

BILL NO. 1966

SPECIAL ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF CUBA, MISSOURI, ON BEHALF OF SAID CITY, TO ENTER INTO A CONTRACT WITH BRITTON DEVELOPMENT LLC FOR THE TRANSFER OF REAL ESTATE.

WHEREAS, the Board of Aldermen of the City of Cuba, Missouri (City), has determined that it is in the best interests of the City to enter into a contract with Britton Development LLC for the transfer of real estate.

BE IT ORDAINED, by the Board of Aldermen of the City of Cuba, Missouri, as follows:

Section 1: The City of Cuba, Missouri, shall enter into a contract with Britton Development LLC for the transfer of real estate. A copy of said agreement is attached hereto as Exhibit A.

Section 2: The Mayor is hereby authorized to execute the agreement on behalf of the City.

Section 3: This ordinance shall be in full force and effect from and after its passage and approval.

READ TWO TIMES AND PASSED BY THE BOARD OF ALDERMEN OF THE CITY OF CUBA, MISSOURI, THIS ____ DAY OF _____, 2020.

CODY LEATHERS, MAYOR

Attest:

CHRISTINE NASH, CITY CLERK

(City Seal)

Approved this _____ day of _____, 2020.

CODY LEATHERS, MAYOR

Attest:

CHRISTINE NASH, CITY CLERK

(City Seal)

Approved as to the form.
WILLIAMS, ROBINSON, RIGLER & BUSCHJOST, P.C.

By: _____

Lance B. Thurman, #51214
901 North Pine Street, Fourth Floor
Post Office Box 47
Rolla, Missouri 65402
(573) 341-2266

ATTORNEYS FOR THE CITY OF CUBA, MISSOURI

Alderman	Vote on First Reading On _____, 2020	Vote on Second Reading On _____, 2020
Kevin Copling		
Sam Black		
Debbie Martin		
Warren Graddy		
Curtis Holt		
Jeff Bouse		

Contract for Sale of Real Estate

This Contract is entered into as of the date of the last to sign below between, Britton Development LLC ("Buyer"), and City of Cuba, ("Seller").

1. Property. Seller agrees to sell and Buyer agrees to buy upon the terms and conditions set forth herein the following described real property lying, being and situate in the County of Crawford, State of Missouri:

A part of the SE 1/4 of Section 31, T39N-R4W of the 5th P.M. in the City of Cuba, Crawford County, Missouri, more fully described as follows:

Commencing at the NE Corner of above said 1/4 Section; thence along the Section line S 1°10'05" W, a distance of 1096.58 feet; thence leaving said Section line N 88°29'16" W, a distance of 192.86 feet to the POINT OF BEGINNING; thence S 14°50'20" W, a distance of 124.82 feet; thence N 88°40'17" W, a distance of 150.08 feet to the East line of Midland Drive; thence along said right-of-way line N 14°51'34" E, a distance of 125.10 feet; thence leaving said right-of-way line S 88°34'13" E, a distance of 149.97 feet to the POINT OF BEGINNING; said described tract containing 0.42 acres.

SUBJECT TO the North 20 feet of the above described 0.42 acre tract for a roadway and utility easement.

ALSO, SUBJECT TO easements, restrictions and conditions of record, if any.

2. Price and Payment. Buyer agrees to construct a road and grant an easement for ingress and egress across the following described real property lying, bind and situated in the County of Crawford, State of Missouri:

A part of the SE 1/4 of Section 31, T39N-R4W of the 5th P.M. in the City of Cuba, Crawford County, Missouri, more fully described as follows:

Commencing at the NE Corner of above said 1/4 Section; thence along the Section line S 1°10'05" W, a distance of 1096.58 feet to the POINT OF BEGINNING; thence S 1°06'42" W, a distance of 121.59 feet; thence N 88°27'10" W, a distance of 222.48 feet; thence N 14°50'20" E, a distance of 124.82 feet; thence S 88°29'16" E, a distance of 192.86 feet to the POINT OF BEGINNING; said described tract containing 0.58 acres. TOGETHER WITH a 20 foot wide roadway and utility easement of the which the North line is described as follows: Beginning at the NE Corner of the above described 0.58 Acre tract of land: thence N 88°29'16"W, a distance of 192.86 feet; thence N 88°34'13"W, a distance of 149.97 feet to the East line of Midland Drive.

ALSO, SUBJECT TO easements, restrictions and conditions of record, if any

And

A part of the SE 1/4 of Section 31, T39N-R4W of the 5th P.M. in the City of Cuba, Crawford County, Missouri, more fully described as follows:

Commencing at the NE Corner of above said 1/4 Section; thence along the Section line S 1°10'05" W, a distance of 1096.58 feet; thence leaving said Section line N 88°29'16" W, a distance of 192.86 feet to the POINT OF BEGINNING; thence S 14°50'20" W, a distance of 124.82 feet; thence N 88°40'17" W, a distance of 150.08 feet to the East line of Midland Drive; thence along said right-of-way line N 14°51'34" E, a distance of 125.10 feet; thence leaving said right-of-way line S 88°34'13" E, a distance of 149.97 feet to the POINT OF BEGINNING; said described tract containing 0.42 acres.

