

Prepared by City Attorney's Office  
300 Sixth Street  
Rapid City, SD 57701  
(605) 394-4140

**REAL PROPERTY PURCHASE AGREEMENT BETWEEN CITY OF RAPID CITY  
AND SECURITY FIRST BANK FOR SHERIDAN LAKE ROAD PROPERTY**

This Agreement is made this \_\_\_\_ day of \_\_\_\_\_, 2022, by and between the **CITY OF RAPID CITY**, a municipal corporation of the State of South Dakota (hereinafter the "City" or "Buyer"), of 300 Sixth Street, Rapid City, South Dakota 57701, and **SECURITY FIRST BANK**, a Nebraska-chartered, privately-held community bank (hereinafter "Security First" or "Seller"), of 805 Fifth Street, Rapid City, SD 57701.

WHEREAS, Security First Bank owns certain real property located on Sheridan Lake Road near Catron Avenue in Rapid City, as more particularly described below; and

WHEREAS, the City wishes to acquire this property for purposes of constructing and operating a future police precinct; and

WHEREAS, Security First Bank has agreed to sell the property to the City under certain terms and conditions which the City has agreed to accept; and

WHEREAS, the parties desire to enter into this Agreement to reduce their mutual agreements to writing.

NOW THEREFORE, the parties hereby agree as follows:

1. Incorporation of Recitals. The recitals set forth above constitute an integral part of this Agreement and are incorporated herein by this reference as if fully set forth herein as agreements of the parties.

2. Property. The property to be conveyed is best described as a Class D office building of approximately 1,977 square feet, and the real property more specifically described as follows:

*Street Address:* **5430 Sheridan Lake Road, Rapid City SD 57702**

*Legal Description:* **Lot 4 of Autumn Hills Plaza Subd, Section 22, T1N, R07E, BHM, Pennington County, South Dakota.**

*County Parcel Number: Pennington County identifies property by tax identification number and parcel (PIN) number. The identifying numbers for the subject property are #52978 and #37-22-305-001, respectively.*

- a) **Fixtures.** The Seller does not sell and the Buyer does not buy the following fixtures: The bank vault currently installed inside the building and the grass art sculpture installed outside the building.
- b) **Personal Property.** The Seller shall include the personal property listed in **Exhibit A**, attached and incorporated herein, as part of the sale.

3. Consideration. As consideration for the Property, the City shall pay the sum of One Million Six Hundred Fifty Five Thousand Dollars (\$1,655,000), which consideration shall be paid by check at closing.

4. Closing. The closing of this transaction shall take place at the office of First American Title Company at such time as mutually agreed on or approximately April 1, 2022.

5. Leaseback. At the Closing and immediately after City shall receive the warranty deed to the property from Security First Bank, City, as landlord, shall enter into a lease agreement of the property with Security First Bank as tenant, which lease shall be in the form and substance of that form attached as **Exhibit B** and incorporated herein by reference. The Rapid City Mayor is authorized to execute this lease without future action of the City Council. The form of the attached lease shall be completed at the Closing as follows: The date of the lease shall be the date of the Closing, and the commencement date of the term of the lease shall be the date of Closing.

6. Title. Security First Bank warrants that it has or will have at the time of closing good and merchantable title to all of the property described in Part 2 hereof according to the title standards adopted by the State of South Dakota, subject only to such easements, covenants, rights-of-way, restrictions and reservations as are acceptable to the City in its sole discretion.

Security First Bank shall request a Commitment for Title Insurance, which shall be delivered to City at least twenty-one (21) days prior to closing. City shall inform Security First Bank of any objections to the title of said property at least seven (7) days prior to closing. If City does not provide such notice of any objections to Security First Bank, then it will be presumed that City will accept title to said property as provided in said Commitment for Title Insurance, subject to the satisfaction of any mortgages and other encumbrances and payment of taxes as provided herein, all to be accomplished at closing.

Security First Bank shall obtain a policy of title insurance in conformance with the title required herein in an amount equal to the purchase price agreed upon for the real property described in Part 2 hereof, and a copy of said policy shall be delivered to City for examination within thirty (30) days after the date of closing.

