

ORDINANCE NO.: 2006-110

Authorizing transfer of 1504 Williams Street, 1530 Williams Street and the City's interest, if any, to Science Alley, Richland County TMS #09009-14-01, 09009-14-24 and alleyway adjacent to 09009-14-02, 09009-14-20, 09009-14-21, 09009-14-22, 09009-14-23, 09009-14-24, 09009-14-03, 09009-14-19, 09009-14-18, 09009-14-09, 09009-14-17, 09009-14-16, 09009-14-15 and 09009-14-14 to Huger Street II, LLC

BE IT ORDAINED by the Mayor and Council of the City of Columbia, South Carolina, this 17th day of January, 2007, that the City Manager is hereby authorized to execute the attached Agreement to Sell and Buy, Deed, Quit Claim Deed and any closing documents necessary to effect the conveyance of 1504 Williams Street, 1530 Williams Street and the City's interest, if any, to Science Alley, known as Richland County Tax Map 09009-14-01, 09009-14-24 and alleyway running from Taylor Street to Hampton Street adjacent to 09009-14-02, 09009-14-20, 09009-14-21, 9009-14-22, 09009-14-23, 09009-14-24, 09009-14-03, 09009-14-19, 09009-14-18, 09009-14-09, 09009-14-17, 09009-14-16, 09009-14-15 and 09009-14-14, to Huger Street II, LLC for the sum of Three Hundred Thirty Thousand Six Hundred Sixty and No/100 (\$330,660.00) Dollars.

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STAMPED IN RED

Requested by:

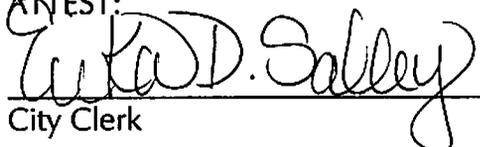

MAYOR

Approved by:


City Manager

Approved as to form:


City Attorney

ATTEST:

City Clerk

Introduced: 1/10/2007

Final Reading: 1/17/2007

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

AGREEMENT TO SELL AND BUY

THIS AGREEMENT made this ___ day of January, 2007, executed in duplicate between the City of Columbia, hereinafter referred to as the Seller, and Huger Street II, LLC, hereinafter referred to as the Buyer.

Subject to all the terms and conditions hereof, it is agreed that:

1. The Seller shall sell and the Buyer shall buy the following described property (the "Property"):

Parcel A

All those certain pieces, parcels or lots of land, with improvements thereon, if any, situate, lying and being in the City of Columbia, Richland County, State of South Carolina, known as 1504 and 1530 Williams Street, TMS Numbers 09009-14-1 and 24, all as more full designated on Attached A, attached hereto and incorporated herein.

Parcel B

All of its rights, title and interest, if any, in an to, that certain piece, parcel or roadway, with improvements thereon, if any, situate, lying and being in the City of Columbia, Richland County, State of South Carolina, consisting of a non surface treated alleyway or roadway generally known as Science Alley, running between Taylor and Hampton Streets as more full designated on Attached A, attached hereto and incorporated herein (To be transferred by Quit Claim Deed).

2. The purchase price shall be Three Hundred Thirty Thousand Six Hundred Sixty and no/100 (\$330,660.00) Dollars payable by the Buyer to the Seller as set forth herein.

- a) Upon the execution of this Agreement, the Buyer shall pay to the Seller as earnest money, the sum of Two Thousand and no/100 Dollars (\$2,000.00) to be held in trust by the law firm of Carl L. Holloway, PA, as escrow agent, subject to a mutually agreeable escrow agreement between Buyer, Seller and Escrow Agent.

- b) Upon delivery of the Deed for the Property, as hereinafter provided, the Buyer shall pay to the Seller the additional sum of Three Hundred Twenty Eight Thousand Six Hundred Sixty and no/100 Dollars (\$328,660.00) by cash, certified check or cashier's check.
3. This contract is totally contingent upon the following:
- a) All mortgages, UCC liens, judgments, or other liens and charges against the property, not assumed by Buyer, shall be paid and canceled by Seller prior to or at closing.
- b) Buyer obtaining suitable and reasonable financing for purchaser of the property in an amount of not less than ninety percent (90%) of the purchase price. Buyer shall immediately apply for a loan and take all reasonable action to assist in processing said loan.
- c) The property must have legal access to a public right-of-way.
- d) The property being properly zoned general office purposes for its intended use as an office building and parking lot.
- e) The property not being in a flood plain or zone as determined by the Army Corps of Engineers, FEMA, or other governmental agency.
- f) Cancellation of any and all existing lease(s) and any rights of renewal, options, or first refusals.
- g) Environmental Survey and Condition of the property as set out in Paragraph seven (7).
- h) The property being served by city or other governmental water and sewage with sufficient capacity for its intended use.

