



Huntsville, Alabama

305 Fountain Circle
Huntsville, AL 35801

Cover Memo

Meeting Type: City Council Regular Meeting **Meeting Date:** 11/6/2025

File ID: TMP-6243

Department: Urban Development

Subject:

Type of Action: Unanimous Consent

Introduction of an Ordinance to declare certain property surplus and authorizing the Mayor to enter into a Purchase Agreement between the City of Huntsville and API Huntsville, LLC, for the conveyance of the same.

Ordinance No.

Finance Information:

Account Number: TBD

City Cost Amount: TBD

Total Cost: TBD

Special Circumstances:

Grant Funded: NA

Grant Title - CFDA or granting Agency: NA

Resolution #: NA

Location: (list below)

Address:

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

Additional Comments:

ORDINANCE NO. 25-916

Ordinance to Declare Property as Surplus and Authorizing and Directing its Sale

WHEREAS, the City of Huntsville, an Alabama municipal corporation (“City”), is the owner of certain real property situated in Huntsville, Madison County, Alabama, containing approximately 24.48 acres, more or less, as more particularly described as follows in Exhibit “A” attached hereto (the “Subject Property”); and

WHEREAS, API HUNTSVILLE, LLC, an Alabama limited liability company, has requested that the City declare the Subject Property as surplus and offer the same for sale; and

WHEREAS, it is the judgment and opinion of the Mayor and the City Council of the City of Huntsville that, pursuant to §11-47-20 of the Code of Alabama (1975), that the Subject Property is no longer used or needed for a public purpose; and

WHEREAS, it is necessary for the Mayor of the City of Huntsville to enter into that certain Agreement for Purchase and Sale between the City of Huntsville and API HUNTSVILLE, LLC, attached hereto as Exhibit “B” (the “Agreement”), and pursuant to the terms and conditions therein, the Subject Property will be sold to API HUNTSVILLE, LLC, in exchange for Five and No/100 Dollars (\$5.00) per square foot for Lots 4 and 5, and Six and No/100 Dollars (\$6.00) per square foot for Lots 1, 2, and 3; and

WHEREAS, in the judgment and opinion of the Mayor and the City Council of Huntsville, Alabama, that said amount is fair and reasonable compensation for the Subject Property; and

WHEREAS, the sale of the Subject Property, is for a price and exceeds the cost to the City to acquire the same, and the City hereby determines that the sales price for the Subject Property as set forth in the Agreement is at least equal to the fair market value of the Subject Property; and

WHEREAS, the Agreement is authorized in accordance with and pursuant to the authority of the constitution and the laws of the State of Alabama including, without limitation, Amendment 772 to the Alabama constitution, as amended; and

WHEREAS, the Mayor of the City of Huntsville is authorized to execute the Agreement, a statutory warranty deed, and all other documents necessary to transfer and convey any interest the City may have in the Subject Property to API HUNTSVILLE, LLC; and

WHEREAS, a general and permanent ordinance is necessary to effect declaration of the Subject Property as surplus property, for the transfer or sale of said surplus property, and to authorize the Mayor to execute a deed to the purchaser for the surplus property.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HUNTSVILLE, ALABAMA, AS FOLLOWS:

1. The Subject Property is found and determined not to be needed for public or municipal purposes by the City of Huntsville and is hereby declared as surplus property in accordance with the requirements of §11-47-20 of the Code of Alabama (1975); and
2. The sale of the Subject Property, is for a price in excess of the cost to the City to acquire the same, and the sales price for the Subject Property as set forth in the Agreement is found and determined to be at least equal to the fair market value of the land; and
3. The Agreement is hereby authorized in accordance with and pursuant to the authority of the constitution and the laws of the State of Alabama including, without limitation, Amendment 772 to the Alabama Constitution, as amended; and
4. The Mayor of the City of Huntsville is hereby authorized and directed to execute the Agreement, to convey the Subject Property to API HUNTSVILLE, LLC, in accordance with the terms of said Agreement, to execute and deliver a statutory warranty deed, and all documents required to close said sale for and on behalf of the City, along with all other instruments, agreements, or other documents as shall be necessary or desirable in connection with the transaction contemplated thereby or in furtherance of the Agreement; and
5. The City Clerk for the City of Huntsville is hereby instructed to publish notice of this Ordinance in accordance with §11-45-8 of the Code of Alabama (1975); and
6. A copy of said ordinance, Agreement, and other real estate closing documents, as legally required, shall be kept on file in the office of the City Clerk of the City of Huntsville, Alabama; and
7. This ordinance shall become effective upon its approval, adoption, enactment, and publication by posting as set forth in §11-45-8(b) of the Code of Alabama (1975).

ADOPTED this the _ day of November, 2025.

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

APPROVED this the _ day of November, 2025.

Mayor of the City of Huntsville,
Alabama

EXHIBIT "A"
(Legal Description of Subject Property)

Lots 1, 2, 3, 4, and 5, according to that Final Plat of Huntsville North Village, as recorded in Plat Book 2025, Pages 280 – 281 in the Probate Records of Madison County, Alabama.

EXHIBIT "B"
(Purchase Agreement)

*[Attach copy of Purchase Agreement between the City of Huntsville and API HUNTSVILLE,
LLC.]*

Huntsville, AL T-__

PURCHASE AGREEMENT

THIS PURCHASE AGREEMENT (this "**Agreement**") is made and entered into on the ____ day of November, 2025 (the "**Effective Date**") by and between **CITY OF HUNTSVILLE**, an Alabama municipal corporation ("**Seller**") and **API HUNTSVILLE, LLC**, an Alabama limited liability company, and/or its permitted assigns ("**Buyer**").

RECITALS

A. Seller is the owner of those certain parcels of land (collectively, the "**Land**") consisting of approximately 39.7 acres located in Madison, State of Alabama, known as Lots 1, 2, 3, 4, 5, 6, 7 and 8 shown on that certain Final Plat of Huntsville North Village, recorded in Plat Book 2025, Pages 280 – 281 in the Probate Records of Madison County, Alabama (the "**Plat**"), as such Land is generally depicted on the preliminary site plan attached hereto as Exhibit A (the "**Preliminary Site Plan**");

B. Buyer desires to secure the right to purchase from Seller a portion of the Land, consisting of approximately 24.28 acres, more or less, and being Lots 1, 2, 3, 4 and 5 shown on the Plat, together with any and all rights, easements, interests, privileges, tenements, and hereditaments appurtenant thereto; however, reserving unto Seller all existing easements of record (if any) and those easements reflected on the Plat as and to the extent necessary to facilitate the development of the hereinafter defined Project (collectively, the "**Property**"); and

C. Seller is willing to sell the Property to Buyer on the terms and conditions set forth herein.

NOW THEREFORE, in consideration of Ten Dollars and No/100 (\$10.00), the covenants contained herein, and other good and valuable consideration, Seller agrees to sell the Property to Buyer, and Buyer agrees to purchase the Property from Seller, subject to and upon the following terms and conditions:

SECTION 1 - PURCHASE PRICE. The purchase price of the Property (the "**Purchase Price**") is the amount obtained by multiplying (i) \$5.00 times the number of Square Feet (as shown on the Plat) for each of Lots 4 and 5 and (ii) \$6.00 times the number of Square Feet for each of Lots 1, 2 and 3. The Purchase Price is payable at Closing (defined in Section 12) by cashier's check or by wire transfer, at Buyer's option, less the Deposit (defined in Section 2) previously paid, and subject to further adjustments as provided in Section 12.

SECTION 2 – DEPOSIT. As consideration for the grant of the exclusive right to purchase the Property, within five (5) Business Days of Buyer's receipt of a fully executed original counterpart of this Agreement, Buyer must place in escrow with Lanier Ford Shaver & Payne, P.C. as agent (the "**Title Agent**") for First American Title Insurance Company (the "**Title Company**") the sum of \$10,000 (the "**Initial Deposit**") (the Initial Deposit, together with the Additional Deposit detailed below, is referred to herein, collectively, as the "**Deposit**") which will be retained and disbursed by

the Title Agent for the benefit of Seller and Buyer in accordance with the provisions of Section 3 below

Lanier, Ford, Shaver & Payne, PC
As agent for the Title Company
2101 W. Clinton Ave., Ste. 102
Huntsville, Alabama 35805
Attn: Sam Givhan, Esq.
Phone: 256-535-1100
Email: shg@lanierford.com

SECTION 3 - INVESTMENT AND DISBURSEMENT OF THE DEPOSIT.

A. Investment of Deposit. Upon receipt of funds paid toward the Deposit, the Title Agent is hereby directed to invest the same in an interest-bearing account acceptable to Buyer. Interest earned on the Deposit will be considered to be part of the Deposit and will be disbursed accordingly.

B. Disbursement of Deposit. The Deposit will be disbursed by the Title Agent as follows:

1. If Seller terminates this Agreement because of Buyer's default, the Deposit will be disbursed to Seller upon such termination.
2. If this Agreement terminates for any reason on or before the Contingency Date (defined below), then the Deposit will be disbursed to Buyer upon such termination.
3. If this Agreement terminates for any reason (other than Seller's default or a failure of any of the conditions set forth in Section 5 below) after the Contingency Date, then the Deposit will be disbursed to Seller upon such termination.
4. If this Agreement terminates due to Seller's default, or a failure of any of the conditions set forth in Section 5 below after the Contingency Date, then the Deposit will be disbursed to Buyer upon such termination.
5. If Buyer proceeds to Closing, the Deposit will be credited to Seller and applied to the Purchase Price at Closing.

