



Huntsville, Alabama

308 Fountain Circle
Huntsville, AL 35801

Cover Memo

Meeting Type: City Council Regular Meeting **Meeting Date:** 4/13/2023

File ID: TMP-2826

Department: Urban Development

Subject:

Type of Action: Approval/Action

Resolution authorizing the Mayor to enter into a Purchase and Sale Agreement between the City of Huntsville and University of Alabama Huntsville Foundation for 4.08 acres of real property located East of Research Park Boulevard.

Type of Document: Resolution No.

Finance Information:

Account Number: TBD

City Cost Amount: NA

Total Cost: NA

Special Circumstances:

Grant Funded: NA

Grant Title - CFDA or granting Agency: NA

Resolution #: NA

Location: (list below)

Address: 4.08 acres of real property located East of Research Park Boulevard.

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

Additional Comments:

The purchase price to UAH Foundation is \$19,000.

RESOLUTION NO. 23-_____

BE IT RESOLVED by the City Council of the City of Huntsville, Alabama, that the Mayor be, and he is hereby, authorized to enter into that certain Purchase and Sale Agreement, by and between the City of Huntsville, an Alabama municipal corporation, and University of Alabama Huntsville Foundation, an Alabama non-profit corporation, which said agreement is substantially in words and figures as that certain document attached hereto and identified as “Purchase and Sale Agreement between the City of Huntsville and University of Alabama Huntsville Foundation,” consisting of ten (10) pages, including Exhibit “A” and the date of April 13, 2023, appearing on the first page thereof, together with the signature of the President or President Pro Tem of the City Council, an executed copy of said document after being signed by the Mayor, shall be permanently kept on file in the Office of the City Clerk-Treasurer of the City of Huntsville, Alabama.

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

ADOPTED this the 13th day of April, 2023.

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

APPROVED this the 13th day of April, 2023.

Mayor of the City of Huntsville, Alabama

STATE OF ALABAMA

COUNTY OF MADISON

PURCHASE AND SALE AGREEMENT

This Purchase and Sale Agreement (this "Agreement") is entered into as of the 13th day of April, 2023, by and between the **UNIVERSITY OF ALABAMA HUNTSVILLE FOUNDATION**, an Alabama non-profit corporation ("Seller"), and the **CITY OF HUNTSVILLE**, an Alabama municipal corporation ("Purchaser" or the "City").

WHEREAS, Seller desires to sell and Purchaser agrees to purchase a parcel of real property located to the East of Research Park Boulevard in Huntsville, Madison County, Alabama, consisting of approximately 4.08 acres, more or less, and being more particularly described in Exhibit "A" attached hereto, and as depicted in Exhibit "B" attached hereto (the "Property").

WHEREAS, the City desires to purchase the Property from Seller, and Seller desires to sell the Property to the City in accordance with the terms and conditions contained herein.

THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. Sale and Purchase. Seller hereby agrees to grant, bargain, sell and convey to Purchaser that certain real property, consisting of approximately 4.08 acres, more or less, located to the East of Research Park Boulevard in Huntsville, Madison County, Alabama, being more particularly described in Exhibit "A" attached hereto and as further depicted in Exhibit "B" attached hereto, together with any and all structures or buildings located thereon and all rights, easements, interests, privileges, tenements, and hereditaments appurtenant thereto (the "Property").

2. Purchase Price. The purchase price for the Property shall NINETEEN THOUSAND and NO/100 DOLLARS (\$19,000.00) (the "Purchase Price"). The Purchase Price shall be paid by Purchaser to Seller at Closing in cash or other immediately available funds upon the closing and consummation of the transaction contemplated by this Agreement ("Closing").

3. Title. The Property shall be conveyed to Purchaser by Seller by quitclaim deed (the "Deed"), satisfactory in manner and form to Purchaser and in accordance with the laws of the State of Alabama; conveying all of Seller's interest in the Property. Prior to Closing, Purchaser may, at its option, obtain a title commitment to issue an owner's policy of insurance from Wilmer & Lee, P.A. ("Closing Agent"), to be issued in accordance with commercially reasonable standards and insuring Purchaser's title to the Property. Any existing mortgages or monetary liens in/on the Property, if any, shall be paid and/or satisfied at or prior to Closing. Seller shall provide customary affidavits consistent with the terms hereof to establish clear title to the Property.

