



Huntsville, Alabama

308 Fountain Circle
Huntsville, AL 35801

Cover Memo

Meeting Type: City Council Regular Meeting **Meeting Date:** 12/15/2022

File ID: TMP-2424

Department: City attorney

Subject:

Type of Action: Introduction

Introduction of an Ordinance to declare property located south of Bob Wade Lane and east of Pulaski Pike also known as Lot 2, Lanier Subdivision, consisting of 136.28 acres, as surplus and no longer needed for a municipal purpose, and authorizing the Purchase and Sale Agreement to Stanley Developers, LLC.

Ordinance No.

Finance Information:

Account Number: TBD

City Cost Amount: NA

Total Cost: \$110,320.00 Purchase Price

Special Circumstances:

Grant Funded: NA

Grant Title - CFDA or granting Agency: NA

Resolution #: NA

Location:

Address: Lot 2, Lanier Subdivision

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

Additional Comments:

\$110,320.00 Purchase Price from Stanley developers

***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 3.94 acres, more or less, as more particularly described as follows in Exhibit “A” attached hereto (the “Subject Property”); and

WHEREAS, Stanley Developers, 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, the Mayor of the City of Huntsville is hereby authorized to enter into that certain Purchase and Sale Agreement between the City of Huntsville and Stanley Developers, LLC, attached hereto as Exhibit “B” (the “Agreement”), and pursuant to the terms and conditions therein, the Subject Property will be sold to Stanley Developers, LLC, in exchange for One Hundred Ten Thousand Three Hundred Twenty and No/100 Dollars (\$110,320.00); and

WHEREAS, in the judgment and opinion of the Mayor and the City Council of Huntsville, Alabama, the Subject Property having been valued at \$110,320.00, finds said compensation is fair and reasonable compensation for the Subject Property; and

WHEREAS, it is necessary for the Mayor to execute a statutory warranty deed for the Subject Property to Stanley Developers, LLC; and

WHEREAS, a general and permanent ordinance is necessary to effect declaration of surplus property, for the transfer or sale of said surplus property, and to authorize the Mayor to execute a deed to the purchaser of 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 Mayor of the City of Huntsville is hereby authorized and directed to execute the Agreement, and to convey the Subject Property to Stanley Developers, LLC pursuant to the terms of said Agreement, and to execute and deliver all documents required to close said sale for and on behalf of the City; and

3. 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
4. A copy of said real estate closing documents, as legally required, will be kept on file in the office of the Clerk-Treasurer of the City of Huntsville, Alabama; and
5. 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 _____, 2022.

Tommy Battle, Mayor

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

EXHIBIT "A"
(Legal Description of Subject Property)

A PART OF THE SOUTHWEST QUARTER OF SECTION 33, TOWNSHIP 2 SOUTH, RANGE 1 WEST OF THE HUNTSVILLE MERIDIAN, MADISON COUNTY ALABAMA, MORE PARTICULARLY DESCRIBED AS COMMENCING AT A P.K. NAIL AT THE SOUTHWEST CORNER OF SAID SECTION 33. THEN SOUTH 88 DEGREES 39 MINUTES 04 SECONDS EAST, 40.04 FEET TO A POINT ON THE WESTERN MARGIN OF THE RIGHT OF WAY OF PULASKI PIKE. THEN ALONG SAID MARGIN NORTH 00 DEGREES 36 MINUTES 12 SECONDS EAST, 332.99 FEET TO A POINT AT THE INTERSECTION OF SAID MARGIN WITH THE NORTHERN MARGIN OF A U.S. T.V.A. TRANSMISSION LINE EASEMENT, AS RECORDED IN DEED BOOK 350, PAGE 531 IN THE PROBATE OFFICE OF MADISON COUNTY, ALABAMA. THEN LEAVING SAID RIGHT OF WAY MARGIN AND ALONG SAID EASEMENT MARGIN NORTH 73 DEGREES 26 MINUTES 06 SECONDS EAST, 317.26 FEET TO THE POINT OF BEGINNING.

