

PURCHASE AGREEMENT

This Purchase Agreement entered into on the ____ day of _____, 2020 ("Effective Date") is between the City of Bay Minette, Alabama, an Alabama municipal corporation ("Seller") and Baldwin County, Alabama, a political subdivision of the State of Alabama ("Buyer").

1. **Property.** Buyer will buy and Seller will sell, subject to the terms and conditions hereinafter set forth, those parcels of real property and all improvements located thereon, owned by Seller identified by the Baldwin County Revenue Commissioner as Parcel Number 23-02-09-4-401-003.000, also identified by PPIN 10950 and Parcel Number 23-02-09-4-401-001.001, also identified by PPIN 209807. The foregoing parcels are herein after referred to collectively as the "Property". The Property is more particularly depicted on Exhibit "A" which is attached hereto and is hereby made a part hereof. It is acknowledged by the parties hereto that an accurate legal description of the Property is not available at this time. The legal description of the Property shall be provided at a later date as determined by a survey.

2. **Purchase Price.** The total purchase price ("Purchase Price") for the property shall be Eight Hundred Ninety-Five Thousand and No/100 Dollars (\$895,000.00). The Purchase Price shall be payable in cash at closing.

3. **Conditions.** Consummation of the purchase of the Property shall further be subject to the satisfaction of Buyer and Seller, in the sole discretion of each, of all of the following conditions:

A. That Seller will be able to convey title to the Property to Buyer in fee simple, good and marketable of record and in fact, free and clear of any and all liens, conditional sales agreements, covenants, conditions, mortgages, security interests, leases, restrictions, easements, options, claims, unrecorded easements, or other encumbrances or title exceptions of any kind, subject only to exceptions approved by Buyer in writing, which conveyance shall be by statutory warranty deed in proper form for recording. Provided, however, in connection with that portion of the Property known as Lots 1-6 of Block 25 of the Hand Land Company's Addition to the Town of Bay Minette, the last known deed identifies the Public Building Authority of the City of Bay Minette, Alabama ("Building Authority") as the "Grantee". Title to Lots 1-6 was previously vested in the name of the Building Authority as a result of previously outstanding bond indebtedness which was refunded, in full, in 2013. It is the understanding of the parties that certain curative steps may be required in order to close the transaction provided for herein, satisfaction of which is a condition to closing. Seller, at its sole cost, agrees to take all such curative steps reasonably required by the Title Commitment in order to convey title to the Property, including Lots 1-6, to Buyer.

B. That the Buyer shall within five (5) business days of the Effective Date, order a commitment for title insurance ("Title Commitment") from Alabama Land Title Co. ("Title Company"). The Title Company shall serve as the closing agent for this transaction. Buyer shall review the Title Commitment within fifteen (15) days of Buyer's receipt of it and communicate to Seller in writing within such time period any encumbrances, easements or other title exceptions to which Buyer objects. Any encumbrances, easements, or other title exceptions existing as of the date of such Title Commitment to which Buyer does not so object during said fifteen (15) days period shall be deemed accepted by Buyer, but such acceptance shall not extend to such exceptions arising subsequent to the date of the Title Commitment. Should an examination of the title reflect defects which, in the opinion

of Buyer, can be reasonably cured, then Seller shall have fifteen (15) days from receipt of written notice thereof from Buyer within which the fifteen (15) day period granted to Seller for the curing of same. In the event Seller is unable to cure any such title defect with said fifteen (15) day period, Buyer, at its election, shall have the right to either (i) waive the defect(s) and proceed to closing; or (ii) terminate this Agreement.

C. That the Buyer, at its sole expense, shall be able to obtain a current survey of the Property prepared by a surveyor licensed or registered in the State of Alabama.

D. Buyer shall have the option, at its sole expense, of obtaining a current Phase I Environmental report as to the Property. If such report reveals the presence of any Hazardous Substances (as defined below) on the Property, then Seller shall have the option of causing such substances to be removed at its sole expense. In the event Seller elects not to remove the Hazardous Substances then Buyer shall have the option, in its sole discretion to terminate this Agreement or waive this requirement and proceed to closing.

E. That Buyer and Seller will negotiate the terms and conditions of a post-closing lease of a portion of the Property (essentially, that area currently occupied by the Bay Minette Police Department). The lease will be in form as mutually agreed upon by the parties, each in its sole and absolute discretion. The parties agree that the term of the lease will be for a minimum period of four (4) years and will contain a minimum of one (1) renewal option term for a period of at least one (1) year, to be exercised by Seller, in its sole discretion.

F. That the Buyer and Seller will negotiate a license agreement that will allow the Seller to access, maintain and use the radio tower currently located on the Property. The license will be in form as mutually agreed upon by the parties, each in its sole and absolute discretion.

