

ORIGINAL  
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**RESOLUTION NO.: R-2011-059**

*Authorizing the City Manager to execute an Agreement of Purchase and Sale between the City of Columbia and Chapin Development Company for the purchase of approximately 1.30 acres on Broomstraw Road known as Lexington County TMS #00723-02-002 (portion), CIP Project #WM4138, CF#220-346 for the new Chapin Water Tank Site*

BE IT RESOLVED by the Mayor and City Council this 6th day of September, 2011, that the City Manager is authorized to execute the attached Agreement of Purchase and Sale, or in a form approved by the City Attorney, and any other documents necessary to complete the transaction, between the City of Columbia and Chapin Development Company for the purchase of approximately 1.30 acres on Broomstraw Road, being a portion of Lexington County TMS #00723-02-002, for the appraised value of One Hundred Eighty-one Thousand and No/100 (\$181,000.00) Dollars, for a new 1/2 million gallon water tank to provide additional water to the northwest Columbia area.

The referenced property is more clearly shown on the plat attached hereto and made a part hereof as Exhibit "A". Said plat also being on file in the office of the Department of Utilities & Engineering under file reference #220-346. (Funding Code: 5529999-WM413801-659100).

Requested by:

Utilities & Engineering Department

Mayor

Approved by:

City Manager

Approved as to form:

City Attorney

ATTEST:

City Clerk

Introduced 9/6/2011

Final Reading 9/6/2011



regulations, building restrictions and conditions, restrictions, covenants, and easements of record, including any shown on a recorded plat; also, any state of facts that an accurate survey would show.

5. **CONDITION OF PROPERTY.** The Buyer has fully examined and inspected the Property and agrees to purchase the Property "AS IS".

6. **RISK OF LOSS OR DAMAGE.** The risk of loss or damage to the Property by fire or other casualty until the delivery of the deed is assumed by the Seller. In the case of loss or damage, the Seller has the option to restore the Property within a reasonable time to substantially its undamaged condition or to terminate this Agreement. In the event the Seller elects to terminate this Agreement, there shall be no further obligation of the Seller to the Buyer.

7. **REAL ESTATE COMMISSION.** Buyer is aware that Seller is a licensed real estate broker and both parties warrant that they have taken no action that would result in a real estate commission being due on behalf of the Buyer or to be paid by the Buyer. (Buyer initial SM; Seller initial \_\_\_\_\_)

8. **SELLER'S DEFAULT.** If the Seller shall default under this Agreement, the Buyer shall have the option of suing for damages or specific performance, or rescinding this Agreement. Upon default by the Seller, if the Buyer elects to rescind this Agreement, the sole obligation of the Seller shall be to refund to the Buyer all sums paid hereunder and to reimburse the Buyer for actual costs of its survey of the Property, the cost of title examination, copies and its reasonable attorney's fees. Upon the making of such refund and reimbursement, this Agreement shall wholly cease and terminate and neither party shall have any further claim against the other by reason of this Agreement. Seller shall not be required to bring any action or proceedings or otherwise incur any expense to render the title to the Property marketable, and in the event Seller is unable or unwilling to deliver good and marketable title to the Property, Buyer may terminate this Agreement, upon which event neither party shall have any further claim against the other hereunder. The Buyer may, nevertheless, accept such title as Seller may be able to convey, without reduction of the purchase price or any credit or allowance against the same and without any other liability on the part of the Seller. The acceptance of a deed by the Buyer shall be deemed to be a full performance and discharge of every agreement and obligation on the part of the Seller to be performed pursuant to the provisions of this Agreement. The term "cost of title examination" is defined for the purposes of this Agreement as the expense actually

incurred by the Buyer for title examination; in no event, however, to exceed the amount customarily charged by local attorneys for comparable title examinations. If a Title Insurance Company, which is a member of the American Land Title Association, will issue a binder to issue an owner's title insurance policy insuring the title to the Property in the amount equal to the purchase price, which owner's title insurance policy will have as exceptions only those as are herein agreed to, the Seller shall be deemed to be able to convey marketable fee simple title.

9. **BUYER'S DEFAULT.** If the Buyer shall default under this Agreement, the Seller shall be entitled to terminate this Agreement and shall have no further obligations to the Buyer hereunder.

10. **ADJUSTMENTS.** Taxes, interest, water charges, sewer charges, fuel oil, light charges, rents when collected, and other assessments shall be adjusted and prorated as of the Closing Date. Tax proration pursuant to this Agreement are based on the taxes of record on this date and are, therefore, prorated on that basis. Any increase or decrease of taxes shall be subject to an adjustment by the Buyer and/or Seller when the current year's taxes are determined.

11. **CLOSING DATE.** The closing shall take place on or before September 30, 2011 (the "Closing Date"). At closing, Seller shall deliver the deed upon Buyer's compliance with the terms and conditions herein. The Closing Date may be extended only by written agreement of the parties.

12. **POSSESSION.** The Seller shall relinquish possession of the Property to the Buyer upon closing.

13. **ONLY CONTRACT.** The parties hereto further agree that this written contract expresses the entire agreement between the parties and this Agreement may not be changed orally, but only by an instrument in writing signed by the party against whom enforcement of such change is sought. All prior negotiations and representations of the parties are merged herein and are void and unenforceable unless contained in this Agreement.

14. **DEFINITION.** If two or more people constitute the Seller or the Buyer, the word "Seller" or the word "Buyer" shall be construed as if written "Sellers" or "Buyers" whenever the sense of this Agreement so requires.

15. **ADDITIONAL TERMS.** Buyer agrees to install, at minimum, an eight inch (8") water line stub out for Seller's future use along the northeastern boundary of site in vicinity of proposed road as part of and at the time of the construction of the future water tank. The City does not waive any of the usual rules, regulations, or monthly service charges normally required by the City at the point in time application for water service connection is made.

16. **MISCELLANEOUS.** This Agreement is not binding upon the City of Columbia until such time as the Agreement is approved by Columbia City Council and the City Manager is authorized by legislative enactment to execute the same on behalf of the City of Columbia.

WITNESSES:

**CHAPIN DEVELOPMENT COMPANY**  
(Seller)

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(As to Seller)

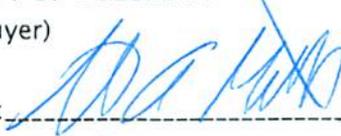
BY:-----

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(As to Seller)

TITLE:-----

**CITY OF COLUMBIA**  
(Buyer)

  
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(As to Buyer)

BY:   
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Steven A. Gantt

  
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(As to Buyer)

TITLE: City Manager

