

City of Fayetteville Staff Review Form

2015.0408

Legistar File ID

9/15/2015

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Connie Edmonston

8/28/2015

Parks & Recreation /
Parks & Recreation Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Approval of a contract with Real Assets, Inc. to sell two single family lots with existing houses situated on 1.2± acres in Gulley Park according to City Ordinance §34.27 – Sale of Municipally Owned Real Property and keep the current zoning of RSF-4.

Budget Impact:

Account Number	Fund
Project Number	Project Title
Budgeted Item? <u>NA</u>	Current Budget \$ -
	Funds Obligated \$ -
	Current Balance \$ -
Does item have a cost? <u>NA</u>	Item Cost
Budget Adjustment Attached? <u>NA</u>	Budget Adjustment
	Remaining Budget \$ -

V20140710

Previous Ordinance or Resolution # 157-14

Original Contract Number: _____

Approval Date: _____

Comments:

MEETING OF SEPTEMBER 15, 2015

TO: Mayor and City Council

THRU: Don Marr, Chief of Staff
Connie Edmonston, Parks and Recreation Director

FROM: Byron Humphry, Parks Maintenance Superintendent

DATE: August 28, 2015

SUBJECT: Approval of Exclusive Right-to-Sell Agreement with Real Assets, Inc. to sell two homes in Gulley Park

RECOMMENDATION:

Approval of Exclusive Right-to-Sell Agreement with Real Assets, Inc. to sell two homes in Gulley Park at 2634 Old Wire Rd. and 2648 Old Wire Rd. according to City Ordinance §34.27 – Sale of Municipally Owned Real Property and keep the current zoning of RSF-4

BACKGROUND:

Gulley Park was purchased by the City of Fayetteville in 1988 from the Fred Gulley family in order to establish a 28-acre community park in the northeast section of our city. Gulley Park's walking trail, playgrounds, swings, pavilion, gazebo and open space are actively and highly used by the public, and it is one of the few parks that still retains a somewhat pastoral atmosphere due to the nature of the land and open, non-programmed usable green space.

On August 19, 2014, the Fayetteville City Council passed Resolution #157-14 approving the purchase of 11.32 acres for expansion of the park at a cost of \$1,100,000. The asking price for the property was \$1,300,000; however, the City was given first right of refusal at a price of \$1,100,000. The City committed to purchase the property at the appraised value of \$970,000 as determined by Reed and Associates, Inc. who was contracted by the City to determine a value of the 10 acres and the two residential houses separately. Citizens actively endorsed the purchase of this property along with the Friends of Gulley Park and the Fayetteville Natural Heritage Association (FNHA). Since there was concern from these groups that a developer would purchase the property, FNHA committed to raise the \$130,000 difference in the appraised value and the asking price for a total purchase price of \$1,100,000 in their effort to "preserve beautiful and important natural areas and park land." The intention was for the City to sell the two homes and keep the 10.12 acres to offer a total of 38 acres of park land that would continue to preserve the pastoral setting in which people appear to flock.

On March 3, 2015, the Fayetteville City Council passed Resolution #61-15 authorizing the City to offer for sale the ±1.20 acres containing the two single-family homes with a minimum bid based upon their appraised values. The smaller home at 2634 Old Wire Road was appraised at \$111,500 and the larger home with the work shop at 2648 Old Wire Road was appraised at

\$218,500. Park and Recreation staff sent public notices to adjacent property owners, displayed prominent signs on the property and publicized the sale in newspapers and five various social media websites as required by City Code. Bid 15-30 was issued and advertised on March 18, 2015 with a bid deadline of May 4. Six on-site inspection dates were opened to the public to view the homes from March 25th until April 29th. One bid was received at the May 4th bid deadline date for the smaller home at 2634 Old Wire Road. The bid offer was rescinded on June 1st.

On June 16, 2015, the City Council passed Ordinance 5779 to amend 34.27(E) Sale of Municipally Owned Real Property to authorize the use of a realtor for the sale of the two houses at Gulley Park. The realtor was to be selected in accordance with the City's formal competitive bidding procedures and all offers for the sale or purchase of these two properties is subject to final approval by the City Council. On July 6, 2015, the City issued and advertised RFP 15-06, Real Estate Broker Services with a deadline date of July 29, 2015 and received one bid from Real Assets, Inc. The city's professional selection committee met and endorsed the selection of Reals Assets, Inc. to represent the City as Real Estate Broker for the sale of the Gulley Park properties.

DISCUSSION:

City staff and Mark Brewer, principal broker and president of Real Assets, Inc., have discussed the sale of the two homes considering the appraised value and the unsuccessful efforts to sell the homes previously. Mark believes the market value of the homes is less than the appraised value based on the age and condition of the homes. That being said, staff recommends an asking price of the appraised value with any and all offers to be considered.

Mark also believes that a timely response and approval of an offer is crucial to sell these homes. Since all offers for the sale of these two homes are subject to final approval by the City Council, Staff requests that when a viable offer is received the Council is amenable to the offer being walked on to the Agenda or possibly addressed through a special called meeting.

The proposed Exclusive Right-to-Sell Agreement for the properties consist of a 6% commission fee and consents that Real Assets, Inc. can represent both the City and the buyer if applicable. The agreement is for a one year period and will be advertised on Internet websites as well as posted realtor signs at each property. The properties are being sold "as is" with no expressed disclosure of the condition of the properties.

BUDGET/STAFF IMPACT:

Cost for the real estate broker's services will be taken out of the closing costs for the sale of the homes. The exact amount of proceeds from the lot sales will be determined at the point of sale. The sale of the property will come back to City Council for final approval.

Attachments:

City Ordinance §34.27 – Sale of Municipally Owned Real Property
Resolution No. 157-14
Resolution No. 61-15
City Ordinance 5779
2634 and 2648 Old Wire Rd Right to Sell Agreements Real Assets Inc
Gulley Property Location Map

FAYETTEVILLE CODE OF ORDINANCES
TITLE III ADMINISTRATION

- (3) Prior to buyer's removal of the hay from the site, adjustments as determined by site operating personnel, will be made to the base price for quantity purchases; according to the type of bale purchased; and the relative quality of the harvested hay; and for damage the hay may have received during the harvest.
- (D) In regard to the marketing and sale of dried biosolids produced by the City of Fayetteville Wastewater Utility:
- (1) Bulk quantities of dried biosolids (defined as amounts greater than 500 pounds not in a bag or other container) shall be advertised for sale as an organic based fertilizer product at a pre-determined base price twice each year, normally on or about March 1st and September 1st of a given year. Bulk quantities, if available, shall be pre-committed for each marketing period on a first call, first commit basis, up to 60% of the projected available amount. Any remaining amount shall be marketed during the marketing period at the same base price on a first call, first commit basis.
- (2) A base or standard price for bulk quantities of dried biosolids shall be established for each marketing period based on the best information available from fair market value of similar products or from the cooperative extension service. Adjustments as determined by operating personnel may be made based on current costs of production; method of delivery; quality of product available; quantities purchased; or other market-driven conditions.
- (3) Quantities of dried biosolids less than 500 pounds and placed in a bag or other container may be made available to the public via various reputable retail outlets at any given time, according to reasonable terms and conditions as approved by the City Purchasing Manager. The price charged for less than bulk quantities may be adjusted by operating personnel based on current costs of production; method of delivery; quality of product available; quantities purchased; or other market-driven conditions.
- (E) The City Council may waive the requirements for public auction or formal competitive bids for sales of personal property in exceptional situations

where such procedures are deemed not feasible nor practical.

