



Huntsville, Alabama

308 Fountain Circle
Huntsville, AL 35801

Cover Memo

Meeting Type: City Council Regular Meeting **Meeting Date:** 2/9/2023

File ID: TMP-2487

Department: Administration

Subject:

Type of Action: Approval/Action

Resolution authorizing the Mayor to execute a Purchase and Sale Agreement between the City of Huntsville and Had Land Equity II, LLC.

Type of Document: Resolution No.

Does this item need to be published? No

If yes, please list preferred date(s) of publication: _____

Finance Information:

Account Number: 3020-10-00000-520600-PR8462XX

City Cost Amount: \$ N/A

Total Cost: \$ 1,127,115.00

Special Circumstances:

Grant Funded: \$ N/A

Grant Title - CFDA or granting Agency: N/A

Resolution #: N/A

Location:

Address: Martin Road near Zeirdt

District: District 1 ☐ District 2 ☐ District 3 ☒ District 4 ☐ District 5 ☐

Additional Comments: N/A

RESOLUTION NO. 23-90

BE IT RESOLVED by the City Council of the City of Huntsville, Alabama, that the Mayor be, and he is hereby authorized to execute a Purchase and Sale Agreement by and between the City of Huntsville and Had Land Equity II, LLC., on behalf of the City of Huntsville, a municipal corporation in the State of Alabama, which said Purchase and Sale Agreement is substantially in words and figures as that certain document attached hereto as identified as "Purchase and Sale Agreement by and between the City of Huntsville and Had Land Equity II, LLC.," consisting of twelve (12) pages, and the date of February 9, 2023, appearing on the margin of the first page, together with the signature of the President of the City Council, and an executed copy of said document after being permanently kept on file in the Office of the City Clerk-Treasurer of the City of Huntsville, Alabama.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Mayor be and he is hereby authorized to execute the Purchase and Sale Agreement, on behalf of the City of Huntsville, with such changes as the Mayor deems desirable and necessary, and the authority to execute any and all such documents relevant, required, and/or relating to effect, close, carry out, or complete the real estate transaction or closing contemplated therein.

ADOPTED this the 9th day of February, 2023.

President of the City Council of
the City of Huntsville, Alabama

APPROVED this the 9th day of February, 2023.

Mayor of the City of Huntsville,
Alabama

PURCHASE AND SALE AGREEMENT
(BARGAIN SALE)

This PURCHASE AND SALE AGREEMENT (BARGAIN SALE) (the "Agreement") is made and entered into as of the 9th day of February, 2023 (the "Effective Date"), by and between **CITY OF HUNTSVILLE**, an Alabama municipal corporation ("Purchaser"), and **HAD LAND EQUITY II, LLC**, a Delaware limited liability company ("Seller").

WHEREAS, the Purchaser desires to purchase from Seller and Seller desires to sell to Purchaser that certain parcel of real property owned by Seller and located in Huntsville, Madison County, Alabama, to be used for the construction, maintenance, establishment and operation of a recreation center to serve the citizens of the City of Huntsville.

WHEREAS, Purchaser is a political subdivision of the State of Alabama, and is included in the list of organizations described in Section 170(c)(1) of the Internal Revenue Code of 1986, as amended (the "Code"), and the applicable regulations promulgated thereunder.

NOW THEREFORE, in consideration of the premises and the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1.1 **Purchase and Sale.** Subject to and in accordance with the terms contained in this Agreement, Seller agrees to sell to Purchaser, and Purchaser agrees to buy from Seller, that certain real property consisting approximately 4.96 acres, more or less, being more particularly described in Exhibit "A," attached hereto, subject the "Permitted Exceptions" (as defined in Section 5.1 below) (hereinafter referred to as the "Property")

2.1 **Earnest Money.** Within five (5) business days following the Effective Date, Purchaser will deliver to Wilmer & Lee, P.A. (either the "Closing Agent" or the "Escrow Agent"), as escrow agent, the amount of Twenty-Five Thousand Dollars (\$25,000.00), said sum, together with interest earned thereon, to be held by said Escrow Agent as earnest money (the "Earnest Money"), pursuant to the terms and provisions of this Agreement. The Earnest Money deposit shall be non-refundable to Purchaser upon the end of the Due Diligence Period. After the Earnest Money becomes non-refundable, if Purchaser fails to consummate the transaction as required under the terms of the Agreement, said Earnest Money shall be retained by Seller as full and final liquidated damages, exclusive of any indemnification obligations under this Agreement which expressly survive closing or sooner termination of this Agreement. If Seller fails to consummate the transaction as required under the terms of the Agreement, Purchaser shall be entitled to the remedies set forth below in Section 13.1. All Earnest Money deposits shall be applicable to the Purchase Price.