SECTION 4 - INITIAL CONTINGENCIES.

A. Initial Contingencies. Buyer contemplates acquiring the Property for the development, construction, and operation of a commercial shopping center along with additional commercial and retail space (the "**Project**"), which Project will include the operation of a discount department store with a supermarket (the "**Target Store**") operated by Target Corporation ("**Target**") without any limitations as to product types or size of areas devoted to any items such as food and pharmacy products, which Target Store is contemplated to initially contain approximately 129,000 square feet of ground floor space and related outside sales areas, together with parking, drive up, and other

appurtenant facilities (the “**Intended Use**”); provided, however, that Buyer shall have the right to replace Target with one or more national retailers (a “**Replacement Retailer**”) upon delivery of not less than sixty (60) days’ prior written notice to Seller and so long as Seller approves such Replacement Retailer(s) in writing, such approval not to be unreasonably withheld, conditioned or delayed. If Seller fails to respond for a request for approval of such Replacement Retailer(s) within fifteen (15) days following receipt of request therefor, Buyer may send a second notice which provides in **ALL CAPITAL BOLD LETTERS** that Seller’s failure to approve such Replacement Retailer(s) within five (5) business days shall result in such Replacement Retailer(s) being deemed approved by Seller. If Seller fails to respond within such 5-business day period, then such Replacement Retailer(s) shall be approved for all purposes hereunder. If Seller responds in a timely fashion and disapproves such Replacement Retailer(s) (and provides with reasonable specificity the reasons therefor), then Buyer shall have the right to terminate this Agreement at any time thereafter and receive an immediate refund of the Deposit from the Title Agent and this Agreement shall thereafter be deemed null and void and of no further force or effect, except for such matters which are expressly designated to survive the termination hereof. The Property may be of no use to Buyer unless certain conditions exist, but nothing in this Agreement, by implication or otherwise, requires Buyer to construct or operate (or cause the construction or operation of) any improvement on the Property. Buyer’s obligation to close the transaction contemplated herein is, therefore, conditioned upon Buyer satisfying itself within four (4) months after the Effective Date (as defined in Section 28 below) that the following contingencies are met (such date, as may be extended pursuant to this Agreement, the “**Contingency Date**”):

1. Construction of the improvements contemplated by Buyer will not require wetlands mitigation, costly drainage improvements, or other unusually costly construction techniques.
2. Utility “will serve” letters (or an equivalent acceptable to Buyer) have been issued, indicating that all utilities are available to the Property sufficient to serve the Project upon payment of only customary connection fees with such utility lines which will serve the Target Store being in capacities specified in Target’s then-current Developer Guide (or as necessary for a Replacement Retailer pursuant to a Replacement Retailer’s Developer Guide) (the “**Developer Guide**”).
3. Buyer is satisfied with the results of Buyer’s investigations, studies, and economic evaluations of the Property.
4. Approval by the Capital Forum committee of Target (or the capital committee of a Replacement Retailer) of the transaction contemplated by this Agreement.

B. Failure of Contingencies; Waiver; Changed Circumstances. If one or more of the contingencies enumerated above are not found to exist to the satisfaction of Buyer, in Buyer’s sole discretion, then Buyer may terminate this Agreement by giving notice thereof to Seller at any time on or before the Contingency Date. Upon such termination, both parties will be released from all obligations under this Agreement, except as otherwise specifically provided in this Agreement. The contingencies set forth in this Section 4 are for Buyer’s sole benefit, and Buyer may waive the fulfillment of one or more of the contingencies or any part thereof. Seller may not take or authorize

any action that modifies the circumstances upon which the contingencies set forth in this Section 4 were deemed satisfied or waived by Buyer.

C. Extension of Contingency Date. Buyer may extend the Contingency Date by an additional eight (8) months by, not later than the expiration of the initial Contingency Date: (a) delivering notice of the extension to Seller and the Title Agent; and (b) delivering into escrow with the Title Company, a payment in immediately available funds, in the amount of \$10,000 (the "**Additional Deposit**").

SECTION 5 – CLOSING CONDITIONS.

A. Closing Conditions. Buyer's obligation to close the transaction is conditioned upon Buyer satisfying itself, in Buyer's sole discretion, on or before the Date of Closing (defined in Section 12 below) that the following conditions are met:

1. Buyer may develop and use the Property for the Project including Target being able to operate from the Target Store (or the Replacement Retailer(s) being able to operate from its/their store(s)) without being in violation of any applicable legal requirement, including any zoning classification, land use classification, environmental requirement, building classification, or any other classification or requirement established by any entity or authority having legal jurisdiction or authority thereover.
2. Both the site plan for the use and development of the Property, including all points of access and signage locations (the "**Approved Site Plan**"), and the signage plan, including the size, type and design of all exterior building and freestanding signage Buyer intends to erect with respect to the Property (the "**Approved Signage Plan**") have (i) received all necessary governmental approvals, (ii) said necessary governmental approvals are not subject to any conditions that would adversely affect Buyer's intended development of the Property for the Project or the development and operation of the Target Store (or the Replacement Retailer(s) store(s)), and (iii) all time periods for appeal of such necessary governmental approvals have expired without contest.
3. If the Property must be platted or subdivided pursuant to Section 6, a plat or subdivision map acceptable to Buyer (i) has been recorded, or has received all necessary approvals and is in final, recordable form and has been delivered to the Title Company for recording at Closing, and (ii) the following conditions have been met: (a) the appeal periods with respect to the necessary approvals have expired without contest, and (b) the plat or subdivision map is not subject to any conditions that would adversely affect Buyer's intended development of the Property for the Project or the development and operation of the Target Store (or the Replacement Retailer(s) store(s)) (the "**Approved Subdivision Plan**").
4. The Property has or will have, adequate ingress and egress for vehicular traffic to and from adjacent public streets to meet the unique needs of Buyer's business

operation.

5. All permits, licenses, and other governmental and quasi-governmental authorizations necessary for the development of the Property in accordance with the Approved Site Plan, the Approved Signage Plan, and the Approved Subdivision Plan (collectively, the "**Approved Plans**") (i) have been issued and are outstanding, (ii) are not subject to any conditions that would adversely affect Buyer's intended development of the Property for the Project or the development and operation of the Target Store (or the Replacement Retailer(s) store(s)), and (iii) the time periods for appeal of issuance of such permits, licenses, and other authorizations have expired without contest.

6. If Buyer were to apply for a building permit in compliance with all generally applicable permitting procedures for a Target Store (or the Replacement Retailer(s) store(s)) on the Property as of the Date of Closing and pay all required application fees (and provided that the plans for such store complied with all applicable building codes), Buyer could, as a matter of right, obtain such building permit without further act.

7. Seller's disclosures on the Certificate (defined in Section 10(C)) do not reveal any matter unacceptable to Buyer.

8. Subject to disclosures on the Certificate that are acceptable to Buyer, all of the representations and warranties of Seller contained in this Agreement remain true and correct in all respects as of the Date of Closing.

9. All of Seller's covenants in this Agreement required to be performed on or before the Date of Closing have been timely and duly performed in all respects.

10. At the time of Closing, Buyer will be unconditionally entitled to connect with operating service available for water, sewer, natural gas, electricity, and telecommunications utilities, upon payment of only the usual and customary connection fees and customary applications for service.

11. Buyer has received a certification from its consultant indicating that any and all removal, remediation, transportation, disposal and/or control of all Hazardous Materials on or under the Property, or migrating to or from the Property (including any soil, soil vapor or groundwater contaminated or otherwise affected by one or more Hazardous Materials) has been completed in strict accordance with the Remediation Management Plan (defined in Section 10(D)(3)).

12. Buyer has obtained a Phase I Environmental Site Assessment for the Property (i) based on the most recent version of ASTM International E1527 Standard Practice for Environmental Site Assessments, (ii) in such a form and substance upon which Buyer may rely, (iii) that has been conducted within one hundred eighty (180) days of the Date of Closing, and (iv) that complies with all

other requirements set forth in the Developer Guide.

B. Failure of Conditions: Waiver: Changed Circumstances. If any of the conditions set forth in Section 5(A) are not found to exist to the satisfaction of Buyer, in its sole discretion, then Buyer may, at its sole option, terminate this Agreement by giving notice to Seller at any time on or before the Date of Closing. Upon such termination, both parties will be released from all duties and obligations under this Agreement, except as otherwise provided in this Agreement. The conditions set forth in Section 5(A) are for Buyer's sole benefit, and Buyer may, in Buyer's sole discretion, waive the fulfillment of any one or more of the conditions, or any part thereof. Seller may not take or authorize any action that modifies or changes the circumstances upon which the conditions set forth in Section 5(A) were deemed satisfied or waived by Buyer.

SECTION 6 - PLATTING. Seller has caused the Property to be platted or subdivided into separate parcels as described in the Plat. The Seller shall cause the legal description of the Property as platted to be reflected in both the Survey and the Commitment.

SECTION 7 – BUYER'S INVESTIGATION AND INSPECTIONS.

