

**ORDINANCE NO. 2026-04**

**AN ORDINANCE DECLARING CERTAIN PROPERTY UNNEEDED FOR A MUNICIPAL PURPOSE AND AUTHORIZING THE MAYOR TO EXECUTE A REAL ESTATE PURCHASE AGREEMENT BETWEEN PINE WHISPERS, LLC AND THE CITY OF IRONDALE, ALABAMA**

**WHEREAS**, on November 4, 2025, the City Council of the City of Irondale adopted Ordinance 2025-15 deeming certain real property in the City of Irondale, Alabama ("City") as unneeded for public or municipal purposes;

**WHEREAS**, the City desires to reaffirm its desire to sell certain real property to Pine Whispers, LLC;

**WHEREAS**, the subject property is to be acquired by Pine Whispers, LLC, at fair market value;

**WHEREAS**, the City Council of the City of Irondale finds that the sale of the subject property is in the best interest of the City and its citizens; and

**WHEREAS**, the City Council further finds that it is necessary, proper, and in the public interest to authorize the Mayor to take all actions necessary to finalize the sale, including the execution of a Real Estate Purchase Agreement between the City and Pine Whispers, LLC, and the related closing documents transferring title of the subject land to Pine Whispers, LLC.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Irondale, in regular meeting duly assembled, a quorum being present, as follows:

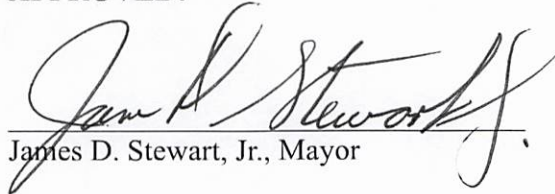
**SECTION 1.** The Council does hereby ratify, affirm, establish and declare that the real property described on Exhibit A and Exhibit B currently owned by the City of Irondale, Alabama is no longer needed for public or municipal purposes.

**SECTION 2.** The Council does hereby ratify, affirm, authorize and direct the Mayor and the City Clerk be, and they hereby are, authorized and directed to execute and attest, respectively, for and on behalf of the City of Irondale, Alabama, all documents necessary for this property transfer, including closing documents and subsequently a Warranty Deed, whereby the City of Irondale, Alabama, does convey the premises described in Section 1.

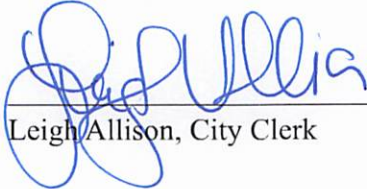
**ADOPTED AND APPROVED** this the 20th day of January, 2026.

  
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David Spivey, City Council President

**APPROVED:**

  
James D. Stewart, Jr., Mayor

**ATTESTED:**

  
Leigh Allison, City Clerk

**CERTIFICATION**

I, Leigh Allison, City Clerk of the City of Irondale, Alabama, hereby certify that the above to be a true and correct copy of an ordinance adopted by the City Council of the City of Irondale at its regular meeting held on January 20, 2026, as same appears in the minutes of record of said meeting.

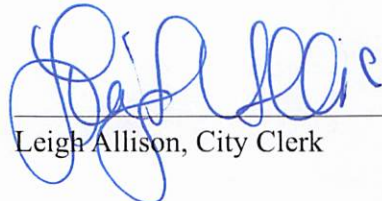
  
Leigh Allison, City Clerk

Exhibit A  
±45 Acres





Exhibit B  
±30 Acres



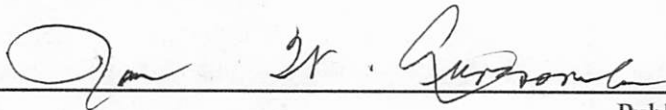
# AFFIDAVIT OF PUBLICATION

STATE OF ALABAMA  
JEFFERSON COUNTY

Before me, the undersigned authority in and for said County, in said State, personally appeared KAREN W. ABERCROMBIE, who, by me duly sworn, deposes and says that she is the PUBLISHER OF ALABAMA MESSENGER, a semi-weekly newspaper of GENERAL CIRCULATION, PUBLISHED and PRINTED in Jefferson County, Alabama, and which has been in CONTINUOUS WEEKLY PUBLICATION SINCE 1918, and that there was published in said newspaper in the issues of

January 3, 2026

a legal notice, a copy of which is hereto attached.



Publisher

Sworn and subscribed to on this the 12th day of January, 2026.



Notary Public

\$124.00

The sum charged by the Newspaper for said publication is the actual lowest regular price for legal advertising notices as determined by Ala.Code § 6-8-64(a). There are no agreements between the Newspaper and the officer or attorney charged with the duty of placing the attached legal advertising notices whereby any advantage, gain or profit accrued to said officer or attorney.

LEGAL NOTICE OF PROPOSED ECONOMIC DEVELOPMENT ACTION BY THE CITY OF IRONDAL, ALABAMA

The City of Irondale, Alabama (the "City") hereby gives notice that the City Council of the City of Irondale will meet in public session (the "Public Meeting") at 6:00 p.m. on the 20th day of January, 2026, at City Hall located at 101 20th Street South in the City of Irondale, Alabama, for the purpose of ratifying, affirming and approving a Property Purchase Agreement (the "Property Purchase Agreement") between Pine Whispers, LLC ("Purchaser") and the City, pursuant to which the City is selling approximately 45 acres of real property located on Pine Whispers Drive (the "Property") to Purchaser, with a one-year option for Purchaser to purchase up to an additional 30 acres, at and for a price equal to approximately \$45,000.00 per acre. Purchaser desires to develop an amenity on the Property which will support outdoor recreation (the "Project") and promote tourism in the City.