3.1 **Purchase Price.**

a) **Cash Purchase Price.** The aggregate cash purchase price for the Property shall be ONE MILLION ONE HUNDRED TWENTY-SEVEN THOUSAND ONE HUNDRED

FIFTEEN AND 00/100 DOLLARS (\$1,127,115.00). The Purchase Price shall be paid to Seller in cash or other immediately available funds at closing ("Closing"). The Earnest Money shall be applied against the Purchase Price at Closing.

b) Charitable Contribution. A Bargain Sale occurs when a seller sells a property for less than the current fair market value to an organization identified in Section 170(c) of the Code) (i.e. a municipality, charity, etc.). Seller and Purchaser acknowledge that the fair market value of the property is substantially greater than the Purchase Price. Seller and Purchase desire to treat the transaction contemplated herein as a bargain sale as defined in Section 1011(b) of the Code and Treasury regulation Sections 1.170A-4 and 1.1011-2. The Purchaser and Seller desire to treat the difference between the fair market value and the cash Purchase Price as a charitable contribution. Seller acknowledges that the substantiation of a charitable contribution deduction rests exclusively with Seller and that Seller will be solely responsible for the cost of obtaining a qualified appraisal for such purposes; provided, however, that the Purchaser agrees to provide Seller with a donor acknowledgment (reflecting the value of the appraisal) and to execute Internal Revenue Service Form 8283. The Purchaser makes no representations or warranties as to the amount or assessed value of the Seller's charitable contribution.

4.1 Inspection Period; Flood Study. Commencing on the Effective Date and ending sixty (60) days thereafter ("Inspection Period"), Purchaser, its agents, designees, and contractors shall have the right to enter the Property for the sole purpose of conducting Purchaser's due diligence investigations of the Property, including without limitation surveys, geological studies, soil borings, phase I such other investigations, studies or tests as Purchaser may deem necessary or desirable in order to determine whether or not to proceed with the purchase of the Property, provided that any intrusive and/or invasive tests or studies shall require the prior written approval of Seller. Prior to expiration of the Inspection Period, Purchaser shall have the right to terminate this Agreement if Purchaser, in its sole discretion, deems the Property or any aspect thereof, or any test or assessment, or the result of any inquiry or investigation, to be unsatisfactory in any way or for any reason whatsoever. Provided, however, that Purchaser may only exercise such right by giving Seller written notice of such termination (in accordance with Section 20.1 below) on or before the expiration of the Inspection Period. Upon expiration of the Inspection Period, the Earnest Money becomes non-refundable. During the Inspection Period, Seller shall provide Purchaser with documents certifying completion of an updated flood study evidencing that the Property is free of flood plain impacts. Purchaser shall not damage the Property in performing any entry, inspections, tests, and studies and shall conduct same only during normal business hours and after not less than twenty-four (24) hours' notice to Seller. At Seller's option, Seller may have a representative present during any such entries or inspection. Purchaser shall keep the Property free and clear of any mechanic's or materialmen's liens arising out of any entry, inspection, test or study and, if any such items are filed, Purchaser shall cause any mechanic's or materialmen's liens to be released or transferred to bond within five (5) business days after Purchaser is aware of such filing. Purchaser's entry onto the Property is subject to, and must be conducted in accordance with, all applicable governmental laws, rules and regulations and shall be conducted in a manner which will not interfere with the rights of any parties in occupancy of the Property. Purchaser will promptly repair any damage to the Property arising from Purchaser's having made such inspections, studies, or tests. Purchaser shall use commercially reasonable efforts to cause its contractors to maintain at all times during its entry upon the Property commercial general

