

ORDINANCE NO.: 2007-045

Authorizing the transfer of Richland County TMS #08916-03-12
located on the northeast corner of Senate Street and
Park Street (Old Fire Station) to Capitol Place VII, LLC

ORIGINAL
STAMPED IN REC

BE IT ORDAINED by the Mayor and Council of the City of Columbia, South Carolina, this
20th day of June, 2007, that the City Manager is hereby authorized to execute a Contract for
Sale and Purchase of Real Estate, Deed and any closing documents necessary to effect the
conveyance of Richland County TMS #08916-03-12 located on the northeast corner of Senate
Street and Park Street (Old Fire Station), to Capitol Places VII, LLC for the sum of One Million
Four Hundred Fifty Thousand and No/100 (\$1,450,000.00) Dollars.

Requested by:

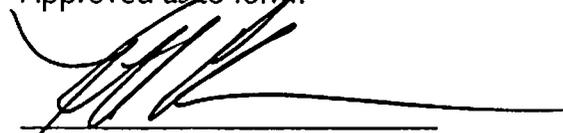
Steve Gantt, Senior Assistant City Manager


MAYOR

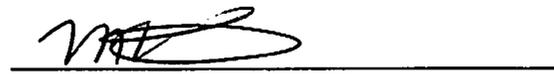
Approved by:


City Manager

Approved as to form:


Interim City Attorney

ATTEST:


City Clerk, Interim

Introduced: 6/6/2007
Final Reading: 6/20/2007

CONTRACT FOR SALE AND PURCHASE OF REAL ESTATE

THIS CONTRACT is made and entered into as of the 17th day of July, 2007 by and between CITY OF COLUMBIA, SOUTH CAROLINA, a body politic and corporate and a political subdivision of the State of South Carolina (hereinafter referred to as "Seller") and CAPITOL PLACES VII, LLC, a South Carolina limited liability company (hereinafter referred to as "Purchaser"). The "Effective Date" of this Contract shall be the date this Contract has been fully executed by both parties.

WITNESSETH:

THAT FOR and in consideration of the mutual covenants, agreements and undertakings herein set forth, and other valuable considerations, the receipt and sufficiency of which are hereby acknowledged, Seller agrees to sell and convey to Purchaser and Purchaser agrees to purchase from Seller the real property described in Paragraph 1 below on the terms and conditions hereinafter set forth:

1. **Description of Property.** The real property which is subject to this Contract consists of the land and improvements located at 1001 Senate Street in Columbia, South Carolina commonly referred to as the former City of Columbia Fire Department Headquarters (hereinafter referred to as the "Property"). The Property is described in more detail on Exhibit "A" which is attached hereto and incorporated herein by reference.

2. **Purchase Price.** The Purchase Price for the Property shall be \$1,450,000.00 and shall be paid by the Purchaser as follows:

(a) The sum of \$10,000.00 (the "Earnest Money") shall be deposited with the Seller upon the execution hereof.

(b) The balance in immediately available funds shall be paid to the Seller at the time of the Closing, or as provided for herein.

3. **Purchaser's Rights Prior to Closing - Inspection Period.**

(a) For a period commencing on the Effective Date and ending 90 days thereafter (such period being herein referred to as the "Inspection Period"), the Purchaser, its authorized agents and employees, as well as others authorized by the Purchaser, shall have full and complete access to the Property and shall be entitled to enter upon the Property and make such surveying, architectural, engineering, topographical, geological, soil, subsurface, environmental, availability of parking, water drainage, and other investigations, inspections, evaluations, studies, tests and measurements (collectively, the "Investigations") as the Purchaser deems reasonably necessary or advisable so long as same do not result in any material adverse change to the physical characteristics of the Property. Purchaser agrees to indemnify and hold Seller harmless from and against any and all claims, costs, expenses and liabilities including reasonable attorneys' fees arising out of or by reason of the Investigations. Purchaser shall restore any disturbance of the Property caused by the Investigations into the same condition that existed prior to the Effective Date in the event Purchaser fails to close, or terminates this Contract.

