

This AGREEMENT OF SALE between the CITY OF PELHAM, a municipal corporation under the laws of the State of Alabama (herein called the "City") and PELMAR, LTD., a limited partnership under the laws of the State of Alabama (herein called the "Company")



19810508000051260 1/5 \$.00
Shelby Cnty Judge of Probate, AL
05/08/1981 12:00:00 AM FILED/CERT

R E C I T A L S

The City is the owner of the following land situated wholly within its corporate limits, together with the commercial facility for the sale of hardware, building materials and building supplies at wholesale and retail that is now situated thereon and certain items of equipment and personal property owned by the City which are used in connection with the operations being conducted in said commercial facility (the said land, the said commercial facility, and the said equipment and personal property being herein together called the "Project"):

PARCEL I

A parcel of land located in the Northeast 1/4 of the Southeast 1/4 of Section 14, Township 20 South, Range 3 West, Shelby County, Alabama, more particularly described as follows: Commence at the Northeast corner of the Southeast 1/4 of the Northeast 1/4 of said Section 14; thence in a Southerly direction, along the East line of said 1/4 - 1/4 Section, a distance of 794.94 feet to a point on the centerline of Shelby County Highway No. 283; thence 13 deg. 12 min. right, in a Southwesterly direction along said centerline, a distance of 688.83 feet; thence 85 deg. 05 min. right, in a Northwesterly direction, a distance of 30.11 feet to the point of beginning; said point also being located on the Northwest right-of-way line of said Shelby County Highway No. 283; thence continue along last described course, in a Northwesterly direction, a distance of 356.60 feet; thence 90 deg. 17 min. 51 sec. left, in a Southwesterly direction, a distance of 57.64 feet; thence 90 deg. 17 min. 45 sec. right, in a Northwesterly direction, a distance of 263.18 feet; thence 75 deg. 45 min. 24 sec. left, in a Southwesterly direction, a distance of 248.90 feet; thence 104 deg. 14 min. 30 sec. left, in a Southeasterly direction, a distance of 655.0 feet to a point on the Northwesterly right-of-way line of said Shelby County Highway No. 283; thence 85 deg. 05 min. left, in a Northeasterly direction along said Right-of-way line, a distance of 300.00 feet to the point of beginning, containing 3.98 acres.

This instrument was prepared by
WYATT R. HASKELL
1710 First National - Southern National Bldg.
BIRMINGHAM, ALABAMA

Executed in 5 Counterparts of
Which This is Counterpart #1

PARCEL II

A parcel of land located in the Northwest 1/4 of the Southeast 1/4 and the Southwest 1/4 of the Northeast 1/4 of Section 14, Township 20 South, Range 3 West, Shelby County, Alabama, more particularly described as follows: Commence at the Southwest corner of the Northwest 1/4 of the Southeast 1/4 of said Section 14; thence in a Northerly direction, along the West line of said 1/4-1/4 Section, a distance of 461.07 feet to a point on the Southeast Right of Way Line of Parker Drive (extended); thence 41 degrees 28 minutes 50 seconds right, in a Northeasterly direction along said Right of Way Line, a distance of 1027.37 feet to the beginning of a curve to the left, said curve having a radius of 130.62 feet and a central angle of 43 degrees 51 minutes 52 seconds, said point also being on the North Right of Way Line of the New Seaboard Coast Line Railroad Right of Way, said point also being the Point of Beginning; thence along arc of said curve, in a Northeasterly then Northwesterly direction, along said Right of Way Line of Parker Drive, a distance of 100.0 feet to end of said curve; thence 139 degrees 23 minutes 10 seconds right, measured from tangent of said curve, in a Southeasterly direction, a distance of 545.97 feet; thence 84 degrees 28 minutes 42 seconds right, in a Southwesterly direction, a distance of 38.0 feet to a point on the North Right of Way Line of said New Seaboard Coast Line Railroad Right of Way; thence 90 degrees right, in a Northwesterly direction along said Right of Way Line, a distance of 507.0 feet to the Point of Beginning. Said parcel contains 0.75 acre and is subject to easements and rights of way of record.

Simultaneously with the execution and delivery of this Agreement of Sale, the City has, by a Lease Agreement between the City and the Company dated May 7, 1981 (herein called the "Lease"), leased the Project to the Company for a primary lease term ending on May 1, 1996. The Company wishes to purchase the Project from the City at such time as the Company has paid all "Basic Rent" due to the City under the Lease, and performed all of its other agreements under the Lease, and the City is willing to convey the Project to the Company at such time, for the consideration, and otherwise on the terms and conditions hereinafter set forth.