liability insurance in commercially reasonable amounts. Notwithstanding any liability or other insurance that may be maintained by Purchaser, Purchaser shall, and hereby agrees to, indemnify, defend and hold Seller, Seller's agents and affiliates harmless from any and all liability, loss, cost, damage or expense for personal injury, death, or property damage (including, without limitation, reasonable attorneys' fees and costs, at the trial level and at all levels of appeal) that Seller, or Seller's agents or affiliates may sustain or incur by reason of, or in connection with, any such entry, inspections, studies, or tests to the extent caused by, or resulting from such entry, including any claims by tenants, except that the foregoing indemnification shall not be provided with respect to pre-existing conditions merely discovered by Purchaser (except to the extent that Purchaser's activities exacerbate any such pre-existing condition and except to the extent such pre-existing condition was discovered by Purchaser as the result of intrusive/invasive inspections or tests performed by or on behalf of Purchaser without Seller's prior written consent as required herein).

5.1 Preliminary Title Commitment and Survey. Purchaser shall obtain a title commitment (the "Title Commitment") to issue an Owner's policy of insurance from Closing Agent with the Owner's title policy premium to be paid by Purchaser at Closing, to be issued in accordance with commercially reasonable standards and insuring Purchaser with good and marketable and insurable fee simple title to the Property, free and clear of all liens, encumbrances, leases, tenancies, covenants, conditions, restrictions, rights-of-way, easements and other matters affecting title except for the Permitted Exceptions. "Permitted Exceptions" shall mean: (i) ad valorem taxes not yet due and payable, (ii) easements for the installation or maintenance of public utilities servicing the Property, (iii) all laws, and all restrictions, covenants, conditions, limitations, agreements, reservations and easements now or hereafter recorded in the public records, which may include, without limitation, zoning restrictions, environmental ordinances and regulations, property use limitations and obligations, easements (rights of way) and agreements relating to telephone lines, water and sewer lines, storm water management and other utilities, (iv) any matters shown on the Title Commitment (defined herein) or Survey (defined herein), (v) the Restrictive Instrument (as defined in Section 9.1 below), (vi) matters created by, through or under Purchaser, (vii) such other matters, if any, as may be acceptable to Purchaser, and (viii) any matters not listed above as long as title insurance coverage is available for these matters. On or before Closing, Seller shall remove (or cause the title insurer to remove) by payment, bonding or otherwise, any and all monetary liens, of an ascertainable amount against the Property created by, through or under Seller, which is capable of removal by the payment of money and is not subject to proration under Section 10.1 below. Purchaser shall obtain an ALTA survey of the Property (containing a metes and bounds legal description) to be prepared by a public land surveyor licensed in the State of Alabama ("Survey"). The Property shall be conveyed by Seller to Purchaser free and clear of any and all liens, except for the Permitted Exceptions.

6.1 Closing. The "Closing" of the transaction contemplated by this Agreement (that is, the payment of the Purchase Price, the transfer of title to the Property, and the satisfaction of all other terms and conditions of this Agreement) will occur at the law offices of Wilmer & Lee, P.A., located at 100 Washington Street, Huntsville, Alabama 35801, no later than forty-five (45) days following the expiration of the Inspection Period, or at such earlier date and time as may be mutually agreed upon by the parties ("Closing Date"). Provided, if there are any encumbrances or liens on the Property other than the Permitted Exceptions, Purchaser may extend the Closing Date until thirty (30) days after any title issues have been resolved.

At Closing, Seller shall deliver the following items to Closing Agent:

- a) Statutory warranty deed conveying insurable fee simple title in the Property to Purchaser subject only to the Permitted Exceptions (the "Deed");
- b) All other documents reasonably requested by Seller to carry out the transaction contemplated by this Agreement, including but not limited to, a donor acknowledgment, execution of IRS Form 8283, and all other tax documentation reasonably required by Seller or the Internal Revenue Service in connection with the charitable donation contemplated herein, a settlement statement, and any formation documents, certifications, resolutions, brokers affidavits and other customary documents establishing Purchaser is duly authorized and empowered to enter into this Agreement and to perform its obligations hereunder, provided, in each instances same do not result in increased obligations or liability for Purchaser.
- c) A mechanic's lien, possession and gap affidavit in form reasonably approved by the title company issuing the Title Commitment (the "Title Company");
- d) All other documents reasonably requested by Purchaser to carry out the transaction contemplated by this Agreement, including but not limited to, mandatory IRS disclosures, a settlement statement, and any formation documents, certifications, resolutions, brokers affidavits and other customary documents establishing Seller is duly authorized and empowered to enter into this Agreement and to perform its obligations hereunder, provided, in each instances same do not result in increased obligations or liability for Seller.