(Code 1965, §2-69; Ord. No. 1215, 9-14-59; Ord. No. 1827, 10-4-71; Ord. No. 2006, 5-7-74; Ord. No. 3545, 4-16-91; Code 1991, §34.25; Ord. 4553, 04-06-04; Ord. 4723, 7-19-05; Ord. 5440, 9-20-11)

34.26 Limited Authority of City Employee To Provide Services To The City

An employee of the city shall be permitted to furnish services as an independent contractor to the City only if:

- (A) The employee fully discloses his or her direct or indirect financial interest in any contract or service agreement to the City Council and such services are approved by City Council Resolution;
- (B) No favoritism is allowed to the city employee over other possible service providers;
- (C) Such services are not of the same type as performed by the city employee in his or her regular city job, nor are services for the department wherein the employee works;
- (D) The employee's immediate supervisor specifically approves such extension of employee service and ensures it will not adversely affect the employee's regular city employment duties;
- (E) City employees who are not within the Parks and Recreation Department are specifically allowed to work as independent contractors as scorekeepers, referees and umpires for the Fayetteville Parks and Recreation Department without the need for a City Council Resolution.

(Code 1965, §2-70; Ord. No. 3013, 6-5-84; Code 1991, §34.26; Ord. 5351, 9-7-10)

State law reference(s)--Purchase, lease and sale authorized, A.C.A. §14-42-107.

34.27 Sale Of Municipally Owned Real Property

- (A) The City may sell real property only after the City Council has passed a Resolution expressly authorizing such sale. The City Council shall determine whether the property should be rezoned or appraised prior to its sale.
- (B) Such City Council Resolution shall contain a specific finding by the City Council that the subject real property is no longer needed for

FAYETTEVILLE CODE OF ORDINANCES
TITLE III ADMINISTRATION

municipal purposes.

(C) Public Notice, that the City Council is considering the sale of the real property at the City Council Meeting with the appropriate date and time of the meeting and which shall include the property's address, acreage, improvements and potential purchase price, shall be given not less than fifteen (15) days before the City Council may consider a Resolution to approve a sale of City real property (except rights of way or easements for public utilities) by all of the following means:

- (1) First class mail to all adjacent property owners;
- (2) Prominently displayed signs on the property; and
- (3) Publication in a newspaper of general circulation in the City.

(D) The City may exchange real and personal property with other cities or Washington County only after authorization by ordinance passed by the City Council. The City Council through such ordinance may place limits on the uses that will be allowed of such property as part of the exchange of property agreement.

(E) The City Council authorizes the use of a realtor for the sale of the two houses at Gulley Park. The realtor shall be selected in accordance with the City's formal competitive bidding procedures. All offers for the sale or purchase of this City property shall be subject to final approval by the City Council.

(Ord. 4358, 1-2-02; Ord. 4380, §1, (Ex. A), 3-19-02; Ord. No. 4651, 12-07-04; Ord. 4752, 9-06-05; Ord. 5465, 12-6-11; Ord. 5497 05-01-12; Ord. 5779, 6-16-15)

State law reference(s)--Purchase, lease and sale authorized, A.C.A. §14-54-302; Bidding process, A.C.A. §14-54-402.

34.28 Purchase By Reverse Internet Auction

(A) Bidders shall be provided instructions and individually secured passwords for access to the reverse Internet auction by either the City, or reverse Internet auction vendor;

(B) The bidding process shall be timed, and the time shall be part of the reverse

Internet auction specifications;

(C) The reverse Internet auction shall be held at a specific date and time;

(D) The reverse Internet auction and bidding process shall be interactive with each bidder able to make multiple bids during the allotted time;

(E) Each bidder shall be continually signaled his or her relative position in the bidding process;

(F) Bidders shall remain anonymous and shall not have access to other bidders or bids; and

(G) The City Council shall have access to real-time data including all bids and bid amounts.

(H) The City is authorized to pay a reasonable fee to the reverse Internet auction vendor.

(1) The fee may be included as part of the bids received during the reverse Internet auction and paid by the winning bidder or paid separately by the City.

(a) The City Council retains the right to:

(i) Refuse all bids made during the reverse Internet auction; and

(ii) Begin the reverse Internet auction process anew if the City Council determines it is in the best interest of the city or town.

(Ord. 4724, 7-19-05)

34.29-34.99 Reserved

RESOLUTION NO. 157-14

A RESOLUTION TO APPROVE THE ATTACHED OFFER AND ACCEPTANCE CONTRACT IN WHICH THE CITY AGREES TO PURCHASE ABOUT 11 ACRES OF LAND INCLUDING TWO HOUSES AND ANY OUTBUILDINGS FROM MARY L. DUNN FOR THE AMOUNT OF ONE MILLION ONE HUNDRED THOUSAND DOLLARS (\$1,100,000.00), TO AUTHORIZE MAYOR JORDAN TO SIGN ALL NECESSARY DOCUMENTS FOR THIS PURCHASE AND TO APPROVE THE ATTACHED BUDGET ADJUSTMENT

WHEREAS, Mayor Jordan has signed the attached Offer and Acceptance Contract which is expressly contingent upon approval of the City Council; and

WHEREAS, the owner, Mary L. Dunn has also signed the attached Offer and Acceptance Contract.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves and agrees to the attached Offer and Acceptance Contract in the amount of One Million One Hundred Thousand Dollars (\$1,100,000.00) to be paid as specified therein to Mary L. Dunn for the purchase of her property (about 11 acres) and authorizes Mayor Jordan to sign all necessary documents to carry out this purchase including a contract with the Fayetteville Natural Heritage Association, Inc.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves the attached budget adjustment for this purchase.

PASSED and APPROVED this 19th day of August, 2014.

APPROVED:

ATTEST:

By:


LIONEL JORDAN, Mayor

By:


SONDRA E. SMITH, City Clerk/Treasurer



RESOLUTION NO. 61-15

A RESOLUTION TO AUTHORIZE MAYOR JORDAN TO OFFER FOR SALE APPROXIMATELY 1.25 ACRES OF CITY OWNED REAL PROPERTY ON OLD WIRE ROAD NEAR GULLEY PARK

WHEREAS, pursuant to §34.27 of the Code of Fayetteville, the City Council shall issue notice of its authorization to sell city owned real estate by Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby gives notice and authorization to offer for sale approximately 1.25 acres as described in Exhibit A on Old Wire Road near Gulley Park.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves the appraisal dated July 18, 2014, a copy of which is attached to this Resolution and made a part hereof, which estimates the value of the real property located at 2634 Old Wire Road as \$111,500.00 and the value of the real property located at 2648 Old Wire Road as \$218,500.00 and determines that no new appraisal or rezoning of the property is necessary.

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby determines that this 1.25 acres of real property and the structures located on the property no longer serve a municipal purpose in that proceeds from the sale of this property will contribute more to the expansion of and improvements to city parks than if the City were to retain the land and structures themselves.

Section 4: That the City Council of the City of Fayetteville, Arkansas hereby authorizes Mayor Jordan to offer for sale the properties located at 2634 Old Wire Road and 2648 Old Wire Road through a sealed bid process with bids submitted by May 4, 2015, before 2.00 p.m. local time at the City of Fayetteville Purchasing Division office located at 113 W. Mountain Street, Room 306, Fayetteville, AR 72701.

Section 5. That the City Council of the City of Fayetteville, Arkansas hereby sets the minimum bid for 2634 Old Wire Road at \$111,500.00 and for 2648 Old Wire Road at \$218,500.00 based on their appraised values and the City Council shall determine whether to accept or reject any bid that has been submitted.

PASSED and **APPROVED** this 3rd day of March, 2015.

APPROVED:

By:


LIONELD JORDAN, Mayor

ATTEST:

By:


SONDRA E. SMITH, City Clerk/Treasurer



ORDINANCE NO. 5779

AN ORDINANCE TO AMEND 34.27 SALE OF MUNICIPALLY OWNED REAL PROPERTY TO AUTHORIZE THE USE OF A REALTOR FOR THE SALE OF THE TWO HOUSES AT GULLEY PARK

WHEREAS, on March 15, 2015, the City Council authorized the sale of the two houses at Gulley Park with the minimum bids based upon their appraised values; and

WHEREAS, despite considerable staff effort and expense, only one property received a bid which was later rescinded and it is hereby determined that, in this limited circumstance, it is in the City's best interest to hire a realtor for the sale of these properties.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby enacts § 34.27(E) of the Fayetteville City Code as follows:

“34.27(E)

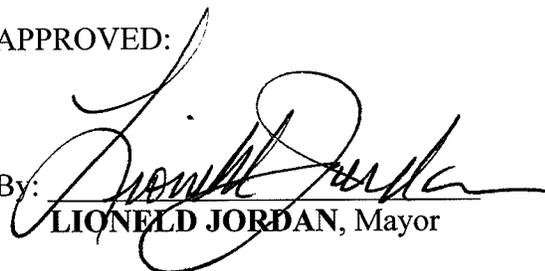
The City Council authorizes the use of a realtor for the sale of the two houses at Gulley Park. The realtor shall be selected in accordance with the City's formal competitive bidding procedures. All offers for the sale or purchase of this City property shall be subject to final approval by the City Council.”

