

ORDINANCE NO.: 2007-008

Authorizing transfer of a 0.109 acre (4,750 square feet) of the Liberty Street Extension right of way area adjacent to Richland County Tax Map 09116-05-01 and 09116-05-02 to The Dutch Fork Trading Company, LLC

ORIGINAL
STAMPED IN REC

BE IT ORDAINED by the Mayor and Council of the City of Columbia, South Carolina, this 21st day of February, 2007, that the City Manager is hereby authorized to execute a Contract of Sale, Deed and any closing documents necessary to effect the conveyance of a 0.109 acre (4,750 square feet) of the Liberty Street Extension right of way area adjacent to Richland County Tax Map 09116-05-01 and 09116-05-02 to The Dutch Fork Trading Company, LLC for Fourteen Thousand Two Hundred Fifty and No/100 (\$14,250.00) Dollars.

Requested by:

Steven A. Gantt, Senior Assistant City Manager



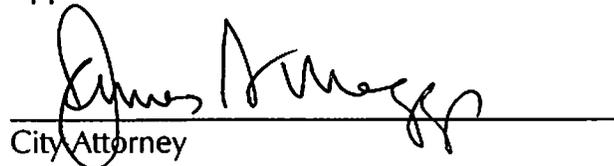
MAYOR

Approved by:



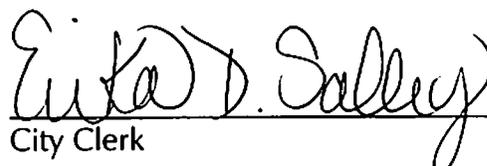
City Manager

Approved as to form:



City Attorney

ATTEST:



City Clerk

Introduced: 2/7/2007

Final Reading: 2/21/2007

STATE OF SOUTH CAROLINA }
 }
COUNTY OF RICHLAND }

AGREEMENT OF SALE

This Agreement made this ____ day of January, 2007, by and between the City of Columbia ("Seller") and The Dutch Fork Trading Company, LLC, ("Buyer").

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

1. **PROPERTY DESCRIPTION.** Buyer agrees to buy and Seller agrees to sell all that parcel of land, with the buildings and improvements thereon, if any, situated in Richland County, known as the Liberty Street Extension right of way, being 0.109 acre, or 4,750 square feet, located along Liberty Street south of West Avenue, Columbia, South Carolina and adjacent to tax map numbers 09116-05-01 and 09116-05-02 (hereinafter the "Property").

2. **PRICE.** The purchase price is Fourteen Thousand Two Hundred Fifty (\$14,250.00) Dollars, payable by the Buyer to the Seller as follows:

- (a) Upon the execution of this Agreement, the Buyer shall deposit with the Seller \$0.00 as earnest money;
- (b) Upon delivering of the deed, Buyer shall pay to Seller \$14,250.00 by cashier's check or certified check.

3. **CLOSING COSTS.** All closing costs, prepaid items, deed transfer fees and all other expenses of sale will be paid by the Buyer.

4. **CONDITIONS AND RESTRICTIONS.** The Seller shall convey the Property to the Buyer in fee simple by proper limited warranty deed, free from all liens and encumbrances except as are herein agreed to. The Buyer agrees to accept the Property subject to any governmental statutes or ordinances, zoning ordinances and regulations, building restrictions and conditions, restrictions, covenants, and easements of record, including any shown on a recorded plat; also, any state of facts that an accurate survey would show.

5. **CONDITION OF PROPERTY.** The Buyer shall have forty-five (45) days from the date of this Agreement to examine and inspect the Property except as to environmental matters (see Paragraph 11 below). The Buyer may, for any reason, elect to terminate this Agreement by giving written notice to Seller within forty-five (45) days of the date of this Agreement. The Buyer acknowledges that it is purchasing the Property "AS IS" and not on the basis of representations or warranties made by Seller or anyone acting on Seller's behalf, either expressed or

implied, other than as specifically set forth or provided for herein. THE SELLER EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE AND WARRANTIES OF HABITABILITY.

6. **RISK OF LOSS OR DAMAGE.** The risk of loss or damage to the premises by fire or other 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 restore the Property within a reasonable time to substantially its undamaged condition or to terminate this Agreement. In the event the Seller elects to terminate this Agreement, there shall be no further obligation of the Seller to the Buyer and the Seller shall return the earnest money to the Buyer.

7. **REAL ESTATE COMMISSION.** Both parties warrant that they have taken no action which would result in a real estate commission being due.

