

# Terms & Conditions

## OF BIDDING AND PURCHASE FOR "FEYHL ADDITION" REAL ESTATE (04-28-10)

FEYHL ADDITION  
REAL ESTATE AUCTION  
CODY, WY  
APRIL 28, 2010

### TERMS AND CONDITIONS OF AUCTION

Musser Bros, Inc.(referred to herein as "Auctioneer") has a contract with ("Seller") to offer for sale at public auction their respective properties.

NOTE: The sale of all properties in this auction will be governed by the respective Auction Sales Contract for each Property. The following terms are general terms for the conduct of the Auction.

#### A. PROPERTY

- 1) Seller will convey the respective properties free and clear of all liens and encumbrances except as specified in the Title Commitments and the respective Auction Real Estate Sales Contract.
- 2) Properties are selling "SUBJECT TO SELLERS APPROVAL", and any Contract is not contingent upon, any statement of facts, an accurate survey or what a personal inspection of the Property may reveal. The Property will be offered subject to any existing rights-of-way, easements, or claims to easements, encroachments, rights or claims of parties in possession, restrictive and protective covenants, flood zones, zoning, or subdivision regulations, building codes, health and safety codes, governmental agencies regulations, environmental conditions, hazardous materials, leases or tenancies, any mineral rights, reservations or leases, and subject also to all title exceptions as set forth in the Title Commitment that is available for inspection.
- 3) Maps and depictions included in the marketing material for the auction are for illustration purposes only and neither Seller, nor Auctioneer warrants or guarantees any of these materials or other information to be accurate or complete.

#### B. PROPERTY INSPECTION

- 1) It is the Buyer's sole responsibility to:
  - a) perform all inspections (legal, environmental, economic or otherwise) of the Property and to be satisfied as to its condition prior to bidding;
  - b) review all property information and due diligence materials;
  - c) independently verify any information they deem important including information available in public records; and
  - d) inquire of public officials as to the applicability of and compliance with land use and environmental laws, zoning,

building and health & safety codes and ordinances and any other local, state or federal laws and regulations.

- 2) All information contained in the auction brochure and all promotional materials, including, but not limited to, photographs, directions, acreage, square footage, dimensions, zoning, maps used for promotion, environmental conditions, taxes, etc., was provided by or on behalf of the Seller and is believed to be correct; however, neither the Seller nor the Auctioneer makes any promise, representation, guarantee, or warranty as to the accuracy or completeness of such information. There is no obligation on the part of Seller or Auctioneer to update any information. Buyer and Buyer's broker shall be responsible for verifying all acreage and square footage amounts through public records.

#### C. BIDDER REGISTRATION AND TERMS

- 1) Upon being declared the final successful confirmed bidder on auction day, the Buyer(s) will tender \$2,500.00 as Earnest Money Deposit. The \$2,500.00 Earnest Money will be paid on auction day to Park County Title, to be applied towards Contract Price and the balance will be due and payable on or before close of escrow. At closing, collected funds, i.e. wire transfer are required for the down payment and closing. Bidder acknowledges that once a bid is offered, the Bidder shall be bound by the bid amount. Bidder acknowledges that only upon the execution of the Sales Contract by the Seller shall the Seller be bound concerning the sale of the Property. If for any reason Seller does not perform or accept the terms of the Contract, the sole remedy shall be the return of Buyer's deposit.  
**IN THE EVENT BUYER FAILS TO ABIDE BY THE TERMS AND CONDITIONS SET FORTH HEREIN OR IN THE RESPECTIVE AUCTION SALES CONTRACT EXECUTED IN CONJUNCTION WITH THIS SALE, BUYER ACKNOWLEDGES HE OR SHE SHALL FORFEIT ALL MONIES DEPOSITED WITH Park County Title.**
- 2) The Buyer shall immediately pay the required earnest Money Deposit to Park County Title on Auction Day and execute and deliver a completed Auction Real Estate Sales Contract together with all related Addenda for the Property at the Auction. The fully executed Sales Contract shall control all terms and conditions of the sale and constitute the

entire agreement between the Buyer and the Seller. In the event of any conflict between these Terms and Conditions of Sale and the Terms and Conditions of such Sales Contract; the Terms and Conditions of the Sales Contract shall prevail. **NO CHANGES TO THE TERMS AND CONDITIONS OF THE SALES CONTRACT WILL BE PERMITTED. BUYER WILL BE REQUIRED TO ENTER INTO THE SALES CONTRACT "AS IS" ON AUCTION DATE.**

- 3) Any person bidding on behalf of another person or entity must have a valid, legally enforceable, unexpired, recordable Power of Attorney approved by Seller prior to the auction. If a Buyer is bidding on behalf of a corporation, the bidder shall be individually bound until the bidder presents a corporate resolution prior to closing.
- 4) If for any reason the Buyer fails or refuses to deposit the required funds or to execute the Sales Contract immediately after being confirmed the winning bidder, the Seller reserves the right to declare the bidder's rights forfeited and may re-sell the Property.
- 5) **THIS IS CASH SALE.** No purchase is contingent on the Buyer obtaining financing.