A. Right of Entry. Seller hereby grants to Buyer, Buyer's employees, agents, consultants and contractors, the right to enter onto the Property and, to the extent necessary, onto any other adjacent land owned by Seller for the purpose of performing such surveys, soil tests, hydrology tests, percolation tests, environmental tests, and other engineering tests or environmental investigations which Buyer may reasonably deem appropriate.

B. Delivery of Information. Within ten (10) days after the Effective Date, Seller must, to the extent Seller has not already done so, deliver to Buyer any information (for example, any surveys, plans, reports, test results, permits or tank registrations, and title policies) Seller has within its possession or control regarding Seller's acquisition of and/or during its ownership of the Property including the environmental condition and/or any subterranean structures or utilities which may be present on the Property. Following said initial submission of information to Buyer, throughout the term of this Agreement, Seller must continue to deliver to Buyer all such information subsequently obtained by Seller or within Seller's possession or control promptly after Seller receives or obtains control over the same. Seller understands that Buyer needs this information in order to properly evaluate the Property, to avoid damaging underground structures and utilities and to avoid causing, contributing to or exacerbating the release of Hazardous Materials in the course of its investigations.

C. Costs and Indemnities. Buyer must pay all of the costs associated with its investigation and testing and to repair and restore, at Buyer's expense, any physical damage to the Property caused by Buyer's investigations or testing. Buyer must also hold Seller harmless from all costs, expenses and liabilities resulting from the bodily injury to or death of any person, or damage to property on the Property, caused by Buyer's negligence or willful misconduct or that of its employees, agents, consultants or contractors in performing its evaluation of the Property, except that Buyer will have no responsibility to Seller, and Seller hereby releases Buyer from liability for any damage to persons or property or any release arising out of existing environmental conditions or subterranean structures or utilities that were known to Seller and not disclosed to Buyer as provided in the preceding paragraph. The terms of this paragraph will survive Closing or termination of this Agreement, as the

case may be.

D. Disposal of Samples. Soil, rock, water, asbestos, and other samples taken from the Property will remain the property of Seller. At Seller's request, Buyer must cooperate with Seller with respect to Seller's decisions regarding the lawful disposal of any contaminated samples, and Buyer must further reimburse Seller for (or pay on Seller's behalf) reasonable costs associated with the lawful disposal of such samples. In any case, Seller must sign any manifests and any other documents required in connection with the disposal of contaminated samples. If Seller does not sign the required documentation, Buyer's only obligation with respect to contaminated samples will be to return the same to Seller. The terms of this paragraph will survive Closing or termination of this Agreement, as the case may be.

E. No Waiver. Any investigation or inspection conducted by Buyer or any agent or representative of Buyer pursuant to this Agreement in order to verify the satisfaction of any condition precedent to Buyer's obligations hereunder, or to determine whether Seller's representations and warranties are true and accurate, will not affect (or constitute a waiver by Buyer of) any of Seller's obligations, representations or warranties under this Agreement or Buyer's right to rely thereon.

SECTION 8 – APPROVALS AND PERMITS. Seller hereby grants to Buyer the right and authority to file applications and petitions for zoning changes, special use permits, variances, platting and subdivision, and other forms of governmental approval deemed necessary by Buyer for (i) the development of the Property for the Project, including construction of buildings, installation of utilities, erection of signage and other operation or use applications relating to the Property in accordance with the Approved Plans, and/or (ii) building permits and/or for operation and use approvals, including the Target Store (or the Replacement Retailer(s) store(s)) (collectively, the "Approvals"). Seller must cooperate with Buyer in the filing and prosecution of such applications and petitions, including taking all actions reasonably necessary to effectuate such Approval in Seller's capacity as fee owner of the Property; provided however, that the foregoing does not require that Seller waive any rights that Seller holds to review such applications and petitions in Seller's capacity as a municipal government.

SECTION 9 - TITLE EVIDENCE AND RECENT TAX BILLS.

A. Title Commitment. As soon as reasonably practicable after the Effective Date, Seller must obtain from the Title Agent and must deliver to Buyer a commitment for an owner's policy of title insurance which is in compliance with the following requirements (the "Commitment"):

1. is issued on the ALTA Owner's Policy (7-1-21);
2. provides for deletion of the standard printed exceptions other than the mineral rights exception (however, an ALTA 35 endorsement is available with respect to such mineral rights exception and shall be delivered by the Title Agent to Buyer at the Closing);
3. covers, as separate estates:

- (i) the Property, and
 - (ii) all easements appurtenant to the Property and identifies the same according to legal descriptions (once the Survey, defined below, has been obtained, the legal descriptions will be updated to conform to those certified on the Survey).
4. contains an effective date subsequent to the date of this Agreement;
5. contains endorsements (unless unavailable or prohibited by law) insuring:
- (i) that all of the parcels comprising the Property are contiguous (if the Property is comprised of more than one parcel),
 - (ii) that the Property is contiguous to any real estate containing easements appurtenant thereto,
 - (iii) the zoning classification of the Property,
 - (iv) that the Property abuts the public street(s) immediately adjacent thereto and has direct and valid access to each such public street,
 - (v) that the Property is as shown on the Survey (or revised Survey, as the case may be) approved by Buyer pursuant to Section 9(C) below,
 - (vi) that the insured easements, covenants, benefits, restrictions and other rights (collectively, the "**Rights**") will not be forfeited upon non-payment of real estate taxes or assessments with respect to the property burdened by the Rights,
 - (vii) that the Property complies with applicable subdivision laws and regulations,
 - (viii) that the Property is a separate tax parcel for real estate tax and special assessment purposes,
 - (ix) that there are no levied or pending assessments against the Property,
 - (x) that Buyer may increase coverage under the subject policy within 5 years of the date of the policy, subject to matters attaching subsequent to the date of the policy and payment of applicable charges (after application of a reissue credit),
 - (xi) that there is no violation of covenants, encroachments or damages to building due to exercise of subsurface mineral rights,

- (xii) continuation of policy to purchaser of stock interest of the insured, and
- (xiii) other matters as reasonably requested by Buyer;

6. obligates the Title Company to issue to Buyer a title policy based thereon in an amount equal to the Purchase Price plus Buyer's reasonable estimate of its cost of the site improvement work, if any (if Seller does not have Buyer's reasonable estimate of the cost of site improvement work at the time of delivery of the Commitment to Buyer, said amount may be added at or before Closing); and

7. includes legible copies of all documents, maps and plats set forth therein as affecting the Property and/or the easements appurtenant thereto.

B. Title Evidence and Tax Bills. Seller must provide to the Title Agent, issued on behalf of the Title Company, an owner's title insurance policy, along with copies of all exceptions to title, if any. Within thirty (30) days after the Effective Date, Seller must deliver to Buyer the most recent tax bills issued with respect to the Property, if any.

C. Survey. As soon as reasonably practicable after Buyer has received the Commitment from Seller, Buyer must request a current survey of the Property (the "**Survey**") prepared by a surveyor licensed by the state in which the Property is located. The Survey must be prepared in accordance with the current standards for Land Title Surveys of the American Land Title Association and the National Society of Professional Surveyors (the "**Survey Standards**") and must be certified to Buyer, Seller and the Title Company. Buyer will request that the Survey comply with the Survey Standards and the Developer Guide as well as show the following Table A items: (i) monuments placed at all major corners, (ii) addresses of the Property (if available), (iii) flood zone classification, (iv) gross land area, (v) substantial features such as parking lots, billboards, signs, swimming pools, landscaped areas, etc., (vi) observed evidence of location of utilities, (vii) distance to nearest intersecting street, and (viii) location of wetland areas. In addition, the Survey must include a vicinity map showing the location of major streets and/or highways. The Survey shall also certify the number of gross square feet for each Lot.

D. Title and Survey Review. Within thirty (30) days after receipt of the Commitment and the Survey in the respective forms specified in this Agreement, Buyer may provide to Seller and Title Agent a written statement containing any objections Buyer has to title, including the form of the Commitment, the form of the Survey and/or any matters shown on the Commitment and/or Survey (the "**Title Objection**"). If such Title Objection is not delivered within said 30-day period, title to the Property through the date of the Commitment and as shown on the Commitment and the Survey will be deemed approved by Buyer subject to Seller's obligation, in all events, to remove all monetary liens, including outstanding mechanics, broker's, mortgage-related or judgment liens as well as special assessments or deferred or delinquent real estate taxes (collectively, "**Monetary Liens**"). If a Title Objection is delivered, Seller must use commercially reasonable efforts to cure or remove all matters to which Buyer has objected on or before Closing, provided that Seller shall not be required to remove any easements reflected on the Plat which will be retained by Seller at Closing; subject to Seller's obligation, in all events, to remove (i) all Monetary Liens, (ii) all parties in possession of the Property, and (iii) any matters suffered or created by Seller or anyone claiming by, through, or under

Seller after the Effective Date (collectively, the “**Mandatory Cure Items**”). The removal or cure of any such matter may be evidenced by Seller providing an endorsement to the Commitment and/or a revised Survey which shows such matter to be cured or removed and which is acceptable to Buyer, in Buyer’s sole discretion. If any matter to which Buyer has objected is not cured or removed before Closing, Buyer may elect, as its sole right and remedy (except to the extent such matter constitutes a default or breach by Seller under this Agreement, including Mandatory Cure Items), before Closing, to (i) approve the Commitment and Survey and accept title to the Property as it is, subject to the right to deduct from the Purchase Price funds necessary to satisfy any Monetary Liens, or (ii) terminate this Agreement. Upon any such termination, each party will be released from all duties and obligations under this Agreement, except as otherwise provided in this Agreement.