THEN FROM THE POINT OF BEGINNING AND ALONG SAID MARGIN NORTH 73 DEGREES 26 MINUTES 06 SECONDS EAST A DISTANCE OF 50.00 FEET TO A POINT.

THEN LEAVING SAID MARGIN SOUTH 16 DEGREES 33 MINUTES 54 SECONDS EAST A DISTANCE OF 450.00 FEET TO A POINT.

THEN NORTH 73 DEGREES 26 MINUTES 06 SECONDS EAST A DISTANCE OF 792.06 FEET TO A POINT.

THEN ALONG THE ARC OF A CURVE TO THE RIGHT WHICH HAS A RADIUS OF 117.60 FEET AND A DELTA ANGLE OF 101 DEGREES 14 MINUTES 01 SECONDS A DISTANCE OF 207.79 FEET (A CHORD BEARING AND DISTANCE OF SOUTH 01 DEGREE 07 MINUTES 10 SECONDS EAST, 181.80 FEET) TO A POINT.

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THEN NORTH 65 DEGREES 31 MINUTES 27 SECONDS WEST A DISTANCE OF 42.45 FEET TO A POINT.

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EXHIBIT “B”
(Purchase and Sale Agreement)

*[Attach copy of Purchase and Sale Agreement between the City of Huntsville and Stanley
Developers, LLC]*

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (the "Agreement") is made and entered into by, between and among the **City of Huntsville**, an Alabama municipal corporation ("City" or "Seller"), and **Stanley Developers, LLC**, an Alabama limited liability company, or its assigns ("Purchaser") effective as of this ____ day of _____, 2023 (the "Effective Date").

WHEREAS, the City owns a parcel of real property located in Huntsville, Madison County, Alabama, lying to the south of Bob Wade Drive and to the east of Pulaski Pike, identified by Madison County Tax Assessor records as PPIN 510719, being a majority of Lot 2 of the Lanier Subdivision, and consisting of approximately 136.28 acres, more or less, (the "City Parcel"); and

WHEREAS, Purchaser desires to purchase from Seller and Seller desires to sell to Purchaser a portion of the City Parcel, comprised of approximately 3.94 acres, more or less, and as more particularly described in Exhibit "A" attached hereto and incorporated herein (the "Property"); and

NOW THEREFORE, in consideration of Ten Dollars and No/100 (\$10.00), the covenants and conditions contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Seller and Purchaser hereby agree as follows:

1. Sale and Purchase of Property. Subject to and in accordance with the terms of this Agreement, Seller agrees to sell to Purchaser, and Purchaser agrees to purchase from Seller, the Property, consisting of approximately 3.94 acres, more or less, as more particularly described in Exhibit "A" attached hereto, and as depicted in that certain drawing attached as Exhibit "B" hereto, together with any and all structures, fixtures and other improvements thereon and all rights, easements, interests, privileges, tenements and hereditaments appurtenant thereto (the "Property").

2. Purchase Price. The purchase price for the Property shall be One Hundred Ten Thousand Three Hundred Twenty and NO/100 Dollars (\$110,320.00) (the "Purchase Price"). The Purchase Price shall be paid to Seller in cash or other immediately available funds at the closing and upon the consummation of the transaction contemplated by this Agreement (the "Closing").

3. Title Commitment. Purchaser may, at its option, obtain a title commitment from Closing Agent to issue an owner's policy of title insurance 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, tenancies, covenants, conditions, restrictions, easements and other matters of record affecting title except for the Permitted Exceptions. "Permitted Exceptions" shall mean: (i) current city, state and county ad valorem taxes not yet due and payable; (ii) easements for the installation or maintenance of public utilities servicing the Property; (iii) easements, restrictions, and setback lines of record; (iv) rights of way for public roads; (v) subdivision regulations and zoning ordinances of applicable governmental entities; and (vi) such other matters, if any, as may be

acceptable to Purchaser. Seller shall remove or have released all monetary liens affecting the Property, if any, prior to Closing.