At Closing, Purchaser shall deliver the following items to Closing Agent:

- a) The balance of the Purchase Price;
- b) All other documents reasonably requested by Seller to carry out the transaction contemplated by this Agreement, including but not limited to, [all tax documentation required under Sections 170 and 1101(b) of the Internal Revenue Code and Treasury regulation Section 1.170A-4 in connection with the charitable donation contemplated herein], a settlement statement, and any formation documents, certifications, resolutions, brokers affidavits and other customary documents establishing Purchaser is duly authorized and empowered to enter into this Agreement and to perform its obligations hereunder, provided, in each instances same do not result in increased obligations or liability for Purchaser.

7.1 Condition of Property Upon Conveyance. Purchaser is responsible for its own inspection and examination of the Property and any improvements thereon. SELLER HAS NOT MADE AND MAKES NO REPRESENTATIONS OR WARRANTIES WHATSOEVER TO PURCHASER OR ANY AGENT, REPRESENTATIVE OR CONTRACTOR OF PURCHASER, WITH RESPECT TO THE CONDITION OF THE PROPERTY, INCLUDING ENVIRONMENTAL MATTERS. PURCHASER AGREES AND ACKNOWLEDGES THAT: (i) PURCHASER SHALL PURCHASE AND ACQUIRE THE PROPERTY IN ITS "AS-IS/WHERE IS" SHAPE AND CONDITION, WITH ANY AND ALL FAULTS, IF ANY, AND

BASED SOLELY ON PURCHASER'S OWN INSPECTION, INVESTIGATION AND EVALUATION OF THE PROPERTY, WITHOUT REPRESENTATION OR WARRANTY, WHETHER EXPRESS OR IMPLIED; AND (ii) NEITHER SELLER NOR ANY AGENT OF SELLER HAS MADE ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, CONCERNING THE PROPERTY, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OR REPRESENTATIONS AS TO HABITABILITY, MERCHANTABILITY, FITNESS OR SUITABILITY FOR A PARTICULAR PURPOSE, OR THE COMPLIANCE OF THE PROPERTY WITH GOVERNMENTAL LAWS. THE FOREGOING OBLIGATION SHALL SURVIVE THE CLOSING AND/OR THE TERMINATION OF THIS AGREEMENT. THE FOREGOING COVENANTS OF PURCHASER ARE A SPECIFIC INDUCEMENT TO SELLER TO ENTER INTO THIS AGREEMENT AND SELL THE PROPERTY TO PURCHASER ON THE TERMS AND CONDITIONS SET FORTH HEREIN, SPECIFICALLY INCLUDING, BUT WITHOUT LIMITATION, THE PURCHASE PRICE. IN ELECTING TO PROCEED WITH THIS TRANSACTION, PURCHASER SHALL HAVE DETERMINED THAT THE PROPERTY IS SATISFACTORY TO PURCHASER IN ALL RESPECTS, IN ITS SOLE DISCRETION, EXCEPT AS EXPRESSLY PROVIDED OTHERWISE IN THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THE LIMITED REPRESENTATIONS, WARRANTIES AND COVENANTS OF SELLER SET FORTH IN THIS AGREEMENT OR IN ANY OF THE DOCUMENTS TO BE DELIVERED AT CLOSING, PURCHASER IS PURCHASING THE PROPERTY IN "AS IS" CONDITION AS OF THE EXPIRATION OF THE INSPECTION PERIOD, SUBJECT TO THE PROVISIONS OF THIS AGREEMENT. Notwithstanding, Seller will not further encumber or permit a monetary encumbrance of the Property.

8.1 Risk of Loss. The Property shall be conveyed to Purchaser in the same condition as on the date of this Agreement, ordinary wear and tear excepted. In the event that the Property or any portion thereof is taken by eminent domain, either Seller or Purchaser shall have the option of canceling this Agreement by delivery of written notice to the other party whereupon the Earnest Money and all interest earned thereon shall be returned to Purchaser and both parties shall be relieved of all further obligations under this Agreement, except those obligations which expressly survive termination, failing which Purchaser shall proceed with Closing in which case Purchaser shall be entitled to all condemnation awards and settlements.