PASSED and **APPROVED** this 16th day of June, 2015.

APPROVED:

ATTEST:

By:


LIONELD JORDAN, Mayor

By:


SONDRA E. SMITH, City Clerk Treasurer





City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Text File

File Number: 2015-0271

Agenda Date: 6/16/2015

Version: 1

Status: Agenda Ready

In Control: City Council Meeting

File Type: Ordinance

Agenda Number: D. 1

AMEND 34.27 SALE OF MUNICIPALLY OWNED REAL PROPERTY

AN ORDINANCE TO AMEND 34.27 SALE OF MUNICIPALLY OWNED REAL PROPERTY TO AUTHORIZE THE USE OF A REALTOR FOR THE SALE OF THE TWO HOUSES AT GULLEY PARK

WHEREAS, on March 15, 2015, the City Council authorized the sale of the two houses at Gulley Park with the minimum bids based upon their appraised values; and

WHEREAS, despite considerable staff effort and expense, only one property received a bid which was later rescinded and it is hereby determined that, in this limited circumstance, it is in the City's best interest to hire a realtor for the sale of these properties.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby enacts § 34.27(E) of the Fayetteville City Code as follows:

“34.27(E)

The City Council authorizes the use of a realtor for the sale of the two houses at Gulley Park. The realtor shall be selected in accordance with the City's formal competitive bidding procedures. All offers for the sale or purchase of this City property shall be subject to final approval by the City Council.”

Exclusive Right-to-Sell Agreement (Residential)

Page 1 of 7



Copyright
2015
Arkansas
REALTORS®
Association

Form Serial Number: 080765-900143-9395240

1. RIGHT-TO-SELL: In consideration of the services of REAL ASSETS c/o MARK A. BREWER ABR, CRS, GRI, PB (by and through the Principal Broker, or agent thereof assigned by Listing Firm) (hereafter collectively called "Listing Firm") for the purpose of assisting in the possible sale or exchange of the real property described in Paragraph 2 (the "Property"), and THE CITY OF FAYETTEVILLE being the sole owner(s) of the Property (hereafter called "Seller"), Listing Firm and Seller agree that Listing Firm shall have the exclusive right to market the Property for the Listing Period described in Paragraph 4. Seller does hereby certify and represent that Seller has peaceable possession of the Property, including all improvements and fixtures thereon, and the legal authority and capacity to convey the Property by a good and sufficient general warranty deed, free from any liens, leasehold or other interests, except as may be set forth in Paragraphs 18 and 21.

2. ADDRESS AND LEGAL DESCRIPTION OF THE PROPERTY:

2634 OLD WIRE ROAD (A HOUSE & LOT)

PARCEL # 765-16095-000 S-T-R-: 36-17-30

3. OFFERING: Listing Firm agrees to use reasonable effort to solicit an offer(s) to purchase the Property in the amount of \$111,500.00 (the "Offering Price") but will present for Seller's consideration any offer to purchase the Property received by Listing Firm regardless of choices in Paragraph 11. Seller agrees to refer to Listing Firm all offers and inquiries received by Seller regarding the Property during the term of this Exclusive Right-to-Sell Agreement.

4. LISTING PERIOD: This listing begins at 12:01a.m. on (month) _____ (day) _____, (year) _____ and expires at 11:59 p.m. on (month) September (day) 30, (year) 2016, unless extended by mutual written agreement of Seller and Listing Firm (the "Listing Period").

5. CONVEYANCE: Unless otherwise specified, conveyance of the Property shall be made to any person (hereinafter called "Buyer") submitting an offer that is accepted by Seller, and such conveyance shall be made as directed by Buyer, in fee simple absolute by general warranty deed. **Unless expressly reserved herein, Listing Firm may represent to the public that the Property is to be sold inclusive of all mineral rights owned by Seller concerning and located on the Property, if any.** Seller warrants and represents to Listing Firm and authorizes Listing Firm to inform prospective buyers that only the signatures set forth below are required to transfer legal title to the Property.

Exclusive Right-to-Sell Agreement (Residential)

Page 2 of 7



Copyright
2015
Arkansas
REALTORS®
Association

Form Serial Number: 080765-900143-9395240

6. ABSTRACT OR TITLE INSURANCE: Seller has legal ability to furnish Buyer evidence of good and merchantable title by: (i) current and complete abstract of title or (ii) title insurance in the amount of any agreed-upon purchase price.

7. CLOSING PROTECTION: Seller shall have the right to request that title insurer(s), if any, issue closing protection to indemnify against loss of closing funds because of acts of a Closing Agent, title insurer's named employee, or title insurance agent. Any cost for closing protection will be paid by the requesting party(ies). Listing Firm strongly advises Seller to inquire of the Closing Agent(s) about the availability and benefits of closing protection.

To insure all funds have been properly disbursed, Seller has been advised of the availability of purchasing a Closing Protection Letter, an additional binder to be added to the Title Insurance Policy at closing.

8. LISTING FIRM'S FEE: If Listing Firm presents to Seller an offer in an amount equal to or greater than the Offering Price, or such lesser price or terms as Seller may accept, or if the Property is otherwise sold or disposed of by Listing Firm or any other person, including Seller, during the Listing Period, Seller agrees to pay Listing Firm a professional fee of either:

- A. SIX percent (6%) of the gross amount of any accepted Real Estate Contract or value of any property exchanged for the Property plus \$0.00 for professional services rendered; or
- B. \$_____ for professional services rendered.

If co-brokerage applies, said fee shall be divided:

- (i) 3.3% of the Purchase Price plus \$0.00 to Listing Firm and 2.7% of the Purchase Price to Selling Firm.
- (ii) Other: _____

In consideration for Seller's promise contained within this Paragraph 8, Listing Firm promises to Seller that it will use reasonable effort to market the property and solicit an offer regarding the Property with terms and conditions acceptable to Seller, provide additional marketing services as deemed appropriate by Listing Firm and coordinate the closing. Seller agrees that Listing Firm is not required to investigate the financial or other ability of a prospective buyer to consummate any proposed or accepted Real Estate Contract. Seller will not owe a fee to Listing Firm if Buyer does not remove any condition set forth in a Real Estate Contract and cannot close, unless failure to close is the result of breach of a Real Estate Contract by Seller.

9. EXPIRED LISTING CONDITIONS: Seller agrees to pay the professional fee set forth in Paragraph 8 to Listing Firm if the Property is sold or otherwise disposed of:

- A. during the Listing Period, as defined in Paragraph 4;
- B. during a period of 30 days (the "Post-Term Period") after the Listing Period when information given by or obtained through Listing Firm during the Listing Period resulted in or contributed in any manner to the sale or disposal of the Property, regardless of procuring cause; or
- C. at any time after expiration or termination of this Exclusive Right-to-Sell Agreement (including termination by Listing Firm as specified in Paragraph 10 below) when information obtained through Listing Firm during the Listing Period was the procuring cause of the sale or disposal of the Property.

However, if Seller employs another real estate firm as exclusive agent for marketing the Property after expiration of this Exclusive Right-to-Sell Agreement, Seller shall pay only one professional fee, and that to the currently employed real estate firm.

