



Huntsville, Alabama

305 Fountain Circle
Huntsville, AL 35801

Cover Memo

Meeting Type: City Council Regular Meeting **Meeting Date:** 4/9/2026

File ID: TMP-6814

Department: Urban Development

Subject:

Type of Action: Introduction

Introduction of an Ordinance to declare certain property as surplus and authorizing the Mayor to enter into a Purchase and Sale Agreement between the City of Huntsville and Averitt Properties, Inc., for the purchase of the same.

Ordinance 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: 4.0 acres located in the City of Huntsville, Limestone County

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

Additional Comments:

ORDINANCE NO. 26-

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, Limestone County, Alabama, containing approximately 4.0 acres, more or less, as more particularly described as follows in Exhibit “A” attached hereto (the “Subject Property”); and

WHEREAS, Averitt Properties, Inc., a Tennessee corporation, 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 Averitt Properties, Inc. attached hereto as Exhibit “B” (the “Agreement”), and pursuant to the terms and conditions therein, the Subject Property will be sold to Averitt Properties, Inc. in exchange for \$60,000.00 per acre, or a total of Two Hundred Forty Thousand and No/100 Dollars (\$240,000.00); and

WHEREAS, the sale of the Subject Property, is for a price and exceeds the cost to the City to acquire the same, and 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 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 Averitt Properties, Inc.; 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 the fair and reasonable 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 Averitt Properties, Inc. 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, amendments, 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 _____, 2026.

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

APPROVED this the _____ day of _____, 2026.

Mayor of the City of Huntsville,
Alabama

EXHIBIT "A"
(Legal Description of Subject Property)

A tract of land lying and being in Section 34, Township 4 South, Range 3 West of the Huntsville Meridian, Limestone County, Alabama.

Said tract being a portion of property conveyed to the City of Huntsville as recorded in the Office of the Judge of Probate of Limestone County, Alabama in Deed Book 2021, Page 119322 and being more particularly described as follows:

Beginning at a #5 rebar found marking the northwest corner of Tract 2 of a Minor Plat a Resubdivision of Lot 2 a Resubdivision of Lot 1 of Greenbrier East Subdivision as recorded in Plat Book H, Page 94 in the Office of Judge of Probate for Limestone County, Alabama, said point also being the southwest corner of a tract of land conveyed to the City of Huntsville as recorded in the Office of the Judge of Probate of Limestone County, Alabama in Deed Book 2021, Page 119322 having established grid coordinates of N: 1510161.29, E: 352998.96 of zone east of the Alabama State Plane Coordinate System of the North American Datum of 1983 (NAD83);

Thence leaving the northwest corner of said Tract 2 and along the west boundary of said City Tract North 0 Degrees 43 Minutes 44 Seconds East a distance of 165.00 feet to a #5 rebar found; thence North 43 Degrees 07 Minutes 26 Seconds West a distance of 118.38 feet to a #5 rebar with a cap stamped "GARVER LLC CA-445-LS" (typical) set; thence South 89 Degrees 18 Minutes 10 Seconds East a distance of 120.22 feet to a #5 rebar found, marking the southeast corner of Lot 1 of Racetrac-Greenbrier Phase 2 final plat a R/S of Racetrac Greenbrier and other lands Greenbrier Parkway as recorded in Plat Book L, Page 236 in the Office of Judge of Probate for Limestone County, Alabama; thence leaving said west boundary of said City Tract and along the east boundary of said Lot 1 North 1 Degrees 08 Minutes 18 Seconds East a distance of 3.32 feet to a #5 rebar set; thence leaving said east boundary South 89 Degrees 16 Minutes 10 Seconds East a distance of 635.15 feet to a #5 rebar set; thence South 0 Degrees 43 Minutes 58 Seconds West a distance of 253.74 feet to a #4 rebar found stamped "MCELROY", marking the northeast corner of said Tract 2; thence along the north boundary of said tract 2 North 89 Degrees 16 Minutes 11 Seconds West a distance of 673.36 feet to the POINT OF BEGINNING.

The above described tract contains 4.00 acres (174239.89 sq. ft.) more or less and is subject to any existing easements and rights-of-way whether or not recorded in the public records.

EXHIBIT "B"
(Agreement for Purchase and Sale)

[Attach copy of Agreement for Purchase and Sale between the City of Huntsville and Averitt Properties, Inc..]

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (the "Agreement") is made by and between the **CITY OF HUNTSVILLE**, an Alabama municipal corporation ("Seller"), and **AVERITT PROPERTIES, INC.**, a Tennessee corporation, or its permitted assigns ("Buyer"), as of _____, 2026 (the "Effective Date").

RECITALS:

Seller is the owner of a larger parcel of real property located in Madison, Limestone County, Alabama, Parcel ID 17-08-34-0-000-001.007, from which Seller intends to convey approximately 4.0 +/- acres more particularly described in **Exhibit A** and as further depicted in that certain boundary survey attached hereto as **Exhibit B** (the "Real Property").