The Property Purchase Agreement is being approved and entered into by the City pursuant to the constitution and laws of the State of Alabama including, without limitation, Amendment No. 772 to the Constitution of Alabama of 1901, as amended (now codified as Section 94.01 of the Alabama Constitution).

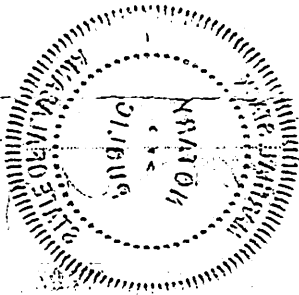
The City has determined that the Project, and the City's obligations under the Property Purchase Agreement, are in the best interest of, and will substantially expand and enhance the prosperity, health, safety, contentment, quality of life, and general welfare of the City and its citizens by, among other things, (i) promoting, improving and expanding economic development within the City; (ii) promoting trade and commerce in the City; (iii) increasing the revenue base of the City; (iv) creating new employment opportunities in the City; and (v) promoting outdoor recreation and tourism.

The covenants and agreements of the City under the Property Purchase Agreement, including without limitation the obligation of the City to sell the Property for \$45,000.00 per acre will benefit Pine Whispers, LLC.

Ala.Ms.- Jan. 3, 2026

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**AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY AND  
GRANT OF PURCHASE OPTION**

**THIS AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY AND GRANT OF PURCHASE OPTION** (this “**Agreement**”) is by and between the **CITY OF IRONDALE, ALABAMA**, a municipal corporation (herein referred to as “**Seller**” or the “**City**”), and **PINE WHISPERS, LLC**, an Alabama limited liability company (herein referred to as “**Purchaser**”).

The effective date of this Agreement, for purposes of calculating any time periods set forth in this Agreement, shall be deemed to be the last date upon which this Agreement has been fully executed by both parties, as set forth on the signature pages hereto (the “**Effective Date**”).

**WITNESSETH:**

**WHEREAS**, Purchaser desires to develop an amenity on the real property more particularly hereinafter described that will have public access and will support the long term vision of the City for outdoor recreation, as well as promote tourism in the City which will increase the City’s tax revenues and tax base; and

**WHEREAS**, Seller desires to sell to Purchaser, and Purchaser desires to purchase from Seller, the real property more particularly hereinafter described, upon the terms and conditions hereinafter set forth.

**NOW, THEREFORE**, for and in consideration of the premises, the mutual covenants and agreements herein set forth, and for other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby expressly acknowledged by the parties hereto, Seller and Purchaser do hereby agree as follows:

**ARTICLE I**  
**BASIC TERMS OF PURCHASE AND SALE**

1.1 **Property.** Upon the terms and conditions set forth in this Agreement, Purchaser agrees to purchase from Seller and Seller agrees to sell to Purchaser approximately forty-five (45) acres of land lying and being located in the city of Irondale, Alabama being generally depicted on Exhibit A attached hereto (hereinafter referred to as the “**Land**”), such Land being Parcel ID No. 2400282000001000 and a portion of Parcel ID No. 2400282000001000, together with all of Seller's rights, privileges and easements, if any, to any and all improvements, appurtenances, benefiting, belonging or pertaining to the Land (the Land and the easements and interests described above being hereinafter referred to collectively as the “**Property**”). The legal description of the Property will be determined based on the Survey of the Property to be obtained by Purchaser as set forth in Section 3.1 hereof. Notwithstanding the foregoing and subject to the terms and conditions set forth in this Agreement, Purchaser may, at its option, elect to include a portion of the Option Property (as hereinafter defined) at the initial Closing. Seller makes no representations or warranties of any kind regarding the condition of the Property except to the extent expressly and specifically set forth herein. Except as otherwise stated in this Agreement, Purchaser accepts the Property in its present "As Is", "Where Is" condition.



1.2 **Purchase Price.** The Purchase Price for the Property shall be Forty-Five Thousand Dollars (\$45,000.00) per acre, based on the Survey of the Property to be obtained by Purchaser as set forth in Section 3.1 hereof. The Purchase Price, subject to the credits and adjustments as expressly provided herein, shall be paid by Purchaser to Seller in immediately available U.S. funds at the Closing (as hereinafter defined).

1.3 **Earnest Money.** Within five (5) business days following the Effective Date of this Agreement, Purchaser shall deliver to The Title Group Incorporated, 2101 First Avenue North, Birmingham, Alabama 35203, Attn: Bart Crawford (the "**Escrow Agent**") the sum of Fifteen Thousand and No/100 Dollars (\$15,000.00) to be deposited into an interest-bearing account as earnest money for this Agreement (the "**Earnest Money**"). The Escrow Agent shall confirm, by written notice to Seller and Purchaser, receipt of the Earnest Money. Upon Closing of the purchase and sale contemplated hereby, the Earnest Money and all accrued interest thereon will be credited against the Purchase Price. If Closing fails to occur, the Earnest Money shall be paid as provided elsewhere in this Agreement.

## **ARTICLE II**

### **DUE DILIGENCE PERIOD**

#### **2.1 Due Diligence Period.**

(a) Within ten (10) days following the Effective Date, Seller shall provide to Purchaser any and all of the following documents that Seller has in its possession: (i) a copy of all existing surveys of the Property, (ii) all environmental reports and soil and geotechnical reports relating to the Property, (iii) all building plans which Seller has in its possession with respect to the Property, and (iv) Seller's current owner's title insurance policy pertaining to the Property, if available.

