

Derrick Mostella
Mayor



P.O. Box 70
211 8th Street
Ashville, AL 35953

Chrystal St. John
City Clerk

Phone 205-594-4151
Fax 205-594-4292

County Seat of St. Clair County

ORDINANCE 2023-003

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASHVILLE,
ALABAMA AS FOLLOWS:**

Section 1. It is hereby established and declared that the following described real property (the "Property") of the City of Ashville, Alabama, is no longer needed for public or municipal purposes, to-wit:

The Property: 0.90 acres of real property, more or less, located in Ashville, Alabama on US Highway 11 that is more particularly described as Tract 2 in Exhibit "A" attached hereto.

Section 2. That the Mayor and City Clerk be and they are hereby authorized and directed to execute and attest respectively, for and on behalf of the City of Ashville, Alabama, the Real Estate Sale Contract (the "Purchase Agreement") related to the above referenced subject matter and to execute thereafter any and all deeds and / or any and all other document(s) necessary to effectuate the transfers described above or in the Purchase Agreement; said transfer shall be made to the Daryl Bearden for the consideration of Two Thousand and no/100 Dollars (\$2,500.00) which is expressly considered as adequate consideration for the Property.

ADOPTED and APPROVED this the 19th day of January 2023

CITY OF ASHVILLE, ALABAMA

Derrick Mostella,
Mayor

ATTEST:

City Clerk

Council Members

Robin L. Bowlin - Edward Roscoe Lane - Sue Price - Shirley Smith - R. Denise Williams

REAL ESTATE SALES CONTRACT

On this 22 day of May 2023, in the year 2023, the City of Ashville, Alabama ("Seller") hereby agrees to sell, and Daryl Bearden, his successors and assigns ("Purchaser") hereby agrees to purchase approx. 0.90 acres of real estate located Ashville, Alabama, and more particularly described as Tract 2 in Exhibit "A" of this Contract:

- 1. The Purchase Price shall be: \$2,500.00
 payable as follows:
 Earnest Money, receipt of which is hereby acknowledge \$
 Cash on closing this sale: \$2,500.00

2 N/A

3 INSPECTIONS: Purchaser, or Purchaser's representative, shall have the right, with 24 hour notice and permission granted by Seller, to enter the Property for the purpose of inspecting same, and/or making boundary line and topographical surveys of the same, and/or making soil tests thereon, and/or in general observing and investigating the condition of the Property. Seller makes no representations as to the condition of the Property or the suitability of the same for Purchaser. Purchaser agrees to indemnify Seller and Agencies from and against any liability associated with Purchaser's rights under this paragraph.

4 N/A

5 CONVEYANCE: Seller agrees to convey the Property to Purchaser by a general warranty deed, free of all encumbrances except as here in set forth, and Seller agrees that any encumbrances not herein excepted or assumed will be cleared at the time of closing. The Property is sold AS-IS WHERE-IS and without warranty of any type, express or implied and is to be conveyed subject to: (i) mineral and mining rights not owned by Seller; (ii) existing leases and tenant escrow deposit that are to be transferred to Purchaser, subject to any present management and/or rental commission Contract thereon; (iii) present zoning classification; (iv) is X is not located in a flood plain; and (v) unless otherwise agreed herein, subject to utility easements serving the Property, subdivision covenants and restrictions, building lines of record and all other encumbrances of record.

6 TITLE CERTIFICATE:

- A. Purchaser shall be responsible obtaining and purchasing a title policy if they so desire.
- B. If Purchaser finds any of the matters disclosed in the title commitment to be objectionable, it shall notify Seller in writing of such objection within seven (7) days after receipt of the title commitment. Within seven (7) days following receipt of Purchaser's written notice, Seller shall cause the same to be cured. If the defects are not timely cured to Purchaser's satisfaction, Purchaser may waive such defects and proceed to close, or Purchaser may cancel this Contract by written notice to Seller and each of the parties shall be released from further liability to the other under this Contract.
- C. The cost of providing the title commitment (a.k.a the search fee), if any, shall be by Purchaser and the cost of providing the owner's title insurance shall be paid by the Purchaser. In the event there is also a lender's title insurance policy in addition to an owner's title insurance policy then the cost of the additional policies shall be paid by Purchaser. The cost to provide any special endorsements required by the Purchaser and/or the Purchaser's lender shall be by Purchaser.