Seller desires to sell and Buyer desires to purchase the Real Property, together with (i) all structures affixed to the Real Property; (ii) the interest of Seller in and to all permits, licenses, surveys, plans, studies, contract rights and documents pertaining to the Real Property; (iii) all easement rights, strips, gores, interest in adjoining rights-of-way and other appurtenances pertaining to the Real Property; and (iv) all tenant leases, lease amendments, guarantees, exhibits, addenda, and riders thereto, and any other documents creating a possessory interest in the Real Property or improvements thereon or any part of either (collectively, the "Property"), subject to and upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer agree as follows:

SECTION 1 – PROPERTY.

1.1 - Agreement. Subject to the terms and conditions set forth in this Agreement, Seller agrees to sell and Buyer agrees to purchase the Property.

SECTION 2 – PURCHASE PRICE AND ESCROW PROVISIONS.

2.1 - Purchase Price. Buyer agrees to pay to Seller, as the purchase price for the Property, Sixty Thousand and 00/100 Dollars (\$60,000.00) per acre (the "Purchase Price"), such acreage to be determined by the Survey (as hereinafter defined) and agreed upon by the Parties. The Purchase Price shall be paid as follows:

- (a) Buyer shall deposit with Lanier Ford Shaver & Payne, P.C. as an agent of First American Title Insurance Title Company (the "Title Company"), Attn: Katie Beasley/Sam Givhan (the "Escrow Agent") (i) within five (5) business days following the Effective Date, an initial earnest money deposit in the sum of Five Thousand and 00/100 Dollars (\$5,000.00) (the "Deposit"), The Deposit shall be held in escrow and disbursed by the Escrow Agent in accordance with the terms of this Agreement.
- (b) At the consummation of the transaction contemplated by this Agreement (the "Closing"), Buyer shall deliver to Seller the Purchase Price less the Deposit,

subject to credits, adjustments and prorations provided for in this Agreement, as more particularly set forth in Section 7 of this Agreement.

2.2 - Escrow Provisions. In performing all of its duties or responsibilities hereunder, Escrow Agent shall not incur any liability to anyone for any damages, losses or expenses, except for willful default, and Escrow Agent shall accordingly not incur any liability with respect to (i) any action taken or omitted in good faith, or (ii) any action taken or omitted in reliance upon any instrument, including any written notice or instruction relating to this Agreement. Seller and Buyer each hereby agree to indemnify and hold harmless Escrow Agent against any and all loss, liability, claims, demands, damages, actions, causes of action, and suits which may be imposed upon Escrow Agent in connection with the performance of its duties hereunder. In the event of dispute between or among the parties hereto or any parties otherwise having an interest in the Deposit, sufficient in the sole discretion of Escrow Agent to justify its doing so, Escrow Agent shall be entitled (but shall incur no liability for failure to do so) to tender into the registry or custody of any court of competent jurisdiction all amounts held as a Deposit, and all interest earned thereon, and to file such legal pleadings or other documents as Escrow Agent may deem appropriate, and thereupon Escrow Agent shall be discharged from all further liabilities under this Agreement.

SECTION 3 – DUE DILIGENCE.

3.1 - Due Diligence Materials. Seller shall deliver or make available to Buyer all permits, documents, leases, contract rights, licenses, approvals, and materials pertaining to the Property, including but not limited to all surveys, environmental studies and engineering studies which Seller has pertaining to the Property, as are in Seller's possession or control (collectively, with any other documents and information provided by Seller to Buyer, the "Due Diligence Materials") within five (5) business days after the Effective Date. Buyer acknowledges that the Due Diligence Materials are provided as a courtesy and without any representation or warranty, and the Due Diligence Materials and all other information received, obtained, or learned from information received or obtained, whether before, on or after the Effective Date, by any agents or representatives of Buyer pertaining to the Property, Seller or the proposed sale transaction shall be kept confidential by Buyer. In the event that this Agreement is terminated for any reason, Buyer shall return to Seller any materials that it receives with respect to the Property pursuant to this Section 3.1.

3.2 - Buyer's Due Diligence. Buyer shall be entitled to examine the Due Diligence Materials, and any other documents and information that Buyer reasonably requests and Seller is able to furnish, and to perform (and to cause its employees and agents to perform) any and all other inspections and investigations on, of and with respect to the Property as Buyer shall deem appropriate, and pursue all needed government approvals and permits for Buyer's intended development and use of the Property. Seller shall in good faith (at no cost to Seller) cooperate with Buyer in its performance of such inspections and investigations. Buyer shall repair any damage to the Property caused by Buyer or its employees, contractors or agents during the conduct of such inspections and investigations, and defend, indemnify and hold Seller harmless from and against all claims brought against Seller that are caused by Buyer (or its employees, contractors and agents) during the course of such examinations, inspections and investigations except for losses, costs, claims, damages or expenses caused by (i) Seller, its agents, employees, contractors and/or subcontractors and/or (ii) the condition of the Property before Buyer's entry thereon. Buyer's

obligation under the foregoing sentence shall survive termination of this Agreement and the closing of Buyer's purchase of the Property.