E. Title Policy. If this transaction proceeds to Closing, Seller must cause the Title Company to issue to Buyer, in accordance with the terms of Section 12 below, a title policy issued by the Title Company in the form required by the Commitment approved by Buyer (the “**Title Policy**”).

SECTION 10 – SELLER’S REPRESENTATIONS, WARRANTIES AND COVENANTS.

A. General Representations and Warranties. Seller warrants and represents to Buyer that the following statements are now true and accurate:

1. To Seller’s knowledge (as defined below), it has insurable record title in fee simple to the Property free and clear of all restrictions, covenants, easements, liens, encumbrances and any other exceptions except as set forth in the Title Commitment, none of which prohibit, restrict, limit or would interfere with the Intended Use. To Seller’s knowledge (i) there are no third parties in or entitled to possession or use of the Property, and (ii) there are no parties that have exclusives or any similar rights to sell goods or provide services that would limit or interfere with Buyer’s right to use the Property.
2. Seller has not received any notice, nor is it aware of any pending action to take all or any portion of the Property, nor has Seller agreed or committed to dedicate any part of the Property, except for those easements reserved by Seller and shown on the Plat, and there is no pending or threatened action that would limit or impair access of the Property to and from all adjoining streets, roads and highways as shown on the Preliminary Site Plan, other than any existing limited access to and/or from the Northern Bypass.
3. The Property has access to and from all adjoining streets, roads and highways as shown on the Preliminary Site Plan, to include (i) a signalized intersection providing full access between the Property and the Northern Bypass, and (ii) right-in and right-out access between the Property and US 231 as well a second right-in and right-out and left turn from US 231 onto the Property for customer and delivery access. There is no pending or threatened action which would limit or impair such access.
4. To Seller’s knowledge, neither the Property nor any part thereof is subject to

any (i) special assessments, an assessment district or any other governmental or quasi-governmental financing for the payment of any on-site or off-site improvements, or (ii) governmental or quasi-governmental financing or financial assistance related to the development, use or operation thereof, including any state and local economic development incentives, grants, tax credits, abatements, exemptions, rebates, tax reduction programs and/or tax increment financing (collectively (i) and (ii), "**Public Assistance**").

5. Neither the Property nor the Intended Use is, or will be, in violation of any local governmental rule, ordinance, regulation or building code, nor is there a pending or threatened investigation regarding a possible violation of any of the foregoing.

6. To Seller's knowledge, there are no third party, private approvals necessary and/or appropriate for (i) the development of the Property in accordance with the Approved Plans, and/or (ii) the development and operation of the Target Store (or the Replacement Retailer(s) store(s)).

7. Seller has not received any notice nor is it aware of any litigation, administrative action or any other proceeding pending or threatened (including the expiration of any appeal period with respect thereto) relating to the Property or its use which may adversely affect the validity of any license, permit or other governmental determination or authorization necessary to development and operation of the Property or its use pursuant hereto or the Intended Use.

8. Seller is not a "foreign person" as contemplated by Section 1445 of the Internal Revenue Code. Neither Seller nor any of its affiliates is a person or entity with whom U.S. persons or entities are restricted or prohibited from doing business under any laws, orders, statutes, regulations or other governmental action relating to terrorism or money laundering (including Executive Order No. 13224 effective September 24, 2001, and regulations of the Office of Foreign Asset Control of the Department of the Treasury) (each, a "**Blocked Person**"), and, to the best of Seller's knowledge, neither Seller nor any of its affiliates engages in any dealings or transactions with any Blocked Person or is otherwise associated with a Blocked Person.

9. Seller has the full capacity, right, power and authority to execute, deliver and perform this Agreement and all documents to be executed by Seller pursuant hereto, and all required actions and approvals therefor have been duly taken and obtained. The individuals signing this Agreement and all other documents executed or to be executed pursuant hereto on behalf of Seller are and will be duly authorized to sign the same on Seller's behalf and to bind Seller thereto.

10. This Agreement and all documents to be executed pursuant hereto by Seller are and will be binding upon and enforceable against Seller in accordance with their respective terms, and the transaction contemplated hereby will not result in a breach of, or constitute a default or permit acceleration and maturity under, any indenture,

mortgage, deed of trust, loan agreement or other agreement to which Seller or the Property is subject or by which Seller or the Property is bound.

11. Seller has not (i) made a general assignment for the benefit of creditors, (ii) filed any voluntary petition in bankruptcy or suffered the filing of any involuntary petition by Seller's creditors, (iii) suffered the appointment of a receiver to take possession of all or substantially all of Seller's assets, (iv) suffered the attachment or other judicial seizure of all, or substantially all, of Seller's assets, (v) admitted in writing its inability to pay its debts as they come due, or (vi) made an offer of settlement, extension or composition to its creditors generally.

B. Environmental Representations and Warranties. Seller represents and warrants to Buyer that the following statements in this Section 10(B) below are now true and accurate:

1. To Seller's knowledge, there are no Hazardous Materials (as defined below in this Section 10(B)) located on, in, or under the Property, and there have been no releases of Hazardous Materials on or under the Property, except in uses and amounts allowable by law and as disclosed on Exhibit D (the "**Environmental Disclosures**").

2. Seller's use of and activities on the Property, and (to Seller's knowledge) those of its tenants, subtenants and licensees, if any, comply with, and have previously complied with, all applicable Environmental Laws (as defined below in this Section 10(B)), and all licenses, permits and other authorizations issued pursuant to any Environmental Law.

3. There is no pending, nor, to Seller's knowledge, has there ever been any investigation, administrative proceeding, litigation, regulatory hearing or other action proposed, threatened or pending, relating to the Property and alleging non-compliance with or liability under any Environmental Law.

4. Seller has made available to Buyer complete and correct copies of all assessments, studies, sampling results, evaluations and other reports commissioned by or for Seller or within Seller's possession or control relating to the environmental condition of the Property, including the Environmental Disclosures. In addition, Seller has disclosed to Buyer all (i) land use controls imposed on the Property in connection with environmental concerns, and (ii) all real estate tax benefits and/or rebates accruing in connection with the environmental condition of the Property, if any.

5. To Seller's knowledge, there are no underground storage tanks or related piping for Hazardous Materials (active or abandoned) located on the Property, and to Seller's knowledge there have never been any such underground storage tanks located on the Property, except as disclosed in the Environmental Disclosures.

6. For purposes of this Agreement:

- (i) **"Hazardous Materials"** means pollutants, contaminants, hazardous substances, hazardous wastes, petroleum and fractions thereof, and all other chemicals, wastes, substances and materials listed in, regulated by or identified in any Environmental Law, including any petroleum-derived products, radon, radioactive materials or wastes, asbestos in any form, lead or lead-containing materials, urea formaldehyde foam insulation, per- and polyfluoroalkyl substances, and polychlorinated biphenyls.
- (ii) **"Environmental Laws"** means all federal, state, county, municipal, local, foreign and other statutes, laws, ordinances and regulations relating to pollution, compensation for damage or injury caused by pollution or the protection of human health or the environment.

C. Representations and Warranties deemed Remade as of Closing: Certificate. Except to the extent otherwise set forth on a Certificate delivered to Buyer as provided in this Section 10(C), the representations and warranties in this Agreement will automatically be deemed to have been remade by Seller as of the Date of Closing. Seller must execute and deliver to Buyer at Closing a written certification to Buyer (i) disclosing, where applicable, the extent to which Seller cannot remake said representations and warranties as of the Date of Closing, and (ii) containing the representations and warranties of Seller referenced below in Section 10(D)(5), to the extent Seller can make the same, and disclosure of the extent to which Seller cannot make the representations and warranties referenced below in Section 10(D)(5) (the **"Certificate"**). Seller must deliver the Certificate to Buyer at Closing. Upon delivery to Buyer, the Certificate will be deemed to constitute a part of this Agreement. Any disclosure on the Certificate will not affect Buyer's rights under Section 5 or Section 10(E).

D. Covenants. Seller covenants and agrees as follows:

1. So long as this Agreement remains in force, Seller may not lease, convey or otherwise transfer or encumber all or any portion of the Property.
2. Seller may not take or authorize any action (i) that modifies or alters the accuracy of any of the statements in this Agreement, or (ii) that would prevent Seller from representing and warranting as to the truth and accuracy of said statements as of the Date of Closing.
3. Prior to the Date of Closing, Seller must, at Seller's sole cost, remove, remediate, transport, dispose and/or control (**"Remediation"**) all Hazardous Materials on or under the Property, or migrating to or from the Property (including any soil, soil vapor or groundwater contaminated or otherwise affected by any Hazardous Materials). All Remediation must be conducted in accordance with a remediation management plan approved by Buyer and all applicable regulatory authorities (the **"Remediation Management Plan"**). Buyer's approval of the Remediation Management Plan will not be unreasonably withheld, provided that the same is approved by Buyer's consultant and allows Buyer to construct, develop and operate

the Project without any interference and/or increase in cost attributable to the environmental condition of the Property. Approval of a Remediation Management Plan by Buyer and/or its consultant will not constitute assumption of responsibility by Buyer for the accuracy, sufficiency or propriety thereof, nor will such approval constitute a representation or warranty by Buyer that the same complies with requirements of any governmental agency having jurisdiction thereover.