(b) At any time prior to the expiration of the Inspection Period the Purchaser shall have the right to terminate this Contract if the Purchaser determines that the Property is not suitable for Purchaser's intended purposes. If the Purchaser elects to terminate pursuant to this paragraph, it shall give written notice of such termination to the Seller and to the Agent prior to the expiration of the Inspection Period. Upon such termination, the Agent shall return the Earnest Money to the Purchaser, and neither party shall have any further rights or obligations hereunder except for any obligations of the Purchaser under a. above.

4. **Closing.** The Closing of the transaction herein provided shall be held not later than 45 days after the expiration of the Inspection Period.

5. **Title.** The Purchaser's obligations hereunder shall be conditioned upon the Seller's delivery of a good marketable and insurable fee simple title to the Property (at standard rates), by limited warranty deed, free and clear of all liens, encumbrances and conditions which in the opinion of the Purchaser would adversely affect the use and marketability of the Property.

6. **Title Examination.** Prior to the end of the Inspection Period (as defined herein) Purchaser shall deliver to Seller a written statement of objections, if any, to Seller's title to the Property and Seller shall have (10) days prior to closing in which to cure or remove the same, time being of the essence. Seller hereby covenants and agrees to use Seller's best efforts to cure or remove said objections within said period. In the event Seller fails or refuses to cure or remove said objections within said period (or within such longer period as may be approved by Seller in writing), then, (a) if such defects call be cured by payment of stated sums of money, the Purchase Price for the Property will be reduced by the cost of curing all such title defects (such as deeds of trust, security agreements, past due ad valorem taxes and assessments constituting a lien against the Property, mechanics' and materialmens' liens, and judgements which have attached to and become liens against the Property), or (b) if such defects cannot be cured by payment of stated sums of money, this Contract, at the sole option of Purchaser delivered to Seller at or before closing, shall terminate and be of no further force and effect. In such event, the Earnest Money shall immediately then be returned to Purchaser and no party hereto shall have any further rights, liabilities or obligations hereunder.

7. **Seller's Representations and Warranties.** Seller makes the following representations and warranties to Purchaser:

(a) As of the date of the Closing there will be no adverse or other parties in possession of the Property, and no party shall have been granted any license, lease, or other right relating to the use or possession of the Property.

(b) Seller has the full right, power, and authority to sell and convey the Property as provided in this Contract and to carry out Seller's obligations hereunder, and that all requisite action necessary to authorize Seller to enter into this Contract and to carry out its obligations under this Contract has been or on the Closing Date will have been taken.

(c) The Property has direct access to public streets and utilities necessary for the anticipated operation of the Property and, to the best knowledge of Seller, no fact or condition exists that would result in the termination of access to and from the Property or the cessation of utilities necessary for the anticipated operation of the Property.

(d) Seller has not received notice of, and has no other knowledge or information of, any pending or contemplated change in any governmental requirements applicable to the Property, of any pending or threatened judicial or administrative action, or any action pending or threatened by adjacent landowners or other persons, any of which would result in any material change in the physical condition of the Property, or any part thereof, or in any way limit or impede in any material respect the operation of the Property, or any part thereof.

(e) Purchaser acknowledges and agrees that the Property shall be sold, and Purchaser shall accept possession of the Property on the Closing Date, except as provided herein, AS IS, WHERE IS, WITH ALL FAULTS, with no right of set-off or reduction in the Purchase Price, except as expressly set forth herein to the contrary, and except as expressly provided in this Contract, such sale shall be without representation or warranty of any kind, whether express, implied, statutory or otherwise, including, without representation, warranties of use, merchantability or fitness for a particular purpose, and Seller does hereby disclaim and renounce any such representation or warranty.

