



AGENDA
LAND BANK MEETING
via Zoom
February 28, 2022 6:30 PM
or immediately following City Council



I. CALL TO ORDER: By Chairman Jim Benage

II. ROLL CALL:

Jim Benage _____ Greg Davied _____ John Welch _____

Dr. Joel Schroeder _____ Justin Smith _____ Diane Wynn _____

III. MINUTES:

A. **Minutes of the February 15, 2022 Bel Aire Land Bank meeting.**

Action: Motion to (approve / deny / table) the February 15, 2022 Bel Aire Land Bank Minutes as (presented / amended).

Motion: _____ Second: _____ Vote: _____

IV. PUBLIC COMMENTS

V. EXECUTIVE SESSION:

Action: Motion to go into executive session for the sole purpose of discussing the subject of: Consultation with Attorney about proposed contract negotiations pursuant to the KSA 75-4319 exception for: Attorney-Client Privilege. Invite Land Bank Treasurer and Land Bank Attorney. The meeting will be for a period of _____ minutes, and the open meeting will resume at _____ PM.

Motion: _____ Second: _____ Vote: _____

VI. RESOLUTIONS AND FINAL ACTIONS

A. **Consideration of Third Amendment to a Commercial Real Estate Contract with OMIA, LLC to extend closing to March 18, 2022.**

Action: Motion to approve the Third Amendment to a Commercial Real Estate Contract with OMIA, LLC and authorize the Chairman to sign.

Motion _____ Second _____ Vote: _____

VII. OTHER ITEMS

VIII. ADJOURNMENT

Action: Motion to adjourn.

Motion_____ Second_____ Vote_____

Additional Attachments:

A. Treasurer's Report - February 28, 2022

IX. NOTICE:

This meeting is open to the public. If you would like to attend, please call 316-744-2451 by 5:30 p.m. on February 28, 2022 to ask for a meeting link.



MINUTES
LAND BANK MEETING
 7651 E. Central Park Ave, Bel Aire, KS
 February 15, 2022 8:00 PM
 or immediately following City Council



I. CALL TO ORDER: Chairman Jim Benage called the meeting to order at 7:33 p.m.

II. ROLL CALL:

Present were Jim Benage, Greg Davied, Justin Smith, and John Welch. Dr. Joel Schroeder and Diane Wynn were absent.

Also present were Land Bank Treasurer Ty Lasher and Land Bank Attorney Jacqueline Kelly.

III. MINUTES:

A. Minutes of the February 1, 2022 Bel Aire Land Bank meeting.

MOTION: Justin Smith moved to approve the February 1, 2022 Bel Aire Land Bank Minutes. John Welch seconded the motion. *Motion carried 3-0.*

IV. PUBLIC COMMENT – No one spoke.

V. EXECUTIVE SESSION:

MOTION: Justin Smith moved to go into executive session for the sole purpose of discussing the subject of: Consultation with Attorney about proposed contract negotiations pursuant to the KSA 75-4319 exception for: Attorney-Client Privilege. Invite Land Bank Treasurer and Land Bank Attorney. The meeting will be for a period of 15 minutes, and the open meeting will resume in Council Chambers at 7:50 PM. John Welch seconded the motion. *Motion carried 3-0.*

At 7:35 p.m. the board adjourned to executive session. At 7:50 p.m. the board members returned to the Council Chambers. Chairman Benage stated no binding action had been taken and called the meeting back to order in open session.

VI. RESOLUTIONS AND FINAL ACTIONS

- A. Consideration of a Commercial Real Estate Contract with Steve Barrett to purchase approximately 150 acres on the south side of K-254 for \$1,315,000 million dollars.**
- B. Consideration of a Commercial Real Estate Contract with Murdock Properties, LLC to purchase approximately 150 acres on the south side of K-254 for \$1,350,000 million dollars.**

MOTION: Justin Smith moved to table agenda items A and B. Greg Davied seconded the motion. ***Motion carried 3-0.***

VII. OTHER ITEMS – No other items were discussed.

VIII. ADJOURNMENT

MOTION: John Welch moved to adjourn. Justin Smith seconded the motion. ***Motion carried 3-0.***

The meeting adjourned at 7:55 p.m.