SUBJECT TO the North 20 feet of the above described 0.42 acre tract for a roadway and utility easement.

ALSO, SUBJECT TO easements, restrictions and conditions of record, if any.

3. Conveyance and Title Standards. Marketable title in fact to the Property shall be conveyed by a Special Warranty Deed free and clear of all encumbrances. The title herein required to

be furnished is marketable title as set forth in Title Examination Standards of The Missouri Bar. Any encumbrance or defect in the title which is within the scope of any of said Title Standards shall not constitute a valid objection on the part of Buyer; provided Seller furnishes the affidavits or other title papers, if any, described in the applicable title standard.

4. Title Requirements. Seller shall within ten (10) days hereof deliver to Buyer a commitment to issue an owner's policy of title insurance in the amount of the purchase price naming Buyer as the insured written by a title insurance company acceptable to Buyer which policy shall insure the owner's title to be in the condition called for by this Contract and which commitment shall provide that said policy shall be issued forthwith after Seller's General Warranty Deed shall be placed of record. After delivery of said title insurance commitment, Buyer shall have ten (10) days to examine said title insurance commitment and notify Seller in writing of any objections thereto. Any Deed of Trust encumbering the Property and identified and described hereunder shall not be objectionable by Buyer provided that the underlying debt is paid from the sale proceeds and that any such Deed of Trust is released at or upon Closing. If there be any objections, Seller shall within a reasonable time furnish to Buyer a new or amended title insurance commitment satisfying any such objections, but if such commitment shall not be furnished within a reasonable time after said notice, Buyer at Buyer's election may avoid this Contract by written notice to Seller. If the failure to furnish a title insurance commitment is due to the fact that title defects cannot be corrected, then this Contract shall be void unless Buyer gives notice to Seller in writing of Buyer's election to waive such defects.

Buyer shall pay the cost for the issuance of the title insurance commitment (title service charges), including the cost of any search fee, examination fee and binder fee. Buyer shall pay the cost for the title insurance premium.

5. Taxes. Real property taxes for the year of closing, if any should be assessed and due, shall be prorated between the parties as of date of delivery of the deed.

6. Insured Loss. In the event of any loss or damage to the Property, or the improvements thereon, between the date of this Contract and the delivery of the deed, Buyer shall receive all insurance payable for the same; provided, however, that if said damage is substantial and materially affects the present use of the Property, then Buyer at Buyer's election may rescind this Contract. In the event of rescission, Seller shall be entitled to receive all insurance payable.

7. Environmental. Seller represents that Seller has no knowledge of any toxic or hazardous substances, waste materials, or gases in, on, or under the Property or of any underground storage repository.

8. Seller's Representations, Warranties and Covenants. In addition to environmental matters more specifically provided herein, Seller hereby represents, warrants, and covenants to and with Buyer, which representations, warranties and covenants shall survive the delivery and recording of any document transferring interest in the Property from Seller to Buyer, that:

- a. Seller are the sole owners of the Property and has the right and power to enter into this Contract, to convey the Property to Buyer pursuant to the terms and provisions of this Contract, and to perform its other obligations under this Contract.
- b. There exists no judgments, liens or encumbrances, whether of record or not, which would or could have an adverse effect on the Property, except as described in Section 5 hereof.
- c. Seller will not sell, encumber, convey, assign or contract to sell, convey, assign, pledge, encumber or lease (current or existing leasehold interests only excepted) all or part of the Property, nor restrict the use of all or any part of the Property, nor take or cause to be taken any action in conflict with this Contract.

- d. There exists no rights-of-first refusal or similar agreements in connection with the Property which would in any way interfere with Buyer's ability to purchase the Property as provided herein.
- e. There are no unrecorded liens, encumbrances, purchaser's agreements or other agreements to sell, options to purchase or lease or other rights on, in or pertaining to, the Property pursuant to unrecorded documents.
- f. There are no occupants of the Property claiming adversely to Seller and no party other than Seller has the right to possess the Property.
- g. No work will be performed on the Property after the date of this Contract and Seller will not allow any work or other action on the Property that can subject the Property to a mechanics or materialmen's lien.
- h. There exists no ongoing, pending or threatened litigation or claims of any nature arising out of acts or omissions prior to the execution of this Contract that would or could have an adverse effect on the Property.
- i. Seller has received no notice from any federal, state or local government of the existence of any violation of any federal, state or local law or regulation concerning the use or condition of the Property.

Seller covenants and agrees, at Seller's sole cost and expense, to indemnify, defend (with legal counsel reasonably acceptable to Buyer), and hold Buyer, its successors and assigns, harmless from and against any and all claims, suits, administrative proceedings, losses, judgments, damages, encumbrances, liens, defense costs, including attorney fees, that may be incurred by, asserted or awarded against Buyer as a result of or arising out of any of Seller's representations, warranties or covenants which are breached or which are determined to be false. Seller's representations, warranties and covenants shall be binding upon Seller, and Seller's successors and assigns, and shall survive the execution of this Contract and the delivery and recording of any document transferring interest in the Property from Seller to Buyer, whether any such breach or falsity of said representations, warranties and covenants are now known or not known to the parties, or whether the same are yet capable of ascertainment.

