

RESOLUTION NO.: R-2020-090

Authorizing the City Manager to execute an Assignment of Contract of Sale and Purchase of Real Estate between the City of Columbia and Executive Management & Leasing, Inc. for the purchase of 1127 Washington Street, Richland County TMS #09013-04-08

ORIGINAL  
STAMPED IN RED

BE IT RESOLVED by the Mayor and City Council this 17th day of November, 2020, that the City Manager is hereby authorized to execute the attached Assignment of Contract of Sale and Purchase of Real Estate and any documents necessary and approved by the City Attorney, between the City of Columbia and Executive Management & Leasing, Inc., to consummate the purchase of 1127 Washington Street, Richland County TMS #09013-04-08 for Five Hundred Thousand and No/100 (\$500,000.00) Dollars.

(Funding Source: Water and Sewer Fund and General Fund)

Requested by:

City Manager \_\_\_\_\_

  
\_\_\_\_\_  
Mayor

Approved by:

  
\_\_\_\_\_  
City Manager

Approved as to form:

*T. A. Knox*  
\_\_\_\_\_  
City Attorney

ATTEST:

  
\_\_\_\_\_  
City Clerk

Introduced: 11/17/2020

Final Reading: 11/17/2020

ASSIGNMENT

THIS ASSIGNMENT ("Assignment") is made effective as of the 12th day of October, 2020 by EXECUTIVE MANAGEMENT & LEASING, INC., a South Carolina corporation ("Assignor") to CITY OF COLUMBIA, SOUTH CAROLINA ("Assignee").

WHEREAS, Assignor made and entered into that certain Contract for Sale and Purchase of Real Estate dated as of October 12, 2020, by and between Assignor and The Most Worshipful Prince Hall Grand Lodge of Free and Accepted Masons of the State of South Carolina (the "Contract"); and

WHEREAS, Assignor desires and Assignee has requested that Assignor assign its rights and responsibilities under the Contract to Assignee, contingent upon and subject to the approval of the City Council of Columbia, South Carolina, within sixty (60) days.

NOW, THEREFORE, for and in consideration of the sum of Ten and no/100 (\$10.00) Dollars paid to the Assignor and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, effective as of the date of this Assignment, subject to the contingency set forth herein below, the Assignor does hereby assign, set over, sell and transfer all of its right, title and interest in and to the Contract to the Assignee, and the Assignee does hereby accept such assignment and assumes all rights and responsibilities of the Assignor under the Contract. Notwithstanding anything to the contrary set forth in this Assignment, this Assignment is expressly contingent upon and subject to the approval of the City Council of Columbia, South Carolina, within sixty (60) days after the date of this Assignment; if such approval is not timely obtained, this Assignment shall automatically become null and void and of no force or effect.

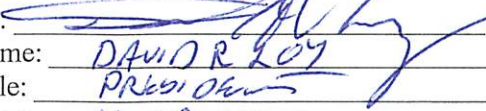
IN WITNESS WHEREOF, the Assignor and Assignee have executed this Assignment effective as of the date first above written.

WITNESSES:

ASSIGNOR:

EXECUTIVE MANAGEMENT & LEASING, INC.,  
a South Carolina corporation



By:   
Name: DAVID R. LOY  
Title: President  
Date: 11-18-2020

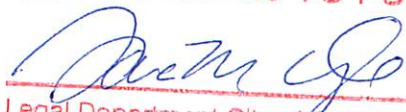
ASSIGNEE:

CITY OF COLUMBIA, SOUTH CAROLINA



By: Teresa B. Wilson  
Name: Teresa B. Wilson  
Title: City Manager  
Date: 11/24/2020

APPROVED AS TO FORM

  
Legal Department City of Columbia, SC

## CONTRACT FOR SALE AND PURCHASE OF REAL ESTATE

**THIS CONTRACT FOR SALE AND PURCHASE OF REAL ESTATE** (the "Contract") is made and entered into as of the 12<sup>th</sup> day of October, 2020, by and between **EXECUTIVE MANAGEMENT & LEASING, INC.**, a South Carolina corporation, or its assigns (hereinafter referred to as "**Purchaser**") and **THE MOST WORSHIPFUL PRINCE HALL GRAND LODGE OF FREE AND ACCEPTED MASONS OF THE STATE OF SOUTH CAROLINA**, a South Carolina nonprofit corporation (hereinafter referred to as "**Seller**"). The "Effective Date" of this Contract shall be the date on which the last party signs this Contract.