#### D. DECLARATION OF ASSOCIATION DISCLOSURE

Buyer acknowledges and understands that property is bound by the assessments and restrictions of Declaration of Restrictions, Conditions and Protective Covenants for Liberty Subdivision and buyer agrees to be bound by same. Buyer agrees to assume any special assessments that may be payable in installments that are not yet due.

#### E. SURVEY

If the Buyer requires a new survey, it will be at Buyer's option and expense. Should the final survey show a greater or lesser number of square footage than contained in the Seller's Deed, the auction price will not be adjusted.

#### F. CLOSING COST

**Seller's Costs.** At Closing, Seller shall pay the fees for preparation of the Deed, the premium for the owner's policy of title insurance and costs relating to tax certificates and overnight courier fees on behalf of the Seller.  
**Buyer's Costs.** At Closing, Buyer shall pay the recording costs of the deed, overnight courier fee on behalf of the Buyer, and 1/2 escrow closing fees.

#### G. CLOSING

Closing will be scheduled on or before May 28, 2010 (At Park County Title) and the Earnest Money Deposit shall be in U.S. Funds and shall be held in a non-interest bearing account by Park County Title pending completion of necessary closing procedures, after which the Buyer shall be granted possession of the Property subject to any matters contained in the Title Commitment and the Auction Real Estate Sales Contract.

#### H. AUCTION PROCEDURES

- 1) The Seller and Auctioneer reserve the right to offer the Property in any manner they choose.
- 2) All decisions of Auctioneer are final as to the methods for conducting the Auction and bidding, disputes amongst bidders, the increments of the bidding, and all other matters and issues that may arise before, during, and after the Auction.

#### I. DISCLAIMER

- 1) Personal on-site inspection of the property is recommended and bidders are advised to independently verify all information they deem important. This Property is being sold "As-Is, Where-Is" and with "All Faults". The Seller and Auctioneer have not made, do not make and will not make, and hereby disclaim, any representation or warranty, whether expressed or implied or statutory, whether oral or written, with respect to the Property, including, without limitation, any warranty as to its value, condition, acreage, square footage, suitability, merchantability, marketability, operability, zoning or subdivision regulations, mineral rights, environmental condition, fence lines or property lines or fitness for a particular use or purpose. No Guarantees are given as to the availability of utilities or accesses, or the permitted or allowable uses of the Property.
- 2) Neither the Seller, its attorneys, any broker, nor the Auctioneer, shall be liable for any relief including damages, rescission, reformation, allowance or adjustments based on the failure of the Property, including, but not limited to, amount of acreage, square footage, zoning, and environmental condition to conform to any specific standard or expectation, or any third party documents or information.

#### J. AUCTIONEERS AGENCY DISCLOSURE

The Auctioneer is acting exclusively as the agent for Seller in this transaction and is to be paid a fee by Seller pursuant to a separate written agreement between Seller and Auctioneer. The Auctioneer is not acting as agent in this transaction for the buyer. Any third party broker is not a subagent of Auctioneer.

#### K. EQUAL OPPORTUNITY CLAUSE

All bidding is open to the public. The Property is available to qualified Buyers without regard to a prospective Buyer's race, color, national origin, religion, sex, familial status, or physical handicap.

#### L. MISCELLANEOUS

- 1) This auction is a privately conducted event. Auctioneer reserves the right to deny any person admittance to the Auction or expel anyone from the Auction who attempts to disrupt the Auction.
- 2) Back-up Bidders may submit a back-up bid form on any Property and will be contacted if the sale of that Property is not closed.
- 3) All Properties are subject to sale prior to auction day
- 4) All announcements made Auction Day supersede any prior oral or printed statements. The respective Sellers reserve the right to announce additional Terms and Conditions of the sale prior to or during the course of the Auction.
- 5) AUCTIONEER IS A SELLING AGENT ONLY AND MAKES NO REPRESENTATIONS CONCERNING ANY OF THE PROPERTIES WHATSOEVER.

#### M. Licensed Buyer Broker Guidelines

A referral fee of two percent (2%) of the High Bid Price will be paid to any Wyoming licensed real estate broker whose prospect pays for and closes on the property. To qualify for a commission, the real estate broker must register the prospect, by letter, which must be signed by both the broker and the prospect, by certified mail or via FAX on company stationery with Auctioneer: Musser Bros, Inc 1131 13th St., Suite 101, Cody, WY 82414.

The registration letter must be received at least 24 hours prior to the auction. The broker must attend the auction with the prospect. A complete file on all prospects will be maintained. No broker will be recognized on a prospect who has previously contacted or been contacted by the Seller or Auctioneer. There will be no exceptions to this procedure and no oral registrations will be accepted. No broker will be recognized that is participating as a principal, buyer or partner in the purchase.