

CITY COUNCIL AGENDA ITEM COVER MEMO

Agenda Item Number: 15.

Meeting Type: Regular

Meeting Date: Oct 13, 2016

Action Requested By: Legal

Agenda Type: Resolution

Subject Matter:

Real estate agreement for road improvements.

Exact Wording for the Agenda:

Resolution authorizing the Mayor to enter into a real estate agreement between the City of Huntsville and East Madison County Land Company for the purchase of real property for Wayne Road and Old Monrovia Road intersection improvements.

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

Item to be considered for: Action

Unanimous Consent Required: No

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: \$108,500.00

Budgeted Item: Yes

MAYOR RECOMMENDS OR CONCURS: Yes

Department Head: \_\_\_\_\_

Date: Oct 5, 2016

**RESOLUTION NO. 16-\_\_\_\_\_**

**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 a Real Estate Agreement by and between the City of Huntsville, Alabama, and East Madison County Land Company, 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 "Real Estate Agreement between the City of Huntsville and East Madison County Land Company," consisting of five (5) pages including Exhibit "A," and the date of October 13, 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 13th day of October, 2016.

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

**APPROVED** this the 13th day of October, 2016.

\_\_\_\_\_  
Mayor of the City of  
Huntsville, Alabama

**REAL ESTATE AGREEMENT**

**THE CITY OF HUNTSVILLE**, an Alabama municipal corporation in the State of Alabama (hereinafter referred to as “Purchaser” or the “City”), agrees to purchase the real property described in Paragraph One (1) from **EAST MADISON COUNTY LAND COMPANY, an Alabama general partnership** (“Seller”), who agrees to sell the Property. In consideration of Ten Dollars (\$10.00) 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 shall sell and Purchaser shall purchase, subject to the terms and conditions herein, property located in Madison County, Alabama (the “Property”), as more particularly described in the attached Exhibit “A,” which is incorporated herein by reference.

**2. Purchase Price**

The Purchase Price for the Property shall be **One Hundred Eight Thousand Five Hundred and No/100 Dollars (\$108,500.00)**, which shall be payable at Closing.

**3. Conditions of Sale**

- (a)** This Agreement is subject to approval by the City Council.
- (b)** The Agreement is subject to Purchaser’s receipt of a satisfactory ALTA title insurance commitment issued by Commonwealth Land Title Insurance Company to Purchaser.

**4. Title**

Title to the Property, together with all easements and appurtenances, shall be conveyed to Purchaser by General Warranty Deed in form and content satisfactory to Purchaser, in accordance with the laws of the State of Alabama, conveying fee simple title to Purchaser, free and clear of all liens, encumbrances, and other matters affecting title, except a lien for taxes not yet due and payable, matters of survey, and existing easements and restrictions of record. Any existing mortgages on the Property shall be paid and satisfied at or prior to Closing. Seller shall provide affidavits and/or indemnities in such form as are satisfactory to Closing Agent in order to establish clear title to the Property.

\_\_\_\_\_  
President of the City Council of the  
City of Huntsville, Alabama  
Date: \_\_\_\_\_

**5. Closing**

- a. Closing shall be within thirty (30) days after the conditions set forth in Paragraph Three (3) have been satisfied, or earlier at the option of Purchaser.
- b. Real Property Taxes shall be paid prorated between Seller and Purchaser at Closing.
- c. Seller shall deliver to Closing Agent an affidavit attesting that there are no liens upon the Property and that Seller is the sole party in possession of the Property.
- d. Purchaser shall pay all closing costs, including all transfer and conveyance taxes and Closing Agent fees. Each party shall pay its own attorney's fees in connection with Closing.
- e. Seller shall provide a general warranty deed at Closing at Seller's expense.
- f. Closing shall occur at the law firm of Wilmer & Lee, P.A. ("Closing Agent").

**6. Broker**

Seller shall pay the brokerage commission of seven percent (7%) to its real estate broker, Bill Poole, Bill Poole Realty ("Seller's Broker"). Seller and Purchaser acknowledge that no other broker and/or finder arranged the sale of Seller's property, other than Seller's Broker. Seller and Purchaser do hereby agree to indemnify each other from all loss, damage, cost, or expense, including attorney's fees, that the other may suffer as a result of any claim or action brought by any broker, other than Seller's Broker, acting on behalf of Seller or Purchaser, respectively.

**7. Time of the Essence**

Time is of the essence of this Agreement.