Exclusive Right-to-Sell Agreement (Residential)

Page 3 of 7



Copyright
2015
Arkansas
REALTORS®
Association

Form Serial Number: 080765-900143-9395240

10. CANCELLATION: Seller may cancel this Exclusive Right-to-Sell Agreement prior to its expiration date without in any manner affecting the indemnities provided by Paragraph 20 and the provisions of Paragraph 9. Such cancellation will be effective only after: 1) Seller has provided written notice to Listing Firm, sent by United States certified mail, return receipt required, and 2) Seven (7) calendar days have elapsed since such written notice was received by Listing Firm. Upon the effective date of cancellation, Seller shall be liable to Listing Firm for a cancellation fee equal to:

- A. SIX percent (6%) of the Offering Price set forth in Paragraph 3, or
- B. the liquidated sum of \$ _____, it being agreed by Seller and Listing Firm the liquidated sum is not a penalty and is agreed to because damages incurred by Listing Firm resulting from cancellation by Seller will be difficult to ascertain, and the amount set forth in the blank (even if \$0) shall be in addition to and not a limitation of the sums due Listing Firm pursuant to Paragraph 9 (Expired Listing Conditions) of this Exclusive Right-to-Sell Agreement.

Listing Firm may cancel this Exclusive Right-to-Sell Agreement at any time, with or without cause, by providing written notice to Seller. In the event of cancellation by Listing Firm, Seller shall not be responsible for compensation to Listing Firm, unless: (i) Seller shall have breached the terms of this Exclusive Right-to-Sell Agreement or (ii) Listing Firm is entitled to compensation pursuant to Paragraphs 8 and 9.

11. TYPES OF AGENCY: Seller fully understands the agency options available below, and agrees that Listing Firm will be the agent of Seller and will market the Property utilizing the agency options selected below; however, Listing Firm will present to Seller all offers received regardless of agency options selected.

In addition to Listing Firm marketing the Property to prospective buyers, Seller chooses to allow Listing Firm to use the following options (Choose as many options as desired to market Property):

- A. SUBAGENCY:** Seller hereby authorizes Listing Firm to offer Subagency to real estate licensees other than Listing Firm and acknowledges that Seller may be responsible for the actions of Listing Firm and any subagents who accept the offer of Subagency. Listing Firm will provide disclosures and information about the Property necessary to assist Listing Firm and any subagents in performing their duties and responsibilities to Seller. Seller authorizes Listing Firm to pay from Listing Firm's fee agreed upon in Paragraph 8 a share deemed competitive, Listing Firm's policy having been explained to and hereby acknowledged by Seller.

NOTE: Seller understands if Subagency is the only option selected any prospective buyers represented by Listing Firm will not be shown the Property. Seller further understands that real estate licensees other than Listing Firm may forego presenting the Property to their clients.

- B. BUYER AGENCY:** Seller acknowledges Listing Firm is employed by Seller and Selling Firm is employed by Buyer. All licensees associated with Selling Firm are employed by, represent, and are responsible to the Buyer. Seller authorizes Listing Firm to make payment as set forth in Paragraph 8.

- C. AGENT REPRESENTS BOTH:** Seller hereby consents that Listing Firm may represent both Buyer and Seller. Should Listing Firm represent both Seller and Buyer, Seller agrees to the following:

(i) Listing/Selling Firm shall not be required to and shall not disclose to either Buyer or Seller any personal, financial or other confidential information concerning the other party without the express written consent of that party; however, Seller agrees Listing/Selling Firm shall disclose to Buyer information known to Listing/Selling Firm related to defects in the Property and such information shall not be deemed "confidential information." Confidential information shall include but not be limited to any price Seller is willing to accept that is less than the Offering Price or any price Buyer is willing to pay that is higher than that offered in writing.

(ii) By selecting this option 11C, Seller acknowledges that when Listing Firm represents both Seller and Buyer a possible conflict of interest exists, and Seller agrees to forfeit individual rights to receive the undivided loyalty of Listing Firm.

(iii) Any claim now or hereafter arising out of any conflicts of interest from Listing Firm's representation of both Seller and Buyer is waived.

Exclusive Right-to-Sell Agreement (Residential)

Page 4 of 7



Copyright
2015
Arkansas
REALTORS®
Association

Form Serial Number: 080765-900143-9395240

12. EARNEST MONEY: Seller authorizes and instructs Listing Firm to accept and deposit in Listing Firm's trust account all Earnest Money (if any) received. Should a deposit of Earnest Money (if any) be forfeited, the money shall be divided as follows: Payment shall first be made of all direct expenses incurred in connection with the contemplated transaction, and the balance shall be divided one-half to Listing Firm and one-half to Seller, but in no event shall Listing Firm receive an amount in excess of the fee that would have been received if the sale had been consummated. If a dispute between Seller and any other person or entity arises concerning the Earnest Money (if any), Seller authorizes Listing Firm to interplead the disputed Earnest Money (if any) in a court of law or to an arbitrator and to have Listing Firm's costs and attorney's fees paid from the funds entered for interpleading. Seller acknowledges and understands that Listing Firm is not responsible for obtaining good funds regarding Earnest Money (if any) tendered by prospective or actual buyers.

13. FAIR HOUSING: Seller agrees Listing Firm will market the Property to interested persons without regard to race, color, religion, sex, national origin, handicap, sexual orientation or familial status. Additionally, Seller agrees that Listing Firm and Seller must comply with all state and federal laws while performing this Exclusive Right-to-Sell Agreement.

14. LEAD-BASED PAINT DISCLOSURE: Seller agrees to provide a Lead-Based Paint Disclosure (as required by Federal Law) if the subject Property or any of the improvements were constructed prior to 1978.

15. MULTI-LIST SERVICE AND INTERNET: Seller warrants, represents and authorizes Listing Firm to offer the Property in a multi-list or co-op brokerage, subject to the options selected in Paragraph 11, and comply with all rules and regulations associated with multi-list or co-op brokerage.

Seller makes the following elections regarding the transfer of Property information by the Listing Firm's Multiple Listing Service to other Internet websites: (Choose Option A or B)

- A. Seller elects to allow the transfer of Property information to other Internet websites to be displayed on the Internet.
- Seller elects to allow the address of the Property to be displayed on these Internet websites.
- Seller elects to allow the Property to have an auto valuation on these Internet websites.
- Seller elects to allow written comments or reviews (blogging) when the Property is displayed on these Internet websites.

(If checking A, check all above that apply.)

- B. Seller elects NOT to allow the transfer of Property information to other Internet websites. Seller understands and acknowledges that consumers who conduct searches for listings on the Internet may not see information about the Property in response to their search.

This election covers the transfer of information to other Internet websites by the Listing Firm's Multiple Listing Service. Listing Firm cannot control Property information appearing on Internet websites which obtain information from sources other than the Listing Firm's Multiple Listing Service.

Exclusive Right-to-Sell Agreement (Residential)

Page 5 of 7



Copyright
2015
Arkansas
REALTORS®
Association

Form Serial Number: 080765-900143-9395240

16. SELLER WARRANTY, REPRESENTATION AND AUTHORIZATION: Seller warrants and represents to Listing Firm that no other exclusive representation or exclusive agency agreement is in force. Seller understands that if the warranty representation contained herein is not true, Seller is strongly encouraged to seek legal advice concerning the possibility of liability for two or more commissions before signing this Exclusive Right-to-Sell Agreement. Unless otherwise specified, Seller warrants, represents and authorizes Listing Firm to take the following actions as deemed appropriate by Listing Firm:

- A. divulge, with Seller's approval, the existence of offers on the property in response to inquiries from potential buyers or cooperating brokers;
- B. display a For Sale and Sold sign as deemed appropriate by Listing Firm;
- C. use a key or lock box for entry when Seller is absent, and access the Property by using a keyed or keyless lock-box system;
- D. acquire loan, utility and other financial information reasonably necessary to market the Property;
- E. add or change descriptive information when necessary to market the Property;
- F. use reasonable effort to distribute to all prospective buyers any disclosure form provided unless contrary wishes are conveyed to Listing Firm by a prospective buyer;
- G. use reasonable effort to discover other information that has a material effect on the value or desirability of the Property (Seller agrees that any disclosure form, if provided, contains all information that has a material effect on the value or desirability of the Property to Seller's knowledge);
- H. hold an Open House or advertise the Property when Listing Firm believes it is advantageous in marketing the Property;
- I. photograph, videotape or reproduce the image of the interior and exterior of all Property described herein by any prospective buyer (including those produced by sub-agents or agents representing a person or entity other than Seller); and
- J. engage, at no cost to Seller, the services of a centralized appointment scheduling service to contact Seller for the purpose of scheduling appointments to view the Property to assist Listing Firm (and sub-agents thereof) and agents for persons interested in viewing the Property. Seller acknowledges such service will not be performed by licensed real estate agents or persons licensed with or employed by Listing Firm.