4. Inspection Period. Purchaser shall have up to sixty (60) days from the Effective Date to inspect and conduct due diligence on the Property (the "Inspection Period"), in which 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 and phase II environmental site assessments and such other investigations, studies or tests as Purchaser may deem necessary or desirable in order to determine whether or not the Property is suitable for Purchaser's intended use (collectively, the "Reports"). Prior to the expiration of the Inspection Period, Purchaser may provide written notice to the City, to be given in accordance with the Notice provision below, of its desire to terminate this Agreement ("Termination Notice"). If no such Termination Notice is provided by Purchaser prior the expiration of the Inspection Period, then the parties shall proceed to Closing as set forth in this Agreement. However, in the event that such Termination Notice is provided by Purchaser prior to the end of the Inspection Period, then this Agreement shall automatically terminate and shall be null and void, and Purchaser shall immediately provide the Seller with copies of all Reports performed and shall restore the Property to the same condition as existed prior to the Inspection Period.

5. Closing Conditions. The parties' obligation to close on the Property is contingent upon the declaration of the Property as "surplus" as evidenced by the approval of a surplus ordinance by the City Council of the City of Huntsville ("City Council") and approval of this Agreement by City Council.

6. Closing. Closing shall occur on or within sixty (60) days following the satisfaction of the Closing Conditions, or at such other date and time as is mutually agreed upon by the parties ("Closing Date"). The Closing shall occur at the offices of Wilmer & Lee, P.A ("Closing Agent"). The parties may deliver any documents or closing funds as required herein on or before the Closing Date, such that neither party will be required to be physically present at Closing.

(a) At Closing, the parties shall deliver the following items to Closing Agent, properly executed and notarized and in form and substance acceptable to the Closing Agent:

(i) A statutory warranty deed conveying a good and marketable fee simple title to the Property to Purchaser subject only to the Permitted Exceptions (the "Deed").

(ii) Recorded or recordable releases terminating and releasing all monetary liens, if any.

(iii) An owner's affidavit and any other documents, certificates and agreements that the Closing Agent and/or title company may reasonably require to issue an updated title commitment or owner's title policy.

(iv) All other documents reasonably requested by the Title Agent to carry out the transaction contemplated by this Agreement, including, but not limited to, (A) an IRS 1099 form and/or FIRPTA affidavit (B) a settlement statement, and (C) formation documents, certifications, resolutions, brokers affidavits and other reasonable and customary documents

establishing that the party is duly authorized and empowered to enter into this Agreement and perform its obligations hereunder.

7. Property Taxes. No ad valorem taxes are currently owed or assessed on the Property, as the Property is currently classified as exempt. Accordingly, ad valorem taxes will not be prorated and no property taxes will be collected at Closing. Seller shall be responsible for any and all ad valorem taxes assessed for the current tax year and shall pay them when due.

8. Closing Costs. All closing costs, including any title examination fee, title insurance premium, all deed, transfer, and mortgage taxes, and any and all recording costs shall be paid by Purchaser ("Closing Costs"). Provided, Closing Costs shall not include the cost of Deed preparation, which shall be paid by Seller. In addition, each party shall pay for its own attorney's fees incurred in connection with the transaction contemplated by this Agreement.

9. Permitting and Approvals. Purchaser, its agents, employees and contractors, will use commercially reasonable efforts to obtain all necessary licenses, permits, and certificates that are required to construct, own, operate, and maintain the Property. Accordingly, Seller shall work in good faith to assist Purchaser in Purchaser's application for and obtaining of all applicable permits, licenses, certificates, or approvals required in connection with Purchaser's intended use of the Property. However, Purchaser acknowledges and agrees that Seller is in no way waiving or disclaiming, nor should this provision be construed as a waiver of, any applicable City licensing, permitting, zoning, design guidelines, or building code requirements.