9.1 Restrictions on Property. As part of the consideration specified by this Agreement, the Purchaser agrees that, either prior to the Closing, the Property shall be restricted against use for residential development and residences for a period of fifty (50) years. Such restriction shall be more fully set forth in a recordable instrument, in form and substance agreed upon by the parties prior to expiration of Inspection Period (the "Restrictive Instrument"). The Restrictive Instrument shall be recorded prior to the deed and shall be deemed a Permitted Exception for purposes of Section 5.1 of this Agreement.

10.1 Closing Costs and Prorations. The cost of deed preparation (to be prepared by Closing Agent and approved by Seller's counsel), deed tax, recording fees, and all closing costs, except for Seller's attorney's fees, shall be paid by Purchaser at Closing. All ad valorem taxes on the Property shall be prorated in accordance with local custom. All title insurance premiums (including but not limited to the costs of any title search costs, policy premiums and

policy endorsements) shall be paid by Purchaser. All other prorations shall be consistent with local custom.

11.1 Easements and Subdivision. The Seller may reserve, either by plat or the Deed, an Emergency Access Easement, in order to allow emergency access and facilitate development of its adjacent property, including, but, not limited to, utility drainage and access easements. The parties agree to cooperate with one another in good faith to design and determine the location and terms of such easements during the Inspection Period. Following expiration of the Inspection Period and provided Purchaser has not sooner terminated this Agreement, Purchaser and Seller shall also cooperate in good faith to subdivide the Property at Purchaser's sole cost and expense.

12.1 Right of Entry. Upon execution of this Agreement, Purchaser is hereby granted the right to enter onto the Property from time to time for the purposes and subject to the terms of Section 4.1 above. All such investigations, testing and evaluations shall be undertaken only after Purchaser has provided reasonable notice to Seller and shall be performed at Purchaser's sole expense.

13.1 Seller Default. In the event of a default by Seller under this Agreement, as its sole and exclusive remedies, Purchaser at its option shall have the right to: (i) terminate this Agreement and receive the return of the Earnest Money together with all interest earned thereon, whereupon the parties shall be released from all further obligations under this Agreement, except those obligations which expressly survive termination, or, alternatively, (ii) enforce this Agreement against Seller by specific performance in accordance with paragraph below. NOTWITHSTANDING ANYTHING CONTAINED TO THE CONTRARY IN THIS AGREEMENT, THE PRECEDING SHALL BE PURCHASER'S SOLE REMEDIES IN THE EVENT OF DEFAULT BY SELLER AND PURCHASER SHALL NOT BE ENTITLED TO ANY DAMAGES WHATSOEVER AS A RESULT OF SELLER'S DEFAULT UNDER THE AGREEMENT.

Purchaser shall have a right to seek specific performance of Seller's obligations only if Purchaser fully complies with the following preconditions (the "Specific Performance Preconditions"):

- (1) Purchaser delivers written notice to Seller of Purchaser's intent to file a cause of action for specific performance against Seller (a "Suit Notice") on or before ten (10) days following the earlier of (x) the date on which Purchaser has actual knowledge of the Seller default which is the basis for Purchaser's cause of action, or (y) the scheduled Closing Date (the earlier to occur being, the "Notice Deadline"); and
- (2) If Purchaser has timely delivered a Suit Notice to Seller, Purchaser files a lawsuit asserting a claim or cause of action for specific performance against Seller within thirty (30) days following the Notice Deadline and posts a bond with respect to any lis pendens filed in connection with such lawsuit.

If Purchaser fails to timely and fully comply with any of the Specific Performance Preconditions set forth above, Purchaser shall irrevocably waive and release Purchaser's right of specific performance.

Notwithstanding the foregoing, in the event of a default by either party of any obligations, indemnities, representations or warranties which specifically survive Closing, then the non-defaulting party shall be entitled to seek any legal redress permitted by law or equity. The provisions hereof shall survive Closing.