The period commencing on the Effective Date and expiring sixty (60) days thereafter shall hereinafter be referred to as the "Due Diligence Period." Buyer may, at its option, extend the Due Diligence Period for two (2) additional periods of thirty (30) days each by delivering written notice thereof to Seller prior to the expiration of the Due Diligence Period. Anything in this Agreement to the contrary notwithstanding, Buyer shall be entitled to terminate this Agreement at any time during the Due Diligence Period by notifying Seller of such termination in writing prior to the expiration of the Due Diligence Period, which Buyer may do or refrain from doing in Buyer's sole and absolute discretion, for any reason or no reason at all. In the event that this Agreement is terminated pursuant to this Section 3.2, the Deposit shall be promptly returned to Buyer, and upon which Buyer and Seller shall have no further rights or obligations under this Agreement, except those which expressly survive the termination of this Agreement. If Buyer does not terminate this Agreement during the Due Diligence Period, the Deposit shall become non-refundable (except due to Seller's default, or as otherwise expressly set forth in this Agreement).

3.3 - Survey. Buyer shall have the right to obtain, at its sole cost and expense, an ALTA/ACSM survey or other survey of the Property ("Survey"), which shall certify the acreage of the Property, to be performed by a licensed surveyor selected by Buyer. The final surveyed acreage set forth in the Survey, as mutually agreeable to the Parties, shall determine the Purchase Price.

SECTION 4 - TITLE.

4.1 - Title. At the Closing, Seller shall convey to Buyer good and marketable fee simple title to the Property, free and clear of all liens and encumbrances, subject only to the Permitted Exceptions (as hereinafter defined).

4.2 - Title Commitment; Survey; Title Objections. Promptly following the Effective Date, Buyer shall obtain an owner's title insurance commitment in the amount of the Purchase Price (the "Title Commitment") issued by Escrow Agent as agent for the Title Company satisfactory to Buyer that binds the Title Company to insure good, marketable, and insurable fee simple title to the Property, together with copies of all exceptions of title to the Property. Buyer shall, at any time prior to ten (10) days before the expiration of the Due Diligence Period, notify Seller in writing (such writing, "Buyer's Title Notice") of Buyer's objections ("Buyer's Title Objections") if any to matters shown in the Title Commitment and the Survey. Any lien, encumbrance, encroachment or other matter shown in the Title Commitment or the Survey to which Buyer does not object in Buyer's Title Notice shall be deemed a "Permitted Exception". In the event Buyer so notifies Seller of Buyer's Title Objections, then Seller shall, within five (5) days after Seller's receipt of Buyer's Title Notice, notify Buyer in writing (such writing, "Seller's Title Response") whether Seller intends to correct and remove of record Buyer's Title Objections. If Seller does not give Seller's Title Response within the time required, Seller shall be deemed to have refused to correct, cure or remove any of Buyer's Title Objections. In the event that Seller notifies Buyer in writing that Seller will not cure and remove of record some or all of Buyer's Title Objections at or prior to the Closing, or Seller fails to provide to Buyer Seller's Title Response within such five (5) day period, then Buyer shall be entitled, within five (5) days after expiration of such five (5) day period, to

either (i) terminate this Agreement by written notice to Seller of such termination, in which event the Deposit shall be promptly returned to Buyer, and Seller and Buyer shall have no further rights or obligations under or with respect to this Agreement other than those which expressly survive the termination of this Agreement, or (ii) waive Buyer's Title Objections (except those Seller has agreed to cure), in which event all those Buyer's Title Objections which Seller has not agreed to cure and remove of record shall be deemed "Permitted Exceptions". Except as set forth in Section 4.3 below, Seller shall not be obligated to cure any of Buyer's Title Objections.

4.3 - Mortgages and Similar Encumbrances. Anything in Section 4.2 of this Agreement to the contrary notwithstanding, Seller shall, at or prior to the Closing, be required to satisfy and release of record (i) any and all mortgages, and other security instruments encumbering the Property or any portion thereof by or through Seller, (ii) any and all mechanic's and similar liens encumbering the Property or any portion thereof by or through Seller, and (iii) any lien or encumbrance recorded on or following the Effective Date by or through Seller.

SECTION 5 - SUBDIVISION. – INTENTIONALLY OMITTED.

SECTION 6 - CLOSING.

6.1 - Closing. Subject to the satisfaction to all conditions of Closing set forth herein, the Closing shall be conducted by Escrow Agent and held at a location to be mutually agreed upon by the parties or by mail on or before thirty (30) days after the Due Diligence Period expires (the "Closing Date"), or on such earlier date as is mutually agreed upon by both parties.

6.2 - Seller's Closing Deliveries. At or prior to Closing, Seller shall execute and/or deliver the following to the Escrow Agent, on behalf of the Title Company (collectively, "Seller's Closing Deliveries"):

- (i) A Statutory Warranty Deed (the "Deed"), in form reasonably acceptable to Seller and Buyer, conveying to Buyer marketable fee simple title to the Property, free and clear of all liens and encumbrances, subject only to the Permitted Exceptions;
- (ii) A Settlement Statement (the "Settlement Statement"), in form and substance reasonably acceptable to Seller and Buyer;
- (iii) An owner's affidavit for those items or facts within Seller's control in a form typically required by the Title Company sufficient to allow the Title Company to delete the "standard exceptions" from the owner's policy, including, but not limited to (A) rights of parties in possession, and (B) any lien, or right to lien, for services, labor, or materials heretofore or hereafter furnished.
- (iv) An affidavit pursuant to and in accordance with Section 1445 of the Internal Revenue Code confirming that FIRPTA withholding is not required in connection with the subject transaction; and

- (v) Such affidavits, consents and resolutions, and organizational documentation as shall be reasonably required by the Title Company in order to issue to Buyer at Closing an owner's title insurance policy, insuring Buyer's marketable fee simple title to the Property free and clear of any and all liens, encumbrances and exceptions other than the Permitted Exceptions.