4. Closing. Closing shall occur on or within thirty (30) days from the Effective Date (as hereinafter defined), or at such earlier date and time as mutually agreed upon by the parties ("Closing Date"). The Deed to the Property shall be delivered and the Closing of the transaction shall occur at the law offices of the Closing Agent. The parties may deliver all closing documents and/or closing funds to Closing Agent on or prior to the Closing Date, such that neither party will be required to be physically present at Closing. At Closing, Seller shall deliver the following items to Purchaser, properly executed and notarized and in form and substance acceptable to Purchaser:

- a. Seller shall execute and provide the Deed, to be prepared by Closing Agent and at Purchaser's expense.
- b. Customary owner's affidavit, heirship or death affidavits, and any other reasonable affidavits, certificates, or documents that the Closing Agent requires to issue an updated title commitment and owner's policy of insurance, or as may be necessary to clear any existing title defects.
- c. Recorded or recordable releases terminating and/or releasing any monetary liens of record, if any.
- d. All other documents reasonably requested by Purchaser or Closing Agent in order to carry out the transaction contemplated by this Agreement, including, but not limited to required IRS disclosures, a settlement statement, heirship or death affidavits, broker affidavits, and any formation documents, certifications, or resolutions or other documents establishing that Seller is duly authorized and empowered to enter into this Agreement and to perform the obligations hereunder.
- e. Each party shall pay its own attorney's fees incurred in connection with the Property or this Agreement.

5. Closing Costs. The deed preparation fee to be prepared by Purchaser's attorney, deed and transfer taxes, recording fees, and all other closing costs, except for Seller's attorney's fees, shall be paid by Purchaser at Closing.

6. Real Estate Commissions. The parties represent that neither has incurred, or is obligated for any brokers' fees or finders' fees, and that no real estate commissions are due in connection with this Agreement or the transaction contemplated herein. Each party agrees to indemnify, defend and hold the other harmless from any claims, including any attorney's fees, that they may suffer as a result of any claim or action brought by any broker or real estate agent, acting on behalf of that party.

7. Successors; No Assignment. All rights and obligations of Seller and Purchaser under this Agreement shall inure to the benefit of and be binding upon their respective heirs, successors, and assigns. Neither party may assign this Agreement or any obligations hereunder. Any purported assignment shall be null and void.

8. Amendment; Modification. No amendment or modification of this Agreement shall be of any force or effect unless the same shall be made in writing and executed by each party hereto. To the extent that escrow, closing or settlement instructions and/or documents are inconsistent with the terms and conditions of this Agreement, this Agreement shall control and further shall survive recordation of the Deed.

9. Entire Agreement. This Agreement constitutes the entire agreement and understanding of the parties with respect to the transaction provided for herein, and supersedes all prior agreements, understandings, negotiations, correspondence and discussions by and between the parties. No promise, representation, warranty or covenant not included in this Agreement has been relied upon by either party. Each party has had a full opportunity to examine the Agreement and/or has had the opportunity to have legal counsel review the Agreement on its behalf.

10. Authority; Possession. Seller represents and warrants, to and for benefit of Purchaser, that Seller has the authority and power to convey the Property in accordance with the terms of the Agreement and the individuals and entities signing this Agreement and all documents executed or to be executed by Seller, are, and shall be duly authorized to sign the same on Seller's behalf and to bind Seller thereto.

11. Closing Condition. Purchaser's obligation to purchase the Property is contingent upon the approval of this Agreement by the City Council of the City of Huntsville prior to the Closing Date.

12. Interpretation. This Agreement shall be interpreted in accordance with Alabama law, without regard to its conflict of law provisions.

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

14. Execution by Counterpart Originals. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Handwritten signatures to this Agreement transmitted by facsimile, email or other similar electronic transmission shall be valid and effective to bind the party so signing.