THIRD AMENDMENT TO COMMERCIAL REAL ESTATE SALE CONTRACT

THIS THIRD AMENDMENT TO COMMERCIAL REAL ESTATE SALE CONTRACT ("Amendment") is made and entered into on this ____ day of February, 2022, by and between City of Bel Aire Public Building Commission ("Seller"), and OMIA, LLC, or its assigns ("Buyer").

WHEREAS, on or about December 17, 2020, the parties entered into the certain Real Estate Sale Contract relating to the property located in The City of Bel Aire, Sedgwick County, Kansas, legally described as Lots 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and Reserves B and C, Block A, Sunflower Commerce Park 2nd Addition, Sedgwick County, which was amended by the certain Amendment to Commercial Real Estate Sale Contract, dated January 12, 2021 and the Second Amendment to Commercial Real Estate Sale Contract. Dated February 2, 2021 (collectively, "Sale Contract"); and

WHEREAS, the parties have reached an agreement further amending the Sale Contract and desire to set forth such amendment herein.

NOW, THEREFORE, for and in consideration of the mutual promises, covenants and agreements set forth herein and in the Sale Contract, the parties agree as follows:

1. Unless otherwise defined herein, capitalized terms used herein shall have the meaning ascribed to them in the Sale Contract.
2. On or before the Closing, the Seller will cause the 54th Street North right of way ("ROW") in Sunflower Commerce Park 2nd Addition, Sedgwick County to be vacated. The land comprising the ROW, consisting of 3.01 gross acres and 2.43 Net Acres, is hereby added to the definition of the Property to be purchased by Buyer at Closing.
3. The parties acknowledge and agree that for purposes of calculating the Purchase Price, the aggregate "Net Acres" of the Property (inclusive of the ROW) is 64.67 Net Acres¹ as reflected on the Survey. Accordingly, the Purchase Price for purposes of Closing shall be Four Hundred Eighty-Five Thousand Twenty-Five Dollars (\$485,025.00) based upon a purchase price of \$7,500.00 per Net Acre.
3. The Closing shall take place on March 18, 2022.
4. Except as amended hereby, the remaining terms and conditions of the Sale Contract are hereby ratified as if restate herein.
5. This Amendment and the Sale Contract, as previously amended, contain the entire agreement of the parties with respect to the subject matter hereof and supersedes any and all prior dealings between the parties with respect to such matters.

[SIGNATURE PAGE FOLLOWS]

¹ Includes the Net Acres in the ROW.

IN WITNESS WHEREOF, Buyer and Seller have executed this Amendment on the day and year first above written.

City of Bel Aire Public Building Commission

OMIA, LLC

By: _____
Jim Benage, President
("Seller")

By: _____
Gary L. Oborny, Manager
("Buyer")

ALTA / NSPS LAND TITLE SURVEY

A. TITLE COMMITMENT

FIRST AMERICAN TITLE INSURANCE COMPANY, A NEBRASKA CORPORATION
AGENT: SECURITY 1ST TITLE
727 N. WACO AVE, SUITE 300
WICHITA, KANSAS 67203
ALTA UNIVERSAL ID NUMBER: 1010831
COMMITMENT NUMBER: 2419908
PROPERTY ADDRESS: NO SITUS ADDRESS
TITLE COMMITMENT EFFECTIVE DATE: JANUARY 7, 2021 (NOTE: NOT 2022)

B. OWNER

THE CITY OF BEL AIRE, KANSAS PUBLIC BUILDING COMMISSION BY VIRTUE OF KANSAS WARRANTY DEED, DOC.#/FLM-PG: 29144055 AND KANSAS WARRANTY DEED, DOC.#/FLM-PG: 29144057.

C. LEGAL DESCRIPTION (HEREONAFter KNOWN AS "THE SURVEYED PROPERTY").

LOTS 3, 4, 5, 6, 7, 8, 9, 10, 11, AND 12, BLOCK A, AND RESERVES B AND C, ALL IN SUNFLOWER COMMERCE PARK 2ND, AN ADDITION TO BEL AIRE, SEDGWICK COUNTY, KANSAS.