6.3 - Buyer's Closing Deliveries. At or prior to the Closing, Buyer shall execute and/or deliver the following to the Escrow Agent, on behalf of the Title Company (collectively, "Buyer's Closing Deliveries"):

- (i) The Purchase Price less the Deposit, subject to credits, adjustments and prorations as provided for in this Agreement (the "Balance Due");
- (ii) Organizational documents of Buyer, evidence of Buyer's authority to purchase the Property, and such other documents reasonably required by the Title Company to effectuate the transfer of the Property pursuant to this Agreement; and
- (iii) A signed counterpart of the Settlement Statement.

6.4 - Close of Escrow. At the Closing, the Escrow Agent shall, upon receipt of all of Seller's Closing Deliveries and Buyer's Closing Deliveries, and written authorization of Seller and Buyer:

- (a) Deliver the Deed to Buyer by recording same in the land records of Limestone County, Alabama; and
- (b) Disburse the Deposit and the Balance Due to Seller, or in accordance with Seller's instructions.

6.5 - Mutual Closing Conditions. Closing shall be contingent upon the following conditions being satisfied on or before the Closing Date: (i) Declaration of the Property as "surplus" pursuant to an official city council ordinance ("Declaration of Surplus") and (ii) approval of this Agreement ("Agreement Approval") by the City Council of the City of Huntsville, Alabama ("City Council").

6.6 - Buyer's Conditions Precedent to Closing. The obligation of Buyer to consummate the Closing is subject to the fulfillment of each of the following conditions (except to the extent waived in writing by Buyer in its sole discretion):

- (a) The representations and warranties of Seller set forth in this Agreement shall be true, accurate and correct in all material respects, on and as of the Effective Date and on and as of the Closing Date as though made on and as of the Closing Date (except those representations and warranties that address matters only as of a specified date, the truth and correctness which shall be determined as of that specified date).

- (b) The covenants and agreements of Seller to be performed or complied with pursuant to this Agreement at or prior to the Closing Date shall have been duly performed and complied with in all material respects.
- (c) There shall not be any litigation or proceedings filed by a governmental authority or any law or order restraining, enjoining or otherwise prohibiting or making illegal or threatening to restrain, enjoin or otherwise prohibit or make illegal the consummation of the transactions contemplated by this Agreement.
- (d) Seller shall terminate at or before Closing all contracts, agreements, equipment leases, maintenance, service and similar contracts (excluding tenant leases), regardless of whether entered into by Seller or an affiliate or predecessor of Seller, which relate to the ownership, maintenance, construction or repair and/or operation of the Property with the execution of that certain Land Lease Agreement by and between Seller and DeVaney Brothers Farms, dated June 12, 2025 (the "Farm Lease"), which Buyer may either require Seller to assign or terminate at Closing, as Buyer may determine in its sole and absolute discretion. To the extent that any such termination requires payment of a penalty, premium, or damages, including liquidated damages, for cancellation, Seller shall be solely responsible for the payment of any such cancellation fees, penalties, or damages, including liquidated damages.

6.7 - Seller's Conditions Precedent to Closing. The obligation of Seller to consummate the Closing is subject to the fulfillment of each of the following conditions (except to the extent waived in writing by Seller in its sole discretion):

- (a) The representations and warranties of Buyer set forth in this Agreement shall be true, accurate and correct in all material respects, on and as of the Effective Date and on and as of the Closing Date as though made on and as of the Closing Date (except those representations and warranties that address matters only as of a specified date, the truth and correctness which shall be determined as of that specified date).
- (b) The covenants and agreements of Buyer to be performed or complied with pursuant to this Agreement at or prior to the Closing Date shall have been duly performed and complied with in all material respects.
- (c) There shall not be any litigation or proceedings filed by a governmental authority or any law or order restraining, enjoining or otherwise prohibiting or making illegal or threatening to restrain, enjoin or otherwise prohibit or make illegal the consummation of the transactions contemplated by this Agreement.

SECTION 7 – PRORATIONS AND CLOSING COSTS.

7.1 - Prorations. All real estate taxes and similar levies, utility charges and other normally prorated expenses shall be prorated as of 11:59 p.m. on the day of the Closing, with Seller being responsible for all expenses allocable to periods on and prior to the date of the Closing, and Buyer

being responsible for all expenses allocable to periods after the day of the Closing forward. At this time, the Property is currently assessed as exempt.