8. **Survey.** Prior to the end of the Closing, Purchaser at its expense may cause a current survey of the Property to be made by a registered surveyor. The survey shall indicate the boundary lines of the Property, the location of all improvements, easements, roadways and other rights-of-way, flood plain areas, any existing building setback lines, and any encroachments and other matters affecting the Property. The survey shall contain a legal description of the Property, the number of acres contained in the Property calculated to the nearest 1/1000 of an acre and a certificate in standard form addressed to the Purchaser and signed and sealed by the surveyor.

9. **Default and Remedies.** In the event that the terms and conditions of this Contract have been satisfied and Purchaser does not purchase the Property in accordance with the requirements of this Contract within the time limits herein set forth, Seller, as Seller's sole and exclusive remedy, may declare this Contract cancelled in which event the Earnest Money shall be paid to the Seller as full liquidated damages and not as a penalty, it being agreed that the Seller's damages would be difficult or impossible to ascertain. In the event of Seller's breach of any of its obligations hereunder, Purchaser shall have the rights and options as Purchaser's sole and exclusive remedies to either (a) immediately terminate this Contract upon written notice to the Seller and receive back the full amount of the Earnest Money and upon return of same the parties hereto shall have no further rights and obligations or liabilities to each other hereunder or (b) demand and compel by an action for specific performance or similar legal proceedings, if necessary, for the immediate conveyance of the Property by Seller in compliance with the terms and conditions of this Contract, and to recover all costs and expenses, including reasonable attorneys fees incurred by Purchaser in such action.

10. **Closing Costs.** Seller shall pay the local transfer tax on the deed (if any), the expense of preparation of the deed and the fees of Seller's attorney. The Purchaser shall pay the premium for the owner's title insurance policy to be issued to the Purchaser, the cost of the survey, the grantee's cost of recordation of the deed, the costs incurred by the Purchaser in connection with its Investigations of the Property and the fees of Purchaser's attorneys.

11. **Prorations and Adjustments.** The following prorations and adjustments shall be made at Closing:

(a) All ad valorem real property taxes for the year in which the Closing occurs (if any) shall be prorated between the parties as of the date of Closing on a year basis. Any taxes due for the years prior to the Closing, including rollback taxes and special assessments, shall be paid by the Seller. If the taxes cannot be accurately determined at the time of Closing, the prorations shall be based on the most reliable information available with respect to the current year's anticipated tax bill.

(b) Any water and sewer charges shall be prorated between the parties as of the Closing.

12. **Delivery of Deed and Application of Earnest Money.** Upon receipt of the Purchase Price at the time of Closing and at such time as Purchaser's attorney (the "Closing Attorney") is in a position to disburse the same in accordance with the signed closing statement, the Closing Attorney shall be authorized to cause the final title update to be conducted and the deed recorded, at which time all disbursements provided for on the closing statement, including the net proceeds payable to the Seller, shall be made immediately. The Earnest Money shall be delivered to the Seller and applied against the Purchase Price.

13. **Brokerage.** Purchaser shall pay a sales commission to Grubb & Ellis/Wilson Kibler in an amount equal to 3.5% of the Purchase Price. Seller and Purchaser represent and warrant each to the other that they have not dealt with any other brokers in connection with this transaction. Either party guilty of a breach of this representation and warranty shall indemnify the other party for any claims, suits, liabilities, costs, judgments and expenses, including reasonable attorneys' fees for commissions resulting from or arising out of such party's actions in violation of this representation and warranty. These warranties shall survive the Closing. **BOTH PURCHASER AND SELLER ACKNOWLEDGE RECEIVING, READING AND UNDERSTANDING THE SOUTH CAROLINA REAL ESTATE COMMISSION'S AGENCY DISCLOSURE FORMS**

14. **Notices.** Any notice, approval or other communication which may be required or permitted to be given or delivered hereunder shall be in writing and shall be deemed to have been given, delivered and received (i) as of the date when the notice is personally delivered, (ii) if mailed, in the United States Mail, certified, return receipt requested, as of the date which is the date of the post mark on such notice, (iii) if delivered by courier or express mail service, telegram, facsimile or mailgram where the sender provides or retains evidence of the date of delivery, as of the date of such delivery; (iv) if by facsimile, when the message is received in the office of the addressee, provided that a hard copy referencing the date of facsimile delivery is sent the same day by one of the other methods of delivery set forth above.