D. SURVEYOR'S NOTES

- THE SURVEYED PROPERTY SHOWN HEREON IS THAT PROPERTY DESCRIBED IN FIRST AMERICAN TITLE INSURANCE COMPANY TITLE COMMITMENT NUMBER 2419908.
- THE SURVEYED PROPERTY IS WITHIN THE SE ¼ OF SECTION 16, T26S, R2E OF THE SIXTH PRINCIPAL MERIDIAN, SEDGWICK COUNTY, KANSAS, BEING IN THE PAYNE TOWNSHIP, AND GENERALLY LOCATED AT THE INTERSECTION OF 53RD STREET NORTH AND GREENWICH ROAD.
- BEARING BASIS: THE BEARING BASIS FOR THIS SURVEY IS SOUTH 89°49'38" WEST ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 16, T26S, R2E OF THE 6TH P.M., AS SHOWN ON THE RECORDED PLAT OF "SUNFLOWER COMMERCE PARK 2ND, AN ADDITION TO BEL AIRE, SEDGWICK COUNTY, KANSAS," AS WELL AS SHOWN ON THE RECORDED PLAT OF "SUNFLOWER COMMERCE PARK, AN ADDITION TO BEL AIRE, SEDGWICK COUNTY, KANSAS."
- DISTANCE BASIS: MEASURED DISTANCES SHOWN HEREON ARE SQUARE DISTANCES IN U.S. SURVEY FEET, AS SHOWN IN THE RECORDED PLAT OF "SUNFLOWER COMMERCE PARK 2ND, AN ADDITION TO BEL AIRE, SEDGWICK COUNTY, KANSAS."
- THERE ARE NO BUILDINGS ON THE SURVEYED PROPERTY.
- POSSIBLE ENCROACHMENTS: NONE OBSERVED.