7.2 - Costs to be Paid by Seller. Seller shall, at or prior to the Closing, pay the following amounts:

- (a) All costs associated with the Title Commitment, together with the premium for the issuance of the owner's title insurance policy in accordance with the Title Commitment;
- (b) The cost of recording the Deed, including any deed recording or transfer tax;
- (c) The escrow fee charged by the Escrow Agent in connection with the Closing;
- (d) The cost of releasing all encumbrances, other than Permitted Exceptions; and
- (e) The fees and expenses of Seller's attorney(s).

7.3 - Costs to be Paid by Buyer. Buyer shall, at or prior to the Closing, pay the following amounts:

- (a) The cost of the ALTA Survey, if any; and
- (b) The fees and expenses of Buyer's attorney(s) and all fees and expenses incurred in by Buyer in performing due diligence.

SECTION 8 – REPRESENTATIONS AND WARRANTIES.

8.1 - Seller's Representations and Warranties. Seller represents and warrants to Buyer that to the best of Seller's actual knowledge without due investigation or inquiry:

- (a) Seller has obtained all required consents and/or approvals to consummate the transaction contemplated hereby. Seller has the power, right and authority to enter into and perform the obligations required of Seller under this Agreement, and to consummate the transaction contemplated hereby. The individual executing this Agreement on behalf of Seller has the right and authority to bind Seller to the terms and conditions of this Agreement without joinder or any other approval of any other party.
- (b) Seller is a municipal corporation of the State of Alabama and is qualified to do business in the jurisdiction in which the Property is located.
- (c) This Agreement is, and all agreements, instruments and documents to be executed and delivered by Seller pursuant to this Agreement shall be, duly authorized, executed and delivered by Seller. This Agreement is, and all agreements, instruments and documents to be executed and delivered by Seller pursuant to this Agreement shall be, valid and legally binding upon Seller, and enforceable in accordance with their respective terms.

- (d) Neither the execution of this Agreement nor the consummation of the transaction contemplated hereby does now constitute or shall result in a breach of, or a default under, any agreement, document, instrument or other obligation to which Seller is a party or by which Seller may be bound.
- (e) There are no actions, suits, claims or other proceedings pending, contemplated or threatened, with respect to the Property.
- (f) Seller has not received written notice and has no knowledge of any pending or contemplated condemnation, expropriation, eminent domain, zoning, or similar proceeding affecting all or any portion of the Property.
- (g) There are no leases of the Property and no parties in possession pursuant to any leases, except for the Farm Lease, and no party other than Seller, and Buyer pursuant to this Agreement, has any right or claim to occupy, use or possess all or any portion of the Property.

The representations and warranties set forth in this Section 8.1 shall be true, correct and complete on the Effective Date, and on the date of the Closing. For purposes herein, Seller's "knowledge" or Seller's "actual knowledge" shall refer to Seller's actual knowledge without due investigation or inquiry.

8.2 - Buyer's Representations and Warranties. Buyer represents and warrants to Seller that:

- (a) Buyer is a corporation validly existing under the laws of the State of Tennessee and is legally authorized and permitted to enter into this Agreement.
- (b) Buyer has the power, right and authority to enter into and perform all of the obligations required of Buyer under this Agreement and the instruments and documents referenced herein, and to consummate the transaction contemplated hereby.
- (c) This Agreement is, and all agreements, instruments and documents to be executed and delivered by Buyer pursuant to this Agreement shall be, duly authorized, executed and delivered by Buyer. This Agreement is, and all agreements, instruments and documents to be executed and delivered by Buyer pursuant to this Agreement shall be, valid and legally binding upon Buyer, and enforceable in accordance with their respective terms.
- (d) Neither the execution of this Agreement nor the consummation of the transaction contemplated hereby does now constitute or shall result in a breach of, or a default under, any agreement, document, instrument or other obligation to which Buyer is a party or by which Buyer may be bound.
- (e) There are no actions, suits, claims or other proceedings pending or, to Buyer's knowledge, contemplated or threatened, against Buyer that could affect Buyer's ability to perform its obligations under this Agreement.

The representations and warranties set forth in this Section 8.2 shall be true, correct and complete on the Effective Date, and on the date of the Closing.

8.3 - Survival of Representations and Warranties. The representations and warranties contained in this Agreement shall survive, and thus a claim may be brought in respect of a breach thereof, until the one (1) year anniversary of the Closing Date. EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES OF SELLER EXPRESSLY SET FORTH IN THIS AGREEMENT BUYER ACKNOWLEDGES AND AGREES WITH SELLER THAT BUYER IS PURCHASING THE PROPERTY IN ITS “AS-IS, WHERE IS” CONDITION “WITH ALL FAULTS” AS OF THE CLOSING DATE AND SPECIFICALLY AND EXPRESSLY WITHOUT ANY WARRANTIES, REPRESENTATIONS OR GUARANTEES, EITHER EXPRESS OR IMPLIED. This paragraph shall survive the Closing.

8.4 - Additional Covenants.