14.1 Authority. Seller represents and warrants, to and for the benefit of Purchaser, that Seller has the authority to convey the Property in accordance with the terms of this Agreement and the individual(s) signing this Agreement and all documents executed or to be executed by Seller are and shall be duly authorized to sign on behalf of Seller. Purchaser represents and warrants, to and for the benefit of Seller, that Purchaser has the authority to acquire the Property in accordance with the terms of this Agreement and grant the tax incentives referred to herein and the individual(s) signing this Agreement and all documents executed or to be executed by Purchaser are and shall be duly authorized to sign on behalf of Purchaser.

15.1 Property Condition- No Grant of Additional Encumbrances. Following expiration of the Inspection Period and provided Purchaser has not timely elected to terminate this Agreement, Seller shall not (a) sell, lease, transfer, or encumber, in any manner, the Property, or any portion thereof; or (b) grant or extend the term of any leases without the express, written approval of Purchaser.

16.1 Broker's Fees. Each party represents that there are no brokers' fees or real estate commissions due on account of their actions in connection with this Agreement or the transaction contemplated herein. Each party agrees to indemnify, defend and hold the other harmless from any claims of real estate agents or brokers claiming through the party.

17.1 Attorney's Fees. In the event either party initiates any lawsuit, litigation, or legal action regarding the terms of this Agreement or the Property described herein, the prevailing party shall be entitled to collect reasonable attorney's fees and court costs.

18.1 Governing Law. The terms and conditions of this Agreement shall be construed, interpreted and enforced in accordance with the laws of the State of Alabama, without regard to its conflict of laws provision.

19.1 Entire Agreement. This Agreement contains the entire agreement between the parties with respect to the transactions provided for herein, and the parties hereto agree that no other representations have been relied on by either party.

20.1 Successors and Assigns. This Agreement shall be binding upon the heirs, personal representatives, successors and assigns of Seller, and inure to benefit of the successors and assigns of Purchaser. The rights under this Agreement are personal to Purchaser and are not assignable.

21.1 Notice. All notices shall be properly given only if made in writing and sent to the addresses set forth below and may be provided by any of the following methods: hand delivery, U.S. Certified Mail (Return Receipt Requested), nationally recognized overnight delivery service, or by electronic mail (e-mail) or pdf transmission. Such notices shall be deemed received, (i) if delivered by hand, on the date of delivery, (ii) if sent by U.S. Mail or overnight delivery service, on the date the same is deposited with the applicable carrier, or (iii) if delivered by email or pdf transmission on the date the transmission is sent. Notice shall be provided to the following:

To Seller: HAD LAND EQUITY II, LLC
 c/o Harold A. Dawson, Jr.
 223 West Gregory Street
 Pensacola, Florida 32502

To Purchaser: City of Huntsville
 Attn: John Hamilton
 City Administrator
 P.O. Box 308
 Huntsville, Alabama 35804

With a copy to: Wilmer & Lee, P.A.
 Attn: Sam Givhan and Katie Beasley
 100 Washington Street
 Huntsville, Alabama 35801
 Phone: 256-533-0202
 Email: sgivhan@wilmerlee.com
 kbeasley@wilmerlee.com

22.1 Survival. Any terms and covenants contained in this Agreement which require the performance of either party after the Closing shall survive the closing and delivery of the deed.

23.1 Email or Facsimile Signatures. The parties agree that this document may be executed and the signatures transmitted to the other parties by facsimile, email or similar electronic transmission. Upon transmission and receipt by another party, such signature shall be effective as an original. Notwithstanding the preceding sentence, the parties agree that they will transmit original signature pages to the other parties and Closing Agent promptly after execution.

24.1 Effective Date. The Effective Date shall mean the date the Agreement is executed by the Purchaser._

25.1 Execution by Counterpart Originals. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

26.1 Counsel Acknowledgment. The parties all acknowledge that Purchaser's counsel, SAMUEL H. GIVHAN, and the law firm of Wilmer & Lee, P.A. (collectively "Counsel") prepared this Agreement on behalf of and in the course of his representation of Purchaser. The

parties acknowledge that Counsel serves as local counsel, from time to time, for Seller. However, for the purposes of this transaction, Counsel represents Purchaser's interest and no other interests. All conflicts of interest due to Counsel's representation of Purchaser and other representation of Seller are hereby waived.