(b) Purchaser, its agents, employees, designees, representatives, and contractors (collectively, the "**Purchaser Parties**") shall have a period of one hundred and twenty (120) days from the Effective Date (the "**Due Diligence Period**"), to enter upon the Property and to perform such tests, inspections, and examinations of the Property as Purchaser deems advisable, including soil and environmental tests (including core drilling and related inspections), matters of survey, flood plain of the Property, wetlands on the Property, zoning and plan approvals, and such other inspections as Purchaser shall deem necessary to satisfy itself of the feasibility of the Property for its intended use. Purchaser Parties are hereby granted the right and license to enter the Property for the purpose of conducting the foregoing described feasibility studies. Purchaser shall coordinate all of its testing and investigations, and the Purchaser Parties' testing and investigations with Seller in order to insure the least amount of interference with Seller's operations. Seller designates the following person with whom Purchaser should coordinate its inspections: Josh McDaniel, Fire Chief; phone number/email: [jmcdaniel@cityofirondaleal.gov](mailto:jmcdaniel@cityofirondaleal.gov) / (205) 283-8474.

(c) Purchaser shall have the right to extend the Due Diligence Period for two (2), thirty (30) day periods by providing Seller with written notice prior to the expiration of Due Diligence Period or the first extension thereof (as applicable). All references to the Due Diligence Period shall include any extensions thereof as provided in this paragraph.



2.2 **Notice of Termination.** Purchaser may, at any time during the Due Diligence Period (or any extension thereof) on written notice to Seller given on or before 5:00 p.m. Central Time on the last business day of the Due Diligence Period (or any extension thereof), terminate this Agreement by written notice delivered to Seller and Escrow Agent, whereupon the Earnest Money, plus all accrued interest earned thereon, shall be returned to Purchaser, this Agreement shall thereupon terminate and be null, void, and of no further force and effect, and neither Purchaser nor Seller shall have any further rights, duties, or obligations hereunder, except as expressly provided herein. In the event Purchaser does not terminate this Agreement in writing on or before the expiration of the Due Diligence Period, then Purchaser shall be deemed to have satisfied itself as to its inspections of the Property, and the Earnest Money shall thereupon immediately and without further notice become non-refundable, except only in the event of a default by the Seller under this Agreement. Purchaser's failure to notify Seller during the Due Diligence Period (or any extension thereof), that it is terminating this Agreement shall be deemed a waiver by Purchaser of any right to terminate this Agreement under the provisions of this **Section 2.2.**

2.3 **Indemnity for Damage.** Any of the tests and surveys described under **Section 2.1** shall be so conducted as not to damage the Property except as incident to the performance of such tests and surveys and, if the Property is damaged, Purchaser shall promptly repair and restore the Property to the same condition as existed immediately prior to Purchaser's entry. Purchaser agrees to defend, indemnify, protect and hold Seller harmless from any claim, loss, liability or expense, including, but not limited to, bodily injury, property damage and mechanics' liens, in connection with any entry on the Property by Purchaser or any of the Purchaser Parties, other than due to gross negligence or willful misconduct of Seller. Purchaser's obligation to indemnify and hold Seller harmless under this paragraph shall survive Closing and any termination of this Agreement for a period of twelve (12) months after Closing or such termination or in the event of a claim or litigation is filed during such twelve (12) month period, until the date that such litigation or claim is resolved. Purchaser's obligation under this subsection to restore the Property shall survive any termination of this Agreement but shall not survive Closing.

2.4 **Access Agreement.** During the Due Diligence Period, Purchaser and Seller shall cooperate in good faith to develop and agree upon a mutually acceptable access agreement (the "**Access Agreement**") that provides Seller with reasonable access to and across the Property for the purpose of accessing any remaining real property owned by Seller adjacent to the Property. The Access Agreement will be executed at Closing.

### **ARTICLE III** **TITLE AND SURVEY**

#### **3.1 Title and Survey.**

(a) Seller represents and warrants to Purchaser that Seller owns fee simple title to the Property. Seller agrees to convey the Property to the Purchaser free and clear of all liens and encumbrances, except for (i) the lien of ad valorem taxes not yet due and payable; (ii) easements and restrictions of record; (iii) zoning applicable to the Property; (iv) mineral and mining rights not owned by Seller to the extent the same was not the subject of a Title/Survey

Objection, and (v) such other title and survey matters to which Purchaser approves or has not objected to in writing as provided herein (collectively, the "**Permitted Exceptions**").

(b) Within ten (10) days following the Effective Date, Purchaser shall order a commitment for an owner's title insurance policy (the "**Title Commitment**") for the Property from the Title Company in the amount of the Purchase Price and an ALTA survey (the "**Survey**") of the Property, to be prepared by a registered surveyor of Purchaser's selection. Within thirty (30) days of Purchaser's receipt of the Title Commitment and Survey (the "**Title/Survey Review Period**"), Purchaser shall notify Seller in writing of any matters reported in the Title Commitment or Survey that are unacceptable to Purchaser (such matters are referred to as the "**Title/Survey Objections**"). Should Purchaser fail to notify Seller of any Title/Survey Objections within the Title/Survey Review Period or fail to list an existing Title/Survey Objection in its notice, Purchaser shall be deemed to have waived such Title/Survey Objections and to have accepted such title and survey and all matters contained therein shall be deemed to be Permitted Exceptions.