4. Seller must deliver the Property to Buyer on the Date of Closing free and clear of any and all waste and debris of any kind.

5. At Closing, subject to disclosures to the contrary on the Certificate, Seller must warrant and represent to Buyer in writing in the Certificate that (i) all of the third party, private approvals referenced in Section 6(B) above have been irrevocably obtained without conditions, and (ii) Seller has fully performed all of its covenants under this Agreement.

6. Nothing herein will preclude Buyer from applying for or receiving a Governmental Benefit related exclusively to the Property. "**Governmental Benefit**" shall be defined as any benefit that Buyer may receive or be entitled to receive in connection with the development of the Project including any beneficial tax treatment or other governmental assistance (including tax abatements, tax rebates, tax increment assistance, waiver of governmental fees, and land or infrastructure grants or write downs).

7. If any "roll back" taxes are triggered due to a change in the Property's current use classification, the City will be responsible for paying all such roll back taxes post-Closing and Seller shall hold Buyer harmless therefrom.

E. Indemnity: Survival. The covenants, representations and warranties set forth in this Agreement are express covenants, representations and warranties upon which Buyer is entitled to rely regardless of any investigation or inquiry made by, or any knowledge of, Buyer. Subject to any express limitations of a municipality's obligation to indemnify a third party under Alabama law, Seller must indemnify and hold Buyer and its directors, officers, shareholders and employees forever harmless from and against any and all claims, actions, judgments, liabilities, liens, damages, penalties, fines, costs, including attorneys' fees, asserted against, imposed on, suffered or incurred by Buyer (or the Property) arising out of or in connection with any breach of the covenants, representations and warranties set forth in this Agreement (as made and as remade pursuant to Section 10(C)), and whether known to or discovered by Buyer before, on or after Closing. Consummation of this Agreement by Buyer with knowledge of any such breach will not constitute a waiver or release by Buyer of any claims arising out of or in connection with such breach. Notwithstanding anything contained in this Agreement to the contrary, the covenants, representations and warranties set forth in this Agreement (as made and as remade pursuant to Section 10(C)), and the foregoing indemnity obligation will survive Closing or the termination of this Agreement, as the case may be.

As used in this Agreement, "Seller's knowledge" or terms of similar import, means the actual knowledge of Shane Davis, Kathy Martin, and Trey Riley (the "**City's Knowledge Group**"), without

any special duty to investigate and without regard to any implied, imputed or constructive knowledge of the City's Knowledge Group; provided, however, that Seller represents and warrants that the City's Knowledge Group are the representatives of Seller with the most knowledge of the Property and are the most likely to possess the necessary knowledge to make the representations and warranties contained in this Section 10 and this Agreement.

Prior to Closing, Seller shall have the right to supplement the Representations and Warranties contained in this Section 10 (based on newly discovered information or resulting for a change in circumstances and/or facts) any of Seller's Representations and Warranties by delivering written notice thereof to Buyer, and any such supplement shall be deemed an amendment of this Section. No supplement shall be considered a breach by Seller of any of Seller's Representations and Warranties or form the basis for any claim by Buyer against Seller under this Agreement with respect to Seller's Representations and Warranties. In the event any such supplement discloses a fact or circumstance respecting the Property that adversely affects the Property or Buyer's ability to develop and operate the Project, the Buyer, as its sole remedy, shall have the right to terminate this Agreement by delivering written notice thereof to Seller, in which event the Deposit shall be returned to Buyer, and neither party shall have any further obligations hereunder, except for those obligations that survive a termination of this Agreement.

SECTION 11 – BUYER'S REPRESENTATIONS AND WARRANTIES. Buyer warrants and represents to Seller that the following statements are now, and will on the Date of Closing be, true and accurate:

A. Buyer has the full capacity, right, power and authority to execute, deliver and perform this Agreement and all documents to be executed by Buyer pursuant hereto, and all required actions and approvals therefor have been duly taken and obtained. The individuals signing this Agreement and all other documents executed or to be executed pursuant hereto on behalf of Buyer are and will be duly authorized to sign the same on Buyer's behalf and to bind Buyer thereto.

B. This Agreement and all documents to be executed pursuant hereto by Buyer are and will be binding upon and enforceable against Buyer in accordance with their respective terms.

C. Buyer has not (i) made a general assignment for the benefit of creditors, (ii) filed any voluntary petition in bankruptcy or suffered the filing of any involuntary petition by Buyer's creditors, (iii) suffered the appointment of a receiver to take possession of all or substantially all of Buyer's assets, (iv) suffered the attachment or other judicial seizure of all, or substantially all, of Buyer's assets, (v) admitted in writing its inability to pay its debts as they come due, or (vi) made an offer of settlement, extension or composition to its creditors generally.

D. Neither Buyer nor any of its affiliates is a Blocked Person (defined above) and, to the best of Buyer's knowledge, neither Buyer nor any of its affiliates engages in any dealings or transactions with any Blocked Person or is otherwise associated with a Blocked Person.

SECTION 12 - CLOSING.

A. Date of Closing. Subject to the provisions of Section 6 and to any extension provided

herein or agreed to in writing by the parties, Closing of this transaction will take place in the office of the Title Agent on a date (the "**Date of Closing**") designated by Buyer in writing to Seller, such date to be no later than one (1) year after the Effective Date. Notwithstanding the foregoing sentence, in no event will the Date of Closing occur unless all of the contingencies in Section 4 and all of the conditions set forth in Sections 5 and 9 have been satisfied or waived by Buyer. "**Closing**" means the time at which the Title Agent is in possession of all funds, instruments and documents necessary for it to perform its obligations under Section 12(B)(4). Possession of the Property must be given by Seller to Buyer at the time of Closing.

B. Closing Procedures. The following procedure governs Closing:

1. At least ten (10) days before the Date of Closing, Seller must deliver to Buyer and the Title Company a copy of the proposed statutory warranty deed (the "**Deed**") which is in recordable form and conveys good and marketable record fee simple title to the Property to Buyer, subject only to current real estate taxes and other matters approved by Buyer as set forth in Section 9; the Deed must be in the form as shown in Exhibit E attached hereto.

2. On or before the Date of Closing, Seller must deliver to the Title Agent the following:

- (i) the Deed, properly executed and acknowledged;
- (ii) current tax receipts (or, alternatively, evidence tax bills showing that no tax is owed with respect to the Property);
- (iii) two (2) sets, properly executed and acknowledged, of the closing statement prepared by the Title Agent pursuant to Section 12(B)(4), and of any other documents required by this Agreement;
- (iv) corporate authority documentation, an owner's affidavit, and any other documentation reasonably requested by the Title Agent in order to confirm the authority of Seller to consummate this transaction or to permit the Title Agent to issue to Buyer the Title Policy;
- (v) an affidavit, complying with the requirements of Section 1445 of the Internal Revenue Code, affirming that Seller is not a "foreign person" defined therein;
- (vi) such funds, if any, as may be required of Seller to pay closing costs or charges properly allocable to Seller, or an authorization to the Title Company to deduct such amounts from the Purchase Price proceeds;
- (vii) the Certificate pursuant to Section 10 above; and
- (viii) invoices from all brokers entitled to receive a commission or fee in

connection with the transaction contemplated by this Agreement, if any.

3. On or before the Date of Closing, Buyer must deliver the following to the Title Agent:

- (i) the balance of the Purchase Price and such additional funds as may be required of Buyer to pay closing costs or charges properly allocable to Buyer, less any amounts for which Buyer is to receive a credit;
- (ii) two (2) sets, properly executed and acknowledged, of the closing statement prepared by the Title Agent pursuant to Section 12 (B)(4) below, and of any other documents required by this Agreement; and
- (iii) any other documentation reasonably requested by the Title Agent to confirm the authority of Buyer to consummate this transaction or to permit the Title Company to issue the Title Policy.

