

LOTS OR OTHER UNIMPROVED LAND SALES CONTRACT

Form Approved by: Birmingham Association of REALTORS®; Birmingham, Alabama
July 24, 1998 (Previous forms obsolete)



20031031000726580 Pg 1/9 35.00
Shelby Cnty Judge of Probate, AL
10/31/2003 12:15:00 FILED/CERTIFIED

Date: 2-26-02

The undersigned Purchaser(s) Creation Construction, Inc. hereby agrees to purchase and
(Please Print Names)
the undersigned Seller(s) B. Hulsey Company hereby agrees to sell the following
(Please Print Names)

described lot(s) or other unimproved land and appurtenances thereto (the "Property") situated in the County of Shelby, Alabama, on the terms stated below:

Address Lot 7 Wilmington Place Birmingham, AL 35242 and legally described as Lot 7 Sector I
Survey of Wilmington Place Map Book 29 Pages 98

1A. **THE PURCHASE PRICE** Shall be \$ 80,000.00, payable as follows:
Earnest Money, receipt of which is hereby acknowledged by the Agent \$ 1,500.00*
Cash on closing this sale \$ 78,500.00
* Purchaser agrees that \$1,500.00 Reservation Fee which is being held by Seller may be used as earnest money in this transaction.

1B. **CONTINGENCIES RELATING TO PURCHASE:** (State here any contingencies relating to Purchaser's obligation to purchase the Property - e.g., financing, zoning or subdivision approvals, environmental audits, subsurface or soils tests and examinations, or availability of utilities. If "none", so state.) Firmly, Pending + all the above.

2. **EARNEST MONEY & PURCHASER'S DEFAULT:** Seller and Purchaser hereby direct the Seller, B. Hulsey Company, to hold the earnest money in trust until this Contract has been accepted and signed by all parties, at which time the earnest money will be promptly deposited into the escrow account of the Listing Company. In the event Purchaser fails to carry out and perform the terms of this Contract, the earnest money shall be forfeited as liquidated damages at the option of Seller, provided Seller agrees to the cancellation of this Contract. If this Contract does not close and the earnest money is to be turned over to Seller or refunded to Purchaser pursuant to this Contract, Seller and Purchaser agree to execute a written release to the Listing Company affirming the proper disposition of the earnest money. In the event either Purchaser or Seller claims the earnest money without the agreement of the other party, the Listing Broker may interplead the disputed portion of the earnest money into court, and shall be entitled to deduct or recover from the earnest money for court costs, attorney fees and other expenses relating to the interpleader. When the earnest money is a check and the check is returned by a financial institution as unpaid, Seller has the right to void this Contract without further recourse on the part of Purchaser.

3. **TITLE INSURANCE:** Seller agrees to furnish Purchaser a standard form owner's title insurance policy at Seller's expense, issued by a company qualified to insure titles in Alabama, in the amount of the purchase price, insuring Purchaser against loss on account of any defect or encumbrance in the title, subject to exceptions herein, including paragraph 8 below; otherwise, the earnest money shall be refunded. In the event both Owner's and Mortgagee's title policies are obtained at the time of closing, the total expense of procuring the two policies will be divided equally between Seller and Purchaser, even if the Mortgagee is the Seller.

4. **SURVEY:** Purchaser ☒ does ☐ does not require a survey by a registered Alabama land surveyor of Purchaser's choosing. Unless otherwise agreed herein, the survey shall be at Purchaser's expense. (NOTE: Lender may require a survey)
(NOTE: Seller will provide Purchaser with a copy of the recorded plat.)

5. **PRORATIONS:** Ad valorem taxes, as determined on the date of closing, insurance transferred, accrued interest on mortgage(s) assumed, and fire district dues, if any, are to be prorated between Seller and Purchaser as of the date of delivery of the deed, and any existing escrow deposits shall be credited to Seller. **UNLESS OTHERWISE AGREED HEREIN, ALL AD VALOREM TAXES EXCEPT MUNICIPAL ARE PRESUMED TO BE PAID IN ARREARS FOR PURPOSE OF PRORATION; MUNICIPAL TAXES, IF ANY, ARE PRESUMED TO BE PAID IN ADVANCE.**

The publisher is not engaged in rendering legal, accounting or other professional service. This form is published as a service to real estate professionals and an explanation of its various provisions should be obtained from the appropriate professional. Because of varying state and local laws, competent legal or other advice should be secured before using any form.

