

NEOSHO COUNTY COMMUNITY COLLEGE

**BOARD OF TRUSTEES
SPECIAL MEETING**

Members Present: Kevin Berthot
Charlie Boaz
Pat Griffith
Clint Isaac
David Peter

Member Absent: Mariam Mih

Administrators Present: Dr. Brian Inbody, President
Ben Smith, VP for Administration
Sandi Solander, Chief Financial Officer
Terri Dale, Board Clerk

Mr. Peter called the meeting to order at 6:00 p.m.

Dr. Inbody announced that funeral services would be at 10:00 a.m. on Thursday at the Catholic Church. Rosary will be recited on Wednesday at 7:00 p.m.

Agenda item III-Approval of the Agenda

Upon a motion and a second the agenda was approved. Motion carried.

Agenda Item IV-A: Claims for Disbursement

Resolution 2010-77

RESOLVED, that the Board of Trustees of Neosho County Community College approves the claims for disbursement as presented.

Upon a motion and a second the above resolution was approved. Motion passed unanimously.

Agenda Item IV-B: Ottawa Beech Street Campus

Dr. Inbody told the Board that the County had requested that the liquidated damages be lowered to \$20,000 with a January 31, 2011 date. David Peter suggested that Mr. Smith counter with an offer of \$25,000 but that \$20,000 was also acceptable. The Board concurred.

RESOLUTION 2010-78

RESOLVED, that the Board of Trustees of Neosho County Community College approves the sale of the NCCC Beech Street real estate and improvements to Franklin County, Kansas for the purchase price of \$460,000.00 to be paid at an estimated closing date in April, 2011, all subject to reducing the terms of sale into a written agreement to be approved by the NCCC Board of Trustees and by the Board of County Commissioners of Franklin County, Kansas. The President of the College or his designee is authorized to proceed with negotiation of the terms of a written real estate contract for submission to the Board of Trustees.

Upon a motion and a second the above resolution was approved. Motion passed unanimously.

AGREEMENT FOR SALE AND PURCHASE OF REAL ESTATE

AGREEMENT, made and entered into effective the ____ day of _____, 2010, by and between NEOSHO COUNTY COMMUNITY COLLEGE, Neosho County, Kansas, a community college duly organized under the laws of the State of Kansas, hereinafter referred to as Seller, and THE BOARD OF COUNTY COMMISSIONERS OF FRANKLIN COUNTY, KANSAS, hereinafter referred to as Buyer:

In consideration of the mutual covenants and agreements hereinafter set out, the parties agree as follows:

1. Sale of Real Estate. Seller hereby agrees to sell and convey unto Buyer by good and sufficient Warranty Deed the following described real estate:

SEE ATTACHED EXHIBIT A FOR A DESCRIPTION OF THE LAND

free of all liens and encumbrances, except:

- (a) Zoning or deed restrictions and easements of record.
- (b) Encumbrances created by the Buyer.
- (c) Installments, if any, of special assessments not yet due.
- (d) Rights of following described tenants in possession, if any:
N/A
- (e) Other Exceptions, if any:

2. Purchase Price and Terms of Payment. Buyer agrees to purchase and to pay to Seller in consideration for said property the sum of \$460,000.00 payable in cash at the closing of this transaction.

3. Title Insurance. The Seller agrees to furnish the Buyer a title company's commitment to insure, to the above described real estate, showing merchantable title to be vested in Seller. Seller shall have a reasonable time to furnish said title insurance commitment. Buyer shall have a reasonable time in which to have the title insurance commitment examined by an attorney of Buyer's choice. Seller shall have a reasonable time to meet any title requirements. Seller shall pay the Owner's Title Insurance Premium. Buyer shall pay all of the Mortgage Title Insurance Premium, if any.

4. Exercise of NCCC Option. It is acknowledged that title to the property is currently vested into Neosho County Community College Foundation, a 501(c)(3) nonprofit charitable corporation (the "Foundation") subject to an option to purchase held by Seller. Seller is in possession. Seller shall timely exercise its option such that title to the property shall be transferred to Seller by the Foundation to enable Seller to transfer merchantable title to Buyer.