Seller's initials DM
Purchaser's initials DB

D. Permissible exceptions with respect to the title insurance commitment shall be:

- (i) Any restrictive covenants, rights of way, utility or similar easements, reservations and restrictions of record, which in Purchaser's sole judgment, do not interfere with Purchaser's proposed development of the Property; closing of the transaction shall serve as evidence that all exceptions in the title commitment were, in fact, permissible to Purchaser.
- (ii) Current ad valorem taxes and assessments which are a lien on the Property; and
- (iii) Mineral and mining rights not owned by Seller.

7. SURVEY:

A. Seller shall furnish to Purchaser a copy of any existing survey of the Property that Seller may have in its possession, if any, at closing.

B. In the event a new survey is required by the Purchaser and/or Purchaser's lender then the cost of the new survey shall be paid by Purchaser and the new survey (i) shall be prepared in accordance with Alabama Minimum Technical Standards and (ii) must be in a form acceptable to the title insurance company so that the title insurance company may delete the survey exception from the title insurance policy. The survey shall show all set back lines, the location of all utilities, all easements (both visible and those identified in the title commitment or otherwise known to exist), all rights-of-ways and encroachments on the Property and the location of all improvements constructed on the Property. The survey shall also show the total number of square feet contained within the boundary of the Property.

8. HAZARDOUS SUBSTANCES:

A. If requested by Purchaser, Seller shall supply Purchaser a copy of all existing environmental site assessment reports for the Property that Seller may have in its possession, if any, (including but not limited to Phase I, Phase II, asbestos tests, lead paint tests, etc.) within five (5) days from the date of this Contract.

B. In the event a new "Phase I" environmental site assessment is required by the Purchaser and/or Purchaser's lender then the cost of the new "Phase I" environmental site assessment shall be paid by Purchaser. In the event that the existing environmental site assessment and/or the new environmental site assessment determines that there exist or may exist any environmental conditions that, in Purchaser's sole discretion, may result in Purchaser either not being able to use the Property as it so desires or that may result in additional cost and expense to Purchaser to remediate the environmental conditions then Purchaser may cancel this Contract and the Earnest Money will be returned to Purchaser once the Phase I environmental site assessment is delivered to the Seller and items requiring addressing are identified. This provision shall apply both before and after the expiration of the Inspection Period.

9. PRORATIONS: Purchaser shall be responsible for Ad valorem taxes going forward after the sale but in no case any arrears taxes if any.

10. CLOSING AND POSSESSION DATES: The sale of the Property shall be closed, and the deed delivered on or before 30 days following the execution of this agreement, except Seller shall have a reasonable length of time within which to perfect title or cure defects in the title to the Property.

11. DISCLAIMER: Not Applicable

12. SELLER WARRANTIES: Unless excepted or expressed herein, Seller has not received notice from any lawful authority regarding any assessments, pending public improvements, or repairs, replacement or alterations to the Property that have not been satisfactorily made. Seller warrants that there is no unpaid indebtedness on the Property except as described in the Contract. Seller warrants it is the fee owner of the Property or is authorized to execute this document for the fee owner. THESE WARRANTIES SHALL SURVIVE THE DELIVERY OF THE DEED OR DEEDS.

13. RISK OF LOSS: Not Applicable

Seller's initials DM
Purchaser's initials DJ

- 14. INSPECTION PERIOD: Purchaser shall have a period of thirty (30) days from the date of this Contract during which period Purchaser may, at its expense, enter and inspect the Property, undertake a title search (including any outstanding leases of the Property), perform soil testing, engineering and site planning, develop feasibility and financing studies, verify zoning and utility availability, and undertake such other matters as Purchaser deems necessary (the "Inspection Period"). During the Inspection Period, if Purchaser, for any reason, determines the Property is not satisfactory for its intended use, Purchaser shall have the right to cancel this Contract by written notice to Seller. Upon such cancellation Purchaser and Seller shall have no further obligation to one another under this Contract. Purchaser shall be liable for any and all actions of Purchaser, its agents, employees or independent contractors while on the Property and agrees to indemnify and hold Seller harmless for any damages resulting from such activities on Property.
- 15. Seller shall, within five (5) days from execution of this Contract, turn over all plans, contracts, leases, and any other documents, or tests pertaining to the Property that the Seller has in its possession.
- 16. N/A
- 17. ADDITIONAL PROVISIONS: N/A
- 18. In this Contract, TIME IS OF THE ESSENCE.
- 19. LEGAL EXPENSES: Seller and Purchaser shall be responsible for its own legal fees related to the real estate closing.
- 20. ENTIRE CONTRACT: THIS CONTRACT CONSTITUTES THE ENTIRE CONTRACT BETWEEN PURCHASER AND SELLER REGARDING THE PROPERTY, AND SUPERSEDES ALL PRIOR DISCUSSIONS, NEGOTIATIONS, AND CONTRACTS BETWEEN PURCHASER AND SELLER, WHETHER ORAL OR WRITTEN. NEITHER PURCHASER, SELLER, NOR AGENT, NOR ANY SALES AGENT SHALL BE BOUND BY ANY UNDERSTANDING, CONTRACT, PROMISE OR REPRESENTATION CONCERNING THE PROPERTY, EXPRESSED OR IMPLIED, NOT SPECIFIED HEREIN.