B. Hulsey

6. CLOSING & POSSESSION DATES: The sale shall be closed and the deed delivered within ten (10) working days of notification to Purchaser by Seller that a final record map has been approved by the Shelby County Planning and Zoning Commission and has been recorded in the Probate Office of Shelby County, Alabama, except Seller shall have a reasonable length of time within which to perfect title or cure defects in the title to the Property. Possession is to be given on delivery of the deed if the Property is then vacant.

7. CONVEYANCE: Seller agrees to convey the Property to Purchaser by general warranty deed (check here ☐ if Purchasers desire title as joint tenants with right of survivorship), free of all encumbrances except as permitted in this Contract. Seller and Purchaser agree that any encumbrances not herein excepted or assumed may be cleared at the time of closing from sales proceeds. THE PROPERTY IS SOLD AND IS TO BE CONVEYED SUBJECT TO ANY MINERAL AND/OR MINING RIGHTS NOT OWNED BY SELLER AND SUBJECT TO PRESENT ZONING CLASSIFICATION, A-1, AND ☐ IS ☐ IS NOT LOCATED IN A FLOOD PLAIN, AND UNLESS OTHERWISE AGREED HEREIN, SUBJECT TO UTILITY EASEMENTS SERVING THE PROPERTY, RESIDENTIAL SUBDIVISION COVENANTS AND RESTRICTIONS, AND BUILDING LINES OF RECORD, PROVIDED THAT NONE OF THE FOREGOING MATERIALLY IMPAIR USE OF THE PROPERTY FOR ITS INTENDED PURPOSES.

8. CONDITION OF THE PROPERTY: NEITHER SELLER NOR ANY SALESPERSON MAKES ANY REPRESENTATIONS OR WARRANTIES REGARDING CONDITION OF THE PROPERTY EXCEPT TO THE EXTENT EXPRESSLY AND SPECIFICALLY SET FORTH HEREIN. Purchaser has the obligation to determine, either personally or through or with a representative of Purchaser's choosing, any and all conditions of the Property material to Purchaser's decision to buy the Property, including without limitation, subsurface condition, including the presence or absence of sinkholes, mining activity, wells, or buried tanks and other objects; soils condition; utility and sewer or septic tank availability and condition. Except as otherwise stated in this Contract, Purchaser accepts the Property in its present "as is" condition.

Purchaser's Initials BB

Seller's Initials RAA SUT

9. DISCLAIMER: Seller and Purchaser acknowledge that they have not relied upon advice or representations of Broker (or Broker's associated salesperson(s) relative to (i) the legal or tax consequences of this Contract and the sale, purchase or ownership of the Property; (ii) zoning or rezoning; (iii) subdividing; (iv) soils or subsurface conditions; (v) the availability of utilities or sewer service; (vi) the investment or resale value of the Property; (vii) projections of income or operating expenses; or (viii) any other matters affecting their willingness to sell or purchase the Property on terms and price herein set forth. Seller and Purchaser acknowledge that if such matters are of concern to them in the decision to sell or purchase the Property, they have sought and obtained independent advice relative thereto.

Purchaser's Initials BB

Seller's Initials RAA SUT

10. SELLER WARRANTS that Seller has not received notification from any lawful authority regarding any assessments, pending assessments, pending public improvements, repairs, replacements, 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 this Contract. These warranties shall survive the delivery of the deed.

11. HAZARDOUS SUBSTANCES: Seller and Purchaser expressly acknowledge that the Broker(s) have not made an independent investigation or determination with respect to the existence or nonexistence of asbestos, PCB transformers, or other toxic, hazardous or contaminated substances or gases in, on, or about the Property, or for the presence of underground storage tanks. Any such investigation or determination shall be the responsibility of Seller and/or Purchaser and Broker(s) shall not be held responsible therefor.

12. FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT (FIRPTA): In the closing of this transaction, Seller and Purchaser shall comply with the FIRPTA and the regulations promulgated thereunder by the IRS.