5. Taxes. The property is currently exempt from ad valorem property taxation. There are no special assessments against the property.

6. Possession. It is the intention of the parties that this transaction shall be consummated and possession given to Buyer on or before the 15th day of April, 2011.

It is acknowledged that the closing date is based upon the assumption that the new NCCC campus currently under construction will be completed and ready for occupancy by March 17, 2011. In the event this does not occur, and NCCC cannot relocate to the new NCCC facility, Seller may elect in writing on

or before March 1, 2011 to extend the closing date up to sixty (60) days after April 15, 2011.

7. Mechanics' Liens. Seller represents and warrants that there are no unpaid bills for labor and material that might form a basis for a lien against said premises, and there are no unpaid conditional sales contracts or security agreements affecting any fixture, portion of the premises or other item of personal property covered by this Agreement.

8. Condition of Premises. Seller agrees to deliver possession of the above described real property in the same condition as it is now, reasonable wear and tear excepted. Until possession is delivered, the Seller agrees to maintain, at Seller's expense, plumbing, heating and electrical systems and any appliances and equipment being conveyed in normal working order.

Buyer may have the premises inspected for mechanical, electrical, plumbing, and structural defects or problems, at Buyer's expense. Seller shall make the property available for such inspection(s) upon reasonable request. All such inspections shall be completed within thirty (30) days of execution of this Agreement by Buyer. If written notice of any material defect discovered is given by Buyer to Seller within said thirty day period, either party may terminate this Agreement. If no notice is given, then Buyer accepts the property in its current condition. Buyer does not rely upon any representation or warranty of Seller concerning the condition of the property or its suitability for any particular purpose.

9. Items Included in Sale. The purchase price includes all appurtenances, permanent improvements and fixtures attached to the real estate.

10. Insurance. Fire and extended coverage insurance now in force covering the improvements on the above described real property shall be kept in force at Seller's expense until midnight of the day of closing. Buyer shall be obligated to obtain its own insurance coverage from and after midnight of the day of closing. In the event of loss or damage to the improvements prior to the closing of this Agreement, the proceeds of such insurance shall, at the option of Seller, be used to repair such damage and restore the improvements to substantially their same condition as before such loss or damage, or Seller may elect to cancel this Agreement. In the event Seller elects cancellation, this Agreement will be of no further force or effect.

11. Default; Liquidated Damages. Seller in reliance upon this Agreement will forego efforts to sell the property to third parties and will not pursue issuance of bonds to finance additional street improvement costs for the new NCCC campus currently under construction. In the event Buyer shall fail to fulfill its obligations hereunder, namely to pay the purchase price at closing, Buyer shall be obligated to pay to Seller \$50,000.00 not as a penalty but as liquidated damages if Buyer's default occurs on or before November 30, 2010. On December 1, 2010, and on the first day of each month after that through and including April 1, 2011 the liquidated damage amount will increase by five percent (5%) (i.e. \$52,500.00 if default occurs December 1, 2010 through December 31, 2010, inclusive; \$55,000.00 if default occurs January 1, 2011 through January 31, 2011, inclusive, etc.).

As the injury that could result from default by Buyer is uncertain in itself and unsusceptible of certain computation, Buyer and Seller expressly agree to the foregoing liquidated damages payable to Seller if Buyer elects to default and not purchase the property. In the event Seller is unable to furnish merchantable title, this Agreement shall be null and void and of no further force and effect.