4. After the Title Agent has received all of the items to be deposited with it, and when the Title Agent is in a position to issue the Title Policy, the Title Agent must:

- (i) record the Deed, instructing the Probate Office to return the recorded document to Buyer or upon receipt of the Deed, Title Company will return the same to Buyer;
- (ii) record any other instruments executed by the parties or either of them which are contemplated by this Agreement to be placed of record;
- (iii) issue to Buyer a marked-up commitment obligating the Title Agent to issue the Title Policy to Buyer;
- (iv) charge Buyer for the fee for recording the Deed, and for one-half of the closing fee, if any;
- (v) charge Seller for the cost of (a) issuing the Commitment, including any abstracting, search or service charges, and (b) the premium for issuing the Title Policy, although Buyer will be responsible for the cost any endorsements, if any, with respect to the Title Policy, including the extended coverage endorsement policy with respect thereto;
- (vi) charge Seller for the cost of all deed transfer, recording, revenue or similar taxes with respect to the sale of the Property, for the cost of recording any documents clearing title to the Property, for the cost of all broker's fees and commissions (exclusive of those for which Buyer is responsible under Section 16, if any), and for one-half of the closing fee;

- (vii) charge Buyer and Seller for real estate taxes for the Property in the following manner:

- (a) Each party must pay its pro rata share of real estate taxes which are based on the Closing Valuation Year, with each party's share equal to the number of days in the Closing Valuation Year that such party owned the Property, divided by the total number of days in the Closing Valuation Year. Seller must pay all real estate taxes based on all Valuation Years before the Closing Valuation Year (including all "roll-back" or similar taxes), and Buyer must pay all real estate taxes based on all Valuation Years subsequent to the Closing Valuation Year. "**Valuation Year**" means a period of time for which real property is valued for real estate tax purposes (as distinguished from the year in which the real estate taxes are due and payable), and "**Closing Valuation Year**" means the Valuation Year in which Closing occurs. Notwithstanding the foregoing, if the Property is vacant on the Date of Closing or if the building improvements located on the Property will be razed in connection with Buyer's proposed development of the Property, then Seller must pay all real estate taxes, whenever payable, for building improvements located on the Property on or before the Date of Closing (even if such building improvements remain on the Property at Closing);

- (b) All pending and certified special assessments or fees, including interest or penalties due thereon, if any, with respect to the Property on the Date of Closing, whether due in total or in part, will be charged to Seller and will be paid in full by the Title Company concurrently with the recording of the Deed, unless Buyer will take subject thereto in which case a credit for such amount will be made against the Purchase Price; and

- (c) If the actual amount of applicable real estate taxes is not available as of the Date of Closing, then a proration will be made based on the best estimate, and adjustments will be made when the actual amount becomes known;

- (viii) prepare closing statements for Seller and Buyer in accordance with the provisions of this Agreement (indicating deposits, credits and charges, including the allocation of real property taxes) and deliver the same, together with a disbursement of funds, to the appropriate party; and

- (ix) deliver the Title Policy to Buyer as soon as reasonably practicable.

5. Any supplemental closing instructions given by either party must also be

followed by the Title Agent, provided they do not conflict with any instructions set forth herein or are consented to in writing by the other party.

SECTION 13 - DEFAULT BY BUYER. IF THIS TRANSACTION FAILS TO CLOSE AS A RESULT OF A DEFAULT BY BUYER WITH RESPECT TO ANY OF THE TERMS OF THIS AGREEMENT, AND SUCH DEFAULT CONTINUES FOR A PERIOD OF TEN (10) DAYS AFTER SELLER NOTIFIES BUYER IN WRITING OF SUCH EVENT, SELLER'S SOLE AND EXCLUSIVE REMEDY FOR SUCH DEFAULT WILL BE THE CANCELLATION AND TERMINATION OF THIS AGREEMENT AND THE RIGHT TO RECEIVE AND RETAIN THE DEPOSIT. UNLESS SUCH DEFAULT IS CURED BEFORE THE EXPIRATION OF THE 10-DAY PERIOD SPECIFIED IN THE PRECEDING SENTENCE, THIS AGREEMENT WILL AUTOMATICALLY TERMINATE EFFECTIVE TEN (10) DAYS AFTER THE NOTICE OF DEFAULT IS GIVEN WITHOUT THE NECESSITY OF FURTHER NOTICE BEING GIVEN. UPON SUCH TERMINATION, EACH PARTY WILL BE RELEASED FROM ALL DUTIES AND OBLIGATIONS UNDER THIS AGREEMENT (EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT), AND THE TITLE COMPANY WILL IMMEDIATELY PAY THE DEPOSIT TO SELLER AS LIQUIDATED DAMAGES AND AS SELLER'S SOLE AND EXCLUSIVE REMEDY, IT BEING UNDERSTOOD AND AGREED THAT SELLER IS HEREBY RELEASING AND/OR WAIVING ANY RIGHT IT MIGHT HAVE TO EITHER SPECIFICALLY ENFORCE THIS AGREEMENT OR TO SUE FOR DAMAGES, EXCEPT THAT SELLER WILL RETAIN THE RIGHT TO RECOVER FROM BUYER ANY AMOUNTS BUYER HAS SPECIFICALLY AGREED TO PAY TO SELLER UNDER THIS AGREEMENT UPON TERMINATION OF THIS AGREEMENT. SELLER HAS AGREED TO THIS LIQUIDATED DAMAGES PROVISION BECAUSE OF THE DIFFICULTY OF ASCERTAINING SELLER'S ACTUAL DAMAGES GIVEN THE UNCERTAINTIES OF THE REAL ESTATE MARKET, FLUCTUATING PROPERTY VALUES AND DIFFERENCES OF OPINION WITH RESPECT TO SUCH MATTERS.

SECTION 14 - DEFAULT BY SELLER. If Seller does not perform any of its obligations as set forth herein, Buyer will be entitled to the return of the Deposit and may, at its option, elect to proceed under subclauses A or B below:

A. To terminate this Agreement upon notice to Seller, in which event, except as otherwise provided in this Agreement, neither party will have any further rights or obligations under this Agreement, or

B. To enforce specific performance of Seller's obligations under this Agreement, including, specifically, the conveyance of the Property in the condition required hereby; provided, however, that if specific performance is not an available remedy due to Seller's conveyance of the Property to a bona fide third party purchaser (a "**Prohibited Sale**"), then, in addition to the rights set forth in subclause A above, Purchaser shall have the right to bring an action against Seller for damages which shall include the right to be reimbursed for all documented, out-of-pocket costs and expenses incurred by Purchaser in connection with this Agreement and the enforcement thereof.

SECTION 15 - EXPENSE OF ENFORCEMENT. If any dispute arises in connection with the interpretation or enforcement of this Agreement or any default hereunder, or if Seller or

Buyer is required to appear in any legal proceeding with regard to this Agreement, the prevailing party in such action will be entitled to recover reasonable attorney's fees, costs, disbursements and other expenses actually incurred for all stages of litigation, including appellate proceedings, in addition to any other remedy granted.

SECTION 16 - BROKERS. Seller warrants to Buyer that Seller has not taken any action in connection with this transaction which would result in any real estate broker's fee, finder's fee, or other fee being due or payable to any party, other than David Plummer of Retail Specialists, LLC (the "Broker"). Seller must pay to Broker at Closing any and all fees due to Broker in connection with this transaction. Buyer warrants to Seller that Buyer has not taken any action in connection with this transaction which would result in any real estate broker's fee, finder's fee, or other fee being due or payable to any party, other than Broker. Seller and Buyer respectively agree to indemnify, defend and hold harmless the other from and against any and all claims, fees, commissions and suits of any real estate broker or agent with respect to services claimed to have been rendered for or on behalf of such party in connection with the execution of this Agreement or the transaction contemplated herein, provided that, in any event, Seller must indemnify, defend and hold harmless Buyer from and against any and all claims, fees, commissions and suits of the Broker with respect to any and all services claimed to have been rendered in connection with the execution of this Agreement or the transaction contemplated herein. Notwithstanding anything contained in this Agreement to the contrary, the terms of this Section 16 will survive Closing or termination of this Agreement.

SECTION 17 - NOTICE. All notices, demands and requests (individually or collectively, a "notice") required or permitted to be given under this Agreement must be in writing, sent prepaid, by nationally recognized overnight courier (e.g., FedEx, UPS or DHL) or by United States certified mail, return receipt requested, postage prepaid, and will be deemed to have been given as of the date such notice is (i) delivered to the party intended, (ii) delivered to the then designated address of the party intended, or (iii) rejected at the then designated address of the party intended. The initial addresses of the parties are:

To Seller: City of Huntsville
Attn: Shane Davis, Director of Urban & Economic Development
305 Fountain Circle, 4th Floor
Huntsville, Alabama 35801
Phone: 256-427-5300
Email: shane.davis@huntsvilleal.gov

Copy to: Lanier Ford Shaver & Payne, PC
Attn: Sam Givhan, Esq. and Katie Beasley, Esq.
2101 W. Clinton Ave., Ste. 102
Huntsville, Alabama 35805
Phone: 256-535-1100
Email: SHG@LanierFord.com and KAB@LanierFord.com

To Buyer: API Huntsville, LLC
Attn: Keith Owens
2000 Lay Dam Rd.

Clanton, AL 35045-8344
Phone: (205) 755-1112
Email: keith@alumniidevelopment.net

Copy to: Hartman Simons & Wood LLP
Attn: Jeremy D. Cohen, Esq.
400 Interstate North Parkway, Suite 400
Atlanta, GA 30339
Phone: (770) 951-6788
Email: jeremy.cohen@hartmansimons.com

The parties may provide a courtesy copy of notices by email. Any party may change and/or update the address and contact information contained herein by providing the other parties with written notice of such change.