15. Counsel Acknowledgment; Conflict Waiver. Purchaser has retained Samuel H. Givhan, and Katherine Amos Beasley and Seller has retained S. Dagnal Rowe, all of the firm of WILMER & LEE, P.A. (the "Firm"), to represent their respective interests during the preparation of this Agreement and closing of this matter. The potential conflict of interest concerning the rendition of legal services to both Seller and Purchaser has been disclosed to the Parties. The undersigned, fully cognizant of all facts, issues and legal rights concerning the Firm's representation of the Seller and the Purchaser in the above-referenced contract preparations and in performing future legal

services for the undersigned parties, hereby waive and relinquish any and all potential conflicts of interest and disqualifications caused by the Firm's representation. The Parties do hereby waive any and all conflicts of interest and do hereby waive any and all rights to object or disqualify the Firm from the representation of both Parties in connection with this Agreement and the Closing contemplated herein and specifically the undersigned give express written consent to the representation of the Purchaser by Samuel H. Givhan and Katherine Amos Beasley and to the representation of the Seller by S. Dagnal Rowe in connection herewith.

16. Waiver. The waiver of default by either party of any provision of this Agreement shall not operate as a waiver of subsequent defaults.

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

18. Notices. 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 nationally recognized overnight delivery service (such as, FedEx or UPS), or (iii) electronic transmission, including email and/or pdf transmission. Such Notices shall be deemed received, (i) if delivered by hand, on the date of delivery, (ii) if sent by U.S. Mail or overnight delivery service, on the date the same is deposited with the applicable carrier, or (iii) if delivered by electronic transmission on the date the transmission is sent. Notices shall be addressed as set forth below:

To Seller: University of Alabama Huntsville Foundation
c/o Wilmer & Lee, P.A.
Attn: S. Dagnal Rowe
100 Washington Street
Huntsville, Alabama 35801
Phone: 256-533-0202
Email: drowe@wilmerlee.com

If to Purchaser: City of Huntsville
Attn: Shane Davis & Kathy Martin
320 Fountain Circle
Huntsville, Alabama 35801
Phone: 256-427-5310
Email: shane.davis@huntsvilleal.gov
kathy.martin@huntsvilleal.gov

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

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

20. Further Assurances. At request of Closing Agent, the parties shall execute and deliver any additional documents as may be reasonably required to carry out the transaction contemplated by this Agreement or to correct any scrivener's affidavit or error, mistake, or omission contained in this Agreement, closing document, or any other document executed pursuant hereto or in connection herewith.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed on the respective dates set forth below.

[Signatures and acknowledgments appear on the following page(s)].

[*Seller Signature Page to Purchase and Sale Agreement.*]

SELLER:

**UNIVERSITY OF ALABAMA HUNTSVILLE
FOUNDATION**, an Alabama non-profit corporation

By: 

S. Dagnal Rowe, Chairman of the Board of
Trustees

WITNESSED:

By: 

Name: Katherine Amos Beasley

Date: 3-31-2023

[Purchaser Signature Page to Purchase and Sale Agreement.]

PURCHASER:

CITY OF HUNTSVILLE, an Alabama municipal corporation

By: _____
Tommy Battle, Mayor

ATTESTED TO:

By: _____
Shuandrika Edwards, City Clerk

Date: April 13, 2023

Exhibit "A"
(Legal Description of Property)

A tract of land lying and being in Section 31, Township 3 South, Range 1 West of the Huntsville Meridian.

Said tract being a portion of an existing Utility and Drainage Easement conveyed to the City of Huntsville in Deed Book 639, Page 648 as recorded in the Office of the Judge of Probate for Madison County, Alabama and being more particularly described as follows:

Beginning at a #4 rebar found at the northwest corner of "Unit 1" of R P Condominium Plat as recorded in the Office of the Judge of Probate for Madison County, Alabama in Instrument 2010-122260, said point being on the east boundary an existing Utility and Drainage Easement conveyed to the City of Huntsville in Deed Book 639, Page 648 as recorded in the Office of the Judge of Probate for Madison County, Alabama and on a curve to the right, having a radius of 1065.00 feet, the chord of which is South 1 Degrees 25 Minutes 46 Seconds East for a distance of 85.65 feet; thence along the east boundary of said existing easement and the arc of said curve 85.67 feet to a #5 rebar with a cap stamped "GARVER LLC CA-445-LS" (typical) set at the Point of Curvature of a curve to the left, having a radius of 980.00 feet, the chord of which is South 4 Degrees 01 Minutes 40 Seconds East for a distance of 165.37 feet; thence along the arc of said curve 165.57 feet to a #5 rebar found at the northwest corner of Lot 2 of Research Park Phase 2 as recorded in the Office of the Judge of Probate for Madison County, Alabama in Plat Book 43, Page 71, said point being on a curve to the left having a radius of 980.00 feet, the chord of which is South 20 Degrees 43 Minutes 16 Seconds East for a distance of 403.74 feet; thence along the arc of said curve 406.65 feet to a #5 rebar found at the northwest corner of Lot 2A of said Research Park Phase 2, said point being on a curve to the left having a radius of 980.00 feet, the chord of which is South 33 Degrees 22 Minutes 12 Seconds East for a distance of 30.03 feet; thence along the arc of said curve 30.03 feet to a #5 rebar set at the Point of Tangency of said curve; thence South 34 Degrees 16 Minutes 33 Seconds East a distance of 506.51 feet to a #5 rebar set at the Point of Curvature of a curve to the right, having a radius of 710.00 feet, the chord of which is South 16 Degrees 40 Minutes 11 Seconds East for a distance of 429.51 feet; thence along the arc of said curve 436.34 feet to a #5 rebar set at the Point of Tangency of said curve; thence South 0 Degrees 55 Minutes 52 Seconds West a distance of 43.87 feet to a 6 inch square concrete monument with an aluminum disk found on the south boundary of said existing easement; thence leaving said east boundary and along the south boundary of said existing easement North 87 Degrees 22 Minutes 20 Seconds West a distance of 100.04 feet to a #5 rebar set on the west boundary of said existing easement; thence leaving said south boundary and along the west boundary of said existing easement North 0 Degrees 55 Minutes 52 Seconds East a distance of 40.97 feet to a #5 rebar set at the Point of Curvature of a curve to the left, having a radius of 610.00 feet, the chord of which is North 16 Degrees 40 Minutes 20 Seconds West for a distance of 368.96 feet; thence along the arc of said curve 374.83 feet to a #5 rebar set at the Point of Tangency of said curve; thence North 34 Degrees 16 Minutes 33 Seconds West a distance of 506.44 feet to a #5 rebar set at the Point of Curvature of a curve to the right, having a radius of 1080.00 feet, the chord of which is North 21 Degrees 40 Minutes 49 Seconds West for a distance of 473.85 feet; thence along the arc of said curve 477.74 feet to a #5 rebar set on the east boundary of tract of land conveyed to the State of Alabama in Deed Book 389, Page 410 as recorded in the Office of the Judge of Probate for Madison County, Alabama; thence leaving said west boundary and along the east boundary of said State of Alabama tract North 0 Degrees 54 Minutes 27 Seconds East a distance of 483.44 feet to a #5 rebar found on the north boundary of said existing easement; thence leaving