THIS IS INTENDED TO BE A LEGALLY BINDING CONTRACT. IF YOU DO NOT UNDERSTAND THE LEGAL EFFECT OF ANY PART OF THIS CONTRACT, SEEK LEGAL ADVICE BEFORE SIGNING.

The date of this Contract shall be the date this Contract is fully executed by all parties.

SELLER: City of Ashville, Alabama

By: *[Signature]*

Its: Mayor

Date: May 22 2023

Chrystal St. John

Witness

PURCHASER: Daryl Bearden

By: *[Signature]*

Its: _____

Date: 5-22-23

Witness

Seller's initials DM

Purchaser's initials DB



EXHIBIT A

Survey and Description of the Property

Seller' s initials DM
Purchaser' s initials DB

LEGEND

⊙	TREE
⊙	NAIL
△	CALCULATED POINT, NO P.N. SET OR FOUND
□	CONCRETE MONUMENT
□	CONCRETE MONUMENT WITH DISC
⊙	EXISTING IRON P.N.
⊙	FORTY CORNER
X	RAILROAD SPIKE
●	CAPPED 1/2" REBAR (L.S. 621116)
●	CAPPED 1/2" REBAR (C.A. 497-L5)
⊙	RAILROAD TRACKS
--- ---	LINE NOT TO SCALE
X-X	FENCE LINE
---	CENTERLINE
○-○	POWER POLE
○-○	OVERHEAD ELECTRIC LINE
---	REVISIONS

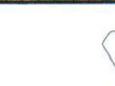
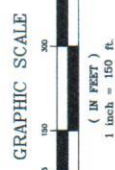