- (a) From and after the Effective Date until the Closing Date (the “Interim Period”), Seller shall not (i) execute any deeds, leases, declarations, preferences, conditions, restrictions, zoning proffers, covenants, easements, or rights-of-way affecting the Property or (ii) otherwise convey or encumber, or permit any encumbrance upon the Property or any interest therein, without the prior written consent of Buyer, which may be withheld in Buyer’s reasonable discretion.
- (b) During the Interim Period, if Seller becomes aware of any action, litigation or administrative proceeding proposed, threatened, or instituted with respect to the Property, Seller shall promptly notify Buyer in writing, including the material facts and circumstances surrounding such proceeding. Within the lesser of (i) the end of the Interim Period or (ii) fifteen (15) days from receipt of such notice, Buyer may elect to terminate this Agreement by providing written notice to Seller of such termination, in which event the Deposit shall be promptly returned to Buyer, and Seller and Buyer shall have no further rights or obligations under or with respect to this Agreement other than those which expressly survive the termination of this Agreement.
- (c) If any mechanic’s liens or other liens arising out of Seller’s use of the Property shall be filed against the Property, Seller shall (i) if Seller wishes to contest any such lien, within fifteen (15) days after it receives notice of filing of the lien, provide a bond or such other security as Buyer may reasonably request, or (ii) remove such lien from the Property pursuant to applicable law. In the event that Seller fails to remove any such lien or provide such a bond or security in accordance with this Section 8.4(c), Buyer shall have the right, but not the obligation, to terminate this Agreement and receive return of the Deposit, or to remove such lien or post such bond or security, and Seller shall reimburse Buyer for the costs thereof promptly upon the receipt of written demand for such reimbursement. If Seller fails to reimburse Buyer, Buyer shall have the right to have the amount of the Purchase Price payable by Buyer at Closing reduced by the costs incurred by Buyer in removing such lien.

- (d) During the Interim Period, Seller shall maintain the Property in substantially the same condition as of the Effective Date, except for such activity or condition as may be permitted pursuant to the Farm Lease or as otherwise set forth herein.

SECTION 9 – DEFAULT.

9.1 - Seller Default. In the event of default by Seller under this Agreement or the failure of Seller to timely perform any of its other obligations under this Agreement, which default, breach or failure shall remain uncured for ten (10) days after Buyer notifies Seller in writing of same, then Buyer, as its sole and exclusive remedy, shall be entitled to either: sue for specific performance, or (b) terminate this Agreement, in which event the Escrow Agent shall promptly return the Deposit to Buyer, upon such return the parties shall have no further rights or obligations hereunder except those which expressly survive the termination of this Agreement. However, in the event Buyer terminates this Agreement pursuant to Section 9.1(b) as a result of Seller's intentional or willful default, Seller shall reimburse Buyer for Buyer's verifiable out-of-pocket costs and expenses (specifically, excluding any and all attorney's fees) incurred by Buyer during the Due Diligence Period in an amount not to exceed \$25,000.00, and upon such payment this Agreement shall be deemed terminated and neither party shall have any further rights hereunder except for those which expressly survive the termination of this Agreement. However, if prior to Closing, Seller discloses to Buyer in writing that any of the representations and/or warranties in Section 8.1 above have become inaccurate or untruthful due to circumstances beyond Seller's control, and Seller cannot cure or correct the matter(s) to make such representation(s) and/or warranties accurate and truthful, then on or prior to Closing, Buyer shall be entitled, as its sole remedy for such inaccurate/untruthful representation and/or warranty, to either (i) waive such breach of such representation or warranty and proceed to Closing (and Seller shall have no liability for such breach), or (ii) terminate this Agreement and receive the Deposit. Upon termination by Buyer of this Agreement pursuant to the previous sentence and receipt by Buyer of the Deposit, Seller and Buyer shall have no further rights or obligations under this Agreement other than those which expressly survive the termination of this Agreement.

9.2 - Buyer Default. In the event of a default by Buyer under this Agreement or the failure of Buyer to timely perform any of its other obligations under this Agreement, which default, breach or failure shall remain uncured for ten (10) days after Seller notifies Buyer in writing of same, then Seller shall, as its sole and exclusive remedy, be entitled to terminate this Agreement and retain the Deposit as liquidated damages. Seller and Buyer agree and acknowledge that it would be impossible to accurately determine Seller's damages in the event of Buyer's default, and retention of the Deposit is a fair and equitable estimate as to the damages that would be suffered by Seller in the event of willful default by Buyer under this Agreement.

SECTION 10 – BROKERS.

10.1 - Brokers. Each of Seller and Buyer represents and warrants to the other that it has not dealt with any real estate agent or broker in connection with the transaction contemplated under this Agreement, and no broker, finder, or real estate agent is entitled to any fee or commission with respect to or by reason of this transaction. Seller and Buyer each hereby agrees to indemnify against and hold the other harmless from and against any and all claims, loss, costs, damages, or expenses (including attorney's fees) incurred by or assessed against the other as a result of a breach

of the covenants and representations contained in this Section 10.1. The representations, warranties and indemnifications in this Section 10.1 will survive the Closing.

SECTION 11 – CASUALTY; CONDEMNATION.

11.1 - Casualty. If, prior to the Closing, the Property or any portion thereof is damaged by fire or other casualty, Seller shall promptly send written notice to Buyer of same, and Buyer shall be entitled to, in Buyer's sole discretion, terminate this Agreement by written notice to Seller of such termination, in which event the Deposit shall be promptly returned to Buyer, and Seller and Buyer shall have no further rights or obligations under this Agreement.