3.2 **Cure of Title and Survey Defects.** Seller shall have a period of fifteen (15) days after receipt of the Title/Survey Objections from Purchaser to advise Purchaser, in writing, whether Seller will cure or decline to cure any or all of the Title/Survey Objections (but Seller shall be under NO OBLIGATION to cure any Title/Survey Objections other than objections consisting of taxes, mortgages, mechanic's and materialmen's liens or other such monetary encumbrances, which Seller shall be obligated to discharge at Closing). If Seller elects, in its sole discretion, to cure such Title/Survey Objections, Seller shall have a period of thirty (30) days in which to do so. If Seller (i) elects to cure such Title/Survey Objection but is unable to do so within such thirty (30) days period, or (ii) notifies Purchaser of any Title/Survey Objections that it cannot or will not cure prior to Closing or fails to timely respond, then Purchaser, at its election, shall have the right to either accept title subject to such Title/Survey Objections, or terminate this Agreement by written notice to Seller and Escrow Agent whereupon the Earnest Money and all interest thereon shall be paid to Purchaser, and this Agreement shall thereupon terminate and be null, void and of no further force or effect and neither Purchaser nor Seller shall have any further rights, duties or obligations hereunder, except as expressly provided in this Agreement.

3.3 **Later Exceptions.** In the event that an exception is filed of record subsequent to the date of the Title Commitment and prior to the Closing (a "**Later Exception**"), the party that becomes aware of the exception shall send written notice of such Later Exception to the other party. In the event said Later Exception(s) is unacceptable to Purchaser, Seller shall have the right to postpone the Closing for a period of thirty (30) days in order to give Seller sufficient time to attempt to satisfy, release, cure or remove such Later Exception. Upon Seller's cure, removal or bonding off any such Later Exception, Seller may reschedule the Closing upon ten (10) days prior written notice to Purchaser. If Seller is unable, within said thirty (30) day period, to cure, remove, bond off or otherwise dispose of any Later Exception, Purchaser shall have the option, as its sole remedy, to either (i) give written notice to Seller and to Escrow Agent that it is terminating this Agreement, in which case this Agreement shall terminate and become null and void without further action of the parties, and the Earnest Money and all interest earned thereon shall be promptly returned to Purchaser and neither party shall have any further rights or

obligations hereunder, except as expressly provided in this Agreement, or (ii) waive such objections or defects and proceed with Closing.

3.4 **Conditions to Closing.** It is a condition precedent of Purchaser's obligation to close the transaction and purchase the Property that Purchaser receive at Closing an ALTA Owner's Title Insurance Policy issued by Title Company in the amount of the Purchase Price which policy shall, without limitation, (i) show merchantable fee simple title to the Property to be in Purchaser's name subject only to the Permitted Exceptions; (ii) eliminate the rights of parties in possession exception, the survey exception, and the mechanic's lien exception; and (iii) otherwise be acceptable to Purchaser in Purchaser's sole discretion (the "**Owner's Title Insurance Policy**"). Seller agrees to execute and deliver at Closing such affidavits of title and such other instruments as may be required to delete the materialmen and mechanic's lien exception and exceptions for rights of parties in possession.

#### **ARTICLE IV**

#### **SELLER'S REPRESENTATIONS AND WARRANTIES**

4.1 **Seller's Warranties.** In addition to Seller's representation and warranty set forth in Section 3.1 above, Seller makes the following representations and warranties to Purchaser, which such representations and warranties shall be deemed remade as of the Closing:

(a) Seller is a municipal corporation duly organized and validly existing under the laws of the State of Alabama. Seller's execution of this Agreement and the closing of the transaction contemplated hereby was approved by the City Council of the City on January 20, 2026 and such approval has not been rescinded or revoked. This Agreement is valid and binding on the Seller and is enforceable in accordance with its terms.

(b) The Property is not subject to any lease, option contract or other sales contract pursuant to which any other party has any right to lease or purchase any interest in the Property or any part thereof, and there are no parties in possession of any portion of the Property as lessees, tenants at sufferance, or trespassers and Seller warrants that possession of the Property shall be delivered to Purchaser at Closing free and clear of any lease, tenants at sufferance, or trespassers.

(c) There are no pending or threatened judicial, municipal, or administrative proceedings affecting the Property or affecting Seller's right to sell the Property.

(d) Seller has received no notice of, nor is Seller aware of, any pending, threatened or contemplated action by any governmental authority or agency having the power of eminent domain which might result in any part of the Property being taken by condemnation or being conveyed in lieu thereof, and Seller shall, promptly upon receiving any such notice or learning of any such contemplated or threatened action, give Purchaser written notice thereof.

(e) Seller is not a "foreign person" as that term is defined in the Internal Revenue Code of 1986, as amended, and the regulations promulgated pursuant thereto.

(f) Seller has not used, operated or permitted the use of the Property in any manner for the storage, use, treatment, manufacture or disposal of any Hazardous Materials (as



defined below). To Seller's actual knowledge, the Property has not ever been used or operated by any other party for the storage, use, treatment, manufacture or disposal of any Hazardous Materials. The term "Hazardous Materials" means and refers to any "hazardous waste" or "hazardous substance," as such terms are set forth in, under or pursuant to the Environmental Laws and Regulations, oil or petroleum products or their derivatives, polychlorinated biphenyls, asbestos, radioactive materials or waste, and any other toxic, ignitable, reactive, corrosive, explosive, contaminating or polluting materials which are now or in the future subject to governmental regulation. "Environmental Laws and Regulations" means any federal, state or local laws now or hereafter in effect relating to pollution or protection of the environment or emissions, discharges, spills, releases or threatened releases of any Hazardous Substance into the environment (including without limitation indoor air, ambient air, surface water, ground water or land), including without limitation, the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq., as amended, the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. §§ 9601 et seq., as amended, the Hazardous Materials Transportation Act, 49 U.S.C. §§ 1801 et seq., as amended, the Clean Water Act, 33 U.S.C. §§ 1251 et seq., as amended, the Clean Air Act, 42 U.S.C. §§ 7401 et seq., as amended, the Toxic Substance Control Act, 15 U.S.C. §§ 2601 et seq., as amended, and any rules and regulations now or hereafter promulgated under any of such acts.