9.01. Conditions of Seller. The obligations of Seller hereunder are subject to satisfaction of each of the following conditions on or prior to the Closing Date, unless an earlier time is otherwise specified in this Contract:

- A. All of the representations and warranties of Buyer set forth in this Contract shall be true and correct;
- B. Payment, in full, of the Purchase Price as provided in Section 2 hereof; and
- C. Full and complete performance by Buyer of any and all of the terms, provisions, obligations and duties set forth herein, except to the extent any of the same are expressly waived by Seller.

9.02. Conditions of Buyer. The obligations of Buyer hereunder are subject to satisfaction of each of the following conditions on or prior to the Closing Date, unless an earlier time is otherwise specified in this Contract:

- A. All of the representations and warranties of Seller set forth in this Contract, including without limitation, those set forth in Sections 5, 8 and 9 hereof, shall be true and correct; and
- B. Full and complete performance by Seller of any and all of the terms, provisions, obligations and duties set forth herein, except to the extent any of the same are expressly waived by Buyer; and
- C. Release of any Deeds of Trust or other encumbrances affecting and constituting a lien against the Property at or before Closing, including without limitation, those described in Section 5 hereof.

9.03. Conditions Not Satisfied. So long as a party is not in default hereunder, if any condition to such party's obligation to proceed with Closing hereunder has not been satisfied as of the Closing Date, such party may, in its sole discretion, terminate this Contract, by delivering written notice to the other party on or before the Closing Date, or elect to close, notwithstanding the non-satisfaction of such condition, in which event such party shall be deemed to have waived any such condition. In the event such party elects to close, notwithstanding the non-satisfaction of such condition, there shall be no liability on the part of any other party hereto for breach for said non-satisfaction of which the party electing to close had actual knowledge at the Closing.

10. Costs and Expenses. Buyer shall pay all closing costs.

11. Entire Agreement. This Contract constitutes the entire agreement and understanding of the parties with respect to the subject matter hereof, superseding any and all prior agreements, understandings, negotiations and discussions. No amendment, alteration, modification or waiver of this Contract shall be binding unless evidenced by an instrument in writing signed by the parties hereto.

12. Closing. This transaction shall be closed no later than thirty (30) days of the date of this Contract, unless the parties agree to extend the time for Closing. Closing shall occur at the offices of Crawford County Title Company located at 600 W Washington St, Cuba, MO 65453 Crawford County, Missouri, or at such other place in Cuba, Missouri, as may be agreed upon by the parties, at which time all money and papers shall be delivered and transferred and absolute possession of the property shall be delivered to Buyer. In the event of title defects requiring corrective work on the part of Seller, this transaction shall be closed within three (3) days after correction of said title defects at the above place(s) at a date and hour to be selected by Seller.

13. Possession. Buyer shall receive possession on _____.

14. Damages for Failure to Close. If this transaction fails to close as a result of Buyer's default, then upon written notice to Buyer, Seller may elect to terminate this Agreement, and Seller agrees that such election shall be Seller's sole remedy for Buyer's default resulting in a failure to close. If this transaction fails to close as a result of Seller's default, then upon written notice to Seller, Buyer may elect to terminate this Agreement, and Buyer agrees that such election shall be Buyer's sole remedy for Seller's default resulting in a failure to close. The remedies provided for in this Section as to damages for failure to close shall not limit or affect the right of either party to pursue against the other any possible remedy for damages subsequent to the actual closing of the sale transaction.

15. Survival. Except as otherwise expressly provided to the contrary in this Contract, this Contract shall be binding upon and inure to the benefit of the parties hereto, their legal representatives, successors and permitted assigns.

16. Notice. Any notice, demand or request required or permitted to be given under any provision of this Contract shall be in writing and delivered personally or by registered or certified mail (return receipt requested, with postage prepaid) to the following address, or to such other address as either party may request by notice in writing to the other party:

(a) If to Buyer: Britton Development, LLC
64 N. Scott Rd.
Cuba, MO 65453

(b) If to Seller: City of Cuba
202 N. Smith St.
Cuba, MO 65453

17. Execution in Original Duplicate. This Contract shall be executed in original duplicate with Seller retaining one original and Buyer retaining one original.

18. Definitions and Binding Effect. Whenever the words "Seller" or "Buyer" are used herein they shall be construed to include the heirs, legal representatives, successors and permitted assigns, as appropriate, of Seller and Buyer; and the words "Seller" and "Buyer" shall include the singular and the plural, the masculine and feminine, and the individual or business organization.

Signed by the parties as follows:

Dated: _____

Cody Leathers, Mayor of the City of Cuba, MO

"SELLER"

Dated: _____

Kevin Britton, authorized agent of Britton
Development LLC

"BUYER"