To Seller:

City of Columbia
1737 Main Street
Post Office Box 147
Columbia, South Carolina 29217
Attention: City Manager
Phone:
Fax:

With a copy to:

James S. Meggs, Esquire
City Attorney
1401 Main Street, 10th Floor
Post Office Box 667
Columbia, South Carolina 29201 (29202)
Phone:
Fax:

To Purchaser:

Capitol Places VII, LLC
c/o Thomas J. Pioreschi
1217A Hampton Street
Columbia, South Carolina 29201
Phone: 803-920-5909
Fax: 803-254-5681

15. **Governing Law.** This Contract shall be governed, interpreted and construed under the laws of the State of South Carolina.

16. **Assignment.** If either party assigns its rights hereunder, it will nevertheless remain liable for the performance of its obligations hereunder.

17. **Time of the Essence.** Time is of the essence in the performance of the terms and conditions of this Contract.

18. **Risk of Loss.** Seller shall bear all risk of loss until the Closing. In the event that prior to the Closing, the improvements are damaged by fire or other casualty of any nature whatsoever, Seller shall promptly give Purchaser written notice thereof.

19. **Entire Agreement.** This Contract constitutes the entire agreement between the parties hereto and it is understood and agreed that all undertakings, negotiations, representations, promises, inducements and agreements heretofore had between these parties are merged herein. This Contract may not be changed orally but only by an agreement in writing signed by both the Purchaser and the Seller. No waiver of any of the provisions to this Contract shall be valid unless in writing and signed by the party against whom it is sought to be enforced. The provisions of this Contract shall inure to the benefit of and shall be binding upon the parties hereto and their respective heirs, successors and assigns.

20. **Dates for Performance.** If the Closing Date or any other date described in this Contract by which one party hereto must give notice to the other party hereto or must fulfill an obligation is a Saturday, Sunday or a day observed by the Federal government or by the State of South Carolina government as a legal holiday, then such Closing Date or such other date shall be automatically extended to the next succeeding day which is not a Saturday, Sunday or legal holiday.

IN WITNESS WHEREOF, the parties hereto have executed this Contract on the dates set forth below.

IN THE PRESENCE OF:

CITY OF COLUMBIA, SOUTH CAROLINA

Valerie R. Smith
[Signature]

By: [Signature]
City Manager

Date signed by Seller: 10/20, 2007

CAPITOL PLACES VII, LLC

By: _____
Thomas J. Prioreshi, Member

Date signed by Purchaser: _____, 2007

IN WITNESS WHEREOF, the parties hereto have executed this Contract on the dates set forth below.

IN THE PRESENCE OF:

CITY OF COLUMBIA, SOUTH CAROLINA

Valerie R. Smith
[Signature]