4.2 **Disclaimer.** Except as specifically set forth in Section 4.1 above, Purchaser acknowledges and agrees that Seller has not made, does not make and specifically negates and disclaims any representations, warranties, promises, covenants, agreements or guaranties of any kind or character whatsoever, whether express or implied, oral or written, past, present or future, of, as to, concerning, or with respect to (i) the value, nature, quality or condition of the Property, including, without limitation, the water, soil and geology, (ii) the income to be derived from or economic value of the Property, (iii) the suitability of the Property for Purchaser's intended use, (iv) the compliance of or by the Property or its operation with any laws, rules, ordinances or regulations of any applicable governmental authority or body; (v) the habitability, merchantability, marketability, profitability, or fitness for a particular purpose of the Property, (vi) the physical condition of the Property, (vii) the topography of the Property, (viii) the soil type or content of the Property, (ix) the adequacy of drainage of the Property, (x) the title to the Property (other than the warranty of title to be included in the Deed) or (xi) any other matter or thing relating to the Property. Without limitation on the foregoing, Seller has not made, does not make and specifically disclaims any representations regarding compliance with any environmental protection, pollution or land uses laws, rules, regulations, orders or requirements, including solid waste, as defined by the U.S. Environmental Protection Agency regulations at 40 C.F.R. Part 261, or the disposal or existence, in or on the Property, of any hazardous substance, as defined by the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended, and regulations promulgated thereunder. Purchaser further acknowledges and agrees that having been given the opportunity to inspect the Property, Purchaser is relying solely on its own investigation of the Property and not on any information provided or to be provided by Seller. Purchaser further acknowledges and agrees that any information provided or to be provided with respect to the Property was obtained from a variety of sources and that Seller has not made any independent investigation or verification of such information and makes no representations as to the accuracy or completeness of such information. Seller is not liable or bound in any manner by any verbal or written statements, representations or information pertaining to the Property, or the operation thereof, furnished by any real estate broker, agent,

employee, servant or other person. Purchaser further acknowledges and agrees that to the maximum extent permitted by law, the sale of the Property as provided for herein is made on an "AS IS" condition.

4.3 **Purchaser's Warranties.** To induce the Seller to enter into this Agreement, Purchaser makes the following representations and warranties to Seller, which such representations and warranties shall be deemed remade as of the Closing:

(a) Assuming due authorization, execution and delivery by Seller, this Agreement has been duly authorized by Purchaser and constitutes a legal, valid and binding obligation of Purchaser, enforceable against Purchaser, in accordance with its terms.

(b) Purchaser is a limited liability company duly organized and validly existing under the laws of the State of Alabama.

(c) Purchaser is fully authorized to enter into this Agreement and such authorization has not been rescinded or revoked.

## **ARTICLE V**

### **CONDITIONS PRECEDENT TO CLOSING**

5.1 **Conditions to Closing.** Notwithstanding anything contained herein, Purchaser's obligation to purchase the Property is subject to satisfaction of the following terms and conditions by the date of Closing:

(a) Satisfaction of the title conditions set forth in Section 3.4 above;

(b) The warranties and representations herein being true and correct in all material respects as of the Closing;

(c) Delivery by Seller of exclusive possession of the Property to Purchaser (without limitation on the foregoing, Seller shall have vacated the existing building located on the Property and left the same in "broom clean" condition); and

(d) Purchaser having acquired fee simple title to Pine Tree Country Club located adjacent to the Property.

## **ARTICLE VI**

### **CLOSING**

6.1 **Closing and Closing Date.** Closing shall take place on or before thirty (30) calendar days after the expiration of the Due Diligence Period (as the same may be extended pursuant to the terms of Section 2.1) (herein referred to as the "**Closing**"). This transaction shall be closed at the offices of Burr & Forman LLP, 420 North 20th Street, Suite 3400, Birmingham, AL 35203 (the "**Closing Attorney**"), or through an escrow styled closing.

6.2 **Seller's Obligations at Closing.** At the Closing, Seller shall do the following:

(a) Execute and deliver to the Title Company for recording, and deliver to Purchaser, a statutory warranty deed in a form acceptable to Seller (the "**Deed**") conveying fee simple the Property, subject only to the Permitted Exceptions;

(b) Execute and deliver a valid certification to the effect that Seller is not a "foreign person" and Purchaser is not required to withhold a portion of the Purchase Price under Internal Revenue Code §1445;

(c) Execute and deliver to Purchaser and the Title Company a mechanic's lien and parties-in-possession affidavit in sufficient form and substance so as to allow the Title Company to remove the mechanics' lien, unrecorded leases, unrecorded easements and parties-in-possession exceptions from the title policy;

(d) Execute and deliver to the Title Company a counterpart to the closing statement;

(e) Execute the Access Agreement and the Memorandum of Right of First Refusal and Purchase Option described in Section 9.3 below, and the Memorandum of Right of Repurchase described in Section 10.2 below; and

(f) Execute and/or provide such other reasonable documents as may be required to be executed and/or provided to complete the transaction contemplated hereunder.