4. **Seller's Representations, Warranties and Agreements.** Seller hereby represents and warrants to Buyer as follows:

A. Subject to the matters set forth in Section 3(A), above, that Seller is the sole owner of the Property, and it is owned in fee simple, subject to only such matters as are disclosed on the commitment for title insurance.

B. That the Property is not the subject of any outstanding agreement with any party pursuant to which any such party may acquire an interest in the Property.

C. That Seller has received no notice of taking or condemnation, actual or proposed, with respect to the Property.

D. That between the date hereof and the closing date Seller shall not sell, transfer, convey, or pledge the Property, or any part thereof, or take any other action, or permit any action to be taken by any other person, that might affect title to the Property or otherwise impair the value of the Property to Buyer.

E. That Seller has requisite power and authority to execute and deliver this Agreement and carry out its obligations hereunder and the transactions contemplated hereby. The Agreement has been, and the documents contemplated hereby will be, duly executed and delivered by

Seller and will constitute Seller's legal, valid, and binding obligation. The consummation by Seller of the sale of the Property is not nor will it be in violation of or conflict with, nor does it constitute a default under, any terms or provisions of any agreement or instrument to which Seller is a party, or by which Seller is bound, or of any provisions of applicable law, ordinance, rule, or regulation of any governmental authority or of any provision of any applicable order, judgment, or decree of any court, arbitrator, or governmental authority.

F. That no default or breach exists under any documents, covenant, condition, restriction, right-of-way, or easement affecting the Property or any appurtenance thereto.

G. That there is no litigation or proceeding pending or threatened against Seller which relates to the Property.

H. During the period of time that the Seller has owned the Property, it has been exempt from all general real estate and ad valorem taxes.

I. Seller hereby expressly represents, warrants and covenants that to the actual knowledge of Seller no person has used or permitted any Hazardous Substances (as herein defined) to be placed, held, stored or disposed of on the Property, or any portion thereof, in violation of any Environmental Laws (as defined herein). The term "Hazardous Substances" shall mean asbestos, petroleum products and by-products, any other hazardous or toxic building material, and any hazardous, toxic, or dangerous waste, substances or material defined as such in or for the purposes of the Environmental Laws. The term "Environmental Laws" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 et. seq.), any so-called "Super-fund" or "Super-lien" law or any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards or conduct concerning, any hazardous, toxic, or dangerous waste, substance or material or underground storage tanks, now in effect. In this regard, Seller will deliver to Buyer of such Property copies of all environmental reports and data dealing with the Property which are in the possession of Seller.

All of the foregoing representations and warranties shall be deemed to be true, to the best of Seller's knowledge, as of the date hereof and shall be true on the closing date. In the event that any of the foregoing representations or warranties should not be true during the period commencing on the date hereof and ending on the closing date, Seller agrees to perform such actions as may be necessary to cure such defects prior to the closing date.

5. **Buyer's Representations, Warranties and Agreements.** Buyer hereby represents and warrants to Buyer as follows:

A. That Buyer has requisite power and authority to execute and deliver this Agreement and carry out its obligations hereunder and the transactions contemplated hereby. The Agreement has been, and the documents contemplated hereby will be, duly executed and delivered by Buyer and will constitute Buyer's legal, valid, and binding obligation. The consummation by Buyer of the sale of the Property is not nor will it be in violation of or conflict with, nor does it constitute a default under, any terms or provisions of any agreement or instrument to which Buyer is a party, or by which Buyer is bound, or of any provisions of applicable law, ordinance, rule, or regulation of any governmental authority or of any provision of any applicable order, judgment, or decree of any court, arbitrator, or governmental authority.

B. Buyer is acquiring the Property in its “AS IS”, “WHERE IS”, “WITH ALL FAULTS” condition without any representation or warranty of Seller, express, implied or statutory, as to the nature or condition of or title to the Property or its fitness for Buyer's intended use of same. Buyer is familiar with the Property. Buyer is relying solely upon its own, independent inspection, investigation and analysis of the Property as it deems necessary or appropriate in so acquiring the Property from Seller, including, without limitation, an analysis of any and all matters concerning the condition of the Property and its suitability for Buyer's intended purposes, and a review of all applicable laws, ordinances, rules and governmental regulations (including, but not limited to, those relative to building, zoning and land use) affecting the development, use, occupancy or enjoyment of the Property.

6. **Closing Costs.** Seller shall be responsible for preparation of the deed. All remaining closing costs shall be divided equally between Buyer and Seller. Each party will be responsible for such party's attorney fees.

7. **Closing.** Closing shall take place at a mutually agreeable time and location within seven (7) days after Buyer and Seller are ready to close, but in no event later than sixty (60) days from the Effective Date. Time shall be of the essence.

8. **Risk of Loss and Possession.** Risk of loss and possession shall shift from Seller to Buyer at closing.

9. **Real Estate Agents.** Buyer and Seller represent that neither has consulted or engaged any broker who may be entitled to a commission, finder's fee, etc. as a result of this transaction.