10. Permitting and Approvals; Subdivision Plat. Purchaser, its agents, employees, and contractors, will use commercially reasonable efforts to obtain all necessary licenses, permits, or approvals that are required to own, operate, construct improvements on, and/or maintain the Property. Accordingly, Seller shall work in good faith to assist Purchaser in its application for and obtaining of all applicable permits, licenses, or approvals required in connection with Purchaser's intended use of the Property. However, Purchaser acknowledges, understands, and agrees that Seller is in no way waiving or disclaiming, nor should this provision be construed as a waiver of, any applicable City of Huntsville or other governmental licensing, permitting, zoning ordinances, design guidelines, or building code requirements. Additionally, the parties shall work together in good faith to have the Property subdivided, re-subdivided, and/or combined with Purchaser's adjacent property in accordance with the City's planning and subdivision regulations (the "Plat"). Specifically, Purchaser understands and acknowledges that no grading and/or building permit can be issued by Seller until the Plat has been finalized, approved, and required as required by the City's subdivision regulations and permitting requirements.

11. 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 law provisions.

12. Entire Agreement. This Agreement contains the entire agreement between the parties. No promise, representation, warranty or covenant not included in this Agreement has been or is being relied upon by either party. Each party has relied upon its own examination of

this Agreement and the provisions, warranties, representations and covenants expressly contained herein.

13. Successors and Assigns. All rights and obligations of the parties under this Agreement shall inure the benefit of and be binding upon all successors and assigns of each party.

14. Notice. All notices shall be in writing and may be delivered by any of the following methods: (i) hand delivery, (ii) certified United States Mail or other overnight delivery service (i.e., FedEx or UPS), or (iii) electronic transmission, such as e-mail and PDF. 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 electronic transmission on the date the transmission is sent. Notices shall be addressed as follows:

If to Seller: The City of Huntsville
Attn: Shane Davis and Jim McGuffey
320 Fountain Circle
Huntsville, AL 35801
Ph: (256) 427-5300
Email: shane.davis@huntsvilleal.gov
jim.mcguddy@huntsvilleal.gov

With a copy to: Samuel H. Givhan & Katie Beasley
Wilmer & Lee, PA
100 Washington Street
Huntsville, Alabama 35801
Ph: (256)533-0202
Email: sgivhan@wilmerlee.com
kbeasley@wilmerlee.com

If to Purchaser : Stanley Developers, LLC
Attn: Algernon Stanley
4410 Evangel Circle NW #A
Huntsville, Alabama 35816
Ph: 256-527-7895
Email: astanley@stanley-hsv.com

With a copy to: Attn: Thornton Stanley, Jr.
4410 Evangel Circle NW #A
Huntsville, Alabama 35816
Ph: 256-837-6850
Email: stanleythornton@comcast.net

Any party may change its address or contact information to which notices are to be delivered to such party, by providing written notice to the other parties in accordance with this Section.

15. Survival. Any terms and covenants contained in this Agreement which require the performance of any party after the Closing shall survive the closing and delivery of the Deed.

16. Amendment. This Agreement may only be amended by a written instrument executed by both parties.

17. Assignment. Purchaser may assign its rights and obligations under this Agreement to any related entity, individual, or company controlled by or sharing common control or ownership with Purchaser (an "Affiliate Entity") or otherwise made as a result of any restructure, consolidation, merger, or reorganization of Purchaser in which Purchaser or the Affiliate Entity is the surviving entity. In the event of an Assignment, Purchaser shall provide the Closing Agent with notice of the Assignment, including the name, form of entity, address, and current contact information of the Affiliate Entity, along with any related entity or company documents of said Affiliate Entity as may be requested by the Closing Agent. Prior to Closing, the city and/or Closing Agent may require Purchaser and Affiliate Entity to execute and acknowledge a formal assignment document in a form reasonably acceptable to Closing Agent.

18. Effective Date. The Effective Date shall mean the date this Agreement has been executed by the City.

19. Party Cooperation. The parties agree to cooperate with one another and will work in good faith and will use their reasonable best efforts in order to complete each of their respective obligations as set forth herein and in accordance with the terms of the Agreement.

20. Counterparts; Electronic Signatures. This Agreement may be executed in one or more counterparts, each of which is an original, and all of which constitute one agreement between the parties. Documents executed, scanned and transmitted electronically, and electronic signatures shall be deemed original signatures for purposes of this Agreement and all matters related thereto, with such scanned and electronic signatures having the same legal effect as original signatures. Notwithstanding the preceding sentence, the parties agree that they will transmit their original signature pages to the Closing Agent promptly after execution.