8. **SELLER'S DEFAULT.** If the Seller shall be unable to convey title in accordance with the terms of this Agreement, the sole obligation of the Seller shall be to reimburse the Buyer for the cost of title examination and to refund the Buyer's earnest money paid hereunder. Upon the making of such refund and reimbursement, this Agreement shall wholly cease and terminate and neither party shall have any further claim against the other by reason of this Agreement. Seller shall not be required to bring any action or proceedings or otherwise incur any expense to render the title to the Property marketable. The Buyer may, nevertheless, accept such title as Seller may be able to convey, without reduction of the purchase price or any credit or allowance against the same and without any other liability on the part of the Seller. The acceptance of a deed by the Buyer shall be deemed to be a full performance and discharge of every agreement and obligation on the part of the Seller to be performed pursuant to the provisions of this Agreement. The term "cost of title examination" is defined for the purposes of this Agreement as the expense actually incurred by the Buyer for title examination; in no event, however, to exceed the amount customarily charged by local attorneys for comparable title examinations. If a Title Insurance Company, which is a member of the American Land Title Association, will issue a binder to issue an owner's title insurance policy insuring the title to the Property in the amount equal to the purchase price, which owner's title insurance policy will have as exceptions only those as are herein agreed to, the Seller shall be deemed to be able to convey fee simple title.

9. **BUYER'S DEFAULT.** If the Buyer shall default under this Agreement, the Seller shall have the option of suing for damages or of terminating this Agreement. If the Seller elects to terminate this Agreement, the earnest money deposit may be retained as liquidated damages. These remedies are in addition to, and not in place of, all remedies available to the Seller at law or in equity.

10. **ADJUSTMENTS.** Taxes, interest, water charges, sewer charges, fuel oil, light charges, rents when collected, and other assessments, if any such items are applicable, shall be adjusted as of the date of closing. Tax proration pursuant to this Agreement are based on the taxes of record on this date and are, therefore, prorated on that basis. Any increase or decrease of taxes shall be subject to an adjustment by the Buyer and/or Seller when the current year's taxes are determined.

11. **ENVIRONMENTAL INSPECTION PERIOD.** Buyer shall have an environmental inspection period which begins on the date a representative of the Seller executes this Agreement and ends at the end of the sixtieth (60) day thereafter. During the inspection period, the Buyer may obtain such environmental assessment reports as it deems appropriate and shall have reasonable access to the Property for the sole purpose of conducting such environmental investigations. Buyer shall indemnify and hold Seller harmless from any damages, liabilities, or claims for damage to the Property, other property damage, personal injury, mechanics liens and for any other type of claim, in any way connected with the activities of Buyer hereunder, including, without limitation, Buyer's agents, contractors, or employees, and also including payment by Buyer to Seller of attorney's fees incurred by Seller in defense of any claim or in the enforcement thereof. The indemnities herein shall expressly survive the closing or the termination of this Agreement and shall be in addition to any other damage provisions contained in this Agreement. At any time during this inspection period, Buyer shall have the right to terminate this Agreement if it receives a Phase I Environmental Assessment showing substantial and material environmental problems with the Property. If the Buyer should terminate the Agreement for that reason, the Buyer will receive a refund of all earnest money.

12. **CLOSING DATE.** The closing shall take place within thirty (30) days after the expiration of the environmental inspection period. At closing, Seller shall deliver the deed upon Buyer's compliance with the terms and conditions hereof and the earnest money shall be applied to the purchase price. Time is of the essence but the closing date may be extended by written agreement of the parties.

13. **POSSESSION.** The Seller shall relinquish possession of the Property to the Buyer at closing.

14. **ONLY CONTRACT.** The captions employed in this Agreement are for convenience only and are not intended in any way to limit, amplify, or modify the terms and provisions hereof. The parties hereto further agree that this written Agreement expresses the entire agreement between the parties and this Agreement may not be changed orally, but only by an instrument in writing signed by the party against whom enforcement of such change is sought. All prior negotiations and representations of the parties are merged herein and are void and unenforceable unless contained in this

Agreement.

15. DEFINITION. If two or more people constitute the Buyer, the word "Buyer" shall be construed as if written "Buyers" whenever the sense of this Agreement so requires.