11.2 - Condemnation. If, prior to the Closing, the Property or any portion thereof is taken, or becomes subject to notice or proceedings in connection with a contemplated taking, Seller shall promptly send written notice to Buyer of same. Buyer shall, within ten (10) days after Buyer's receipt of such written notice from Seller, be entitled to, in Buyer's sole discretion, terminate this Agreement by written notice to Seller of such termination, in which event the Deposit shall be promptly returned to Buyer, and Seller and Buyer shall have no further rights or obligations under this Agreement except those obligations which expressly survive termination. In the event that Buyer does not so terminate this Agreement, Seller shall assign to Buyer all rights and causes of action of Seller with respect to such taking, and Seller and Buyer shall proceed to Closing as contemplated by this Agreement.

SECTION 12 – MISCELLANEOUS.

12.1 - Governing Law. This Agreement shall be governed by the laws of the State in which the Property is located, without regard to rules regarding conflicts of laws.

12.2 - Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same document. Scanned copies of the signatures of either of the parties to this Agreement shall be valid and enforceable as if they were originals. Notwithstanding the preceding sentence, Buyer understands, acknowledges, and agrees that City Council requires an original signature page from Buyer before this Agreement will be placed on an agenda for City Council review. Accordingly, Buyer agrees that it will transmit its original signature page to the Escrow Agent promptly after execution.

12.3 - Entire Agreement. This Agreement, together with the attached exhibits, contains all of the terms and conditions of the agreement between the parties hereto, and any and all prior and contemporaneous oral and written agreements are merged herein.

12.4 - Modifications and Waivers. This Agreement cannot be changed nor can any provision of this Agreement, or any right or remedy of any party, be waived orally. Changes and waivers can be made only in writing, and the change or waiver must be signed by the party against whom the change or waiver is sought to be enforced. Any waiver of any provision of this Agreement, or any right or remedy, given on any one or more occasions shall not be deemed a waiver with respect to any other occasion.

12.5 - Parties Bound; Assignment. This Agreement shall be binding upon and inure to the benefit of the heirs, executors, successors, and assigns of the parties hereto; provided, no assignment by either party shall release such assigning party from its obligations hereunder. Buyer may, without Seller's consent but upon prior written notice to Seller, assign this Agreement in part or in whole to an entity controlled, in whole or in part by, or under common control with, Buyer or its principals or any affiliate of Buyer.

12.6 - Notices. All notices, requests and other communications under this Agreement shall be in writing and shall be given by (a) personal delivery, (b) registered or certified mail, postage prepaid, return receipt requested, (c) overnight via a nationally recognized overnight courier, or (d) electronic mail (e-mail), addressed as set forth below. Notice shall be deemed given (a) in the case of personal delivery or registered or certified mail, on the date on which the notice is received or refused by the party to which such notice was sent, (b) in the case of delivery via overnight courier, on the next business day immediately following delivery of such notice to the overnight courier and (c) in the case of delivery via e-mail, upon confirmation of receipt by the recipient.

Notices pursuant to this Agreement shall be addressed as follows:

If to Seller: City of Huntsville
 Attn: Shane Davis & Jim McGuffey
 305 Fountain Circle, 4th Floor
 Huntsville, Alabama 35801
 Email: shane.davis@huntsvilleal.gov
 jim.mcguddy@huntsvilleal.gov

With a copy to: Lanier Ford Shaver & Payne, P.C.
 Attn: Katie Beasley
 2101 W. Clinton Ave., Ste. 102
 Huntsville, Alabama 35802
 Email: kab@lanierford.com

If to Buyer: Averitt Properties, Inc.
 Attn: Rhonda Otto
 1415 Neal Street
 Cookeville, Tennessee 38501
 Email: rotto@averitt.com

With copy to: Adams and Reese LLP
 Attn: Taylor Brooks
 1600 West End Avenue, Suite 1400
 Nashville, Tennessee 37203
 Email: taylor.brooks@arlaw.com

12.7 - Section Headings. The captions and headings in this Agreement are for convenience only, and shall not be considered a part of or affect the construction or interpretation of any provision of this Agreement.

12.8 - Severability. If one or more of the provisions of this Agreement or the application thereof shall be invoked, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions or any other application thereof shall in no way be affected or impaired.

12.9 - Construction. This Agreement shall not be construed more strictly against one party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the parties hereto, it being recognized that both Seller and Buyer are sophisticated parties and are represented by counsel of their choosing, and have contributed substantially and materially to the preparation of this Agreement.

12.10 - Third-Party Beneficiary. The provisions of this Agreement are not intended to benefit any parties other than Seller and Buyer.

12.11 - Attorneys' Fees. In the event of conflict or litigation with respect to this Agreement, the losing party shall pay the prevailing party's costs and expenses, including, without limitation, reasonable attorneys' fees, in connection with same.

12.12 - 1031 Exchange. If so requested by either party, the other party will, at the expense of the requesting party, reasonably cooperate with the requesting party in structuring and completing this transaction for the requesting party so as to effect a like-kind exchange pursuant to Section 1031 of the Internal Revenue Code, as amended.