### WITNESSETH:

**THAT FOR** and in consideration of the mutual covenants, agreements and undertakings herein set forth, and other valuable considerations, the receipt and sufficiency of which are hereby acknowledged, Seller agrees to sell and convey to Purchaser and Purchaser agrees to purchase from Seller the real property described in Paragraph 1 below on the terms and conditions hereinafter set forth:

1. **Description of Property.** The real property which is subject to this Contract consists of all that certain piece, parcel, or lot of land, and the improvements thereon located at 1127 Washington Street, Columbia, SC 29201 and identified as Richland County Tax Map Number R09013-04-08, together with all of Seller's right, title and interest in and to the 10' alleyway located along the eastern boundary of the above described parcel (hereinafter referred to as the "**Property**"). The Property is described in more detail on Exhibit "A" which is attached hereto and incorporated herein by reference.

2. **Purchase Price.** The purchase price for the Property shall be \$500,000.00 (the "**Purchase Price**") and shall be paid by the Purchaser as follows:

(a) The sum of \$5,000.00 (the "**Earnest Money**") shall be deposited with Burr & Forman, LLP ("**Agent**") upon the execution hereof.

(b) The balance of the Purchase Price shall be delivered in immediately available funds at Closing (as defined below).

3. **Closing.** The "**Closing**" of the transaction herein provided shall be held not later than thirty (30) days after the expiration of the Inspection Period (as defined herein) at the offices of Purchaser's counsel.

4. **Purchaser's Rights Prior to Closing - Inspection Period.**

(a) For a period not to exceed Sixty (60) days from the Effective Date (such period being herein referred to as the "**Inspection Period**"), the Purchaser, its authorized agents and employees, as well as others authorized by the Purchaser, shall have full and complete access to the Property and shall be entitled to enter upon the Property and make such surveying, architectural,

engineering, topographical, geological, soil, subsurface, environmental, water drainage, and other investigations, inspections, evaluations, studies, tests and measurements (collectively, the "**Investigations**") as the Purchaser deems reasonably necessary or advisable in order to determine if the Property is acceptable to Purchaser, so long as same do not result in any material adverse change to the physical characteristics of the Property. To the extent permitted by law, Purchaser agrees to indemnify and hold Seller harmless from and against any and all claims, costs, expenses and liabilities including reasonable attorneys' fees arising out of or by reason of the Investigations. Purchaser shall restore any disturbance of the Property caused by the Investigations into the same condition that existed prior to the Effective Date in the event Purchaser fails to close, or terminates this Contract.

(b) At any time prior to the expiration of the Inspection Period the Purchaser shall have the right to terminate this Contract if the Purchaser, in Purchaser's sole discretion, determines that the Property is not suitable for Purchaser's intended purposes. If the Purchaser elects to terminate pursuant to this paragraph, it shall give written notice of such termination to the Seller and to the Agent prior to the expiration of the Inspection Period. Upon such termination, the Agent shall return the Earnest Money to the Purchaser, and neither party shall have any further rights or obligations hereunder except for any obligations of the Purchaser under (a) above.

5. **Title.** The Purchaser's obligations hereunder shall be conditioned upon the Seller's delivery of a good marketable and insurable fee simple title to the Property (at standard rates), by limited warranty deed, free and clear of all liens, encumbrances and conditions which in the opinion of the Purchaser would adversely affect the use and marketability of the Property.