SECTION 18 - CONDEMNATION. If a petition to condemn any portion of the Property, any interest therein or any access thereto is filed before Closing, Seller must immediately provide Buyer with notice and a copy thereof. If Buyer reasonably concludes that the taking would render the portion and/or interests remaining unsuitable for the development contemplated, and if Buyer so notifies Seller in writing within thirty (30) days after receipt of such notice and petition from Seller, then this Agreement will terminate. Upon termination, both parties will be released from all duties and obligations under this Agreement, except as otherwise provided in this Agreement. If the Agreement is not terminated pursuant to this Section 18, the Purchase Price will not be affected, it being agreed that if the award is paid before Closing, such amount will be held in escrow and delivered to Buyer at Closing, and if the award has not been paid before Closing, then at Closing Seller must assign to Buyer all of its right, title and interest with respect to such award and must further execute any other instrument requested by Buyer to assure that such award is paid to Buyer. If Buyer does not terminate this Agreement pursuant to this Section 18, Buyer may contest the condemnation of the Property and/or the award resulting therefrom. Seller may not agree to or accept any compromise or condemnation award without obtaining Buyer's prior written approval.

SECTION 19 – NON-DISCLOSURE. Except for such news or information that has previously been publicly disclosed by Buyer, Seller and its contractors, agents or employees may not issue any press release, public statement or announcement or other similar public disclosure regarding this Agreement or Buyer's business operations without prior written consent from Buyer. The terms of this paragraph will survive Closing or termination of this Agreement, as the case may be.

SECTION 20 - ENTIRE AGREEMENT. All previous negotiations and understandings between Seller and Buyer or their respective agents and employees with respect to the transaction set forth herein are merged into this Agreement, and this Agreement alone fully and completely expresses the parties' rights, duties and obligations with respect to its subject matter. The parties may not amend this Agreement except in a writing that each party signs. The terms of such an amendment will apply as of the effective date of the amendment, unless the amendment specifies otherwise. This Agreement will be construed as if drafted by both parties and will not be strictly construed against either party as a result of drafting.

SECTION 21 - NO MERGER. The covenants, warranties, representations and/or indemnities expressly made in this Agreement will survive Closing and will not be merged therein.

SECTION 22 - GOVERNING LAW. This Agreement shall be construed, interpreted, and enforced in accordance with the laws of the State of Alabama without regard to its conflict of law provisions.

SECTION 23 - SEVERABILITY. If any provision of this Agreement is held invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions will not be affected or impaired. Any provision held invalid, illegal or unenforceable will be reformed to comply with applicable law and such reformed provision will be enforceable to the fullest extent permitted by law.

SECTION 24 - CONSTRUCTION. The rule of strict construction will not apply to this Agreement. This Agreement has been prepared by Buyer and its professional advisors and reviewed and modified by Seller and its professional advisors. Seller, Buyer and their separate advisors believe that this Agreement is the product of all of their efforts, that it expresses their agreements and that it should not be interpreted in favor of or against either Seller or Buyer merely because of their efforts in preparing it.

SECTION 25 – EXHIBITS. All exhibits referenced in this Agreement are deemed incorporated into this Agreement in their entirety.

SECTION 26 - BINDING EFFECT. This Agreement is binding upon and inures to the benefit of the parties hereto and their respective successors, assigns, heirs and personal representatives. No third-party beneficiary rights are created by this Agreement.

SECTION 27 - TIME. Time is of the essence in this Agreement.

SECTION 28 - EFFECTIVE DATE. The Effective Date of this Agreement is the date on which this Agreement has been executed by both Buyer and Seller with Buyer agreeing to execute this Agreement first and delivering an original copy thereof to Seller.

SECTION 29 - EXCHANGE UNDER SECTION 1031. Seller acknowledges that Buyer may elect to acquire all or a portion of the Property in connection with the completion of a tax-deferred exchange under Section 1031 of the Internal Revenue Code of 1986. In the event Buyer decides to structure this transaction as a 1031 exchange, Seller agrees to cooperate in effecting the exchange in accordance with Section 1031 of the Internal revenue Code and agrees to execute any documents that may be reasonably necessary to complete the 1031 exchange, including accepting payment of all or a portion of the Purchase Price from a third party. In such event, Buyer shall pay all reasonable out of pocket costs incurred in connection with the exchange and Seller shall not be responsible for ensuring or warranting the exchange or its validity or compliance with Section 1031 of the Internal Revenue Code.

SECTION 30 – COUNTERPARTS; ELECTRONIC SIGNATURES. This Agreement may be executed in two or more counterparts, each of which will be deemed an original, and all of

which, when taken together, constitute one instrument. This Agreement may be executed using an electronic signature, which will be the equivalent of the signer's written signature. By using an electronic signature, the signing party is manifesting that party's assent and intends that electronic signature to bind the party. Notwithstanding the preceding sentence, Buyer agrees that it will transmit an original signature page to Title Agent promptly after execution. Buyer understands and acknowledges that the City Council of the City of Huntsville ("**City Council**") requires an original signature page before this Agreement will be placed on an agenda for City Council review and consideration.

SECTION 31 – NO WAIVER. No provision of this Agreement may be waived except pursuant to a writing executed by the party against whom the waiver is sought. No waiver is applicable other than in the specific instance in which it is given. No failure to exercise, partial exercise of, or delay in exercising any right or remedy or failure to require the satisfaction of any condition or contingency under this Agreement will operate as a waiver or estoppel of any right, remedy, condition, or contingency.

SECTION 32 – CALCULATION OF TIME PERIODS; BUSINESS DAY. Unless otherwise specified, in computing any period of time described in this Agreement, the day of the act or event after which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included, unless such last day is not a Business Day, in which event the period will run until the end of the next day which is a Business Day. The last day of any period of time described in this Agreement will be deemed to end at 6:00 p.m. Minnesota time. "**Business Day**" means any day that is not a Saturday, Sunday or legal holiday for national banks in the city in which the Property is located.

SECTION 33 – TERMINOLOGY. Whenever required by the context of this Agreement, (i) the singular includes the plural, and vice versa, and the masculine includes the feminine and neuter genders, and vice versa, and (ii) use of the words "including", "such as", or words of similar import, when following any general term, statement or matter will not be construed to limit such statement, term or matter to specific items, whether or not language of non-limitation, such as "without limitation", or "but not limited to", are used with reference thereto, but rather will be deemed to refer to all other items or matters that could reasonably fall within the broadest scope of such statement, term or matter. The words "and/or" mean each of the items listed whether together, in partial combination or alone. The terms "sole discretion", "absolute discretion" and "sole and absolute discretion" with respect to any determination to be made by a party to this Agreement means the sole and absolute discretion of such party, without regard to any standard of reasonableness or other standard by which the determination of such party might be challenged.

SECTION 34 – ASSIGNMENT. Seller may not assign this Agreement, in whole or in part (by assigning any right or delegating any duty under this Agreement), voluntarily or involuntarily, by operation of law or merger, or in any other manner, without Buyer's prior written consent which may be withheld in Buyer's sole discretion. Any purported assignment or delegation by Seller without Buyer's written consent is void. Buyer may assign this Agreement, in whole or in part (by assigning any right or delegating any duty under this Agreement) to any (i) party by operation of law, by merger, or in connection with the sale of any line of business, or (ii) affiliated entity. A transfer of 50% or more of the shares or other ownership interests of either party during

the term of this Agreement will be considered an attempted assignment of this Agreement by such party. In addition, Buyer shall also have the right to assign this Agreement, in part, to Target (or the Replacement Retailer) without Seller's prior written consent, but upon prior written notice to Seller; provided, however, that, in the alternative to partially assigning this Agreement to the Target (or the Replacement Retailer), Buyer shall have the right, at Closing, to direct Seller to deed Lot 5 (as labeled on the Plat) directly to Target (or the Replacement Retailer) to allow for a simultaneous closing on the purchase of the Property by Buyer and Target (or the Replacement Retailer).

SECTION 35 – CLOSING CONTINGENCY. This Agreement and Seller's obligations herein shall be contingent upon declaration of the Property as surplus and review and approval by City Council (the "**Council Contingency**").

SECTION 36 – COOPERATION AND FURTHER ASSURANCES. The parties agree to cooperate with one another and will work in good faith and will use commercially reasonable efforts to complete their respective obligations hereunder. At Title Agent's request, the parties shall execute and deliver any additional documents reasonably required to carry out the transaction contemplated herein or to correct any scrivener's errors contained in this Agreement or any other document executed in connection with Closing.

SECTION 37 – OFFSITE IMPROVEMENTS. Seller and Buyer hereby acknowledge that Seller has commenced the construction of certain offsite work which will benefit the Property and certain adjacent parcels of land. Seller hereby covenants and agrees, at Seller's sole cost, to continue to proceed diligently to construct the offsite improvements as generally depicted on Exhibit B (collectively, the "**Offsite Improvements**"), but the location of the detention ponds (and/or detention facilities) shown on Exhibit B may change as determined by Seller and approved by Buyer, such approval not to be unreasonably withheld, conditioned or delayed. The Offsite Improvements which will include, without limitation, the construction of traffic signalization, improvements to and widening of Bob Wade Lane, improvements to and widening of HWY 231/431, construction of a main access drive to be known as North Village Blvd. and such other offsite improvements necessary for the development of the Property as a commercial shopping center. The Offsite Improvements will also include the acquisition and funding of necessary ROW, all design work, surveying, traffic engineering and signalization (where required), paving, striping and markings, equipping (including without limitation, site lighting, signage, and other accessories) related thereto along with the necessary relocation and installation of all utilities and other items necessary for Buyer's use of such improvements and for Buyer's use and operation from the Property. In addition, Seller shall construct, as part of the Offsite Improvements, sufficient public detention facilities to allow for Purchaser's development of the Project in accordance with City of Huntsville Zoning, construction, and storm water detention regulations either upon Seller's land or additional property acquired by Seller. If necessary, Seller shall procure any necessary approvals for the Tennessee Valley Authority (the "**TVA**") for detaining stormwater inside the TVA easement area, along with finalizing any necessary subdivision required in connection therewith.