12.13 - Dates/Days. As used herein, a business day shall mean any day other than Saturday, Sunday or other day that commercial banks in the State of Alabama are authorized or required to close under applicable law. In the event that any date provided for in this Agreement shall fall, or that any time period provided for in this Agreement shall expire, on a day which is not a business day, such date or period shall be extended through the next business day. In the event that this Agreement provides that any date shall fall or any period shall expire a given number of days after or following an identified date or event, such identified date or the date on which such identified event occurred shall not be included as one of such given number of days.

12.14 - Time of Essence. Time is of the essence for all matters set forth in this Agreement.

12.15 - Waiver of Trial by Jury. Seller and Buyer hereby knowingly, voluntarily and intentionally waive the right either may have to a trial by jury with respect to any litigation based hereon, or arising out of, under or in connection with this Agreement.

12.16 - Obligations Following Termination. Notwithstanding anything herein to the contrary, if Buyer terminates this Agreement for any reason other than a Seller default, then Buyer shall, (a) upon request of Seller, return all Due Diligence Materials to Seller within three (3) business days of such request, (b) upon request of Seller, deliver to Seller any surveys or other non-proprietary third party reports obtained by Buyer pertaining to the Property, and (c) pay the cost of the Title Commitment or any cancellation fees associated therewith.

12.17 - Effective Date. The Effective Date shall mean the date this Agreement has been executed by Seller.

12.18 - Party Cooperation: Further Assurances. The parties agree to cooperate with one another and will work in good faith in order to complete each of their respective obligations as set forth herein. At the request of the Escrow Agent or the Title Company, the parties shall execute and deliver any additional documents reasonably required to carry out the transaction contemplated herein 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. If requested by Buyer, Seller will cooperate and reasonably assist Buyer post-Closing in Buyer's subdivision of the Property (at no cost to Seller). This Section shall survive Closing.

[Remainder of page intentionally left blank. Signature page follows.]

IN WITNESS WHEREOF, the parties hereto have set forth their hands as of the Effective Date.

SELLER:

CITY OF HUNTSVILLE,

By: _____
Tommy Battle, Mayor

ATTESTED:

By: _____
Shaundrika Edwards, City Clerk

Date: _____

BUYER:

AVERITT PROPERTIES, INC.,
a Tennessee corporation

By: _____
Name: Johnny R. Fields
Its: Executive Vice President, Chief Financial
Officer and Secretary

Date: _____

EXHIBIT A
(Legal Description of the Property)

A tract of land lying and being in Section 34, Township 4 South, Range 3 West of the Huntsville Meridian, Limestone County, Alabama.

Said tract being a portion of property conveyed to the City of Huntsville as recorded in the Office of the Judge of Probate of Limestone County, Alabama in Deed Book 2021, Page 119322 and being more particularly described as follows:

Beginning at a #5 rebar found marking the northwest corner of Tract 2 of a Minor Plat a Resubdivision of Lot 2 a Resubdivision of Lot 1 of Greenbrier East Subdivision as recorded in Plat Book H, Page 94 in the Office of Judge of Probate for Limestone County, Alabama, said point also being the southwest corner of a tract of land conveyed to the City of Huntsville as recorded in the Office of the Judge of Probate of Limestone County, Alabama in Deed Book 2021, Page 119322 having established grid coordinates of N: 1510161.29, E: 352998.96 of zone east of the Alabama State Plane Coordinate System of the North American Datum of 1983 (NAD83);

Thence leaving the northwest corner of said Tract 2 and along the west boundary of said City Tract North 0 Degrees 43 Minutes 44 Seconds East a distance of 165.00 feet to a #5 rebar found; thence North 43 Degrees 07 Minutes 26 Seconds West a distance of 118.38 feet to a #5 rebar with a cap stamped "GARVER LLC CA-445-LS" (typical) set; thence South 89 Degrees 18 Minutes 10 Seconds East a distance of 120.22 feet to a #5 rebar found, marking the southeast corner of Lot 1 of Racetrac-Greenbrier Phase 2 final plat a R/S of Racetrac Greenbrier and other lands Greenbrier Parkway as recorded in Plat Book L, Page 236 in the Office of Judge of Probate for Limestone County, Alabama; thence leaving said west boundary of said City Tract and along the east boundary of said Lot 1 North 1 Degrees 08 Minutes 18 Seconds East a distance of 3.32 feet to a #5 rebar set; thence leaving said east boundary South 89 Degrees 16 Minutes 10 Seconds East a distance of 635.15 feet to a #5 rebar set; thence South 0 Degrees 43 Minutes 58 Seconds West a distance of 253.74 feet to a #4 rebar found stamped "MCELROY", marking the northeast corner of said Tract 2; thence along the north boundary of said tract 2 North 89 Degrees 16 Minutes 11 Seconds West a distance of 673.36 feet to the POINT OF BEGINNING.

The above described tract contains 4.00 acres (174239.89 sq. ft.) more or less and is subject to any existing easements and rights-of-way whether or not recorded in the public records.