6. **Title Examination.** Prior to the end of the Inspection Period Purchaser shall deliver to Seller a written statement of objections, if any, to Seller's title to the Property (the "Title Objections") and Seller shall have (10) days after receipt of the Title Objections in which to cure or remove the same, time being of the essence. Seller hereby covenants and agrees to use Seller's best efforts to cure or remove said objections within said period. In the event Seller fails or refuses to cure or remove said objections within said period (or within such longer period as may be approved by Purchaser in writing), then, Purchase may either (i) waive all or any of the Title Objections and close the transaction with no reduction in the Purchase Price, in which event the uncorrected and unremoved Title Objections shall be deemed waived by Purchaser and shall thereafter be permitted exceptions to title under this Contract; or (ii) terminate this Contract by notice of the same delivered to Seller at or before Closing, shall terminate and be of no further force and effect. In such event, the Earnest Money shall immediately then be returned to Purchaser and no party hereto shall have any further rights, liabilities or obligations hereunder.

7. **Seller's Representations and Warranties.** Seller makes the following representations and warranties to Purchaser, each of which shall be true and complete as of the date of this Contract and as of the date of Closing:

(a) The Seller is a not for profit corporation organized and in good standing under the laws of the State of South Carolina.

(b) The Seller has full power and authority to enter into this Contract and to perform all its obligations hereunder; the execution and delivery of this Contract and the performance by Seller of its obligations hereunder have been duly authorized by such action as may be required, and no further action or approval is required in order to constitute this Contract as a binding and enforceable obligation of Seller.

(c) Seller has received no written notice, and to Seller's actual knowledge, there is no action, suit or proceeding, pending or threatened against or materially affecting the Property or any portion thereof or relating to or arising out of the ownership of the Property, in any court or before or by any federal, state, county or municipal department, commission, board, bureau or agency or other governmental instrumentality.

(d) Seller is the sole owner of the Property and has good and marketable title thereto and the sole authority to convey the Property.

(e) To Seller's actual knowledge, there are no tenants or parties with any right to possess all or any portion of the Property, except pursuant to that certain Ground Lease dated April 19, 1973, between the Seller as lessor and M S Investments, a South Carolina partnership, as lessee, recorded in Book D318 at Page 353 in the Richland County Register of Deeds Office, as subsequently assigned ("Ground Lease").

(f) To Seller's actual knowledge, no person or entity has any right or option to acquire the Property or any portion thereof except as provided in the Ground Lease.

(g) Seller has received no written notice from any governmental agency having jurisdiction and Seller is not aware that the Property is affected by the presence and/or harmful effects of any asbestos, toxic, or hazardous substances as defined by applicable federal, state, or local laws affecting the Property. Seller has no actual knowledge of any underground storage tanks currently located at the Property or being located at the Property in the past.

(h) The "knowledge" of seller shall be limited to the actual knowledge of Edward Spencer Scott, in his capacity as the Most Worship Grand Master of Prince Hall Grand Lodge of South Carolina, without requirement of his investigation or inquiry.

Except as set forth in the Seller's representations and warranties above and in the title representations and warranties to be set forth in the Deed (as hereinafter defined), the Property is being sold "AS IS"/"WHERE IS".

**8. Default and Remedies.** In the event that the terms and conditions of this Contract have been satisfied and Purchaser does not purchase the Property in accordance with the requirements of this Contract within the time limits herein set forth, Seller, as Seller's sole and exclusive remedy, may declare this Contract cancelled in which event the Earnest Money shall be paid to the Seller as full liquidated damages and not as a penalty, it being agreed that the Seller's damages would be difficult or impossible to ascertain. In the event of Seller's breach of any of its obligations hereunder, Purchaser shall have the following rights and options as Purchaser's sole

and exclusive remedies to either: (a) immediately terminate this Contract upon written notice to the Seller and receive back the full amount of the Earnest Money and upon return of same the parties hereto shall have no further rights and obligations or liabilities to each other hereunder or (b) demand and compel by an action for specific performance or similar legal proceedings, if necessary, for the immediate conveyance of the Property by Seller in compliance with the terms and conditions of this Contract, and to recover all costs and expenses, including reasonable attorneys fees incurred by Purchaser in such action.