**6.3 Purchaser's Obligations at Closing.** At Closing, Purchaser shall do the following:

(a) Deliver to the Closing Attorney or the Title Company, for disbursement to Seller, the portion of the Purchase Price payable at Closing by certified funds or wire transfer; and

(b) Execute the Access Agreement, the Memorandum of Purchase Option described in Section 9.3 below, and the Memorandum of Right of Repurchase described in Section 10.2 below; and

(c) Execute and/or provide such other reasonable documents as may be required to be executed and/or provided to complete the transaction contemplated hereunder.

**6.4 Closing Costs.**

(a) Seller's expenses shall include the cost of (i) one-half of the premium for the Owner's Title Insurance Policy , (ii) one-half of any escrow fees charged by the Title Company, (iii) payment and satisfaction of any existing loan encumbering the Property, and (iv) Seller's attorney's fees.

(b) Purchaser's expenses shall include the cost of (i) all title examination fees, (ii) one-half of the premium for the Owner's Title Insurance policy and the full cost of any mortgagee's policy, (iii) the Survey described in Section 3.1 above, (iv) the recording fees and taxes for the Deed, (v) all title endorsements and any affirmative coverage requested by



Purchaser or its lender to the Owner's Title Insurance Policy or the Loan Title Insurance Policy (vi) one-half of any escrow fees charged by the Title Company, (vii) Purchaser's attorney's fees, (viii) all fees and costs associated with the feasibility studies and any due diligence items performed by Purchaser, (ix) the Deed preparation.

6.5 **Prorations.** As the Property is currently tax exempt, there will be no proration for taxes at Closing and Purchaser will be responsible for all taxes from and after the Closing.

6.6 **Further Assurances.** In addition to the obligations required to be performed hereunder by Seller and Purchaser at Closing, Seller and Purchaser each agree that they will, both prior to and after Closing, perform such other reasonable acts and will execute such other reasonable documents as the other may reasonably request in order to effectuate the consummation of the transaction contemplated herein in accordance with normal practices and to vest title to the Property in Purchaser.

## **ARTICLE VII RISK OF LOSS**

7.1 **Risk of Loss by Casualty.** The risk of loss or damage to the Property by fire or other casualty prior to the Closing shall be on Seller. If such loss or damage occurs prior to Closing, Seller shall promptly notify Purchaser. Purchaser may, within fifteen (15) days after receipt of such notice, at Purchaser's option, either (i) accept the Property in its then condition or (ii) notify Seller of termination of this Agreement in which case Escrow Agent shall return the Earnest Money to Purchaser, this Agreement shall thereupon terminate and be null, void, and of no further force and effect, and neither Purchaser nor Seller shall have any further rights, duties, or obligations hereunder, except as expressly provided herein.

7.2 **Risk of Loss by Condemnation.** The risk of condemnation of the Property prior to the Closing shall be on Seller. If such condemnation occurs prior to Closing, Seller shall promptly notify Purchaser; Purchaser may, within fifteen (15) days after receipt of such notice, at Purchaser's option, notify Seller of termination of this Agreement, in which case the Escrow Agent shall return the Earnest Money to Purchaser, this Agreement shall thereupon terminate and be null, void, and of no further force and effect, and neither Purchaser nor Seller shall have any further rights, duties, or obligations hereunder, except as expressly provided herein. If Purchaser does not so terminate this Agreement, Purchaser shall be entitled to receive all condemnation proceeds therefrom which are payable either before or after Closing.

## **ARTICLE VIII DEFAULTS**

8.1 **Purchaser Default.** If Purchaser shall default in the performance of its obligations under this Agreement, and such default shall continue for a period of ten (10) days after written notice of default from Seller to Purchaser pursuant to Section 10.4, then provided Seller is not then in default under this Agreement, Seller shall be entitled, as its sole and exclusive remedy, to terminate this Agreement by giving written notice of termination to Purchaser, whereupon the Title Company shall promptly deliver the Earnest Money and any interest earned thereon to the Seller.

8.2 **Seller Default.** If Seller shall default in the performance of its obligations under this Agreement, and such default shall continue for a period of ten (10) days after written notice of default from Purchaser to Seller pursuant to Section 10.4, then provided Purchaser is not then in default under this Agreement, Purchaser shall be entitled as its sole remedies to either: (i) terminate this Agreement by giving written notice of termination to Seller, whereupon the Title Company shall promptly return the Earnest Money and any interest earned thereon to the Purchaser, and the parties shall not have any further rights, duties, or obligations hereunder, except as expressly provided in this Agreement; or (ii) seek specific performance of the Seller's obligations under this Agreement plus any costs of said litigation, including but not limited to attorneys' fees, in a competent court of law. The parties hereto agree that, following the exercise of either subparagraph (i) or (ii) by Purchaser, neither party shall thereafter have any further liability or obligation to the other, except as herein provided.

## **ARTICLE IX PURCHASE OPTION FOR ADDITIONAL 30 ACRES**

9.1 **Purchase Option; Option Term.** In consideration of this Agreement, Seller hereby grants to Purchaser an option (the "**Purchase Option**") to purchase all or portions of an additional thirty (30) acres of land that is adjacent to the Property as more particularly shown on Exhibit B attached hereto (hereinafter referred to as the "**Option Property**") for a purchase price of Forty-Five Thousand Dollars (\$45,000.00) per acre, based on a Survey of the Option Property to be obtained by Purchaser as hereinafter set forth. The Option Property may be acquired by Purchaser, at Purchaser's option, in one or more closings for all or portions of the Option Property as shall be designated by Purchaser in its sole discretion, and the Purchase Option will remain in full force and effect as to any remaining Option Property not previously acquired during the remainder of the Option Term (as defined below). Purchaser may exercise the Purchase Option during the Option Term by giving Seller written notice of such exercise on or before the date on which the Option Term expires. Following written exercise of the Purchase Option, Purchaser will have a ninety (90) day Due Diligence Period to conduct due diligence inspections of such Option Property as set forth in Section 2.1(b). The results of such due diligence inspections must be acceptable to Purchaser in its sole discretion as a condition to Purchaser's obligation to close the purchase of such Option Property. For the purposes of this Agreement, the term "Option Term" shall denote the one (1) year period commencing on the Closing of the Property as set forth in Section 6.1.