10. **Condemnation.** If, prior to the closing date, there arises a threat of condemnation or an actual condemnation as to any portion of the Property, Buyer shall have the right to elect (i) to decline to purchase the Property, in which event Buyer shall have no further responsibility to Seller, or (ii) to purchase the Property by paying the full purchase price and reserving the right to receive any condemnation award, or (iii) to purchase the Property by reducing the purchase price in the amount of the condemnation award and to allow Seller to receive any such condemnation award.

11. **Inspection of Property.** Seller hereby grants to Buyer and its agents and representatives a license to enter onto the Property at all times during the term of this Agreement and to perform such examinations of the Property and to make such surveys, soil borings, and other tests as Buyer deems necessary to determine the condition of the Property, provided said tests shall not be so exercised as to damage the Property materially. To the maximum extent permitted under Alabama law, Buyer hereby indemnifies, protects, defends and holds Seller and the Property free and harmless from and against any and all costs, losses, liabilities, damages, lawsuits, judgments, actions, proceedings, penalties, demands, attorneys' fees, mechanic's liens, or expenses of any kind or nature whatsoever, arising out of or resulting from (i) any entry and/or activities upon the Property by Buyer, Buyer's agents, contractors and/or subcontractors, and/or the contractors and subcontractors of such agents, or (ii) from the enforcement of this agreement of indemnity or the assertion by Buyer of any defense to its obligations hereunder; provided that in no event shall Buyer have to indemnify Seller for Buyer's mere discovery of any pre-existing adverse condition at the Property.

12. **Survival of Covenants.** Any of the representations, warranties, covenants and agreements of the parties, as well as any rights and benefits of the parties pertaining to a period of time following the closing of the transaction contemplated hereby, shall survive the closing and shall not be merged therein.

13. **Notices.** Any notice required or permitted to be delivered hereunder shall be deemed received when sent by United States mail, postage prepaid, certified mail, return receipt requested, addressed to Seller or Buyer, as the case may be, at the following addresses:

Notice to Seller

City of Bay Minette
301 D'Olive Street
Bay Minette, Alabama 36507
Attn: Tammy Smith

Notice to Buyer

Baldwin County
312 Courthouse Square
Bay Minette, Alabama 36507
Attn: Wayne Dyess

14. **Applicable Law.** This Agreement shall be construed under and in accordance with the laws of the State of Alabama. All obligations of the parties created hereunder are performable in Baldwin County, Alabama.

15. **Severability.** In case any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

16. **Miscellaneous.** This Purchase Agreement contains the entire understanding between the parties, and supersedes any prior or contemporaneous oral or written agreements or representations. No amendment to this Purchase Agreement shall be binding unless same is in writing and signed by both parties. The captions or paragraph headings are for convenient reference only and shall not be used in the interpretation of this Agreement. Faxed copies or photocopies of signed documents shall have the same force and effect as originals.

[Signature Page to Follow]

IN WITNESS WHEREOF, Seller and Buyer have executed this Agreement on the date or dates set forth opposite the signatures of each party, respectively.

CITY OF BAY MINETTE, ALABAMA
a municipal corporation

Date: _____

By: _____
ROBERT A. WILLS
Its: Mayor

ATTEST:

Rita Diedtrich
City Clerk

BALDWIN COUNTY, ALABAMA
a political subdivision

Date: _____

By: _____
BILLIE JO UNDERWOOD
Its: Chairman

ATTEST:

Wayne Dyess
County Administrator

STATE OF ALABAMA

COUNTY OF BALDWIN

I, _____, a Notary Public, in and for said County in said State, hereby certify that ROBERT A. WILLS whose name as Mayor of the City of Bay Minette, Alabama, and Rita Diedtrich, whose name as City Clerk of the City of Bay Minette, Alabama, are signed to the foregoing instrument and who are known to me, personally appeared and acknowledged before me on this day that, being informed of its contents, as such officers and with full authority, executed the same voluntarily for and as the act of the City of Bay Minette, Alabama, for the purposes set forth therein on the date below.

Given under my hand and seal this _____ day of _____, 2020.

Notary Public

My Commission Expires: _____

STATE OF ALABAMA

COUNTY OF BALDWIN

I, _____, a Notary Public, in and for said County in said State, hereby certify that BILLIE JO UNDERWOOD whose name as Chairman of the Baldwin County Commission, and Wayne Dyess, whose name as County Administrator of the Baldwin County Commission, are signed to the foregoing instrument and who are known to me, personally appeared and acknowledged before me on this day that, being informed of its contents, as such officers and with full authority, executed the same voluntarily for and as the act of the Baldwin County Commission for the purposes set forth therein on the date below.

Given under my hand and seal this _____ day of _____, 2020.

Notary Public

My Commission Expires: _____