

RESOLUTION 46-2012

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF BENSON, ARIZONA, APPROVING A CONTRACT FOR THE PURCHASE OF REAL PROPERTY WITHIN THE CITY OF BENSON AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID CONTRACT AND ANY OTHER DOCUMENTS NECESSARY TO COMPLETE THE TRANSACTION

WHEREAS, the City of Benson is growing and the City wishes to obtain real property that would benefit the growing needs of the City; and

WHEREAS, Cochise Materials, Inc. is the owner of a parcel within the City limits of the City of Benson and has a physical addresses of 599 N. Orr Avenue; and

WHEREAS, the terms and conditions under which Cochise Materials, Inc. is willing to sell and the City is willing to purchase the property is set forth in a contract for the purchase of real property, attached hereto as Exhibit "A".

BE IT NOW HEREBY RESOLVED that the Mayor and Council of the City of Benson, Arizona, hereby approve the purchase of the above property under the terms and conditions of the contract set forth in Exhibit "A", attached hereto and by reference incorporated herein, and the City Manager of the City of Benson is hereby authorized to execute any and all documentation necessary or convenient to conclude the transfer.

PASSED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE CITY OF BENSON, ARIZONA this 27th day of August, 2012.



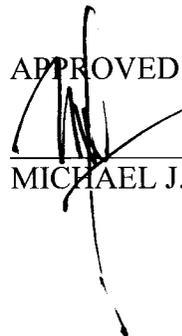
TONEY D. KING, SR., Mayor

ATTEST:



VICKI L. VIVIAN, CMC, City Clerk

APPROVED AS TO FORM:



MICHAEL J. MASSEE, City Attorney

EXHIBIT "A"
CONTRACT

LAND PURCHASE CONTRACT

This Purchase Contract is entered into by and between the **City of Benson**, hereinafter referred to as "Buyer," and **Cochise Materials, Inc.**, hereinafter referred to as "Seller," and is subject to the terms and conditions contained herein.

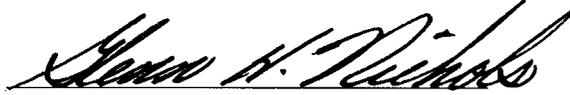
1. The real property, hereinafter referred to as "the Premises," which is the subject of this Contract is a portion of Cochise County, Arizona, consisting of 11.3 acres, more or less, and is specifically described on the attached Exhibit "A" incorporated as if here fully set forth.
2. The total purchase price for the above described real property shall be \$130,000.00, payable as follows:
 - A. **Cash payable at closing**, which shall occur on, or before, November 1, 2012, in the amount of THIRTY THOUSAND Dollars (\$30,000.00);
 - B. **Balance** of ONE HUNDRED THOUSAND Dollars (\$100,000.00) shall be in the form of Buyer's Promissory Note, which shall be secured by a Deed of Trust and Assignment of Rents on the Premises, and said note shall be payable in semi-annual installments of FIVE THOUSAND Dollars (\$5,000.00), to be credited to the then unpaid principal, along with an additional amount equal to the then accumulated and unpaid interest at the annual rate of FOUR PERCENT (4%), and said promissory note shall provide for a payment grace period of ten (10) days and a late payment charge of \$20.00 per day for payments after expiration of the grace period. The first semi-annual installment from Buyer shall be due and payable on, or before, July 1, 2013 and shall consist of principal in the amount of FIVE THOUSAND Dollars (\$5,000.00) plus interest for the eight (8) months from closing in the amount of TWO THOUSAND SIX HUNDRED SIXTY SIX and 64/100 Dollars (\$2,666.64). The second payment on buyer's promissory note shall be due on, or before, January 1, 2014 and shall consist of principal in the amount of FIVE THOUSAND Dollars (\$5,000.00) plus interest on the unpaid principal from July 1, 2013, in the amount of ONE THOUSAND NINE HUNDRED Dollars, thereafter until the principal and accumulated earned interest are paid in full, Buyer's installment payments shall be payable on, or before, January 1st and July 1st of each consecutive year;

- C. Buyer's installment payments shall be deposited with Pioneer Title Agency, Inc. who shall act as the collection agent for this transaction and Buyer and Seller shall each pay one-half (1/2) of the collection agent's service fee;
 - D. The aforementioned promissory note shall provide that Buyer may prepay all, or any portion, of the unpaid principal at anytime without incurring any interest prepayment penalty.
3. Taxes shall be prorated as of the date of closing of the sale which shall occur no later than November 1, 2012.
 4. The "Premises" which are the subject matter of this Purchase Contract include two (2) metal buildings which are not heated, cooled or deemed as habitable for uses other than repair shops, storage or similar uses and one (1) 1964 Elder office trailer all being sold "**AS IS, WHERE IS**" without any warranty as to use, fitness for a particular purpose or otherwise, except the warranty of title.
 5. The "Premises" sale includes a billboard lease agreement with Clear Channel for one (1) billboard located in the southwestern most corner of the property and Seller's rights under said lease agreement shall be assigned to Buyer effective as of the date of closing of the sale.
 6. Seller shall provide evidence of marketable title by means of a Standard Form Owners Title Insurance policy issued by Pioneer Title Agency, Inc. in an amount equal to the total purchase price.
 7. Buyer and Seller shall equally divide the transaction escrow service fee and the recording and deed affidavit fees.
 8. The consideration for this Contract is the mutual promises of the parties and no earnest money is paid.
 9. Buyer has received, read, and approved the Sellers Property Disclosure Statement.
 10. Both parties agree that this Contract may be used by the transaction escrow agent, which shall be Pioneer Title Agency, Inc., acting through its Benson office, as the escrow instructions.

11. The City Manager of the City of Benson shall be authorized to execute any and all documents necessary or convenient to accomplish closing of the subject sale.

Dated this 28th day of August, 2012.

City of Benson



Glenn H. Nichols, Benson City Manager

Attest:



Vicki L. Vivian, CMC, City Clerk

Approved as to form:



Michael J. Masee, City Attorney

ACCEPTANCE

I, the undersigned, do hereby accept the foregoing Land Purchase Proposal, and I understand that it is contingent on the Benson City Council at a regular open meeting accepting the terms and conditions hereinabove set forth by an affirmative vote of a majority upon a proper motion and second and that in the absence thereof this Proposal is of no force or affect.

Dated this 28th day of August, 2012.

Cochise Materials, Inc., an Arizona corporation



Its President