17. HOME-WARRANTY PLANS: Seller understands the benefits of a home-warranty contract, which may include coverage for most major appliances, plumbing, electrical, heating and air-conditioning systems. The home-warranty contract covers unexpected mechanical failures due to wear and tear and is subject to a per-claim deductible. The availability of a home-warranty contract, cost and applicable deductible have been explained to Seller and Seller chooses:

- A. No home-warranty contract concerning the condition of any real or personal Property to be conveyed from Seller to Buyer for any period after the closing or for Seller during the Listing Period.
- B. A limited home-warranty plan will be provided to Buyer concerning the condition of the Property and will be paid for by Seller at a cost not to exceed \$ _____ plus sales tax. This home-warranty contract will not imply any warranty by Seller after closing, and the items covered by said home-warranty contract will be agreed to by a separate agreement between Seller, Buyer and Warranty Company. Coverage's vary and the coverage received will be solely set forth in the home-warranty documents between Buyer and Home Warranty Company, _____, and no representation or explanation will be provided by Seller, Selling Firm or Listing Firm, Buyer being solely responsible to determine the extent and availability of coverage. Listing Firm and/or Selling Firm may receive compensation from the warranty company.
- C. Other Warranty: _____

Exclusive Right-to-Sell Agreement (Residential)

Page 6 of 7



Copyright
2015
Arkansas
REALTORS®
Association

FORM SERIAL NUMBER: 080765-900143-9395240

18. FIXTURES AND ATTACHED EQUIPMENT: Unless specifically excluded herein, Listing Firm may represent to the public that all fixtures and attached equipment, if any, are included in the Offering Price set forth in Paragraph 3. Such fixtures and attached equipment shall include but not be limited to the following: dishwasher, disposal, trash compactor, ranges, ovens, water heaters, exhaust fans, heating and air-conditioning systems, plumbing and septic systems, electrical system, intercom system, ceiling fans, window air conditioners, carpeting, indoor and outdoor light fixtures, window and door coverings and related hardware, gas or electric grills, awnings, mail boxes, garage door openers and remote controls, water softeners, antennas, television satellite receiving equipment, propane and butane tanks, fireplace inserts,

_____ and all items bolted, nailed, screwed, buried, or otherwise attached to the Property in a permanent manner, except the following:

19. SELLER'S STATEMENT: Seller warrants that all information furnished to Listing Firm concerning the Property, including without limitation the information set forth in any disclosure form that may be attached hereto and incorporated herein, is complete and accurate to Seller's knowledge and that no material facts have been withheld from Listing Firm. Unless a potential buyer desires not to obtain a copy of a disclosure form (as evidenced by an oral statement or in a Real Estate Contract), Listing Firm is authorized to use reasonable effort to disclose to any member of the public interested in the Property any disclosure form that may be attached hereto, or any other material information known or made known to Listing Firm about the Property, including without limitation any defects relating to the Property. Seller agrees to defend, indemnify, save and hold Listing Firm harmless from all liability or claims arising from Seller's incorrect or undisclosed information. Seller agrees to notify Buyer and Listing Firm in writing of any changes in any disclosure form or otherwise concerning the Property that become known to Seller.

20. LIMITATION OF RESPONSIBILITY: Listing Firm shall not be responsible for the maintenance, repair or condition of the Property or for damage of any nature affecting the Property, unless such responsibility is assumed by Listing Firm by separate agreement. Seller hereby covenants and agrees to indemnify Listing Firm and hold Listing Firm harmless from any and all liability, obligations or demands made by third parties against Listing Firm as a result of Listing Firm's marketing of the Property, including but not limited to damage or injury to Property or persons and reasonable attorney's fees. Listing Firm encourages Seller to maintain insurance coverage to adequately protect the Property and those individuals who may be on the Property. Seller understands Listing Firm does not insure the Property in any way.

21. SPECIAL CONDITIONS: PROPERTY IS BEING SOLD AS IS , WHERE IS , HOW IS . PER APPROVAL BY THE CITY OF FAYETTEVILLE, AR 72701

22. GOVERNING LAW: This Exclusive Right-to-Sell Agreement shall be governed by the laws of the State of Arkansas.

23. SEVERABILITY: The invalidity or unenforceability of any provisions of this Exclusive Right-to-Sell Agreement shall not affect the validity or enforceability of any other provision of this Exclusive Right-to-Sell Agreement, which shall remain in full force and effect

24. MERGER CLAUSE: This Exclusive Right -to-Sell Agreement, when executed by both Listing Firm and Seller, shall contain the entire understanding and agreement between Listing Firm and Seller with respect to all matters referred to herein and shall supersede all prior or contemporaneous agreements, representations, discussions and understandings, oral or written, with respect to such matters.

25. ATTORNEY'S FEES: Should Listing Firm or Seller initiate any type of administrative proceeding, arbitration, mediation or litigation against the other (or against an agent for the initiating party or agent for the non-initiating party), it is agreed by Listing Firm and Seller (aforementioned agents being third-party beneficiaries of this Paragraph 25) that all prevailing parties shall be entitled to an award of their respective costs and attorney's fees incurred in defense of such initiated action against the non-prevailing party.

Exclusive Right-to-Sell Agreement (Residential)

Page 7 of 7



Copyright
2015
Arkansas
REALTORS®
Association

FORM SERIAL NUMBER: 080765-900143-9395240

26. ENTIRE AGREEMENT, MODIFICATION LIMITED: This Exclusive Right-to-Sell Agreement constitutes the entire agreement concerning the subject matter hereof between Seller and Listing Firm and supersedes all prior or contemporaneous agreements, representations, discussions and understandings, oral or written, with respect to such matters. This Exclusive Right-to-Sell Agreement may not be modified except in writing executed by both Seller and Listing Firm. Any contract entered into by Seller and Buyer shall not affect this Exclusive Right-to-Sell Agreement.

27. TIME: Seller and Listing Firm agree time is of the essence with regard to all times and dates set forth in this Exclusive Right-to-Sell Agreement. Unless otherwise specified, days as it appears in this Exclusive Right-to-Sell Agreement shall mean calendar days. Further, all times and dates set forth in this Exclusive Right-to-Sell Agreement refer to Arkansas Central time and date.

28. COUNTERPARTS: This Exclusive Right-to-Sell Agreement may be executed in multiple counterparts each of which shall be regarded as an original hereof but all of which together shall constitute one in the same.

THIS IS A LEGALLY BINDING AGREEMENT WHEN SIGNED BY THE PARTIES BELOW. READ IT CAREFULLY. YOU MAY EMPLOY AN ATTORNEY TO DRAFT THIS FORM FOR YOU. IF YOU DO NOT UNDERSTAND THE EFFECT OF ANY PART, CONSULT YOUR ATTORNEY BEFORE SIGNING. REAL ESTATE AGENTS CANNOT GIVE YOU LEGAL ADVICE. THE PARTIES SIGNED BELOW WAIVE THEIR RIGHT TO HAVE AN ATTORNEY DRAFT THIS FORM AND HAVE AUTHORIZED THE REAL ESTATE AGENT(S) TO FILL IN THE BLANKS ON THIS FORM.

THIS FORM IS PRODUCED AND COPYRIGHTED BY THE ARKANSAS REALTORS® ASSOCIATION. THE SERIAL NUMBER BELOW IS A UNIQUE NUMBER NOT USED ON ANY OTHER FORM. THE SERIAL NUMBER BELOW SHOULD BE AN ORIGINAL PRINTING, NOT MACHINE COPIED, OTHERWISE THE FORM MAY HAVE BEEN ALTERED. DO NOT SIGN THIS FORM IF IT WAS PREPARED AFTER DECEMBER 31, 2015.