13. SELECTION OF ATTORNEY: Purchaser and Seller hereby ☒ do ☐ do not agree to share the fees of a closing attorney. Purchaser and Seller acknowledge and agree that such sharing may involve a potential conflict of interest and they may be required to execute an affidavit at closing acknowledging their recognition and acceptance of same. The parties further acknowledge that they have a right to be represented at all times in connection with this Contract, and the closing, by an attorney of their own choosing at their own expense.

14. NON-REFUNDABLE FEES: Purchaser and Seller acknowledge that in the event this Contract is canceled or not closed, any fees paid will be non-refundable.

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15. **FACSIMILE OR COUNTERPART SIGNATURES:** This Contract may be executed by either party or both parties by telecopy or facsimile, and shall be binding upon the party so executing it upon the receipt by the other party of the signature.

16. **LITIGATION:** In the event either party institutes litigation to enforce its rights under this Contract, the prevailing party shall be entitled to recover its litigation costs, including court costs and reasonable attorney fees.


17. **ADDITIONAL PROVISIONS** set forth on the attached addendum(s) 2 and signed by all parties are hereby made a part of this Contract.

18. **ENTIRE AGREEMENT:** This Contract constitutes the entire agreement between Purchaser and Seller regarding the Property, and supersedes all prior discussions, negotiations and agreements between Purchaser and Seller, whether oral or written. Neither Purchaser, Seller, nor Broker or any sales agent shall be bound by any understanding, agreement, promise, or representation concerning the Property, expressed or implied, not specified herein.


19. Should Purchaser, Rick Burzh, President of Creation Construction decide to move into the Parade Home built on said lot, (Lot 7 - Wilmington Place) and sell at a later date, Sheri Hulsey shall have the Exclusive Right to sell.

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.


Witness to Purchaser's Signature

 2-26-02
Purchaser (Date)

Purchaser (Date)

WILMINGTON PLACE
By:  2-26-02
Its (Date)
President


Witness to Seller's Signature

EARNEST MONEY: Final receipt is hereby acknowledged of the earnest money as herein above set forth
☐ CASH ☒ CHECK
SELLER: B. HULSEY COMPANY BY: _____ DATE: _____

ADDENDUM I TO LOTS OR OTHER IMPROVED LAND SALES CONTRACT
DATED 2-26-02

By and between B. HULSEY COMPANY, SELLER, and
Creation Construction, Inc., PURCHASER

This sale is Contingent upon Final Record Map approval from the Shelby County Planning & Development Office & being recorded at the Shelby County Probate Office.

WHEREFORE the undersigned parties have executed this Addendum on this the 20th day of February, 20 02.

[Signature]
WITNESS

[Signature]
WITNESS

[Signature] x 2-26-02
PURCHASER ~~(Seal)~~ Date

B. HULSEY COMPANY, SELLER

BY: [Signature] 2-26-02
Its: President ~~(Seal)~~

ADDENDUM II TO LOTS OR OTHER IMPROVED LAND SALES CONTRACT
DATED 2-26-02

By and between B. HULSEY COMPANY (BHC) SELLER, and
Creation Construction, Inc. PURCHASER

BUILDER'S COVENANT TO COMPENSATE AGENT

This Addendum is hereby made a part of the attached Contract referred to hereinabove and is dated the 26th day of February, 2002, by and between the undersigned PURCHASER(S) Creation Construction, Inc.

and the undersigned SELLER, (BHC)

and the undersigned AGENT, LAWRENCE-ARENDALL-HUMPHRIES REAL ESTATE, INC ("LAH").

The Legal description is as follows: Lot 7, Sector 1, Survey of Wilmington Place, Map Book 29, Page 98, as recorded in the offices of the Judge of Probate of Shelby County, Alabama.