E. NOTES CORRESPONDING TO ALTA/NSPS LAND TITLE SURVEY

- TABLE A ITEMS 1, 2, 3, 4, 6A, 6B, 8, 12 AND 16**
- MONUMENTS ARE AS NOTED ON THIS SURVEY.
 - ADDRESS: NO SITUS ADDRESS. ZIP CODE: 67226.
 - FLOOD ZONE: BY GRAPHIC PLOTTING ONLY, THE SURVEYED PROPERTY IS LOCATED WITHIN THE FOLLOWING FLOOD ZONES PER THE FEMA WEBSITE (HTTPS://MSC.FEMA.GOV), CITY OF BEL AIRE COMMUNITY NO. 200864, FLOOD MAP 2017302406, EFFECTIVE 12/22/2016.
 - UNSHADED ZONE X: AREA OF MINIMAL FLOOD HAZARD, AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN.
 - SHADED ZONE A: SPECIAL FLOOD HAZARD AREA WITHOUT DETERMINED BASE FLOOD ELEVATIONS. THE AREA GRAPHICALLY SHOWN AS A SHADED FLOODPLAIN IS THAT AREA DESIGNATED AS SHADED ZONE A.
 - THIS STATEMENT IS PROVIDED FOR INFORMATIONAL PURPOSES ONLY AND SHALL IN NO WAY CONSTITUTE A BASIS FOR A FLOOD CERTIFICATE. NO FIELD WORK WAS PERFORMED FOR THIS SURVEY FOR THE PURPOSES OF ESTABLISHING THE BOUNDARIES OF THESE ZONES. THE INFORMATION WAS DERIVED BY GRAPHICALLY SCALING THE SURVEYED PROPERTY ONTO THE ABOVE REFERENCED MAPS.
 - THE GRAPHICAL DATA SHOWN HEREON IS THE SAME GRAPHICAL DATA AS SHOWN ON THE RECORDED PLAT OF "SUNFLOWER COMMERCE PARK 2ND, AN ADDITION TO BEL AIRE, SEDGWICK COUNTY, KANSAS."
 - LAND AREAS: THE SURVEYED PROPERTY CONTAINS 4,014,128 SQUARE FEET (92.15 ACRES), MORE OR LESS. SHOWN HEREON, EACH LOT AND RESERVE OF THE SURVEYED PROPERTY LISTS THE GROSS AREA AND THE NET AREA. THE NET AREA EXCLUDES EASEMENT AREAS, BUILDING SETBACK AREAS, AND FLOODPLAIN AREAS. NOTE THAT FEMA FLOODPLAIN AND REGULATORY FLOODWAY BOUNDARIES ARE SUBJECT TO PERIODIC CHANGE, AND SUCH CHANGE MAY AFFECT THE INTENDED LAND USE WITHIN THE SUBDIVISION. ALSO SEE ITEM E.3.C ABOVE.
 - ZONING JURISDICTION(S) CLASSIFICATION.
 - A ZONING REPORT WAS NOT PROVIDED BY THE CLIENT. NO ZONING JURISDICTION INFORMATION WAS PROVIDED BY A ZONING EXPERT OR A ZONING ADMINISTRATOR, SUCH AS WITHIN A STANDARD COMPARISON ZONING REPORT, A SUMMARY ZONING REPORT, AN EXECUTIVE SUMMARY ZONING REPORT, A ZIP REPORT, OR A ZONING LETTER. NO RESEARCH WAS CONDUCTED TO VERIFY THE EXISTENCE OR NON-EXISTENCE OF A PLUD OVERLAY, CERTIFICATES OF OCCUPANCY, ZONING VARIANCES FOR NON-CONFORMING USE OR GRANTS OF SETBACK VARIANCES.
 - ACCORDING TO THE GIS WEBSITES FOR SEDGWICK COUNTY, KANSAS, AND WICHITA, KANSAS, THE ENTIRE SURVEYED PROPERTY HAS A LAND BASED CLASSIFICATION STANDARDS (LBCS) ECONOMIC FUNCTION ACTIVITY DESIGNATION OF "FARMING / RANCH LAND (NO IMPROVEMENTS)" WHICH HAS AN LBCS FUNCTION CODE OF 9010. ACCORDING TO THE COLOR CODING SYSTEM, THE ENTIRE AREA IS ZONED "S-F" SINGLE-FAMILY, 5000: LOW TO MODERATE DENSITY SINGLE-FAMILY AND COMPLIMENTARY USES IN AREAS WITH FULL PUBLIC SERVICES.
 - ZONING JURISDICTION(S) CLASSIFICATION.
 - A ZONING REPORT WAS NOT PROVIDED BY THE CLIENT, THEREFORE,
 - GRAPHICAL DETAILS PERTAINING TO ZONING JURISDICTION ARE NOT SHOWN HEREON.
 - FEATURES OBSERVED IN THE FIELD DURING THE PROCESS OF CONDUCTING THIS SURVEY ARE GRAPHICALLY SHOWN HEREON.
 - THIS ITEM WAS CHECKED IN THE TABLE A OPTIONAL ITEMS. HOWEVER, THIS IS NOT A HUD SURVEY NOR A BLM SURVEY NOR A SURVEY FOR REQUIREMENTS FOR GOVERNMENTAL AGENCY SURVEY-RELATED PURPOSES. THEREFORE, DETAILS FOR THIS ITEM ARE NOT SHOWN HEREON.
 - NO EVIDENCE OF OR FOR RECENT EARTH MOVING WORK, RECENT BUILDING CONSTRUCTION, OR RECENT BUILDING ADDITIONS WAS OBTAINED, NOR WAS ANY EVIDENCE OF OR FOR THESE ITEMS OBSERVED IN THE FIELD DURING THE COURSE OF CONDUCTING THIS SURVEY.

F. NOTES CORRESPONDING TO FIRST AMERICAN TITLE INSURANCE COMPANY

TITLE COMMITMENT NUMBER: 2419908

SCHEDULE B, PART II, EXCEPTIONS

ITEMS 1 THROUGH 5 ARE GENERAL IN NATURE AND ARE NOT PLOTTABLE. ITEMS 6 AND 7 REGARD TAXES AND ARE NOT PLOTTABLE.