9. **Closing Costs.** It is the intent of the parties hereto that the Seller receive a net amount of \$500,000.00 from the closing of the transactions contemplated herein. Therefore, Purchaser and Seller have agreed that Purchaser shall pay the local transfer tax, the deed stamps, the commission to the Brokers, if any, as provided below, the expense of preparation of the deed, the fees of Seller's attorney directly related to the closing of the transactions contemplated in this Contract and ad valorem real property taxes for the year in which the Closing occurs, the aggregate amount of all such costs not to exceed \$10,000. The Purchaser shall pay the premium for the owner's title insurance policy to be issued to the Purchaser, the grantee's cost of recordation of the deed, the costs incurred by the Purchaser in connection with its Investigations of the Property and the fees of Purchaser's attorneys.

10. **[INTENTIONALLY DELETED]**

11. **Delivery of Deed and Application of Earnest Money.**

(a) At Closing, Seller shall deliver to the Purchaser or Closing Attorney (as hereinafter defined) the following with respect to the Property, all in form reasonably satisfactory to Purchaser and Seller:

(i) A limited warranty deed ("Deed"), executed and acknowledged by the applicable Seller as of the Closing date;

(ii) If requested by Purchaser, a quit-claim deed containing a legal description based on the new survey;

(iii) A certificate and affidavit of non-foreign status, executed by Seller as of the Closing date;

(iv) Appropriate resolutions, articles, bylaws and other evidence required by the Purchaser's title company ("Title Company") and Purchaser to evidence the Seller's authority to execute and deliver the deed;

(v) A South Carolina certificate of existence, dated no more than thirty (30) days prior to Closing;

(vi) An executed closing statement in a form reasonably acceptable to Seller and Purchaser;

(vii) An owner's affidavit and a gap indemnity reasonably satisfactory to Title Company and Purchaser;

(viii) 1099-S;

(ix) South Carolina tax withholding affidavit;

(x) South Carolina tax compliance letter, dated no more than thirty (30) days prior to Closing;

(xi) Such affidavits or letters of indemnity as the title insurance company which is to insure the title to the Property shall reasonably require in order to issue, without extra charge, policies of title insurance free of any exceptions for (a) unfiled mechanics', materialmen's or similar liens; (b) to delete any standard title exceptions relating to matters created by Seller between the date of the last title update and the date of Closing; and (c) to delete any standard title exceptions relating to matters not disclosed by the applicable land title records for the Property or the Survey that are known to the Seller and/or that could be learned from inquiry of Seller; and

(xii) A certificate stating that all representations and warranties are true, complete and correct as of the Closing Date; and.

(xiii) All other documents reasonably necessary to effectuate the transaction under the terms of this Contract.

(b) At the Closing, Purchaser shall deliver to Seller or the Closing Attorney, as applicable, the following with respect to the Property:

(i) Purchaser shall have deposited in escrow with the Closing Attorney the Purchase Price by wire transfer (plus or minus the net adjustments computed hereunder).

(ii) An executed closing statement in a form reasonably acceptable to Seller and Purchaser; and

(iii) All other documents reasonably necessary to effectuate the transaction under the terms of this Contract.

(c) Upon receipt of the Purchase Price at the time of Closing and at such time as Purchaser's attorney (the "*Closing Attorney*") is in a position to disburse the same in accordance with the signed closing statement, the Closing Attorney shall be authorized to cause the final title update to be conducted and the Deed and any mortgage recorded, after which all disbursements provided for on the closing statement, including the net proceeds payable to the Seller, shall be

made immediately. The Earnest Money shall be delivered to the Seller and applied against the Purchase Price.

12. **Brokerage.** Seller and Purchaser represent and warrant each to the other that they have not dealt with any brokers in connection with this transaction. To the extent permitted by law, either party guilty of a breach of this representation and warranty shall indemnify the other party for any claims, suits, liabilities, costs, judgments and expenses, including reasonable attorneys' fees for commissions resulting from or arising out of such party's actions in violation of this representation and warranty. These warranties shall survive the Closing.