FORM SERIAL NUMBER: 080765-900143-9395240

The above **Exclusive Right-to-Sell Agreement** is executed on

(month) _____ (day) _____, (year) _____, at _____ (a.m.) (p.m.).

REAL ASSETS c/o MARK A. BREWER ABR,CRS,GRI,PB

Listing Firm

Signature: _____

Signature: _____

Printed Name: **MARK A. BREWER ABR,CRS,GRI,PB**
Principal or Executive Broker

Printed Name: **CITY OF FAYETTEVILLE**
Seller

Signature: _____

Signature: _____

Printed Name: **MARK A. BREWER ABR,CRS,GRI,PB**
Assigned Associate

Printed Name: _____
Seller

Seller's Address _____

City, State Zip _____

Seller's Phone _____

Seller's e-mail Address _____

Seller's e-mail Address _____

Exclusive Right-to-Sell Agreement (Residential)

Page 1 of 7



Copyright
2015
Arkansas
REALTORS®
Association

Form Serial Number: 060289-200143-9395170

1. RIGHT-TO-SELL: In consideration of the services of REAL ASSETS c/o MARK A. BREWER ABR, CRS, GRI, PB (by and through the Principal Broker, or agent thereof assigned by Listing Firm) (hereafter collectively called "Listing Firm") for the purpose of assisting in the possible sale or exchange of the real property described in Paragraph 2 (the "Property"), and CITY OF FAYETTEVILLE being the sole owner(s) of the Property (hereafter called "Seller"), Listing Firm and Seller agree that Listing Firm shall have the exclusive right to market the Property for the Listing Period described in Paragraph 4. Seller does hereby certify and represent that Seller has peaceable possession of the Property, including all improvements and fixtures thereon, and the legal authority and capacity to convey the Property by a good and sufficient general warranty deed, free from any liens, leasehold or other interests, except as may be set forth in Paragraphs 18 and 21.

2. ADDRESS AND LEGAL DESCRIPTION OF THE PROPERTY:

2648 OLD WIRE RD, FAYETTEVILLE, AR (A HOUSE & LOT)

PARCEL # 765-16092-000 S-T-R-: 36-17-30

3. OFFERING: Listing Firm agrees to use reasonable effort to solicit an offer(s) to purchase the Property in the amount of \$218,500.00 (the "Offering Price") but will present for Seller's consideration any offer to purchase the Property received by Listing Firm regardless of choices in Paragraph 11. Seller agrees to refer to Listing Firm all offers and inquiries received by Seller regarding the Property during the term of this Exclusive Right-to-Sell Agreement.

4. LISTING PERIOD: This listing begins at 12:01a.m. on (month) _____ (day) _____, (year) _____ and expires at 11:59 p.m. on (month) September (day) 30, (year) 2016, unless extended by mutual written agreement of Seller and Listing Firm (the "Listing Period").

5. CONVEYANCE: Unless otherwise specified, conveyance of the Property shall be made to any person (hereinafter called "Buyer") submitting an offer that is accepted by Seller, and such conveyance shall be made as directed by Buyer, in fee simple absolute by general warranty deed. **Unless expressly reserved herein, Listing Firm may represent to the public that the Property is to be sold inclusive of all mineral rights owned by Seller concerning and located on the Property, if any.** Seller warrants and represents to Listing Firm and authorizes Listing Firm to inform prospective buyers that only the signatures set forth below are required to transfer legal title to the Property.

Exclusive Right-to-Sell Agreement (Residential)

Page 2 of 7



Copyright
2015
Arkansas
REALTORS®
Association

Form Serial Number: 060289-200143-9395170

6. ABSTRACT OR TITLE INSURANCE: Seller has legal ability to furnish Buyer evidence of good and merchantable title by: (i) current and complete abstract of title or (ii) title insurance in the amount of any agreed-upon purchase price.

7. CLOSING PROTECTION: Seller shall have the right to request that title insurer(s), if any, issue closing protection to indemnify against loss of closing funds because of acts of a Closing Agent, title insurer's named employee, or title insurance agent. Any cost for closing protection will be paid by the requesting party(ies). Listing Firm strongly advises Seller to inquire of the Closing Agent(s) about the availability and benefits of closing protection.

To insure all funds have been properly disbursed, Seller has been advised of the availability of purchasing a Closing Protection Letter, an additional binder to be added to the Title Insurance Policy at closing.

8. LISTING FIRM'S FEE: If Listing Firm presents to Seller an offer in an amount equal to or greater than the Offering Price, or such lesser price or terms as Seller may accept, or if the Property is otherwise sold or disposed of by Listing Firm or any other person, including Seller, during the Listing Period, Seller agrees to pay Listing Firm a professional fee of either:

- A. SIX percent (6%) of the gross amount of any accepted Real Estate Contract or value of any property exchanged for the Property plus \$0.00 for professional services rendered; or
- B. \$ _____ for professional services rendered.

If co-brokerage applies, said fee shall be divided:

- (i) 3.3% of the Purchase Price plus \$0.00 to Listing Firm and 2.7% of the Purchase Price to Selling Firm.
- (ii) Other: _____

In consideration for Seller's promise contained within this Paragraph 8, Listing Firm promises to Seller that it will use reasonable effort to market the property and solicit an offer regarding the Property with terms and conditions acceptable to Seller, provide additional marketing services as deemed appropriate by Listing Firm and coordinate the closing. Seller agrees that Listing Firm is not required to investigate the financial or other ability of a prospective buyer to consummate any proposed or accepted Real Estate Contract. Seller will not owe a fee to Listing Firm if Buyer does not remove any condition set forth in a Real Estate Contract and cannot close, unless failure to close is the result of breach of a Real Estate Contract by Seller.

9. EXPIRED LISTING CONDITIONS: Seller agrees to pay the professional fee set forth in Paragraph 8 to Listing Firm if the Property is sold or otherwise disposed of:

- A. during the Listing Period, as defined in Paragraph 4;
- B. during a period of 30 days (the "Post-Term Period") after the Listing Period when information given by or obtained through Listing Firm during the Listing Period resulted in or contributed in any manner to the sale or disposal of the Property, regardless of procuring cause; or
- C. at any time after expiration or termination of this Exclusive Right-to-Sell Agreement (including termination by Listing Firm as specified in Paragraph 10 below) when information obtained through Listing Firm during the Listing Period was the procuring cause of the sale or disposal of the Property.

However, if Seller employs another real estate firm as exclusive agent for marketing the Property after expiration of this Exclusive Right-to-Sell Agreement, Seller shall pay only one professional fee, and that to the currently employed real estate firm.

Exclusive Right-to-Sell Agreement (Residential)

Page 3 of 7



Copyright
2015
Arkansas
REALTORS®
Association

Form Serial Number: 060289-200143-9395170

10. CANCELLATION: Seller may cancel this Exclusive Right-to-Sell Agreement prior to its expiration date without in any manner affecting the indemnities provided by Paragraph 20 and the provisions of Paragraph 9. Such cancellation will be effective only after: 1) Seller has provided written notice to Listing Firm, sent by United States certified mail, return receipt required, and 2) Seven (7) calendar days have elapsed since such written notice was received by Listing Firm. Upon the effective date of cancellation, Seller shall be liable to Listing Firm for a cancellation fee equal to:

- A. SIX percent (6%) of the Offering Price set forth in Paragraph 3, or
- B. the liquidated sum of \$_____, it being agreed by Seller and Listing Firm the liquidated sum is not a penalty and is agreed to because damages incurred by Listing Firm resulting from cancellation by Seller will be difficult to ascertain, and the amount set forth in the blank (even if \$0) shall be in addition to and not a limitation of the sums due Listing Firm pursuant to Paragraph 9 (Expired Listing Conditions) of this Exclusive Right-to-Sell Agreement.