The undersigned parties to the above referenced Agreement, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the undersigned, do hereby agree as follows:

1. LAH is hereby granted the exclusive right to list and sell any residence constructed upon the Property, and shall be paid a commission by the Purchaser of five percent (5%) of the total sales price of the Property improved by the residence. The duration of this Agreement shall be ~~six (6) years~~ from the date of this Addendum as set forth hereinabove. ~~If 2 years from date of occupancy~~ 18 months from final CO. from Shelby County
2. The listing period shall commence upon the beginning of construction of a residence upon the Property and shall remain in full force and effect until the residence is sold and compensation paid to LAH as herein provided. Purchaser agrees to cooperate with LAH in the course of construction of the Property, and agrees to execute LAH's multiple listing "exclusive right to sell" form, appointing LAH as its agent for that purpose, and also agrees to execute such other instruments as may be required from time to time in order to allow LAH to successfully market the Property. Purchaser further agrees to cooperate with LAH in setting fair terms in any listing or sales contract offer, and to cooperate in the sale and closing process with LAH.
3. The Purchaser's obligations in this Addendum may not be assigned, sold or transferred without the express written consent of the Seller and LAH, and it is understood and agreed by the Purchaser that any such consent shall be expressly subject to and conditioned upon the payment to LAH of the commission provided in this Addendum. In the event that the Purchaser violates these prohibitions against transfer, Purchaser agrees to immediately pay to LAH the commission provided for in this Agreement as liquidated damages. In the event LAH is required to use the assistance of counsel to collect any monies due it from Purchaser pursuant to the terms of this Agreement, the parties agree that LAH may also recover from Purchaser its reasonable costs of collection, including Attorney's fees, litigation expenses and court costs.

4. In the event any dispute arises concerning the rights of the parties or the interpretation of this addendum, and only this addendum, which dispute the parties are unable to resolve among themselves, then all the parties hereto, SELLER, PURCHASER and LAH, hereby consent to submit same to mediation provided by the Better Business Bureau of Birmingham Alabama (the "BBB"), and in the event that such dispute is not finally resolved through mediation, the parties separately and severally agree that the dispute shall be submitted to the BBB's binding commercial arbitration program for final resolution.
5. The provisions of this Addendum shall survive the closing of the sale of the Lot from Seller to Purchaser.

WHEREFORE the undersigned parties have executed this Addendum on this the 26th day of February, 2002.

WITNESS

[Signature]
WITNESS

[Signature]
WITNESS

WITNESS

[Signature] 2-26-02
PURCHASER (Seal) Date

PURCHASER (Seal) Date

B. HULSEY COMPANY, SELLER

BY: [Signature] 2-26-02
Its: PRESIDENT

LAWRENCE-ARENDALL-HUMPHRIES
REAL ESTATE, INC. AGENT

BY: [Signature]
Its: PRESIDENT

ADDENDUM III TO LOTS OR OTHER IMPROVED LAND SALES CONTRACT
DATED 2-26-02

By and between B. HULSEY COMPANY, SELLER, and
Creation Construction, Inc., PURCHASER

SELLER'S REPURCHASE OPTION

This Addendum is hereby made a part of the attached Contract referred to hereinabove and is dated the 26th day of February, 2002, by and between the undersigned PURCHASER(S), Creation Construction, Inc.

and the undersigned SELLER, B. Hulsey Company,

And the undersigned AGENT, LAWRENCE-ARENDALL-HUMPHRIES REAL ESTATE, INC ("LAH").

The Legal description of the subject Lot is as follows: Lot 41, Sector 1, Survey of Wilmington Place, Map Book 29 Page 98, as recorded in the offices of the Judge of Probate of Shelby County, Alabama.

The undersigned parties to the above referenced Agreement, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the undersigned, do hereby agree as follows:

1. GRANT OF OPTION. Purchaser hereby grants to Seller an option to repurchase the Lot, subject to the following terms and conditions.
2. DURATION. The right of option granted in this Addendum shall terminate upon the first to occur of the following events: A. at the end of six (6) years from the date of this Addendum, or B. Upon the timely completion of construction of the residence on the Lot as provided herein.
3. TIME OF COMPLETION OF CONSTRUCTION. The residence to be constructed on the Lot must be completed on or before twenty-four (24) calendar months after the date of this Addendum.
4. PRICE AND TERMS OF PAYMENT. If the Lot remains unimproved at the time this option becomes subject to exercise by the Seller, the price of repurchase shall be the price paid by Purchaser to Seller for the Lot, exclusive of any appreciation, taxes, utilities, assessments, fees or other out-of-pocket costs to Purchaser, and shall be re-conveyed to Seller free of liens other than those for ad valorem taxes not yet due and payable. If the Lot is partially improved, the option price shall be the price in the case of an unimproved lot, plus the reasonable cost of improvements, exclusive of profit or appreciation. In the event that the Lot is encumbered by a mortgage and/or liens at the time it becomes

