10. Voluntary Conveyance. Grantor acknowledges that the Property is being conveyed to City voluntarily and that there is not a current threat of condemnation proceedings, and since this is a voluntary transaction, Grantor waives any rights it might otherwise have to a "right of first refusal" on any surplus property not used for any City construction or transportation projects.

11. Broker's Commission. The City has not used a broker or finder for this transaction; therefore, no commissions are due from the City. The Seller is a licensed Real Estate Broker in the State of Utah. However, if the Seller has used a broker or finder for this transaction, the Seller shall be solely responsible for any commissions that may be due and owing to said broker or finder.

12. Entire Agreement. This Contract sets forth the entire understanding of the Parties with respect to the matters set forth herein as of the date hereof, it supersedes all prior oral or written agreements of the Parties as to the matters set forth herein, and it cannot be altered or amended except pursuant to an instrument in writing, signed by the Parties.

13. Binding Effect. This Contract shall run with the land and shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns, and any persons or entities claiming rights by, through or under them.

14. Advice of Counsel. The Parties confirm, represent and warrant that they (a) have carefully read this Contract, (b) understand the terms hereof, (c) have had the opportunity to seek the advice from legal counsel of their own choosing, (d) find it to be a fair and reasonable compromise of the disputed claims, defenses and issues, (e) are executing this Contract as a voluntary act, and (f) agree to be bound by and to faithfully execute the terms of the Contract. The Parties further confirm, represent and warrant that they are not under duress, and they acknowledge that to the extent they have waived any rights or defenses by entry into this Contract that such waiver was made voluntarily and with full knowledge of the ramifications of such waiver.

15. Attorney's Fees. If any Party shall seek to enforce or protect its rights under this Contract or under any document or instrument executed and delivered in connection herewith in any action, suit, mediation, arbitration case or other proceeding, the prevailing Party shall be entitled to receive from the other Party payment of its costs and expenses, including reasonable attorneys' fees incurred (whether such costs or fees are incurred before or after the commencement of the proceeding), including any and all appeals or petitions therefrom.

16. Controlling Law, Jurisdiction and Venue. This Contract shall be governed by the laws of the State of Utah. Venue shall be in Salt Lake County, Utah.

17. Authority. The individuals whose signatures appear below represent and warrant that they have full power and authority to enter into this Contract on behalf of the Parties for whom

this Contract is executed, and no further act on behalf of any such Party shall be or is required to effectuate the terms hereof.

18. Effect of Contract. Nothing in this Contract shall be construed to relieve Grantor or City of any obligations imposed by federal, state or local laws, ordinances, regulations or standards.

19. Assignment. This Contract shall not be assigned by either Party.

20. Execution of Agreement. This Contract shall be valid only after it has been executed by Grantor and City's Mayor or designee, pursuant to authorization by the City Council, and approved as to legal form by the City Attorney.

21. **REPRESENTATION REGARDING ETHICAL STANDARDS FOR CITY OFFICERS AND EMPLOYEES AND FORMER CITY OFFICERS AND EMPLOYEES**

The bidder, offeror, or contractor represents that it has not (1) provided an illegal gift or payoff to a City officer or employee or former City officer or employee, or his or her relative or business entity; (2) retained any person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, or brokerage or contingent fee, other than bona fide employees or bona fide commercial selling agencies for the purpose of securing business; (3) knowingly breached any of the ethical standards set forth in state ethics laws, including those codified at Sections 10-3-1301 et seq. and Sections 67-16-1 et seq., Utah Code Annotated; or (4) knowingly influenced, and hereby promises that it will not knowingly influence, a City officer or employee or former City officer or employee to breach any of the ethical standards set forth in state ethics laws, including those codified at Sections 10-3-1301 et seq. and Sections 67-16-1 et seq., Utah Code Annotated.

[End of Section. Signatures Begin on Next Page]

IN WITNESS WHEREOF, the parties have executed this Agreement effective the date and year first above written.

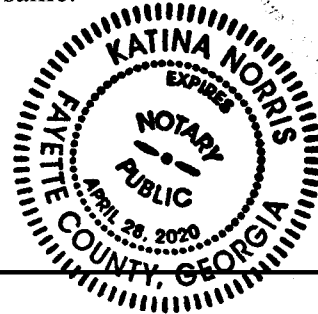
DINAWA, LLC

By: Nancy Watkins
Nancy Watkins, Member

STATE OF ~~UTAH~~ Georgia)
COUNTY OF ~~SALT LAKE~~ Fayette) : SS

On this 8 day of November, 2019, personally appeared before me NANCY WATKINS, who being by me duly sworn did say that she is the MEMBER of DINAWA, LLC, by authority of its members or its articles of organization, and she acknowledged to me that said limited liability company executed the same.

Katina Norris
Notary Public
My Commission Expires: 4/28/2020
Commission Number: _____
Residing in Fayette County, GA



CITY OF WEST JORDAN

By: _____
Name: Jim Riding, Mayor

STATE OF UTAH)
COUNTY OF SALT LAKE) : SS.