Listing Firm may cancel this Exclusive Right-to-Sell Agreement at any time, with or without cause, by providing written notice to Seller. In the event of cancellation by Listing Firm, Seller shall not be responsible for compensation to Listing Firm, unless: (i) Seller shall have breached the terms of this Exclusive Right-to-Sell Agreement or (ii) Listing Firm is entitled to compensation pursuant to Paragraphs 8 and 9.

11. TYPES OF AGENCY: Seller fully understands the agency options available below, and agrees that Listing Firm will be the agent of Seller and will market the Property utilizing the agency options selected below; however, Listing Firm will present to Seller all offers received regardless of agency options selected.

In addition to Listing Firm marketing the Property to prospective buyers, Seller chooses to allow Listing Firm to use the following options (Choose as many options as desired to market Property):

- A. SUBAGENCY:** Seller hereby authorizes Listing Firm to offer Subagency to real estate licensees other than Listing Firm and acknowledges that Seller may be responsible for the actions of Listing Firm and any subagents who accept the offer of Subagency. Listing Firm will provide disclosures and information about the Property necessary to assist Listing Firm and any subagents in performing their duties and responsibilities to Seller. Seller authorizes Listing Firm to pay from Listing Firm's fee agreed upon in Paragraph 8 a share deemed competitive, Listing Firm's policy having been explained to and hereby acknowledged by Seller.

NOTE: Seller understands if Subagency is the only option selected any prospective buyers represented by Listing Firm will not be shown the Property. Seller further understands that real estate licensees other than Listing Firm may forego presenting the Property to their clients.

- B. BUYER AGENCY:** Seller acknowledges Listing Firm is employed by Seller and Selling Firm is employed by Buyer. All licensees associated with Selling Firm are employed by, represent, and are responsible to the Buyer. Seller authorizes Listing Firm to make payment as set forth in Paragraph 8.

- C. AGENT REPRESENTS BOTH:** Seller hereby consents that Listing Firm may represent both Buyer and Seller. Should Listing Firm represent both Seller and Buyer, Seller agrees to the following:

(i) Listing/Selling Firm shall not be required to and shall not disclose to either Buyer or Seller any personal, financial or other confidential information concerning the other party without the express written consent of that party; however, Seller agrees Listing/Selling Firm shall disclose to Buyer information known to Listing/Selling Firm related to defects in the Property and such information shall not be deemed "confidential information." Confidential information shall include but not be limited to any price Seller is willing to accept that is less than the Offering Price or any price Buyer is willing to pay that is higher than that offered in writing.

(ii) By selecting this option 11C, Seller acknowledges that when Listing Firm represents both Seller and Buyer a possible conflict of interest exists, and Seller agrees to forfeit individual rights to receive the undivided loyalty of Listing Firm.

(iii) Any claim now or hereafter arising out of any conflicts of interest from Listing Firm's representation of both Seller and Buyer is waived.

Exclusive Right-to-Sell Agreement (Residential)

Page 4 of 7



Copyright
2015
Arkansas
REALTORS®
Association

Form Serial Number: 060289-200143-9395170

12. EARNEST MONEY: Seller authorizes and instructs Listing Firm to accept and deposit in Listing Firm's trust account all Earnest Money (if any) received. Should a deposit of Earnest Money (if any) be forfeited, the money shall be divided as follows: Payment shall first be made of all direct expenses incurred in connection with the contemplated transaction, and the balance shall be divided one-half to Listing Firm and one-half to Seller, but in no event shall Listing Firm receive an amount in excess of the fee that would have been received if the sale had been consummated. If a dispute between Seller and any other person or entity arises concerning the Earnest Money (if any), Seller authorizes Listing Firm to interplead the disputed Earnest Money (if any) in a court of law or to an arbitrator and to have Listing Firm's costs and attorney's fees paid from the funds entered for interpleading. Seller acknowledges and understands that Listing Firm is not responsible for obtaining good funds regarding Earnest Money (if any) tendered by prospective or actual buyers.

13. FAIR HOUSING: Seller agrees Listing Firm will market the Property to interested persons without regard to race, color, religion, sex, national origin, handicap, sexual orientation or familial status. Additionally, Seller agrees that Listing Firm and Seller must comply with all state and federal laws while performing this Exclusive Right-to-Sell Agreement.

14. LEAD-BASED PAINT DISCLOSURE: Seller agrees to provide a Lead-Based Paint Disclosure (as required by Federal Law) if the subject Property or any of the improvements were constructed prior to 1978.

15. MULTI-LIST SERVICE AND INTERNET: Seller warrants, represents and authorizes Listing Firm to offer the Property in a multi-list or co-op brokerage, subject to the options selected in Paragraph 11, and comply with all rules and regulations associated with multi-list or co-op brokerage.

Seller makes the following elections regarding the transfer of Property information by the Listing Firm's Multiple Listing Service to other Internet websites: (Choose Option A or B)

- A. Seller elects to allow the transfer of Property information to other Internet websites to be displayed on the Internet.
- Seller elects to allow the address of the Property to be displayed on these Internet websites.
- Seller elects to allow the Property to have an auto valuation on these Internet websites.
- Seller elects to allow written comments or reviews (blogging) when the Property is displayed on these Internet websites.

(If checking A, check all above that apply.)

- B. Seller elects NOT to allow the transfer of Property information to other Internet websites. Seller understands and acknowledges that consumers who conduct searches for listings on the Internet may not see information about the Property in response to their search.

This election covers the transfer of information to other Internet websites by the Listing Firm's Multiple Listing Service. Listing Firm cannot control Property information appearing on Internet websites which obtain information from sources other than the Listing Firm's Multiple Listing Service.

Exclusive Right-to-Sell Agreement (Residential)

Page 5 of 7



Copyright
2015
Arkansas
REALTORS®
Association

Form Serial Number: 060289-200143-9395170

16. SELLER WARRANTY, REPRESENTATION AND AUTHORIZATION: Seller warrants and represents to Listing Firm that no other exclusive representation or exclusive agency agreement is in force. Seller understands that if the warranty representation contained herein is not true, Seller is strongly encouraged to seek legal advice concerning the possibility of liability for two or more commissions before signing this Exclusive Right-to-Sell Agreement. Unless otherwise specified, Seller warrants, represents and authorizes Listing Firm to take the following actions as deemed appropriate by Listing Firm:

- A. divulge, with Seller's approval, the existence of offers on the property in response to inquiries from potential buyers or cooperating brokers;
- B. display a For Sale and Sold sign as deemed appropriate by Listing Firm;
- C. use a key or lock box for entry when Seller is absent, and access the Property by using a keyed or keyless lock-box system;
- D. acquire loan, utility and other financial information reasonably necessary to market the Property;
- E. add or change descriptive information when necessary to market the Property;
- F. use reasonable effort to distribute to all prospective buyers any disclosure form provided unless contrary wishes are conveyed to Listing Firm by a prospective buyer;
- G. use reasonable effort to discover other information that has a material effect on the value or desirability of the Property (Seller agrees that any disclosure form, if provided, contains all information that has a material effect on the value or desirability of the Property to Seller's knowledge);
- H. hold an Open House or advertise the Property when Listing Firm believes it is advantageous in marketing the Property;
- I. photograph, videotape or reproduce the image of the interior and exterior of all Property described herein by any prospective buyer (including those produced by sub-agents or agents representing a person or entity other than Seller); and
- J. engage, at no cost to Seller, the services of a centralized appointment scheduling service to contact Seller for the purpose of scheduling appointments to view the Property to assist Listing Firm (and sub-agents thereof) and agents for persons interested in viewing the Property. Seller acknowledges such service will not be performed by licensed real estate agents or persons licensed with or employed by Listing Firm.