**8. Attorney's Fees**

In the event of a dispute between the parties pursuant to the terms of this Agreement, the prevailing party shall be entitled to collect a reasonable attorney's fee.

**9. Successors**

All rights and obligations of Purchaser and Seller under this Agreement shall inure to the benefit of and be binding upon the parties and their respective successors and assigns.

**10. Amendment**

No modification or amendment of this Agreement shall be of any force or effect unless it is set forth in writing and executed by each party hereto. To the extent that any closing documents or

settlement documents are inconsistent with the terms and conditions contained in this Agreement, this Agreement shall control and shall survive the recordation of the deed.

**11. Entire Agreement**

This Agreement contains the entire agreement between the parties. No promise, representation, warranty, or covenant not included in this Agreement has been made nor relied upon by either party. Each party has had an opportunity to examine this Agreement and the provisions hereof. In addition, each party has had the opportunity to seek legal advice with respect to this Agreement or has otherwise waived its right to legal advice.

**12. Interpretation**

This Agreement shall be interpreted in accordance with Alabama law. Unless otherwise provided, all terms shall be given their ordinary and custom English usage. Words in the masculine gender include the feminine and neuter. The paragraph headings of this Agreement do not form a part of this Agreement, are inserted for convenience of reference only, and have no effect upon the construction or interpretation of any part of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Real Estate Agreement to be executed on the respective date(s) set forth below.

**PURCHASER:**

**CITY OF HUNTSVILLE**

By: \_\_\_\_\_  
Tommy Battle, Mayor

Attest: \_\_\_\_\_  
Ken Benion, Clerk Treasurer

Date: \_\_\_\_\_

**SELLER:**

**EAST MADISON COUNTY LAND  
COMPANY, an Alabama general partnership**

Bill E. Poole  
Witness

By: Nancy Campbell  
Its: partner

Date: 9-22-16

Bill E. Poole  
Witness

By: Drew Brooks  
Its: partner

Date: 9-22-16

## EXHIBIT "A"

### Tract I:

All that part of the Southwest Quarter of Section 30, Township 3 South, Range 1 West, Madison County, Alabama, particularly described as beginning North 87 degrees 35 minutes East, 423.3 feet from the center of the West boundary of said Section 30; and further described as being on the quarter section line in the center of an old county road; thence South 00 degrees 06 minutes West 107.70 feet to THE POINT OF BEGINNING. Thence from the point of beginning North 87 degrees 35 minutes East, 208.52 feet to a point; thence due South, 101.00 feet to a point; thence South 87 degrees 35 minutes West, 208.70 feet to a point; thence North 00 degrees 06 minutes East; 101.00 feet to a point of beginning and containing 0.48 acres more or less.

### Tract II:

All that part of the Southwest Quarter of Section 30, Township 3 South, Range 1 West, Madison County, Alabama, particularly described as beginning North 87 degrees 35 minutes East, 423.3 feet from the center of the West boundary of said Section 30; and further described as being on the quarter section line in the center of an old county road. Thence from THE POINT OF BEGINNING North 87 degrees 35 minutes East, 77.5 feet to an iron stake on the Southwest margin of a 70-foot R.O.W. for Monrovia Road; thence along the said Southwest margin of said R.O.W. South 80 degrees 20 minutes East, 132.6 feet to an iron stake; thence due South 80.00 feet to an iron stake; thence South 87 degrees 35 minutes West 208.52 feet to an iron stake; thence North 00 degrees 06 minutes East, 107.70 feet to the point of beginning and containing 0.48 acres more or less. SUBJECT TO a R.O.W. along the North boundary for Lane Road.

## ROUTING SLIP CONTRACTS AND AGREEMENTS

Originating Department: Legal Council Meeting Date: 10/13/2016

Department Contact: Trey Riley Phone # 427-5026

Contract or Agreement: Real Estate Agreement

Document Name: Real Estate Agreement Wayne Rd & Old Monrovia

City Obligation Amount: \$108,500

Total Project Budget:

Uncommitted Account Balance:

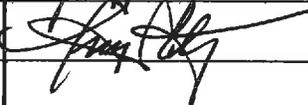
Account Number:

### Procurement Agreements

<u>Not Applicable</u>	<u>Not Applicable</u>
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### Grant-Funded Agreements

<u>Not Applicable</u>	Grant Name:
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Department	Signature	Date
1) Originating		10/05/2016
2) Legal		10/05/2016
3) Finance		
4) Originating		
5) Copy Distribution		
a. Mayor's office (1 copies)		
b. Clerk-Treasurer (Original & 2 copies)		