**CITY OF ASHVILLE
ST. CLAIR COUNTY, ALABAMA**

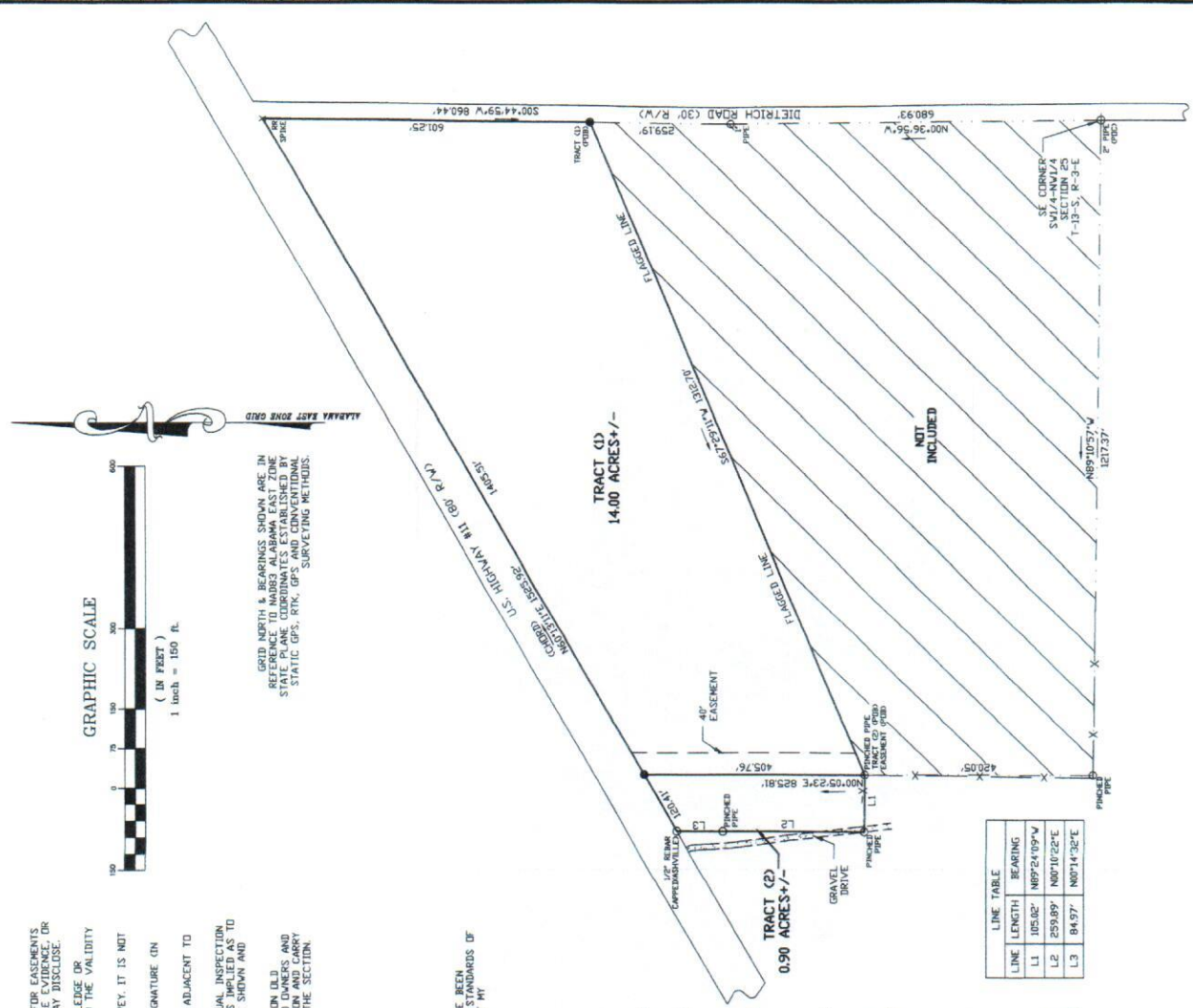
JOB INFORMATION

DRAWN BY:	L.W.
CHECKED BY:	L.W.
FIELD NOTES:	202204 PG. 43
SURVEY #:	S22-414
SURVEY DATE:	S.T.R. 25-13-3

LAND SURVEYING, INC.
P.O. BOX 2726
5430 OLD HIGHWAY #278E
HOKES BLUFF, AL 35903
PHONE: (256) 492-7940
FAX: (256) 492-8417
EMAIL: LARRY.L.WLS@GMAIL.COM



GRID NORTH & BEARINGS SHOWN ARE IN REFERENCE TO MA683 ALABAMA EAST ZONE STATE PLANE COORDINATES ESTABLISHED BY THE U.S. NATIONAL BUREAU OF SURVEYING METHODS.



- SURVEYOR'S NOTES:**
- (1) SURVEYOR HAS MADE NO INVESTIGATION OR INDEPENDENT SEARCH FOR EASEMENTS OF RECORD, ENCUMBRANCES, RESTRICTIVE COVENANTS, OWNERSHIP TITLE EVIDENCE, OR ANY OTHER FACTS WHICH AN ACCURATE AND CURRENT TITLE SEARCH MAY DISCLOSE.
 - (2) SINCE THE DATE OF THIS SURVEY, CONDITIONS BEYOND THE KNOWLEDGE OR CONTROL OF LARRY WALKER LAND SURVEYING, INC. MAY HAVE ALTERED THE VALIDITY AND CIRCUMSTANCES SHOWN OR NOTED HEREIN.
 - (3) DECLARATION IS MADE TO THE ORIGINAL PURCHASER OF THIS SURVEY, IT IS NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS OR SUBSEQUENT OWNERS.
 - (4) SURVEY IS VALID ONLY IF PRINT HAS THE ORIGINAL SEAL AND SIGNATURE (IN RED INK) OF THE SURVEYOR PRESENT.
 - (5) ALL BUILDINGS, SURFACE AND SUBSURFACE IMPROVEMENTS ON AND ADJACENT TO THE SITE ARE NOT NECESSARILY SHOWN.
 - (6) ONLY ACTS OF POSSESSION, IF ANY, THAT ARE VISIBLE FROM CASUAL INSPECTION OF THE PROPERTY ARE SHOWN HEREIN. NO WARRANTY OR GUARANTEE IS IMPLIED AS TO THE EXISTENCE OF ACTS OF POSSESSION BY ADJOINERS TO THE LANDS SHOWN AND DESCRIBED HEREIN.
 - (7) THE PROPERTY LINES SHOWN ON THE SURVEY PLAT ARE BASED UPON OLD ESTABLISHED CORNERS AND AGREED CORNERS BETWEEN ADJOINING LAND OWNERS, AND NOT UPON THE LINES OF POSSESSION, WHETHER THE LINES OF POSSESSION ARE SHOWN OR NOT. THERE IS NO WARRANTY THAT THEY ARE THE LINES OF THE ADJUT PARTS OF THE SECTION, DESCRIBED HEREIN.
 - (8) DATE FIELD SURVEY COMPLETED (08/17/22)
 - (9) DATE DRAWING COMPLETED (08/18/22)
 - (10) () RECORDED BEARINGS, ANGLES OR DISTANCES.
 - (11) P.B. POINT OF BEGINNING
 - (12) P.O.C. POINT OF COMMENCEMENT
 - (13) TYPE OF SURVEY: PROPERTY BOUNDARY SURVEY
- I HEREBY STATE THAT ALL PARTS OF THIS SURVEY AND DRAWING HAVE BEEN COMPLETED IN ACCORDANCE WITH THE CURRENT REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR SURVEYING IN THE STATE OF ALABAMA TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