NOW, THEREFORE, THIS AGREEMENT OF SALE

W I T N E S S E T H



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That in consideration of the respective representations and agreements herein contained, the City and the Company do hereby agree as follows:

Section 1. Sale of the Project. In consideration of the payment to the City by the Company of the sum of One Thousand Dollars (\$1,000) at the time of such conveyance, and the payment by the Company of the "Basic Rent" provided for in the Lease, the City will sell and convey the Project to the Company, subject only to "Permitted Encumbrances" (as that term is defined in the Lease), and to such other encumbrances, liens, easements, exceptions or defects in the title of the City to the Project to the creation or suffering of which the Company consented, or those resulting from the failure of the Company to observe and perform any of the agreements on its part contained in the Lease. The City will convey the Project to the Company on the last to occur of the following dates:

(a) the date upon which the Company shall pay the last installment of "Basic Rent" (as that term is therein defined) under the Lease, if the Company shall have then also performed all of its other obligations under the Lease;

(b) the date upon which the Company shall prepay all "Basic Rent" (as that term is therein defined) under the Lease, if the Company shall have then also performed all of its other obligations under the Lease; or

(c) the date upon which the "renewal term" of the Lease which is defined in Section 11.3 of the Lease shall expire, and the Company shall have then also performed all of its other obligations under the Lease.

The City will, on such date or as soon thereafter as shall be practicable, execute and deliver to the Company such deeds, bills of sale or other instruments, and shall do such further acts, all as shall be reasonably required by the Company to effect and to confirm the conveyance of title to the Project to the Company.

Section 2. Title to the Project Vested in City. The City and the Company acknowledge and agree that title to the Project shall, as between the City and the Company, be fully and solely vested in the City until such time as title to the Project shall be conveyed to the Company as provided in Section 1 hereof. The Company expressly waives and releases to the City any claim to the Project, or any part thereof, that it might hold until such time, except such rights in and to the Project that the Company shall hold under the Lease.

Section 3. No Obligation to Convey the Project Unless Obligations Performed. Anything herein to the contrary notwithstanding, the City shall be under no obligation to convey the Project to the Company unless the Company shall perform all of its obligations under the Lease (including, but without limitation, the payment of said "Basic Rent") when due. Should the Company fail to per-

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form any of its obligations under the Lease, the City shall be under no obligation to convey the Project to the Company until such obligation shall have been fully performed; and in the event that the City shall terminate the Lease upon default thereunder by the Company, the obligation of the City to convey the Project to the Company herein contained shall cease and terminate, and thereafter the Company shall have no further rights under this Agreement of Sale.

Section 4. Assignment of Rights of the Company Hereunder. So long as any of the "Bonds" referred to in the Lease remain outstanding and unpaid, the Company may assign its rights hereunder on the same terms and conditions under which the Company may assign its rights under the Lease as provided in Section 9.1 thereof. After the said Bonds have been fully paid and retired, the Company may assign its rights hereunder without the consent of the City or any other person or corporation.

Section 5. Binding Obligation. This Agreement of Sale shall be binding upon, and shall inure to the benefit of, the City and the Company and their respective successors and assigns.

IN WITNESS WHEREOF, the City and the Company have caused this Agreement of Sale to be executed in their respective names and behalf, and the City has caused its official seal to be hereunto affixed and has caused this Agreement of Sale to be attested, all in five (5) counterparts, each of which shall be deemed an original, as of May 7, 1981.

CITY OF PELHAM

By [Signature]
Mayor

[S E A L]

Attest:

[Signature]
City Clerk

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PELMAR, LTD.

By [Signature]
A General Partner

Witness:

[Signature]

STATE OF ALABAMA)
COUNTY OF Jefferson)

I, Doris H. Williford, a Notary Public
in and for said county in said state, hereby certify that
Buck Dunaway, whose name as Mayor
of the CITY OF PELHAM, a municipal corporation under the
laws of Alabama, is signed to the foregoing instrument and
who is known to me, acknowledged before me on this day that,
being informed of the contents of the within instrument, he
as such officer and with full authority, executed the same
voluntarily for and as the act of said municipal corporation.

GIVEN under my hand and official seal of office,
this 7th day of May, 1981.

[NOTARIAL SEAL]

Doris H. Williford
Notary Public
4-9-85

STATE OF ALABAMA)
COUNTY OF Jefferson)

STATE OF ALA. SHELBY CO.
I CERTIFY THIS
INSENT WAS FILED

1981 MAY -8 AM 9:40

Rec. 7.50

Ind. 1.00

8.50

Thomas A. Shoultz, Jr.
JUDGE OF PROBATE

I, Doris H. Williford, a Notary Public
in and for said county in said state, hereby certify that
Alfred S. Cohn, whose name as a general
partner of PELMAR, LTD., a limited partnership organized
under the laws of the State of Alabama, is signed to the
foregoing instrument and who is known to me, acknowledged
before me on this day that, being informed of the contents
of the within instrument, he, as such officer and with full
authority, executed the same voluntarily for and as the act
of said limited partnership.

GIVEN under my hand and official seal of office,
this 7th day of May, 1981.

[NOTARIAL SEAL]

Doris H. Williford
Notary Public
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