On the _____ day of _____, 2019, personally appeared before me JIM RIDING, who being by me duly sworn did say that he is the MAYOR of the CITY OF WEST JORDAN, a municipal corporation and political subdivision of the State of Utah, and that the within and foregoing instrument was signed in behalf of said municipal corporation and that said corporation executed the same.

Notary Public
My Commission Expires: _____
Commission Number: _____
Residing in _____ County, _____

Exhibit "A"

WHEN RECORDED, PLEASE RETURN TO:

West Jordan City Recorder
8000 South Redwood Road
West Jordan, Utah 84088

APN: 21-26-104-015

WARRANTY DEED

DINAWA, LLC (hereinafter referred to as "Grantor"), whose principal address is 8338 Highway 54, Sharpsburg, GA 30277 for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby convey and warrant to the CITY OF WEST JORDAN, a Utah municipal corporation and political subdivision of the State of Utah, (hereinafter referred to as "Grantee"), whose principal office address is 8000 South Redwood Road, West Jordan, Utah 84088, the following parcel of real property located in Salt Lake County, State of Utah, more particularly described as follows, to wit:

Lot 32, JORDAN MOBILE ESTATES #2, according to the official plat thereof, on file and of record in the office of the Salt Lake County Recorder.

TO HAVE AND TO HOLD the described property, together with the tenements, hereditaments, and appurtenances belonging to the property to Grantee, Grantee's successors and assigns forever.

IN WITNESS WHEREOF, Grantor has executed this instrument this ____ day of _____, 2019.

DINAWA, LLC

By: _____
Nancy S. Watkins, Member

STATE OF UTAH)

:SS.

COUNTY OF SALT LAKE)

On this ____ day of _____, 2019, personally appeared before me NANCY S. WATKINS, who being by me duly sworn did say that she is the MEMBER of DINAWA, LLC, by authority of its members or its articles of organization, and she acknowledged to me that said limited liability company executed the same.

Notary Public

My Commission Expires: _____

Commission Number: _____

Residing in _____ County, _____

Exhibit "B"

Offer to Purchase

Project: 7000 South Road Project between 1300 West and Bangerter Highway
Tax ID: 21-26-104-015
County of Property: Salt Lake
Property Address: 1210 West Hall Drive, West Jordan, UT 84084
Owner/Grantor(s): Dinawa, LLC
Owner/Grantor Mailing Address: PO Box 850, Sharpsburg, GA 30277-0850

The City of West Jordan hereby makes you an offer of \$125,000 for your Property and Mobile Home.

The City of West Jordan declares that this offer is the amount that has been established by **Trent Bodell of Bodell Appraisers, Inc.**, as payment and is in accordance with applicable state laws and requirements. Payment is defined as the fair market value of, and just compensation for, the Property and Mobile Home. This amount is based on the land, improvements and any fixtures considered real property.

The public use for which the property or property right is being acquired herein may include but is not limited to the following possible uses: the construction and improvement of a highway, which may include interchanges, entry and exit ramps, frontage roads, bridges, overpasses, signs and traffic control devices, placement of utilities, clear zones, maintenance facilities, detention or retention ponds, environmental mitigation, maintenance stations, material storage, bio fuel production, slope projections, drainage appurtenance, noise abatement, landscaping, and other related transportation uses.

Date: _____ By: _____
Nancy S. Watkins, Member

Date: _____ By: _____
City of West Jordan, Agent

Exhibit "C"

**VOLUNTARY ACQUISITION
Acknowledgement**

Project: 7000 South Road Project between 1300 West and Bangerter Highway

Parcel: 21-26-104-015

Name: Dinawa, LLC, Nancy S. Watkins, Member

The City of West Jordan, Utah, is interested in voluntarily acquiring your property at 1210 W Hall Drive, West Jordan, Utah 84084, for a future 7000 South Road Construction Project, which may be eligible for future funding assistance from the Federal Highway Administration.

The City of West Jordan will **not** pursue acquisition by eminent domain at this time in the event you are not interested in selling your property, or if we cannot reach a voluntary agreement for the purchase of your property.

The City of West Jordan is acquiring your property for transportation corridor preservation and your property is not a necessary part of a funded transportation project at this time. Therefore, under corridor preservation guidelines, the City of West Jordan may only acquire your property if you are willing to voluntarily sell it, and the City of West Jordan is prohibited from using eminent domain to acquire your property (Utah Code Ann. Section 72-5-402(2)).

In accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA), owner-occupants, who move as a result of a voluntary acquisition, are **not** eligible for relocation assistance. The property owners understand and acknowledge that if he/she/they waited for the funded project for this portion of the roadway, they would be eligible for relocation benefits pursuant to 49 CFR 24. However, by signing below the property owners understand and acknowledge that he/she/they are not entitled to any relocation benefits for the voluntary purchase of the property in advance of a funded project and freely choose to sell the property to the City of West Jordan before the project is funded.

Nancy S. Watkins, Member

Date

Property in Normandy Mobile Home Estates



**Subject Property Purchased for Ownership Transfer and Relocation of Above
Property Owner**