27.1 Miscellaneous.

- a) In the event any term or provision of this Agreement be determined by appropriate judicial authority to be illegal or otherwise invalid, such provision shall be given its nearest legal meaning or be construed as deleted as such authority determines, and the remainder of this Agreement shall be construed to be in full force and effect.
- b) All of the exhibits attached to this Agreement are incorporated in, and made a part of, this Agreement.
- c) Neither this Agreement nor any notice of its terms shall be recorded in any Public Records.
- d) Time shall be of the essence for each and every provision hereof.

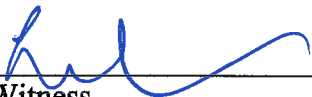
[Signatures appearing on the following pages.]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date first written above.

[Signature Page to Purchase and Sale Agreement for Seller/Seller]

SELLER:
HAD LAND EQUITY II, LLC

By: 
Its: Authorized Signer


Witness

Date: 2/9/2023

[Signature Page to Purchase and Sale for City/Purchaser]

PURCHASER:

**THE CITY OF HUNTSVILLE, ALABAMA
a municipal corporation**

ATTEST:

Kenneth Benion, Clerk-Treasurer

By: Tommy Battle, Mayor

Exhibit "A"
(Legal Description of Property)

STATE OF ALABAMA
MADISON COUNTY

A PARCEL OF LAND LOCATED IN THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 34, TOWNSHIP 4 SOUTH, RANGE 2 WEST OF THE HUNTSVILLE MERIDIAN, MADISON COUNTY, ALABAMA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 1/2" CAPPED IRON PIN (PLS 35345) MARKING THE NORTHWEST CORNER OF LOT 1 OF OVER VIEW PARK PHASE 1, AS RECORDED AS DOC# 2021-00076437, IN THE OFFICE OF THE JUDGE OF PROBATE OFFICE OF MADISON COUNTY, ALABAMA AND LYING ON THE SOUTH RIGHT-OF-WAY MARGIN OF MARTIN ROAD (VARYING PUBLIC RIGHT-OF-WAY), THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 2,182.25 FEET, AN ARC LENGTH OF 220.72 FEET, A CHORD BEARING AND DISTANCE OF SOUTH 78 DEGREES 49 MINUTES 27 SECONDS EAST, 220.62 FEET TO A POINT; THENCE, ALONG SAID MARGIN, SOUTH 81 DEGREES 43 MINUTES 17 SECONDS EAST, 9.82 FEET TO A POINT; THENCE, ALONG SAID MARGIN, SOUTH 24 DEGREES 19 MINUTES 56 SECONDS EAST, 46.28 FEET; THENCE, ALONG SAID MARGIN, SOUTH 81 DEGREES 38 MINUTES 16 SECONDS EAST, 65.00 FEET TO A POINT; THENCE, ALONG SAID MARGIN, NORTH 40 DEGREES 56 MINUTES 52 SECONDS EAST, 46.42 FEET TO A POINT; THENCE, ALONG SAID MARGIN, SOUTH 81 DEGREES 43 MINUTES 18 SECONDS EAST, 677.59 FEET TO A POINT; THENCE, LEAVING SAID MARGIN, SOUTH 08 DEGREES 12 MINUTES 07 SECONDS WEST, 284.55 FEET TO A POINT; THENCE NORTH 88 DEGREES 44 MINUTES 52 SECONDS WEST, 346.85 FEET TO A POINT; THENCE NORTH 00 DEGREES 05 MINUTES 33 SECONDS EAST, 21.63 FEET TO A POINT; THENCE NORTH 35 DEGREES 44 MINUTES 05 SECONDS WEST, 62.72 FEET TO A POINT; THENCE NORTH 62 DEGREES 05 MINUTES 09 SECONDS WEST, 371.96 FEET TO A POINT; THENCE NORTH 01 DEGREE 27 MINUTES 06 SECONDS EAST, 9.32 FEET TO A POINT; THENCE NORTH 75 DEGREES 56 MINUTES 36 SECONDS WEST, 166.65 FEET TO A POINT; THENCE NORTH 77 DEGREES 20 MINUTES 14 SECONDS WEST, 102.69 FEET TO A POINT; THENCE NORTH 01 DEGREE 54 MINUTES 32 SECONDS EAST, 113.44 FEET TO THE POINT OF BEGINNING. CONTAINING 4.96 ACRES, MORE OR LESS.