13. **Notices.** All notices, demands and requests which may be given or which are required to be given by either Party to the other, and any exercise of a right of termination provided by this Contract, shall be in writing and shall be deemed effective when: (i) personally delivered to the intended recipient; or (ii) sent, by certified or registered mail, return receipt requested, addressed to the intended recipient at the address specified below; or (iii) delivered in person to the address set forth below for the Party to whom the notice was given; or (iv) deposited into the custody of a recognized overnight delivery service such as Federal Express or UPS, addressed to such party at the address specified below; or (v) sent by facsimile or email, provided that receipt for such facsimile or email is verified by the sender and followed by a notice sent in accordance with one of the other provisions set forth above. For purposes of this Contract, the addresses of the Parties for all notices are as follows (unless changed by similar notice in writing given by the particular person whose address is to be changed):

If to Purchaser:

Executive Maint. + Leasing  
1401 Main St. STE 670  
Columbia, SC 29201

Phone: 803-771-9884  
Fax: 803-771-9887  
Email: jshaffer@emandl.com

With copy to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Phone: \_\_\_\_\_  
Fax: \_\_\_\_\_  
Email: \_\_\_\_\_

If to Seller:



\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Phone: \_\_\_\_\_  
Fax: \_\_\_\_\_  
Email: \_\_\_\_\_

With copy to:

Rip Sanders, Esquire  
Bernstein and Bernstein, LLC  
1019 Assembly Street  
Columbia, South Carolina 29201  
Phone: 803-799-7900  
Fax: 803-799-7996  
Email: rip@bblawsc.com

14. **Governing Law.** This Contract shall be governed, interpreted and construed under the laws of the State of South Carolina.

15. **Assignment.** If either party assigns its rights hereunder, it will nevertheless remain primarily liable for the performance of its obligations hereunder.

16. **Time of the Essence.** Time is of the essence in the performance of the terms and conditions of this Contract.

17. **Risk of Loss.** Seller shall bear all risk of loss until the Closing. In the event that prior to the Closing, the improvements are damaged by fire or other casualty of any nature whatsoever, Seller shall promptly give Purchaser written notice thereof.

18. **Entire Agreement.** This Contract constitutes the entire agreement between the parties hereto and it is understood and agreed that all undertakings, negotiations, representations, promises, inducements and agreements heretofore had between these parties are merged herein. This Contract may not be changed orally but only by an agreement in writing signed by both the Purchaser and the Seller. No waiver of any of the provisions to this Contract shall be valid unless in writing and signed by the party against whom it is sought to be enforced. The provisions of this Contract shall inure to the benefit of and shall be binding upon the parties hereto and their respective heirs, successors and assigns.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have executed this Contract on the dates set forth below.

IN THE PRESENCE OF:

PURCHASER

EXECUTIVE MANAGEMENT & LEASING,  
INC. a South Carolina corporation

Jamie M. Staffer  
W D Palm

[Signature]  
By: DAVID R. LOY  
Its: PRESIDENT

Date signed by Purchaser: 10/15, 2020

SELLER

THE MOST WORSHIPFUL PRINCE HALL  
GRAND LODGE OF FREE AND ACCEPTED  
MASONS OF THE STATE OF SOUTH  
CAROLINA, a South Carolina nonprofit  
corporation

Richard Jay Scott  
Stuart Mahan

[Signature]  
By: E. Spencer Scott  
Its: MWGM of PHGLSC

Date signed by Seller: 10/12, 2020

## **EXHIBIT "A"**

### **LEGAL DESCRIPTION**

All that certain piece, parcel or lot of land with improvements thereon, situate, lying and being in the State of South Carolina, County of Richland, City of Columbia, being near the northwestern intersection of Main Street and Washington Street, and being designated as Parcel 2 shown on plat of survey prepared by B. P. Barber & Associates, Inc., dated May 3, 1976, for MS Investments, and recorded in the Office of the Richland County ROD in Plat Book X, page 9106. Reference to said plat is craved for a fuller description, with all measurements being a little more or less.