WITNESSES:

Valerie R. Smith
Wanda D. Salley

Kth Z h

AS TO SELLER:

CITY OF COLUMBIA

By: [Signature]
Its: City Manager 02/28/2007

AS TO BUYER:

THE DUTCH FORK TRADING
COMPANY, LLC

By: [Signature]
Its: Authorized Member



STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND) **SPECIAL WARRANTY DEED**

KNOW ALL MEN BY THESE PRESENTS that Julia W. Harrington, hereinafter referred to as GRANTOR, in consideration of the sum of FOUR HUNDRED FIFTY THOUSAND AND 00/100 (\$450,000.00) and good and valuable consideration, to it paid by THE DUTCH FORK TRADING COMPANY, LLC, with an address of 9 Richland Medical Park, Suite 110, Columbia, S.C. 29203, hereinafter referred to as GRANTEE, the receipt of which is hereby acknowledged, does hereby GRANT, BARGAIN, SELL AND CONVEY to the said GRANTEE, its successors and assigns forever, all of Grantor's right, title and interest in the following described real estate, (hereinafter referred to as the "premises" or the "Property").

PARCEL 1:

All that certain piece, parcel or lot of land, with any improvements thereon, situate, lying and being in the City of Columbia, County of Richland, State of South Carolina and lying on the Northwestern intersection of Marshall Street (S.C. Highway No. 16) and West Avenue (Road S-373) and being more particularly shown and described on a plat surveyed for H&H Associates by Isaac B. Cox & Son, Registered Land Surveyors and Engineers, dated October 26, 1976 and recorded in the Richland County ROD in Plat Book "X" at Page 6738 and having such metes, bounds, courses and distances as shown on said Plat. Be all measurements a little more or less.

This being the same property conveyed unto Julia W. Harrington by deed of William E. Hancock, III dated July 8, 1980 and recorded July 10, 1980 in Book 545 at Page 663 and by deed of James E. Hudson dated July 8, 1980 and recorded July 10, 1980 in Book 545 at Page 666.

TMS: 09116-05-02

PARCEL 2:

ALL that certain piece, parcel or lot of land, with any improvements thereon, situate, lying and being in the City of Columbia, County of Richland, State of South Carolina, containing 17,915 square feet, located on the western side of West Avenue at its intersection with Liberty Street and being more particularly shown and delineated on a plat prepared for Spartan Food Systems, Inc., prepared by Cox and Dinkins, Inc., dated November 6, 1979 and recorded in the Office of the ROD for Richland County in Plat Book "Y", at page 6179. Be all measurements a little more or less.

This being the same property conveyed unto Julia W. Harrington by deed of Flagstar Enterprises, Inc. dated June 13, 2005 and recorded June 15, 2005 in Book 1064 at Page 47.

TMS NO.: 09116-05-01

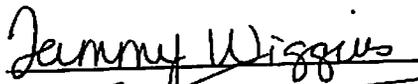
Parcels 1 and 2 are further shown on that certain plat prepared for Dutch Fork Trading Co., LLC by Associated E&S, Inc. dated October 17, 2006 and recorded December 13, 2006 in Plat Book 1262 at Page 2090.

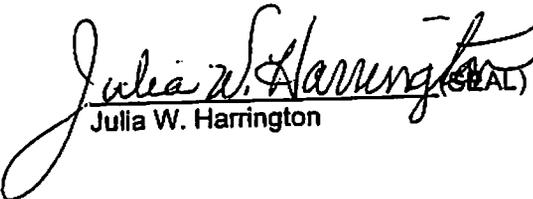
This conveyance is made together with all and singular, the rights, members, hereditaments, and appurtenances to said premises belonging or in any way incident or appertaining thereto; to have and to hold all and singular the premises above mentioned unto the Grantee, and the Grantee's successors and assigns forever. The Grantor does hereby bind the Grantor and Grantor's successors and assigns to warrant and forever defend all and singular said premises unto the Grantee and Grantee's successors, as against any person claiming an interest or title through Grantor, or its successors or assigns, but no further. The above described Property is conveyed subject to easements, rights-of-way, restrictions and conditions of record and ad valorem property taxes, and further subject to zoning ordinances and governmental regulations, and matters visible from an inspection of the Property or reflected on an accurate survey of the Property.

The Property is conveyed to the Grantee "as is" and "with all faults" and the Grantor has not made, does not make, and hereby disclaims any and all expressed or implied representations and warranties regarding or relating to the condition of the Property.

WITNESS the Hand and Seal of the Grantor, this 13th day of December 2006.

Signed, Sealed and Delivered
in the Presence of:




Julia W. Harrington (SEAL)

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

PROBATE

PERSONALLY appeared before me the undersigned witness and made oath that (s)he saw the within named Grantor, sign the within Deed, and, as her act and deed, deliver the same, and that (s)he, with the other witness whose signature appears above witnessed the execution thereof.

SWORN to before me this
13th day of December 2006



Notary Public of South Carolina
My Commission Expires: 1/29/11