LEGAL DESCRIPTION

STATE OF ALABAMA
COUNTY OF ST. CLAIR

TRACT (1) COMMENCE AT A 2" PIPE ON THE WESTERLY R/W OF DIETRICH ROAD (30' R/W) ALSO MARKING THE SE CORNER OF THE SV1/4-NW1/4 IN SECTION 25, T-13-S, R-3-E, THENCE ALONG SAID BEARINGS AND DISTANCES, THENCE N07°36'55"W 680.93' TO A 1" PIPE, THENCE N07°44'59"E 259.19' TO A 1/2" REBAR CAPPELLICA-497-L5, THENCE N07°44'59"E 259.19' TO A 1/2" REBAR CAPPELLICA-497-L5, THENCE S01°37'41"W 1302.70' TO A PINCHED PIPE, THENCE N07°05'23"E 405.76' TO A 1/2" REBAR CAPPELLICA-497-L5 ON THE SOUTHEASTELY R/W OF U.S. HIGHWAY 811 (30' R/W), THENCE S42°57'08"E 326.41' TO THE INTERSECTION OF THE SOUTHEASTELY R/W OF U.S. HIGHWAY 811 (30' R/W) AND THE WESTERLY R/W OF U.S. HIGHWAY 11 (60' R/W), THENCE S60°25'29"W 405.76' TO THE POINT OF BEGINNING, CONTAINING 14.00 ACRES MORE OR LESS.

TRACT (2) COMMENCE AT A 2" PIPE ON THE WESTERLY R/W OF DIETRICH ROAD (30' R/W) ALSO MARKING THE SE CORNER OF THE SV1/4-NW1/4 IN SECTION 25, T-13-S, R-3-E, THENCE ALONG SAID BEARINGS AND DISTANCES, THENCE N07°36'55"W 680.93' TO A 1" PIPE, THENCE N07°44'59"E 259.19' TO A 1/2" REBAR CAPPELLICA-497-L5, THENCE N07°44'59"E 259.19' TO A 1/2" REBAR CAPPELLICA-497-L5, THENCE S01°37'41"W 1302.70' TO A PINCHED PIPE, THENCE N07°05'23"E 405.76' TO A 1/2" REBAR CAPPELLICA-497-L5 ON THE SOUTHEASTELY R/W OF U.S. HIGHWAY 811 (30' R/W), THENCE S42°57'08"E 326.41' TO THE INTERSECTION OF THE SOUTHEASTELY R/W OF U.S. HIGHWAY 811 (30' R/W) AND THE WESTERLY R/W OF U.S. HIGHWAY 11 (60' R/W), THENCE S60°25'29"W 405.76' TO THE POINT OF BEGINNING, CONTAINING 0.90 ACRES MORE OR LESS.

ALSO A 40' EASEMENT DESCRIBED AS FOLLOWS:
COMMENCE AT A 2" PIPE ON THE WESTERLY R/W OF DIETRICH ROAD (30' R/W) ALSO MARKING THE SE CORNER OF THE SV1/4-NW1/4 IN SECTION 25, T-13-S, R-3-E, THENCE ALONG SAID BEARINGS AND DISTANCES, THENCE N07°36'55"W 680.93' TO A 1" PIPE, THENCE N07°44'59"E 259.19' TO A 1/2" REBAR CAPPELLICA-497-L5, THENCE N07°44'59"E 259.19' TO A 1/2" REBAR CAPPELLICA-497-L5, THENCE S01°37'41"W 1302.70' TO A PINCHED PIPE, SAID POINT BEING THE POINT OF BEGINNING OF SAID EASEMENT, BEING 40.00' EAST OF THE FOLLOWING DESCRIBED LING, THENCE S01°37'41"W 1302.70' TO A REBAR CAPPELLICA-497-L5 ON THE SOUTHEASTELY R/W OF U.S. HIGHWAY 811 (30' R/W) AND THE END OF SAID EASEMENT.

LINE	LENGTH	BEARING
L1	105.02'	N89°24'09"W
L2	259.89'	N07°10'22"E
L3	84.97'	N07°14'32"E