ITEM NO.:

- THE FOLLOWING MATTERS WHICH ARE SHOWN ON OR DISCLOSED BY THE RECORDED PLAT REFERRED TO IN THE LEGAL DESCRIPTION: BUILDING SETBACK LINES, EASEMENTS, MINIMUM PAD ELEVATION, ACCESS CONTROLS, DRAINAGE PLAN, FLOODPLAIN AREA, AND RESERVE RESTRICTIONS.

THESE MATTERS INCLUDE THE FOLLOWING:

- ALL ABUTTERS' RIGHTS OF ACCESS TO AND FROM GREENWICH ROAD AND 53RD STREET NORTH ARE HEREBY GRANTED TO THE APPROPRIATE GOVERNING BODY; PROVIDED THAT LOTS 5 THROUGH 8, 11, 12, BLOCK A, AND RESERVE B, SHALL HAVE ACCESS TO GREENWICH ROAD AT ONE LOCATION FOR EACH LOT AND RESERVE. LOTS 2 THROUGH 5, BLOCK A, RESERVE C, AND THAT PORTION OF RESERVE A ADJACENT TO LOT 2 (NOTE: LOT 2 AND RESERVE A ARE NOT A PART OF THIS SURVEY), SHALL HAVE ACCESS TO 53RD STREET NORTH FOR A TOTAL OF EIGHT OPENINGS. ALL ACCESS LOCATIONS SHALL BE AS APPROVED BY THE CITY ENGINEER.
- ANY LAND DEDICATED TO OR OWNED BY A MUNICIPAL AUTHORITY (SUCH AS THE CITY OF BEL AIRE) SHALL BE EXEMPT FROM ANY AND ALL ASSESSMENTS INCLUDING THOSE ASSESSED BY BUSINESS ASSOCIATION COVENANTS. LAND WITHIN THIS PLAT OWNED BY AN ORGANIZATION EXEMPT FROM TAXATION BY THE LAWS OF THE STATE OF KANSAS, SHALL NOT BE SUBJECT TO ANY NON-TAXING AUTHORITY ASSESSMENTS THROUGHOUT THE DURATION OF SUCH OWNERSHIP.
- A DRAINAGE PLAN HAS BEEN APPROVED FOR THIS PLAT. ALL DRAINAGE EASEMENTS, RIGHTS-OF-WAY, OR RESERVES SHALL REMAIN AT ESTABLISHED GRADES AND UNOBSTRUCTED TO ALLOW FOR THE CONVEYANCE OF STORMWATER, UNLESS MODIFIED WITH THE APPROVAL OF THE CITY ENGINEER.
- RESERVES A (NOT A PART OF THIS SURVEY), B AND C SHALL BE OWNED AND MAINTAINED BY A PROPERTY OWNERS ASSOCIATION AND ARE HEREBY PLATTED FOR DRAINAGE AND STORMWATER DETENTION PURPOSES, OPEN SPACE, AND UTILITIES CONFINED TO EASEMENTS.
- MINIMUM PAD ELEVATIONS, PER THE RECORDED PLAT, ARE AS FOLLOWS: LOTS 9 THROUGH 12 HAVE A MINIMUM PAD ELEVATION OF 3391.0 NAVD83. LOTS 3 AND 4 HAVE MINIMUM PAD ELEVATIONS THAT VARY FROM 1393.0 NAVD83 TO 1408.0 NAVD83, AS DIRECTED BY THE CITY ENGINEER BASED ON STRUCTURE LOCATION WITHIN THE LOT.
- OTHER MATTERS ARE GRAPHICALLY SHOWN HEREON.