Contract between the City of Columbia and Huger Street II, LLC

i) City Ordinance of Seller duly approved by two (2) readings authorizing the sale and directing an officer of the City to execute the deed and closing documents.

(i) And, as otherwise set out herein.

In the event any contingency as set out hereinabove is not totally fulfilled or complied with, this contract is terminated with all earnest money refunded to Buyer.

4. The Seller shall convey the property described to the Buyer, its successors or assigns, in fee simple by proper deed with covenant of limited warranty as to Parcel A properly executed, free from all defects and encumbrances except such as are hereafter agreed to in writing. The title to the Property must be marketable, free of all encumbrances except utility easements and non-violated restrictive covenants that do not materially affect the value or use of the property. Seller shall provide a properly executed quit claim deed as to Parcel B.

5. Seller shall furnish at closing an affidavit and indemnification agreement in form satisfactory to Buyer showing that all labor and materials, if any, furnished to the property within 120 days prior to the date of each closing have been paid for and agreeing to indemnify Buyer against all loss from any cause or claim arising therefrom.

6. The Seller agrees not to make any changes to the Property, except as required by this contract, and agrees to keep the Property in good repair until the closing date. Buyer shall have the right to view the Property on the closing date prior to the actual closings.

7. Environmental Conditions:

The Buyer shall have the right to obtain a Phase I Environmental survey or assignment of an existing survey (including asbestos investigation) to determine the presence of soil or Materials contamination or presence of asbestos; such examination and test shall be conducted by an engineering company with proper engineering credentials and experience to

perform the necessary tests and be adequately insured and bonded. In the event any contamination is suspected or should a qualified engineering company recommend additional investigations, sampling or test(s), a Phase II or higher grade environmental survey will be conducted with such additional cost to be shared equally by the Seller and Buyer. Seller grants permission for a Phase I and II or subsequent tests to be conducted. The Phase I Survey shall be accomplished within thirty (30) days, if possible, of the date of execution of this Agreement. In the event the environmental testing cannot be completed by the closing date; the closing date shall be extended in order to allow for all testing to be completed and results received. The Seller and Buyer shall be notified within that period, in writing, of any Materials contamination or contamination which may be revealed and the engineer's recommendations. If any Materials or other contamination is determined to be present, reasonably anticipated or there exists any reasonable danger thereof, the Buyer may terminate this Agreement and receive a full refund of its earnest money deposit.

8. The risk of loss or damage to the premises by any casualty until the delivery of the deed is assumed by the Seller. In the case of loss or damage, the Seller has the option to substantially restore the property, within a reasonable time, to the undamaged condition. If the Seller fails to restore within a reasonable time, the Buyer may:

- a) terminate the contract, in which event, the sole obligation of the Seller shall be to return the earnest money to the Buyer; or
- b) accept a deed together with the net proceeds of insurance received by the Seller, less the reasonable costs of collection, including attorney's fees, or, if the proceeds have not been collected, then an assignment of Seller's rights in the policy or policies.

9. Taxes (if applicable), utility charge, and other assessments shall be apportioned as of the day on which the deed is delivered. Apportionment shall be computed on a three hundred sixty-five (365) day prorata basis. Roll back taxes as contemplated under § 12-43-220, Code of Laws of South Carolina, as amended and subsequent sections (any and all taxes arising out of or accruing from the sale or intended use of the Property) shall be the total obligation and responsibility of the Seller and paid by the Seller.

10. The expenses of this transaction shall be paid as follows:

a) The Seller shall be responsible for providing the Buyer with a deed suitable for recording.

b) The Buyer shall be responsible for all costs of recording the deed; obtaining a loan on the property, obtaining a survey, preparing and recording any Note and Mortgage.

c) All other cost(s) will be paid by the party specified herein.