21. Real Estate Commissions. Seller and Purchaser each represent and warrant to one another that they, respectively, have not consulted with any broker or finder in connection herewith and no broker, finder or other agent is entitled to any fee or commission with respect to or by reason of this transaction. Seller and Purchaser each agree to indemnify and hold the other harmless from and against any and all loss, cost, damage, claim, expense (including attorneys' fees) incurred by or assessed against the other as a result of a breach of the respective foregoing covenants and representations made by each of them.

22. Attorneys' Fees. If any legal proceeding is commenced related to this Agreement, the prevailing party in such legal proceeding shall be entitled to recover its reasonable attorneys' fees, court costs and litigation expenses from the non-prevailing party therein.

23. Further Assurances. At Closing Agent's request, the parties shall execute and deliver any additional documents reasonably required to carry out the transaction contemplated by this

Agreement or to correct any scrivener's error or omissions contained in this Agreement or any document executed pursuant hereto or in connection with the transaction contemplated herein.

24. Counsel Acknowledgment. The parties acknowledge that Seller's counsel, Samuel H. Givhan and Katherine Amos Beasley, of the law firm of Wilmer & Lee, P.A. (collectively, "Counsel") prepared this Agreement on behalf of and in the course of their representation of Seller and, for purposes of this transaction, Counsel represents Seller's interest and no other. All conflicts of interest in connection with Counsel's representation of Seller, if any, are hereby waived.

25. 1031 Exchange. Purchaser shall have the option to structure this transaction as a deferred like-kind exchange pursuant to Section 1031 of the Internal Revenue Code. In the event Purchaser decides to structure the 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 effect the exchange. Purchaser shall bear all additional costs incurred in connection with the 1031 exchange. Nothing in this section shall interfere with Purchaser's right to close on the Property in accordance with the terms of this Agreement or otherwise delay the Closing.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be effective as of the dates set forth above.

[Signatures appearing on the Following Pages.]

[Seller's Signature Page to Purchase and Sale Agreement]

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SELLER:

City of Huntsville, an Alabama municipal corporation

By: _____
Tommy Battle, Mayor

ATTESTED TO:

By: _____
Kenneth Benion, Clerk-Treasurer

Date: _____

PURCHASER:

Stanley Developers, LLC, an Alabama limited liability company

By: Algermon Stanley
Algermon Stanley, Managing Member

WITNESSED:

By: Carillia K. Stanley

Date: 12/5/22

Exhibit "A"
(Legal Description of the Property)

A PART OF THE SOUTHWEST QUARTER OF SECTION 33, TOWNSHIP 2 SOUTH, RANGE 1 WEST OF THE HUNTSVILLE MERIDIAN, MADISON COUNTY ALABAMA, MORE PARTICULARLY DESCRIBED AS COMMENCING AT A P.K. NAIL AT THE SOUTHWEST CORNER OF SAID SECTION 33. THEN SOUTH 88 DEGREES 39 MINUTES 04 SECONDS EAST, 40.04 FEET TO A POINT ON THE WESTERN MARGIN OF THE RIGHT OF WAY OF PULASKI PIKE. THEN ALONG SAID MARGIN NORTH 00 DEGREES 36 MINUTES 12 SECONDS EAST, 332.99 FEET TO A POINT AT THE INTERSECTION OF SAID MARGIN WITH THE NORTHERN MARGIN OF A U.S. T.V.A. TRANSMISSION LINE EASEMENT, AS RECORDED IN DEED BOOK 350, PAGE 531 IN THE PROBATE OFFICE OF MADISON COUNTY, ALABAMA. THEN LEAVING SAID RIGHT OF WAY MARGIN AND ALONG SAID EASEMENT MARGIN NORTH 73 DEGREES 26 MINUTES 06 SECONDS EAST, 317.26 FEET TO THE POINT OF BEGINNING.

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Exhibit "B"
(Drawing of the Property)