- AN EASEMENT FOR WATER LINE AND APPURTENANCES, RECORDED AS MISC. BOOK 656, PAGE 482, IN FAVOR OF: RURAL WATER DISTRICT NO. 1. AFFECTS: THE SE ¼ AND THE SW ¼ OF SEC. 16-26-2E THE ELECTRONIC LINK FOR THIS ITEM IN THE TITLE COMMITMENT DOCUMENT LINKS TO THE EASEMENT FOR TRANSMISSION AND DISTRIBUTION LINES CITED IN ITEM NUMBER 10 NEXT BELOW, INSTEAD OF TO THE DOCUMENT RECORDED AS MISC. BOOK 656, PAGE 482. HOWEVER, THIS ITEM CORRECTLY REFERS TO THE 25-FOOT WIDE WATERLINE EASEMENT SHOWN HEREON NEAR THE NORTHEAST CORNER OF LOT 12. THE EASEMENT LIES WITHIN ROAD RIGHT OF WAY, EXCEPT WHERE THE WEST LINE OF THE EASEMENT CROSSES INTO RESERVE B AT A POINT 15.6 FEET NORTH OF THE NORTHEAST CORNER OF LOT 12, AND THE WEST LINE OF SAID EASEMENT CONTINUES NORTH TO A POINT 0.97 FEET WEST OF THE MOST NORTHEASTLY CORNER OF RESERVE B.

- AN EASEMENT FOR TRANSMISSION AND DISTRIBUTION LINES, RECORDED AS FILM 643, PAGE 954, IN FAVOR OF: KANSAS GAS AND ELECTRIC COMPANY. AFFECTS: THE NORTH 100 FEET OF THE S 1/2 OF SEC. 16-26-2E THIS ITEM IS SHOWN HEREON ALONG THE NORTH 100 FEET OF LOT 9 AND RESERVE B.

- TERMS AND PROVISIONS OF THE AGREEMENT REGARDING MINERALS FILED IN MISC. BOOK 243, PAGE 421. THIS ITEM IS BLANKET IN NATURE AND IS NOT PLOTTABLE.

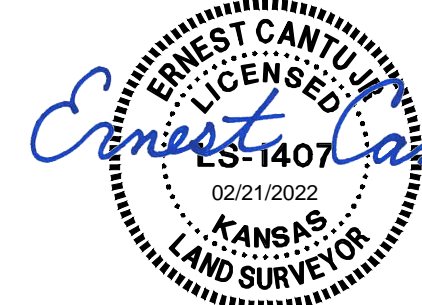
- IT IS NOTED THAT SUBJECT PROPERTY MAY BECOME SUBJECT TO SPECIAL ASSESSMENTS BY REASON OF BEING INCLUDED WITHIN THE WHITEWATER RIVER WATER SHED DISTRICT NO. 22, SEDGWICK COUNTY, KANSAS, AS EVIDENCED BY INSTRUMENT FILED IN/MISC. BOOK 438, PAGE 525. THIS ITEM IS NOT PLOTTABLE.

- RIGHTS OF PARTIES IN POSSESSION UNDER UNRECORDED LEASES. THIS ITEM IS NOT PLOTTABLE.