7. Warranty Deed. Security First Bank shall convey title to the City at closing in conformance with the requirements hereof by a good and sufficient Warranty Deed.

8. Taxes and Assessments. All taxes and other assessments for the year 2021 and prior years shall be paid by Security First Bank at or before closing. All of said taxes and other assessments for the year 2022 shall be prorated to the date of closing and paid by Security First Bank at or before closing.

9. Transaction Costs and Fees. The costs and fees associated with this transaction shall be paid as follows:

- a. Closing costs and fees payable to First American Title Company for its services in closing this transaction shall be split equally between the parties.
- b. All transfer fees shall be paid by Security First Bank.
- c. All recording fees for recording the Warranty Deed shall be paid by the City.
- d. Any recording fees for documents necessary to provide the title according to Part 6 hereof shall be paid by Security First Bank.
- e. Any fees to obtain a policy of title insurance according to Part 6 hereof shall be equally split by Security First Bank and the City.
- f. All attorneys' fees shall be paid by the party incurring the same.
- g. Costs and fees payable to financial institutions for documents or services related to mortgages and related instruments shall be paid by each institution's customer.

10. Representations of Seller. Seller represents and warrants as follows:

- a. The Property is in a condition appropriate for its contemplated use and that there are no hidden or undisclosed defects.
- b. Seller has no knowledge or notice of any violations of any laws or requirements of any governing body, nor of any action, proceeding, event, or occurrence which would materially affect Buyer's intended use and continued operation of the Property, including any levies or assessments.
- c. To the best of Seller's knowledge, there is no condition on the Property that may give rise to environmental liability at any time now or in the future.
- d. Seller has no knowledge of any pending or contemplated condemnation proceeding affecting the Property which is the subject hereof or any part thereof.
- e. No materialman's or mechanic's liens are filed of record affecting the Property. Seller covenants and agrees to provide at Closing any and all documentation, affidavits, or indemnity agreements deemed necessary by the title insurer chosen by Buyer for issuance of an owner's title insurance policy without exception for mechanic's and materialman's liens.
- f. As to Seller, no person, firm, or entity, except as set forth herein, has any rights in or to acquire the Property the subject hereof or any part thereof; and with the exception of the present Agreement and the Contract for Deed entered into thereunder with Buyer, there is no contract or agreement of any kind or nature affecting the subject Property or the operation thereof which will survive the Closing.

- g. There are no existing prior special assessments which are unpaid and Seller has no knowledge of any pending special assessments against the Property which is the subject thereof.
- h. At the Closing, Seller will do, make, execute, and deliver to Buyer all such additional and further acts, things, deeds, instruments, and documents as may be reasonably required to carry out the terms and conditions hereof.
- i. The Seller has not granted any right of first refusal or option to acquire fee title or any title interest to the Property or any portion thereof or interest therein other than to Buyer. All representations, warranties, and covenants of Seller contained in this Agreement, to the best of Seller's knowledge, information, and belief, shall be true and correct as of the date of this Agreement, as of Closing, and shall survive Closing.

11. Mineral, Timber and Water Rights. All mineral, timber and water rights possessed by Seller appurtenant to the property shall be transferred to Buyer. Seller makes no warranties or representations as to the existence or extent of such rights.

12. Care of the Property. Sellers shall be responsible for keeping the property in good repair and in a neat and clean condition at least equal to its present condition through the date of closing.

13. Risk of Loss. All risk of loss prior to the date of closing designated herein shall be with Sellers, and Buyers shall assume all risk of loss thereafter, with the exception of any risk of loss as addressed in the lease agreement, attached and incorporated herein as Exhibit A.

14. Agents. No realtor, broker or agent was enlisted for the sale of this property, and no commission or fees are owing to any person or entity relative to this Agreement.

15. Default. In the event of the failure of either of the parties to close as contemplated herein or to perform the obligations they have agreed to perform in this contract, the other party shall have all of the rights and remedies available to them under the laws of the state of South Dakota.

16. Survey. The City shall have the option to have the property surveyed by the surveyor of its choice. Security First Bank shall also provide to the City copies of any and all surveys, plats and similar documents in their possession and relevant to the above-described property.

