CITY COUNCIL AGENDA ITEM COVER MEMO

Agenda Item Number: _____

Meeting Type: Regular

Meeting Date: Jan 14, 2016

Action Requested By: ~~Administration~~ Urban Development

Agenda Type: Resolution

Subject Matter:

Third Amendment to Real Estate Purchase Option

Exact Wording for the Agenda:

Resolution authorizing the Mayor to enter into the Third Amendment to Real Estate Purchase Option Agreement Between the City of Huntsville and the Industrial Development Board of the City of Huntsville and Belle Mina Farm, LTD., previously identified as Sewell Family Limited Partnership.

Note: If amendment, Please state title and number of the original

Item to be considered for: Action

Unanimous Consent Required: _____

Briefly state why the action is required; why it is recommended; what council action will provide, allow and accomplish and; any other information that might be helpful.

Associated Cost: _____

Budgeted Item: _____

MAYOR RECOMMENDS OR CONCURS: _____

Department Head: For: [signature]

Date: 1/12/16

ROUTING SLIP
CONTRACTS AND AGREEMENTS

Originating Department: **Administration** Council Meeting Date: **1/14/2016**

Department Contact: **John Hamilton** Phone # **5009**

Contract or Agreement: **Third Amendment to Real Estate Purchase Option Agreement Between the Cit...**

Document Name: **Third Amendment to Real Estate Purchase Option Agreement Between the City of Hu...**

City Obligation Amount: 600,000

Total Project Budget: 150,000

Uncommitted Account Balance:

Account Number: 3020-71-00000-530001-00000000 CC

Procurement Agreements

Not Applicable	**Not Applicable**

Grant-Funded Agreements

Not Applicable	**Grant Name:**

Department	Signature	Date
1) Originating	For: John Hamilton	1/12/16
2) Legal	Mary C. Cates	1/12/16
3) Finance CC	M [illegible]	1-13-16
4) Originating	For: John Hamilton	1/12/16
5) Copy Distribution		
a. Mayor's office (1 copies)		
b. Clerk-Treasurer (Original & 2 copies)		

Revised 04/15/2011

RESOLUTION NO. 16-____

WHEREAS the City Council of the City of Huntsville, Alabama, does hereby declare in accordance with Code of Alabama (1975) that the Mayor be, and he is hereby authorized to enter into the Third Amendment to Real Estate Purchase Option Agreement Between the City of Huntsville and the Industrial Development Board of the City of Huntsville and Belle Mina Farm, LTD., previously identified as Sewell Family Limited Partnership, on behalf of the City of Huntsville, a municipal corporation in the State of Alabama, which said agreement is substantially in words and figures similar to that certain document attached hereto and identified as "Third Amendment to Real Estate Purchase Option Agreement Between the City of Huntsville and the Industrial Development Board of the City of Huntsville and Belle Mina Farm, LTD., previously identified as Sewell Family Limited Partnership," consisting of six (6) pages, and the date of January 14, 2016 appearing on the margin of the first page, together with the signature of the President or President Pro Tem of the City Council, an executed copy of said document being permanently kept on file in the Office of the City Clerk-Treasurer of the City of Huntsville, Alabama.

ADOPTED this the 14th day of January, 2016.

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

APPROVED this the 14th day of January, 2016.

Mayor of the City of
Huntsville, Alabama

THIRD AMENDMENT TO REAL ESTATE PURCHASE OPTION AGREEMENT

THE REAL ESTATE PURCHASE OPTION AGREEMENT (this "Agreement") among **THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF HUNTSVILLE**, a public corporation and instrumentality organized under the laws of the State of Alabama (herein called "the Industrial Board"), **BELLE MINA FARM LTD.** (previously identified as **SEWELL FAMILY LIMITED PARTNERSHIP**, and **SEWELL LAND COMPANY, LTD.**), (collectively referred to herein as the "Grantor"), and the **CITY OF HUNTSVILLE,** a municipal corporation organized under the laws of the State of Alabama (herein called "the City") entered into December 2009 by the Parties and Amended in July 2011 and July 2012 is hereby amended and extended on the following terms:

1. Section 2.1 **Definition of Subject Property** is hereby amended pursuant to the pending Greenbrier Parkway survey. The description of the Subject Property is attached as Exhibit 1 and is comprised of approximately 1633 contiguous acres in Limestone County, Alabama with the agreement that adjustments of no more than 5 acres may be necessary, upon mutual consent of the parties, pending final engineering of the Greenbrier Parkway route.