11. The closings shall take place at the offices of Carl L. Holloway, PA located in Columbia, South Carolina, or other attorneys designated by Buyer. The closing for the Property shall be held on or before thirty (30) days following the second reading and approval/acceptance by Seller. At the closing, the Seller shall deliver the deed and shall relinquish possession of the Property to the Buyer upon the Buyer's compliance with the terms and conditions hereof. It is expressly provided that time is of the essence of this Agreement.

12. If the Seller shall default under this agreement, the Buyer shall have the right to sue for specific performance. In lieu of specific performance on the part of the Seller, the Buyer may, at the Buyer's sole option, elect to receive from the Seller a refund of the earnest money and

reimbursement of all legal fees, survey costs and other costs reasonably incurred by the Buyer in connection with this Agreement.

13. If Buyer shall default under this Agreement, the Seller shall have the right to terminate the contract. In the event of termination, Seller shall retain the sum paid as earnest money by the Buyer as liquidated damages and the retention of said sum shall be the sole remedy of the Seller.

14. Seller agrees to use its best efforts to deliver to Buyer as soon as reasonably possible after the acceptance of this offer, copies of all title information in possession of or available to Seller, including but not limited to: title insurance policies, attorney's opinions on title, surveys, environmental assessments, plans and specifications, covenants, deeds, notes, mortgages, and easements relating to the property.

15. Neither the Seller nor the Buyer, their agents or employees, have employed any broker, agent or finder or incurred any liability for any brokerage fees, agent's commissions or finder's fees in connection with the transactions contemplated in this Agreement.

16. To the best knowledge of the Seller, after due inquiry, neither the Property nor the intended use and operation thereof, violates any subdivision regulations or zoning ordinances or violates any laws, ordinances, rules, regulations, or covenants, conditions and restrictions of any federal, South Carolina state, municipal or other governmental department, agency or authority, including without limitation all laws and regulations with respect to building, fire, health and safety codes, environmental protection, sanitation and pollution control. No portion of the property is or constitutes a nonconforming use or structure. Seller was neither received nor given any notice of any violation of any such laws or regulations.

17. There are no pending eminent domain, condemnation or special assessment actions or proceedings against or in connection with the real estate and improvements thereon, and Seller has received no notice and has no knowledge of any such action or proceeding being contemplated. No real estate taxes or assessments have been paid under protest.

18. There are no agreements with governmental authorities, agencies, utilities or quasi-governmental entities which affect the Property or any improvements thereon.

19. This Agreement shall bind and inure to the benefit of the respective parties hereto, their successors, executors, administrators, and assigns.

20. This contract contains the entire agreement of the parties and there are no representations, inducements, or other provisions other than those expressed in writing. This Agreement may not be changed orally, no amendment or modification of this Agreement shall be valid or binding upon the parties hereto unless made in writing and signed by the parties hereto.

21. If two or more persons constitute either the Seller or the Buyer, the word "Seller" or the word "Buyer" shall be construed as if it reads "Sellers" or "Buyers" whenever the sense of this Agreement so requires.

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties on the date as set out herein above.

ATTEST:

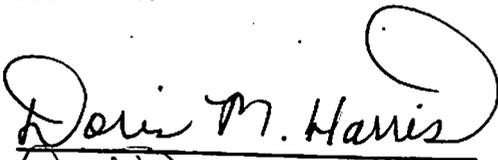
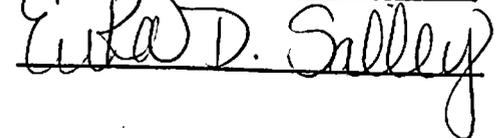
SELLER:

CITY OF COLUMBIA

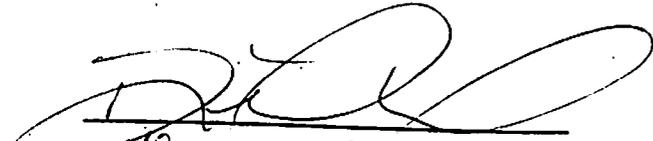
By: 

Its: City Manager

Date Accepted: 1/29/07


Doris M. Harris

Erika D. Solley

WITNESSES:


Donna H. Benson

BUYER:

HUGER STREET II, LLC

By: 
Cubby Culbertson
Its: Member Manager