subject to exercise by the Seller, the Seller may elect to expend the proceeds of repurchase first in satisfaction of such mortgage balance and/or liens, and then to pay the balance remaining, if any, to the Purchaser. This option shall be exercised by the giving of written notice to Purchaser at Purchaser's last known address within thirty (30) days after Seller receives or obtains clear and unequivocal notice of the occurrence of a condition precedent to the exercise of this option.

5. **EVENTS OF DEFAULT GIVING RISE TO RIGHT TO EXERCISE OPTION.** The events which give rise to the Seller's right to exercise this option are any one of the following events:

- a. Purchaser fails to complete construction of a residence on Lot within twenty-four (24) months after the date of this Addendum;
- b. Purchaser fails to complete such sidewalk or sidewalks as are required by the Seller or the Architectural Control Committee of the Subdivision upon the Lot on or before the time the construction of the residence is required to be completed,
- c. Purchaser engages in repeated conduct constituting violations of the Protective Covenants which pertain to the subdivision within which the Lot is situated, after being notified in writing by Seller or the Architectural Control Committee of said subdivision to cease and desist from such conduct;
- d. Purchaser commits an act of bankruptcy, becomes insolvent, makes a general assignment for the benefit of creditors, permits the lot to be advertised for sale for non-payment of taxes, or defaults with respect to payment or other terms of a construction loan or other loan or lien encumbering the Lot;
- e. Purchaser assigns or transfers Purchaser's equity in the Lot to any other person or entity without the prior written consent of Seller, which consent shall not be withheld unreasonably so long as the assignee meets Seller's criteria for financial responsibility and expertise as a builder, and assumes the duties and responsibilities of Purchaser as set forth in this addendum.

Nothing herein shall prevent Purchaser from obtaining construction financing in the ordinary course of Purchaser's business in order to construct a residence upon the Lot, and Seller agrees to subordinate its rights pursuant to this option in order that Purchaser's construction lender may obtain a first lien on the Lot; *provided, however, that unless clearly and specifically waived by subsequent instrument, Seller's option rights shall remain paramount to subsequent mortgage liens to the extent same are additional security liens securing funds not expended directly to improve the Lot.*

6. **CLOSING UPON EXERCISE OF OPTION.** Closing of the Repurchase shall take place within sixty (60) days of the giving of such notice, and Purchaser shall reconvey the Lot to Seller at closing by a general warranty deed, free of liens and

encumbrances other than easements, protective covenants of record and inchoate liens for taxes not yet due or payable.

7. TIME IS OF THE ESSENCE. Time is of the essence with respect to the performance by the parties of the terms and conditions of this Addendum.
8. OPTION APPURTENANT TO THE LOT. This option is executed in recordable form and may be recorded by either party hereto, and shall remain a burden upon the title to the Lot until discharged according to its terms or released by the Seller.
9. SUCCESSORS IN INTEREST, ETC. The heirs, successors in interest and assigns of the parties hereto are charged with the benefits and burdens of the original parties to the Agreement in this Addendum.
10. SURVIVAL. The provisions of this Addendum shall survive the delivery of the deed and closing of the sale of the Lot from Seller to Purchaser pursuant to the Sales Contract Agreement of which this Addendum forms a part.

WHEREFORE the undersigned parties have executed this Addendum on this the 26th day of February, 2002.

[Signature]
WITNESS

[Signature] x 2-26-02
PURCHASER (Seal) Date

WITNESS

PURCHASER (Seal) Date

[Signature]
WITNESS

B. HULSEY COMPANY, SELLER

BY: [Signature] 2-26-02
Its: President (Seal) Date

[Signature]
WITNESS

LAWRENCE-ARENDALL-HUMPHRIES
REAL ESTATE, INC., AGENT

BY: [Signature]
Its: PRESIDENT (Seal) Date