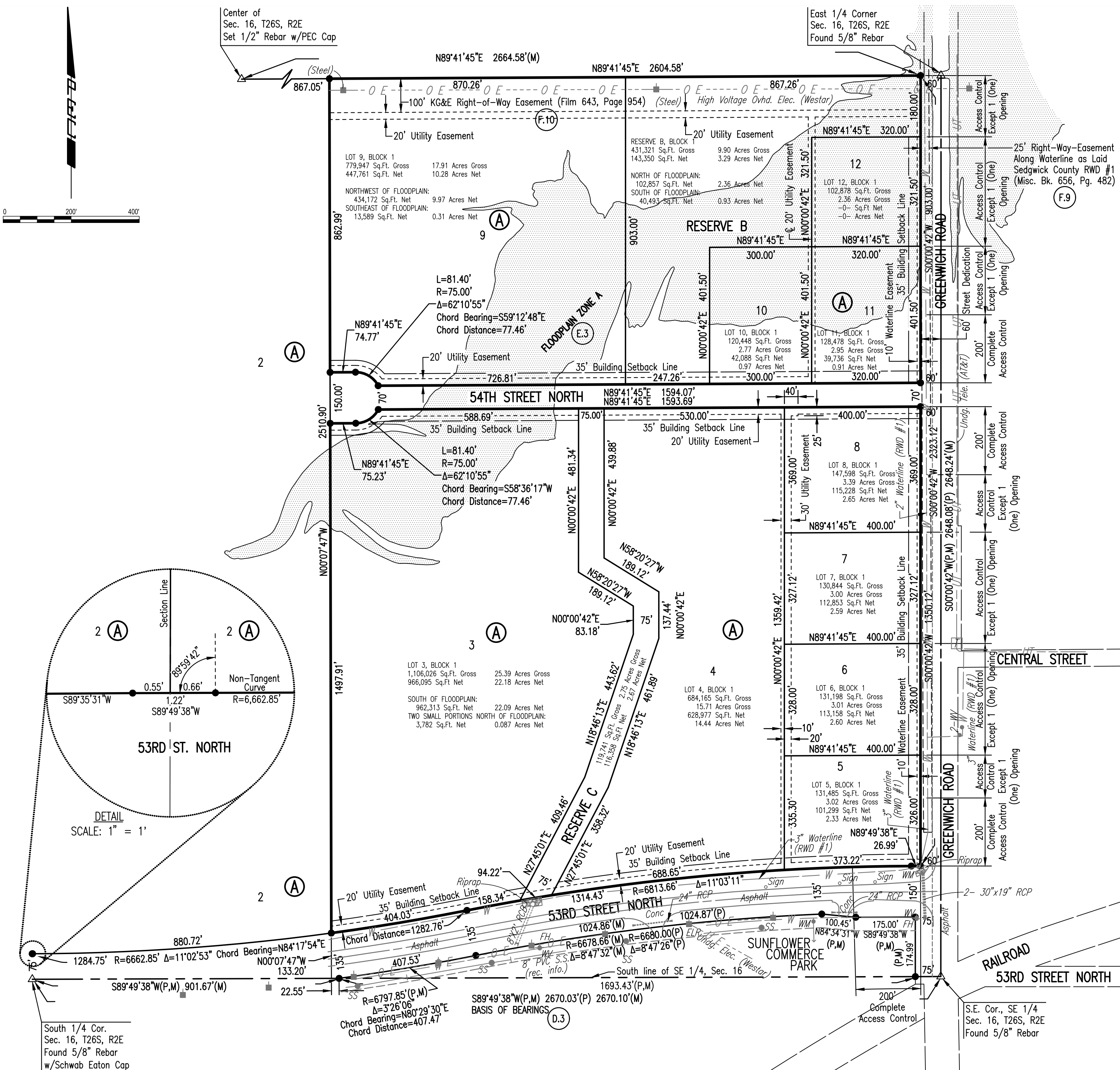
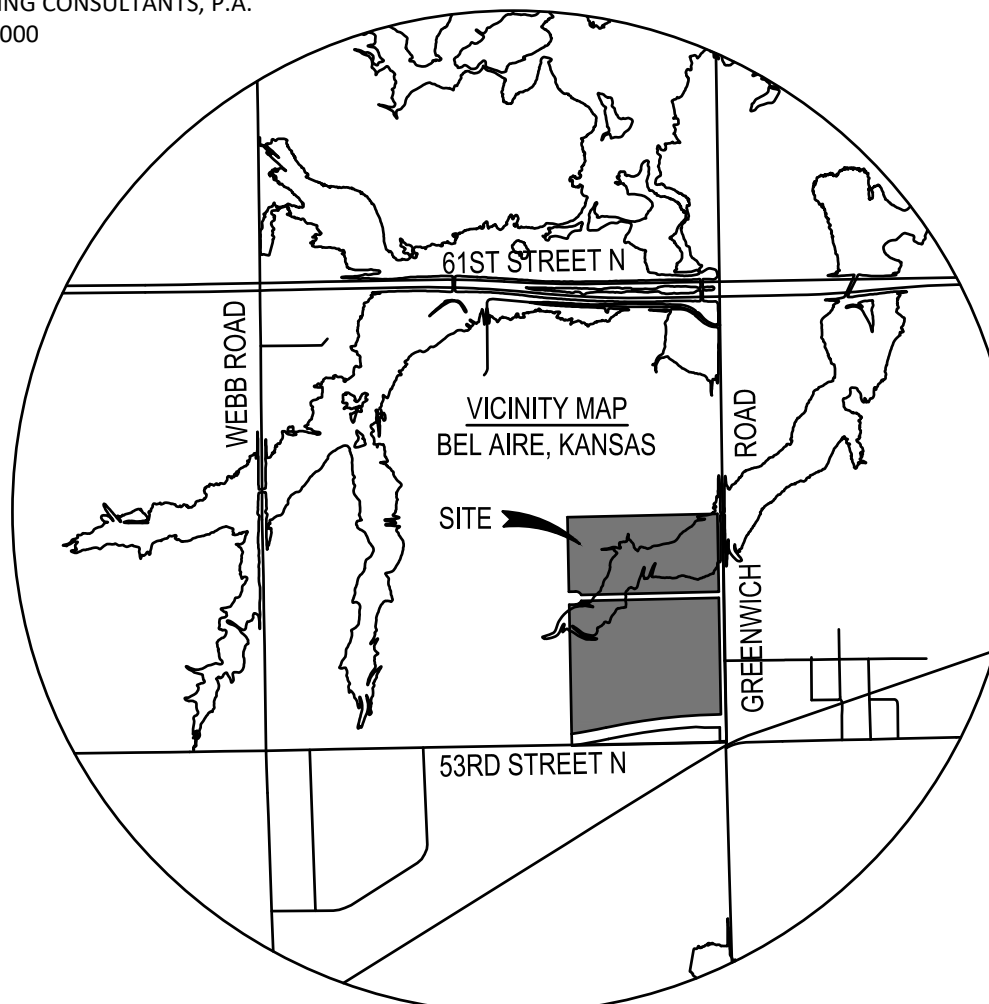
G. SURVEYOR'S CERTIFICATION