By: [Signature]
City Manager

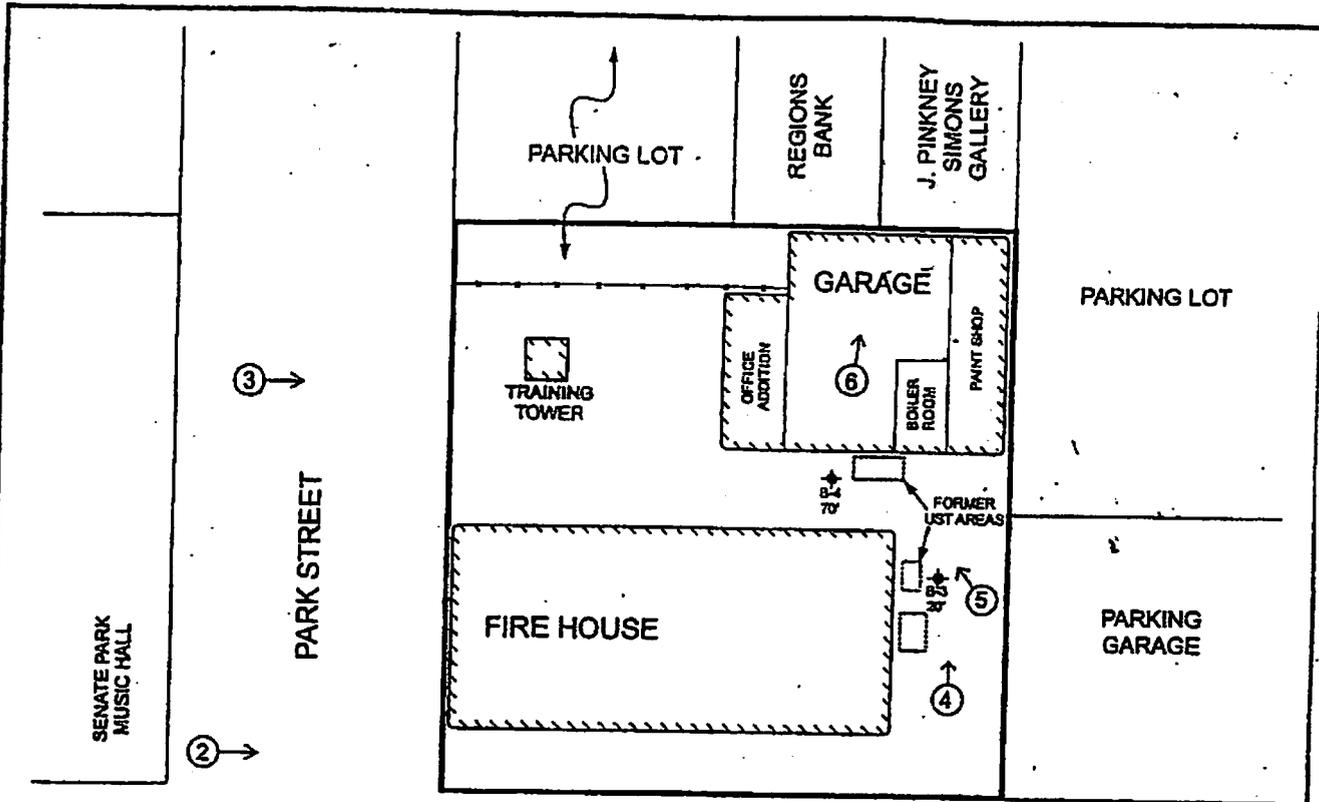
Date signed by Seller: _____, 2007

[Signature]
[Signature]

CAPITOL PLACES VII, LLC
By: [Signature]
Thomas J. Pioreschi, Member

Date signed by Purchaser: JULY 17, 2007, 2007

EXHIBIT "A"
LEGAL DESCRIPTION



3 →
 2 →

SENATE STREET

1 →

PARKING LOT

PARKING LOT

B&CB
 FLEET
 MAINT-
 ENANCE



EXPLANATION

- ① → PHOTOGRAPH ORIENTATION AND FIELD OF VIEW
- S → SOIL BORING LOCATION



7430 PARLANE ROAD, SUITE 112, COLUMBIA, SOUTH CAROLINA 29223

SITE MAP

FORMER CITY OF COLUMBIA FIRE STATION
 SENATE STREET
 COLUMBIA, SOUTH CAROLINA

PROJECT NO. 0208 - 378	FIGURE NO. 2
DRAWN BY MRM	CHECKED BY TB
SCALE 1 inch = 60 ft.	DATE 10/17/2002