12. Notice. Any written notice required or provided for shall be effective if given to:

Seller: Brian Inbody, President
Neosho County Community College

800 West Fourteenth Street
Chanute, KS 66720
Facsimile: (620) 431-4336
Email: binbody@neosho.edu.

Buyer: Lisa Johnson
County Administrator/Counselor
1428 S. Main, Suite 2
Ottawa, KS 66067
Facsimile: _____
Email: ljohnson@franklincoks.org

13. No Broker or Sales Agent. Each party represents and warrants to the other that it is not represented by nor has it retained or otherwise engaged a real estate sales broker or agent, has negotiated and contracted this Agreement on its own behalf and not through a broker or sales agent, and that no sales commission, brokerage fee, referral or origination fee or other payment is due and owing to any other party as a result of this sale and purchase agreement.

14. Entire Agreement. This Agreement constitutes the entire contract between the parties and there are no representations, warranties, conditions, or agreements other than those expressly set forth herein. No other agreement, statement, promise, warranty, or representation made by any party to this Agreement, or by any employee, officer, or agent of any party, that is not in writing and signed by all parties to this Agreement, shall be binding.

15. Time Of The Essence. Time is of the essence of this Agreement.

16. Board/Commission Approval. This Agreement requires approval by the Neosho County Community College Board of Trustees (the "Trustees") and the Board of County Commissioners of Franklin County, Kansas (the "Commissioners"). If the Trustees and the Commissioners have not both formally approved this Agreement on or before September 10, 2010, this Agreement shall be null and void.

17. Counterparts; Facsimile. This Agreement may be executed in several counterparts and all so executed shall constitute one Agreement, binding on all the parties hereto even though all the parties are not signatories to the original or same counterpart. A facsimile transmission of an executed counterpart shall be accepted as an original signed counterpart and shall be binding on all the parties as if the original executed counterpart were delivered.

IN WITNESS WHEREOF, the parties have hereunto set their hands effective the day and year first above written.

SELLER:

BUYER:

NEOSHO COUNTY
COMMUNITY COLLEGE

BOARD OF COUNTY COMMISSIONERS,
FRANKLIN COUNTY, KANSAS

BY: _____ / ____ / ____
Brian Inbody, President

BY: _____ / ____ / ____
Lisa Johnson,
Franklin County Administrator/Counselor

EXHIBIT A

PROPERTY

All of the property located in the state of Kansas, county of Franklin, to wit:

A tract of land located in the Northwest Quarter of the Southwest Quarter (NW/4 SW/4) of Section Thirty-five (35), Township Sixteen (16) South, Range Nineteen (19), East of the 6th P.M., in the City of Ottawa, Franklin County, Kansas, being more particularly described as follows:

Beginning at the NE corner of the Northwest Quarter of the Southwest Quarter (NW/4 SW/4) of Section 35, Township 16 South, Range 19, East of the 6th P.M., thence South 01 degree 42 minutes 05 seconds East for a distance of 30 feet along the East line of the NW/4 of said quarter section; thence South 87 degrees 57 minutes 46 seconds West for a distance of 30 feet to the TRUE POINT OF BEGINNING, said point being the intersection of the West line of Beech Street with the South line of Second Street, in the City of Ottawa, Franklin County, Kansas, thence South 87 degrees 57 minutes 46 seconds West for a distance of 84.97 feet long the South line of Second Street to a pint on the Southerly right of way line of Highway K-68; thence along a curve to the left having a radius of 895.27 feet and an arc length of 658.02 feet, being subtended by a chord of South 43 degrees 28 minutes 10 seconds West for a distance of 643.30 feet along said highway right of way; thence South 15 degrees 23 minutes 00 seconds West for a distance of 144.52 feet long said highway right of way; thence North 87 degrees 57 minutes 46 seconds East for a distance of 583.68 feet to a point on the West line of Beech Street; thence North 01 degrees 42 minutes 05 seconds West for a distance of 588.75 feet along the West line of Beech Street to the true point of beginning, City of Ottawa, Franklin County, Kansas and all buildings, improvements and fixtures now or hereafter located thereon.

Board of Trustees Special Meeting
August 23, 2010

V: Adjournment

Upon a motion and a second the meeting adjourned at 6:10 p.m.

Respectfully submitted,

David Peter, Chair

Terri Dale, Clerk