TO: OMIA, LLC, A KANSAS LIMITED LIABILITY COMPANY;
THE CITY OF BEL AIRE;
FIRST NATIONAL TITLE INSURANCE COMPANY, A NEBRASKA CORPORATION; AND
SECURITY 1ST TITLE

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2021 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, EFFECTIVE FEBRUARY 23, 2021, AND INCLUDES ITEMS 1, 2, 3, 4, 6A, 6B, 8, 12 AND 16 OF TABLE A THEREOF.
THE FIELD WORK WAS COMPLETED ON FEBRUARY 21, 2022.
DATE OF PLAT OR MAP: FEBRUARY 21, 2022



ERNEST CANTU JR., P.E. #1407
PROFESSIONAL ENGINEERING CONSULTANTS, P.A.
PEC PROJECT NO. 220331-000



TREASURER'S REPORT

DATE February 28, 2022
TO: Chairman Benage and Board Members
FROM: Ty Lasher, Treasurer
RE: February 28, 2022 Land Bank Meeting

Third Amendment to a Commercial Real Estate Contract with OMIA, LLC (Item A):

The Commercial Real Estate Contract with OMIA, LLC was for net acres. A survey was completed by PEC identifying all land within Sunflower Commerce Park Phase 2 that meets the criteria to be removed from gross acres. 54th Street North meets the removal as it is a right-of-way. However, the purchaser would like to have the street vacated from the plat to allow for that area to be purchased and used. A vacation ordinance is needed and must be approved by the Planning Commission which is scheduled for March 10th and then considered at the March 15th agenda by City Council. Once the ROW is vacated, it can be filed thereby removing it from the plat and then purchased by the buyer. This process is cleaner and easier for the vacation to occur before closing. For the vacation order to be approved, filed and closing documents updated, additional time was need from the February 28th closing. As a result, I and the attorney for OMIA agreed it is best to extend closing to March 18th. This amendment simply moves closing to March 18th allowing for all paperwork to be filed and closing to occur.