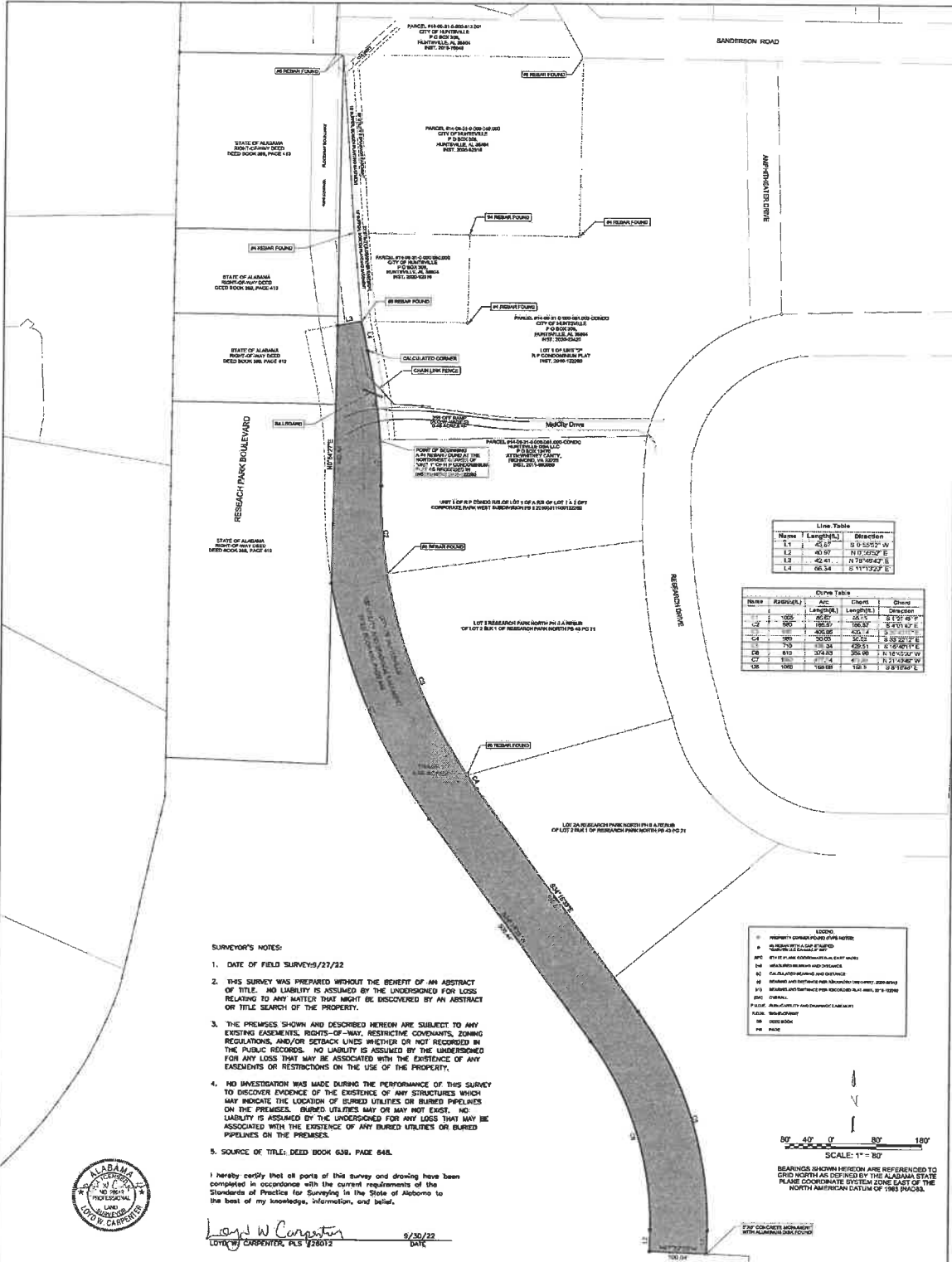
said east boundary and along the north boundary of said existing easement North 78 Degrees 46 Minutes 40 Seconds East a distance of 42.41 feet to a #5 rebar found on the east boundary of said existing; thence leaving said north boundary and along the east boundary of said existing easement South 11 Degrees 13 Minutes 20 Seconds East a distance of 56.34 feet to a #5 rebar set at the Point of Curvature of a curve to the right, having a radius of 1065.00 feet, the chord of which is South 8 Degrees 16 Minutes 46 Seconds East for a distance of 168.80 feet; thence along the arc of said curve 168.98 feet to the POINT OF BEGINNING.

The above described tract contains 4.08 acres (177757.76 sq. ft.), more or less.

Exhibit "B"

(Survey Sketch of the Property)

LWCarpenter 9/30/2022 9:16:00 AM
WORKSPACE: d:\survey\2022\1000\1000.dwg
L:\01\1000\1000.dwg NCP OnCallSurvey\MC ARM\day_Fish\ALL.dwg



SHEET	NO.	DATE	DESCRIPTION	BY
1	1	9/30/22	PREPARED FOR: CITY OF HUNTSVILLE 301 FOUNTAIN CIRCLE HUNTSVILLE, AL 35801	
2	2	9/30/22	SECTION 31, TOWNSHIP 3 SOUTH, RANGE 1 WEST HUNTSVILLE, ALABAMA	

PREPARED FOR:
CITY OF HUNTSVILLE
301 FOUNTAIN CIRCLE
HUNTSVILLE, AL 35801

SECTION 31, TOWNSHIP 3
SOUTH, RANGE 1 WEST
HUNTSVILLE, ALABAMA

DATE: 9/30/22
DRAWN BY: JEL
CHECKED BY: JEL
LLOYD W. CARPENTER, PLS #28012
LLOYD W. CARPENTER, PLS #28012

THE UNDERSIGNED HAS REVIEWED THIS SURVEY AND DRAWING AND CERTIFIES THAT IT IS A TRUE AND CORRECT REPRESENTATION OF THE SURVEY AND DRAWING AS PERFORMED BY THE UNDERSIGNED OR UNDER HIS SUPERVISION AND CONTROL.

DATE: 9/30/22
BY: JEL
LLOYD W. CARPENTER, PLS #28012