17. HOME-WARRANTY PLANS: Seller understands the benefits of a home-warranty contract, which may include coverage for most major appliances, plumbing, electrical, heating and air-conditioning systems. The home-warranty contract covers unexpected mechanical failures due to wear and tear and is subject to a per-claim deductible. The availability of a home-warranty contract, cost and applicable deductible have been explained to Seller and Seller chooses:

- A. No home-warranty contract concerning the condition of any real or personal Property to be conveyed from Seller to Buyer for any period after the closing or for Seller during the Listing Period.
- B. A limited home-warranty plan will be provided to Buyer concerning the condition of the Property and will be paid for by Seller at a cost not to exceed \$ _____ plus sales tax. This home-warranty contract will not imply any warranty by Seller after closing, and the items covered by said home-warranty contract will be agreed to by a separate agreement between Seller, Buyer and Warranty Company. Coverage's vary and the coverage received will be solely set forth in the home-warranty documents between Buyer and Home Warranty Company, _____, and no representation or explanation will be provided by Seller, Selling Firm or Listing Firm, Buyer being solely responsible to determine the extent and availability of coverage. Listing Firm and/or Selling Firm may receive compensation from the warranty company.
- C. Other Warranty: _____

Exclusive Right-to-Sell Agreement (Residential)

Page 6 of 7



Copyright
2015
Arkansas
REALTORS®
Association

FORM SERIAL NUMBER: 060289-200143-9395170

18. FIXTURES AND ATTACHED EQUIPMENT: Unless specifically excluded herein, Listing Firm may represent to the public that all fixtures and attached equipment, if any, are included in the Offering Price set forth in Paragraph 3. Such fixtures and attached equipment shall include but not be limited to the following: dishwasher, disposal, trash compactor, ranges, ovens, water heaters, exhaust fans, heating and air-conditioning systems, plumbing and septic systems, electrical system, intercom system, ceiling fans, window air conditioners, carpeting, indoor and outdoor light fixtures, window and door coverings and related hardware, gas or electric grills, awnings, mail boxes, garage door openers and remote controls, water softeners, antennas, television satellite receiving equipment, propane and butane tanks, fireplace inserts,

_____ and all items bolted, nailed, screwed, buried, or otherwise attached to the Property in a permanent manner, except the following:

19. SELLER'S STATEMENT: Seller warrants that all information furnished to Listing Firm concerning the Property, including without limitation the information set forth in any disclosure form that may be attached hereto and incorporated herein, is complete and accurate to Seller's knowledge and that no material facts have been withheld from Listing Firm. Unless a potential buyer desires not to obtain a copy of a disclosure form (as evidenced by an oral statement or in a Real Estate Contract), Listing Firm is authorized to use reasonable effort to disclose to any member of the public interested in the Property any disclosure form that may be attached hereto, or any other material information known or made known to Listing Firm about the Property, including without limitation any defects relating to the Property. Seller agrees to defend, indemnify, save and hold Listing Firm harmless from all liability or claims arising from Seller's incorrect or undisclosed information. Seller agrees to notify Buyer and Listing Firm in writing of any changes in any disclosure form or otherwise concerning the Property that become known to Seller.

20. LIMITATION OF RESPONSIBILITY: Listing Firm shall not be responsible for the maintenance, repair or condition of the Property or for damage of any nature affecting the Property, unless such responsibility is assumed by Listing Firm by separate agreement. Seller hereby covenants and agrees to indemnify Listing Firm and hold Listing Firm harmless from any and all liability, obligations or demands made by third parties against Listing Firm as a result of Listing Firm's marketing of the Property, including but not limited to damage or injury to Property or persons and reasonable attorney's fees. Listing Firm encourages Seller to maintain insurance coverage to adequately protect the Property and those individuals who may be on the Property. Seller understands Listing Firm does not insure the Property in any way.

21. SPECIAL CONDITIONS: PROPERTY IS BEING SOLD AS IS , WHERE IS , HOW IS ,PER THE CITY OF FAYETTEVILLE AR

22. GOVERNING LAW: This Exclusive Right-to-Sell Agreement shall be governed by the laws of the State of Arkansas.

23. SEVERABILITY: The invalidity or unenforceability of any provisions of this Exclusive Right-to-Sell Agreement shall not affect the validity or enforceability of any other provision of this Exclusive Right-to-Sell Agreement, which shall remain in full force and effect

24. MERGER CLAUSE: This Exclusive Right -to-Sell Agreement, when executed by both Listing Firm and Seller, shall contain the entire understanding and agreement between Listing Firm and Seller with respect to all matters referred to herein and shall supersede all prior or contemporaneous agreements, representations, discussions and understandings, oral or written, with respect to such matters.

25. ATTORNEY'S FEES: Should Listing Firm or Seller initiate any type of administrative proceeding, arbitration, mediation or litigation against the other (or against an agent for the initiating party or agent for the non-initiating party), it is agreed by Listing Firm and Seller (aforementioned agents being third-party beneficiaries of this Paragraph 25) that all prevailing parties shall be entitled to an award of their respective costs and attorney's fees incurred in defense of such initiated action against the non-prevailing party.

Exclusive Right-to-Sell Agreement (Residential)

Page 7 of 7



Copyright
2015
Arkansas
REALTORS®
Association

FORM SERIAL NUMBER: 060289-200143-9395170

26. ENTIRE AGREEMENT, MODIFICATION LIMITED: This Exclusive Right-to-Sell Agreement constitutes the entire agreement concerning the subject matter hereof between Seller and Listing Firm and supersedes all prior or contemporaneous agreements, representations, discussions and understandings, oral or written, with respect to such matters. This Exclusive Right-to-Sell Agreement may not be modified except in writing executed by both Seller and Listing Firm. Any contract entered into by Seller and Buyer shall not affect this Exclusive Right-to-Sell Agreement.

27. TIME: Seller and Listing Firm agree time is of the essence with regard to all times and dates set forth in this Exclusive Right-to-Sell Agreement. Unless otherwise specified, days as it appears in this Exclusive Right-to-Sell Agreement shall mean calendar days. Further, all times and dates set forth in this Exclusive Right-to-Sell Agreement refer to Arkansas Central time and date.

28. COUNTERPARTS: This Exclusive Right-to-Sell Agreement may be executed in multiple counterparts each of which shall be regarded as an original hereof but all of which together shall constitute one in the same.

THIS IS A LEGALLY BINDING AGREEMENT WHEN SIGNED BY THE PARTIES BELOW. READ IT CAREFULLY. YOU MAY EMPLOY AN ATTORNEY TO DRAFT THIS FORM FOR YOU. IF YOU DO NOT UNDERSTAND THE EFFECT OF ANY PART, CONSULT YOUR ATTORNEY BEFORE SIGNING. REAL ESTATE AGENTS CANNOT GIVE YOU LEGAL ADVICE. THE PARTIES SIGNED BELOW WAIVE THEIR RIGHT TO HAVE AN ATTORNEY DRAFT THIS FORM AND HAVE AUTHORIZED THE REAL ESTATE AGENT(S) TO FILL IN THE BLANKS ON THIS FORM.

THIS FORM IS PRODUCED AND COPYRIGHTED BY THE ARKANSAS REALTORS® ASSOCIATION. THE SERIAL NUMBER BELOW IS A UNIQUE NUMBER NOT USED ON ANY OTHER FORM. THE SERIAL NUMBER BELOW SHOULD BE AN ORIGINAL PRINTING, NOT MACHINE COPIED, OTHERWISE THE FORM MAY HAVE BEEN ALTERED. DO NOT SIGN THIS FORM IF IT WAS PREPARED AFTER DECEMBER 31, 2015.

FORM SERIAL NUMBER: 060289-200143-9395170

The above **Exclusive Right-to-Sell Agreement** is executed on

(month) _____ (day) _____, (year) _____, at _____ (a.m.) (p.m.).

REAL ASSETS c/o MARK A. BREWER ABR, CRS, GRI, PB

Listing Firm

Signature: _____

Signature: _____

Printed Name: MARK A. BREWER ABR, CRS, GRI, PB
Principal or Executive Broker

Printed Name: CITY OF FAYETTEVILLE
Seller

Signature: _____

Signature: _____

Printed Name: MARK A. BREWER ABR, CRS, GRI, PB
Assigned Associate

Printed Name: _____
Seller

Seller's Address

City, State Zip

Seller's Phone

Seller's e-mail Address

Seller's e-mail Address



2634 and 2648 Old Wire Road
Fayetteville, AR