2. Section 2.2 **Grant of Option** is hereby amended to permit exercise of the option as to the Subject Property as defined in amended Section 2.1, above.

3. Section 2.3 **Term of Option. Extension of Option Term** is hereby amended to extend the Option Term through the last day of December 2019.

4. Section 2.4 **Option Price; Payment by Industrial Board or City** is hereby amended to establish the Option Price as $150,000 per year with payments due in installments on the following schedule:

(a) $75,000 prior to the last day of the January 2016

(b) $75,000 prior to the last day June 2016

(c) $75,000 prior to the last day of January 2017

(d) $75,000 prior to the last day of June 2017

(e) $75,000 prior to the last day January 2018

(f) $75,000 prior to the last day of June 2018

(g) $75,000 prior to the last day of January 2019

(h) $75,000 prior to the last day of June 2019

The parties further agree that the City shall complete a right of way/easement acquisition with Grantor of approximately 69 acres (approximately 3 miles) for the Greenbrier Parkway by no later than April 15, 2016. The cost of the right of way/easement shall be agreed upon by the parties or subject to eminent domain. Unless otherwise stated, all other provisions of Section 2.4 remain in full force and effect.

5. Section 3.1(a) **Purchase Price of Subject Property** is hereby amended to state in full: If the Industrial Board and/or City exercises the Option in accordance with the provisions the Agreement, the purchase price for Subject Property shall be an amount equal to $25,000 per acre multiplied by the total number of acres comprising the Subject Property as defined by amended Section 2.1 above.

6. Section 3.1(b) is hereby deleted by agreement

7. Unless otherwise expressly stated herein, all other provisions of the Agreement remain in force and effect.

IN WITNESS WHEREOF, the Industrial Board, Belle Mina Farm Ltd., and the City have caused this Amendment to Real Estate Purchase Option Agreement to be executed in their respective names, have caused their respective corporate seals to be hereunto affixed, have caused this Amendment to Real Estate Purchase Option Agreement to be attested, all by their duly authorized officers, in _____ (__) counterparts, each of which shall be deemed an original, and have caused this Real Estate Purchase Option Agreement to be dated (for convenience) as of December 30, 2015 (the "Effective Date"), although actually executed on behalf of the Industrial Board on _____, 2015, on behalf of Belle Mina Farm Ltd. on _____, 2015, and on behalf of the City on _____, 2012, and actually delivered and becoming effective on _____, 2015.

THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF HUNTSVILLE

By: _____

Its: Chairman

[S E A L]

Attest: _____

Its Assistant Secretary

STATE OF ALABAMA)
COUNTY OF MADISON)

I, the undersigned Notary Public in and for said county in said state, hereby certify that Hundley Batts, whose name as Chairman of THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF HUNTSVILLE, a public corporation and instrumentality under the laws of the State of Alabama, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the within instrument, he, as

such officer and with full authority, executed the same voluntarily for and as the act of said public corporation.

GIVEN under my hand and official seal of office, this 8th day of January, 2015.

Notary Public
My Commission Expires: 8·1·2016
[NOTARIAL SEAL]

Belle Mina Farm Ltd.

By J. BANKS SEWELL III

Its MANAGING GENERAL PARTNER

Attest:

Its

STATE OF ALABAMA)
COUNTY OF Jefferson)

I, the undersigned Notary Public in and for said county in said state, hereby certify that J. Banks Sewell, whose name as managing general partner of Belle Mina Farm Ltd. , a limited partnership under the laws of the State of Alabama, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the within instrument, he/she, as such officer and with full authority, executed the same voluntarily for and as the act of said limited partnership.

GIVEN under my hand and official seal of office, this 23rd day of December, 2015.

Amy Ford Henry

Notary Public

My Commission Expires: 2/27/16

[NOTARIAL SEAL]

CITY OF HUNTSVILLE

By:_____
Its Mayor

[S E A L]

Attest:

_____
Its City Clerk

STATE OF ALABAMA)
COUNTY OF MADISON)

I, the undersigned, a Notary Public in and for said County and in said State, hereby certify that _____, whose name as Mayor of the City of Huntsville, Alabama, a municipal corporation under the laws of Alabama, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the within instrument, he, as such officer and with full authority, executed the same for and as the act of said corporation on the date the same bears date.

GIVEN under my hand and official seal this the _____ day of _____, 2016.

_____
Notary Public
My Commission Expires: _____

[NOTARIAL SEAL]