9.2 **Conditions of Closing.** If Purchaser exercises the Purchase Option with respect to all or a portion of the Option Property, the purchase and sale of such Option Property shall be consummated at a closing to occur not later than thirty (30) days after the end of the applicable Due Diligence Period, on a date mutually acceptable to Seller and Purchaser. Purchaser will obtain a Title Commitment and Survey of such Option Property at its cost and expense, and will provide Title/Survey Objections applicable to such Option Property within thirty (30) days after the receipt of the Title Commitment and Survey. The provisions of Section 3.3 of this Agreement shall apply to any Later Exception applicable to such Option Property with the same force and effect as set forth in Section 3.3 of this Agreement. Except as provided in Article IX, the terms and conditions of Sections 2.1, 2.2, 2.3, Article III, Article IV, Article V, Sections 6.2, 6.3, 6.4, 6.5, 6.6, Article VII, Article VIII and Article X of this Agreement shall apply with the same and

force and effect with respect to the sale and closing of the Option Property should Purchaser exercise the Purchase Option.

9.3 **Memorandum of Purchase Option.** At the Closing of the sale of the Property as set forth in Section 6.1, Seller and Purchaser will enter into a Memorandum of Purchase Option (the "**Memorandum of Purchase Option**"), which is to be recorded in the real property records of Jefferson County, Alabama, in a form acceptable to Seller and Purchaser.

9.4 **Termination of Purchase Option.** The Purchase Option shall terminate upon the earlier occurrence of the following: (i) Purchaser's termination of this Agreement during the Due Diligence Period set forth in Article II; (ii) Seller's termination of the Agreement due to Purchaser's default as set forth in Section 8.1 of this Agreement following applicable notice and cure periods; or (iii) upon the expiration of the Option Term. Seller is hereby authorized, without further action or consent of Purchaser, to record a termination of the Memorandum of Purchase Option upon the earlier occurrence any of the events or circumstances described in clauses (i) or (ii) in the preceding sentence prior to the expiration of the Option Term or as described in (iii), following the expiration of the Option Term. Any third party purchaser, lender, or title company shall be entitled to rely upon such termination as evidence of the agreements between the parties and no further action or consent shall be required of Purchaser to release its purchase rights with respect to the Option Property.

## **ARTICLE X**

### **MISCELLANEOUS**

#### **10.1 Deleted.**

10.2 **Resale to City.** Purchaser agrees to use good faith efforts to have commenced construction of its proposed development on the Property within five (5) years of the anniversary of the Closing of the sale of the Property as contemplated hereby. In the event that Purchaser has not commenced construction (meaning, obtaining land disturbance permits and commencement of site work) of its proposed development by the fifth (5th) anniversary of the Closing date, the City will thereafter have the right and option, but not the obligation, to repurchase the Property from Purchaser for the same Purchase Price paid by Purchaser and otherwise on the same terms and conditions set forth herein (the "**Right of Repurchase**"), provided that closing of such repurchase must occur within twelve (12) months after the Right of Repurchase has been exercised by the Seller (the "**Repurchase Term**"). Upon the expiration of the Repurchase Term, Purchaser shall be free to sell the Property to any party on such terms and conditions as shall be acceptable to Purchaser. At the Closing of the sale of the Property as set forth in Section 6.1, Seller and Purchaser will enter into a Memorandum of Right of Repurchase (the "**Memorandum of Right of Repurchase**"), which is to be recorded in the real property records of Jefferson County, Alabama.

10.3 **Brokerage Commissions.** Seller and Purchaser represent and warrant to each other that no broker or finder was instrumental in arranging or bringing about this transaction and that there are no claims or rights for brokerage commissions or finders' fees in connection with the transactions contemplated hereby by any person or entity, other than EGS Commercial Real Estate, Inc., who represents the Purchaser ("**Broker**"). In the event that closing actually



occurs (and only in such event), Purchaser shall pay a Broker's fee of four percent (4%) of the Purchase Price for the Property and any Option Property hereafter purchased. If any person brings a claim for a commission or finder's fee based upon any contract, dealings or communication with Purchaser or Seller (other than Broker), then the party through whom such person makes its claim shall defend the other part (the "**Indemnified Party**") from such claim, and shall indemnify the Indemnified Party and hold the Indemnified Party harmless from any and all costs, damages, claims, liabilities or expenses (including without limitation, reasonable attorney's fees and disbursements) incurred by the Indemnified Party in defending the claim. The provisions of this Section 10.3 shall survive the Closing or, if the Closing does not occur, any termination of this Agreement.