17. Integration. This Agreement and the agreements and documents referred to herein (including any exhibits) contain the entire agreement and understanding of the parties hereto with respect to the subject matter hereof and supersede all prior agreements, negotiations, and understandings, whether written or oral, relating to the subject matter hereof.

18. Amendments. The provisions of this Agreement may be modified only by written agreement signed by the parties.

19. Assignment. This Agreement and the rights, duties, and obligations hereunder may not be transferred or assigned by either of the parties, whether directly or indirectly by merger, consolidation, reorganization, dissolution, operation of law or otherwise, without the prior written consent of the other party. Such consent may not be unreasonably withheld. Any attempted transfer or assignment without consent in violation of the foregoing shall be void. Subject to the foregoing, this Agreement and the provisions hereof shall be binding on the parties and their respective permitted successors and assigns.

20. Recording. This Agreement may be recorded by any party hereto.

21. Survival. All representations and warranties by the respective parties contained herein or made in writing pursuant to this Agreement shall survive the execution and delivery of this Agreement and the delivery of the deed and transfer of title, provided that the non-representing party must give the representing party written notice of any claim it may have against the representing party for a breach of any such representation or warranty within twelve months after the Closing Date (the "Survival Period"). Any claim which either party may have at any time, whether known or unknown, which is not asserted within the Survival Period shall not be valid or effective, and the representing party shall have no liability with respect thereto.

22. Waivers. No waiver of any term or provision of this Agreement shall be binding unless executed in writing by the party entitled to the benefit thereof.

23. Cumulative Remedies. The rights and remedies under this Agreement are in addition to and not exclusive of any other rights, remedies, powers and privileges, whether at law or in equity, under this Agreement or otherwise, that any party may have against another. No failure to exercise and no delay in exercising any right, power or privilege shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege preclude the exercise of any other right, power or privilege. No waiver of any breach or default of any covenant or agreement hereunder shall be deemed a waiver of any preceding or subsequent breach or default of the same or any other covenant or agreement.

24. Time of the Essence. Time is of the essence with respect to all provisions of this Agreement in which a definite time for performance is specified; provided, however, that the foregoing shall not be construed to limit or deprive a party of the benefits of any grace or use period provided for in this Agreement.

25. Force Majeure. Neither party shall be liable for any delay or failure in performance due to any reason or unforeseen circumstance beyond the affected party's reasonable control, including shortages or delays in obtaining materials from suppliers that cannot reasonably be cured by obtaining the needed materials from another source, work stoppages not involving employees of either party that cannot reasonably be overcome, fires, riots, rebellions, wars, acts of terrorism, accidents, explosions, floods, storms, acts of God, and similar occurrences. The obligations and rights of the excused party shall be extended on a day-to-day basis for the time period equal to the period of the excusable delay.



On this the \_\_\_\_ day of \_\_\_\_\_, 2021, before me, the undersigned officer, personally appeared Gregory A. Hunter, who acknowledged himself to be the Chairman of Security First Bank, a Nebraska-chartered, privately-held community bank, and that he as such Chairman, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by himself as Chairman.

IN WITNESS WHEREOF I hereunto set my hand and official seal.

(SEAL)

\_\_\_\_\_  
Notary Public - South Dakota  
My Commission Expires \_\_\_\_\_

**CITY OF RAPID CITY**

\_\_\_\_\_  
Mayor

ATTEST

\_\_\_\_\_  
Finance Director

(SEAL)

State of South Dakota    )  
  ) ss.  
County of Pennington    )

On this the \_\_\_\_ day of \_\_\_\_\_, 2021, before me, the undersigned officer, personally appeared Steve Allender and Pauline Sumption, who acknowledged themselves to be the Mayor and Finance Director, respectively, of the City of Rapid City, a municipal corporation, and that they as such Mayor and Finance Director, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the City of Rapid City by themselves as Mayor and Finance Director.

IN WITNESS WHEREOF I hereunto set my hand and official seal.

(SEAL)

\_\_\_\_\_  
Notary Public - South Dakota  
My Commission Expires \_\_\_\_\_