Seller shall coordinate with Buyer to ensure that all Offsite Improvements are completed pursuant to Seller's plans and specifications and in compliance with Buyer's proposed site plan,

as reasonably approved by Seller, on or before July 1, 2027 (the “**Construction Completion Date**”). Seller shall provide Buyer with a detailed construction schedule which sets for the Offsite Improvements and the timing for the completion of each component thereof. From and after the Effective Date hereof, Seller shall provide evidence to Buyer of the status of the completion of each component of the Offsite Improvements on a quarterly basis together with digital photos evidencing such progress. If Seller has not completed (or caused to be completed) all of the Offsite Improvements on or before Construction Completion Date, then Buyer shall have the right, but not the obligation, to exercise self-help to complete those components of the Offsite Improvements which are necessary for Buyer to open and operate the Project from the Property. In such event, Seller will reimburse Buyer for all such costs and expenses incurred by Buyer in completing such components of the Offsite Improvements within thirty (30) days following Seller’s receipt of an invoice and reasonable supporting documentation therefor.

(Signatures appear on following page)

**SELLER'S SIGNATURE PAGE
FOR
PURCHASE AGREEMENT**

IN WITNESS WHEREOF, the parties have caused these presents to be executed intending to be legally bound by the provisions herein contained.

SELLER:

CITY OF HUNTSVILLE, an Alabama municipal corporation

By: _____
Tommy Battle, Mayor

Attested to:

By: _____
Shaundrika Edwards, City Clerk

Date of Execution:

_____, 2025

**BUYER'S SIGNATURE PAGE
FOR
PURCHASE AGREEMENT**

IN WITNESS WHEREOF, the parties have caused these presents to be executed intending to be legally bound by the provisions herein contained.

BUYER:

API HUNTSVILLE, LLC, an Alabama limited liability company

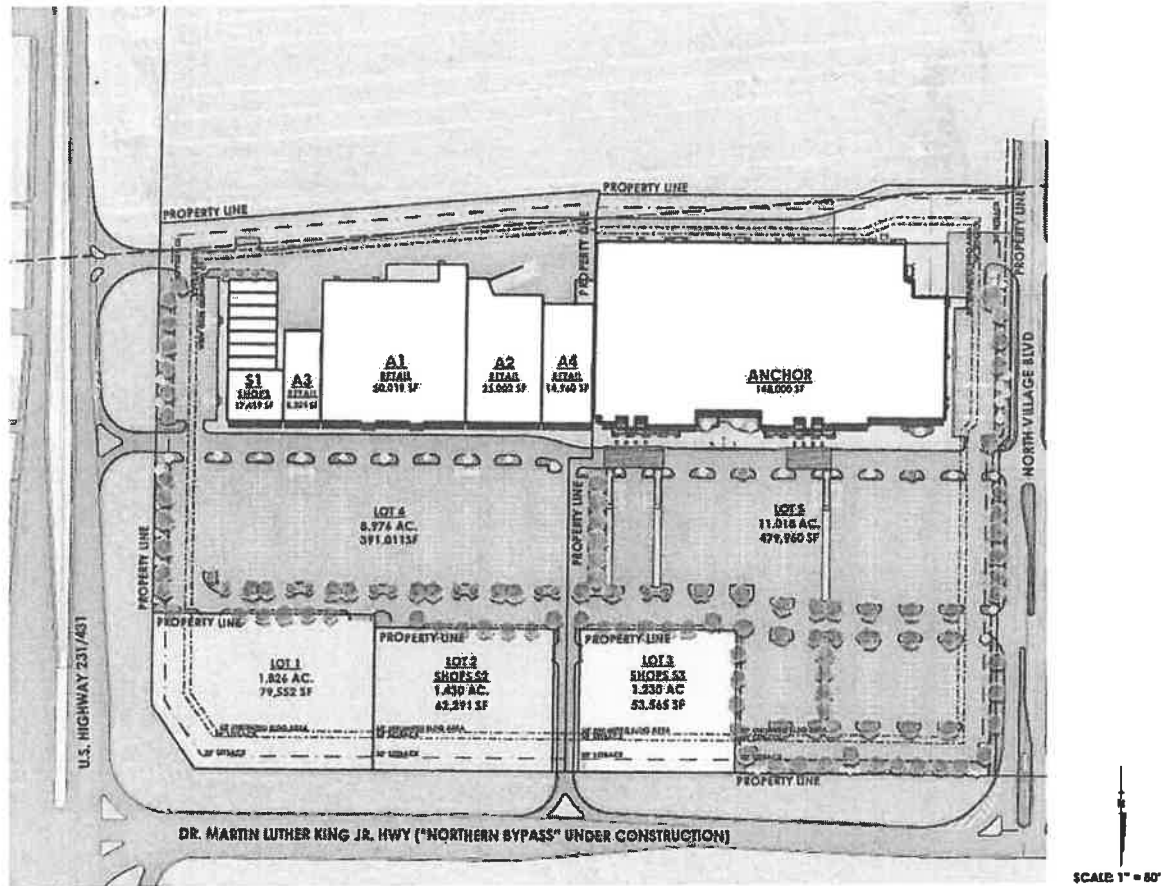
By: 
Keith T. Owens, its Manager

Date of Execution:

11-4-2025, 2025

Preliminary Site Plan

Preliminary Site Plan



HUNTSVILLE NORTH VILLAGE COLOR SITE PLAN

Huntsville, Alabama

October 31th, 2025

Offsite Improvements

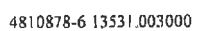


EXHIBIT C

Intentionally deleted

EXHIBIT D

Environmental Disclosures

[None]

EXHIBIT E

Form of Deed

This Instrument Prepared By:

Attorney for Grantor
Lanier Ford Shaver & Payne, PC
2101 W. Clinton Ave., Ste. 102
Huntsville, Alabama 35805
256-535-1100

Send Tax Notice To:

STATE OF ALABAMA

COUNTY OF MADISON

STATUTORY WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, that in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration, to the undersigned, **CITY OF HUNTSVILLE**, an Alabama municipal corporation, herein referred to as "Grantor," in hand paid by the Grantee herein, the receipt of which is hereby acknowledged, the said Grantor does by these presents grant, bargain, sell and convey unto **API HUNTSVILLE, LLC**, an Alabama limited liability company, herein referred to as "Grantee," the following described real estate lying and being in the County of Madison, State of Alabama, to-wit (the "**Property**"):

See Exhibit "A" attached hereto and incorporated herein.

LESS AND EXCEPT AND SUBJECT TO all easements, restrictions, and rights of way of record, and those other matters set forth in Exhibit "B" attached hereto and incorporated herein (the "**Permitted Exceptions**").

TO HAVE AND TO HOLD the Property, together with all the appurtenances and hereditaments thereunto belonging or in anywise appertaining, to the Grantee, its successors and assigns, forever.

And said Grantor does for itself, its successors and assigns, covenant with said Grantee's successors and assigns, that it is lawfully seized in fee simple of said Property, that the Property is free from all encumbrances unless otherwise noted above, that it has a good right to sell and convey the same as aforesaid, and that it will warrant and defend the same, subject to the Permitted Exceptions, to said Grantee, and its successors and assigns, forever, against the lawful claims of all persons claiming by and through Grantor, but not otherwise.

[Signatures appear on following page]

IN WITNESS WHEREOF, the Grantor has caused this Statutory Warranty Deed to be duly executed on this _____ day of _____, 202__.

CITY OF HUNTSVILLE, an Alabama municipal corporation

By: _____
Tommy Battle, Mayor

ATTESTED:

By: _____
Shaundrika Edwards, City Clerk

STATE OF ALABAMA

COUNTY OF MADISON

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Tommy Battle, as Mayor, and Shaundrika Edwards, as City Clerk, respectively, of the CITY OF HUNTSVILLE, an Alabama municipal corporation, are signed to the foregoing conveyance, and who are known to me, acknowledged before me on this day that, being informed of the contents of this conveyance, they, as such officers and with full authority, executed the same for and as the act of said City of Huntsville, an Alabama municipal corporation, as of the day the same bears date.

Given under my hand and official seal this the _____ day of _____, 202__.

NOTARY PUBLIC
My commission expires: _____

Pursuant to and in accordance with Section 40-22-1 of the Code of Alabama (1975), the following information is offered in lieu of submitting Form RT-1:

Grantor's Address:

Grantee's Address:

Property Address:

Purchase Price: \$

EXHIBIT "A" to Deed

Legal Description

Lots 1, 2, 3, 4 and 5, according to that Final Plat of Huntsville North Village, as recorded in Plat Book 2025, Pages 280 – 281 in the Probate Records of Madison County, Alabama.

EXHIBIT "B"
(Permitted Exceptions)

1. All ad valorem taxes for the current tax year, not yet due and payable.
2. *[Exhibit B shall be updated to contain all of those matters which are approved pursuant to Section 9(D) of the Agreement.]*