10.4 **Notices.** Any notices required or permitted to be given hereunder shall be given in writing and shall be delivered (a) in person, (b) by certified mail, postage prepaid, return receipt requested, (c) by a commercial overnight courier that guarantees next day delivery and provides a delivery receipt or (d) by email (followed by hard copy delivered in accordance with the one of the preceding subsections (a)-(c)), and such notices shall be addressed as follows:

If to Seller:

City of Irondale, Alabama  
101 20th Street South  
Irondale, Alabama 35210  
Attn: Mayor James D. Stewart, Jr.  
Email: [jstewart@cityofirondaleal.gov](mailto:jstewart@cityofirondaleal.gov)

with copies to:

Leigh Allison, City Clerk  
City of Irondale, Alabama  
101 20th Street South  
Irondale, Alabama 35210  
Email: [LAllison@cityofirondaleal.gov](mailto:LAllison@cityofirondaleal.gov)

and

April B. Danielson, City Attorney  
Wallace, Jordan, Ratliff & Brandt, LLC  
800 Shades Creek Parkway, Suite 400  
Homewood, Alabama 35209

If to Purchaser:

Pine Whispers, LLC  
3021 7th Ave South  
Birmingham, Alabama 35233  
Email: [jgorrie@brasfieldgorrie.com](mailto:jgorrie@brasfieldgorrie.com)

with copies to:

Jill Deer  
3021 7th Ave South  
Birmingham, Alabama 35233  
Email: [jdeer@brasfieldgorrie.com](mailto:jdeer@brasfieldgorrie.com)

and:

Burr & Forman LLP  
420 20<sup>th</sup> Street North, Suite 3400  
Birmingham, AL 35203  
Attn: Gail Livingston Mills  
Email: [gmills@burr.com](mailto:gmills@burr.com)

If to Title Company/Escrow Agent:

The Title Group Incorporated  
2101 First Avenue North  
Birmingham, AL 35203  
Attn: Bart Crawford  
Email: [bcrawford@titlegrp.com](mailto:bcrawford@titlegrp.com)

or at such address as either party may from time to time specify in writing to the other party. Any notice shall be effective only upon receipt (or refusal by the intended recipient to accept delivery). The attorneys for any party hereto may send notices hereunder on such party's behalf.

10.5 **Successors and Assigns.** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto. This Agreement or the Purchase Option or the Right of Repurchase granted hereunder may not be assigned by either Party without the prior written consent of the other, except as follows: Purchaser may assign this Agreement and the Purchase Option to a non-profit entity, public charity or private foundation, provided that the principal of Purchaser shall have substantial involvement as a member of the board of the directors.

10.6 **Governing Law.** This Agreement is to be construed as a contract under the laws of the State of Alabama.

10.7 **Entire Agreement; No Waiver, etc.** This Agreement sets forth the entire agreement between the parties, merges all prior and contemporaneous agreements, understandings, warranties or representations, and may be canceled, modified or amended only as set forth herein or by a written instrument executed by both Seller and Purchaser. The captions are used only as a matter of convenience and are not to be considered a part of this Agreement nor to be used in determining the intent of the parties to it. No waiver of any provision or condition of the contract by any party shall be valid unless in writing, signed by such party. No such waiver shall be taken as a waiver of any other or similar provision or of any future event, act, or default. All references to exhibits contained herein are references to exhibits attached hereto, all of which are made a part hereof for all purposes the same as if set forth

herein verbatim, it being expressly understood that if any exhibit attached hereto which is to be executed and delivered at Closing contains blanks, the same shall be completed correctly and in accordance with the terms and provisions contained herein and as contemplated herein prior to or at the time of execution and delivery thereof.

10.8 **Deleted.**

10.9 **Interpretation.** Whenever the context hereof shall so require, the singular shall include the plural, the male gender shall include the female gender and neuter, and vice versa.

10.10 **Severability.** If any provision of this Agreement is invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision hereof.

10.11 **Time of Essence.** Time is of the essence. Should any period of time specified herein end on a Friday, Saturday, Sunday or legal holiday, the period of time shall automatically be extended to 5:00 p.m. of the next full business day.

10.12 **Counterparts.** This Agreement may be executed in multiple counterparts, each of which, when compiled, shall constitute an original, and all of which together shall constitute one and the same document.

10.13 **Waiver of Trial by Jury.** EACH PARTY HEREBY WAIVES, IRREVOCABLY AND UNCONDITIONALLY, TRIAL BY JURY IN ANY ACTION BROUGHT ON, UNDER OR BY VIRTUE OF OR RELATING IN ANY WAY TO THIS AGREEMENT OR ANY OF THE DOCUMENTS EXECUTED IN CONNECTION HERewith, THE PROPERTY, OR ANY CLAIMS, DEFENSES, RIGHTS OF SET-OFF OR OTHER ACTIONS PERTAINING HERETO OR TO ANY OF THE FOREGOING.

10.14 **Signatures.** Signatures to this Agreement transmitted by telecopy shall be valid and effective to bind the party so signing. Each party agrees to promptly deliver an executed original of this Agreement with its actual signature to the other party, but failure to do so shall not affect the enforceability of this Agreement, it being expressly agreed that each party to this Agreement shall be bound by its own telecopied signature and shall accept the telecopied signature of the other party to this Agreement.

[SIGNATURES ON FOLLOWING PAGES]



**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the Effective Date.

**PURCHASER:**

**PINE WHISPERS, LLC,**  
an Alabama limited liability company

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date Executed: \_\_\_\_\_

[SELLER'S SIGNATURE PAGE ON FOLLOWING PAGE]

[SIGNATURE PAGE OF SELLER TO AGREEMENT  
OF PURCHASE AND SALE OF REAL PROPERTY WITH PINE WHISPERS, LLC]

**SELLER:**

**CITY OF IRONDALE, ALABAMA,**  
a municipal corporation

BY: 

James D. Stewart, Jr.

Its Mayor

Date Executed: 

**EXHIBIT A**  
**DEPICTION OF  
PROPERTY**

Exhibit A  
±45 Acres





**EXHIBIT B**  
**DEPICTION OF OPTION  
PROPERTY**

Exhibit B  
±30 Acres

