

**ORIGINAL
STAMPED IN RED**

RESOLUTION NO.: R-2021-039

Authorizing the City Manager to execute an Agreement of Sale and Purchase between the City of Columbia and Dominion Energy South Carolina, Inc. for the purchase of approximately 2.24 acres known as 3000 Harden Street, Richland County TMS #11502-02-01 and approximately 3.144 acres known as 1213 Flora Street, Richland County TMS #11301-04-06 and 11301-04-24

BE IT RESOLVED by the Mayor and City Council this 20th day of April, 2021, that the City Manager is hereby authorized to execute the attached Agreement of Sale and Purchase and any documents necessary and approved by the City Attorney, between the City of Columbia and Dominion Energy South Carolina, Inc. to consummate the purchase of approximately 2.24 acres known as 3000 Harden Street, Richland County TMS #11502-02-01 and approximately 3.144 acres known as 1213 Flora Street, Richland County TMS #11301-04-06 and 11301-04-24 for the sum of Two Million Nine Hundred Thirty Thousand and 00/100 Dollars (\$2,930,000.00) Dollars.

(Funding Source: 3000 Harden Street - General Fund/IPRB; Flora Street - Water/Sewer Fund)

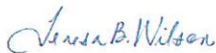
Requested by:

Assistant City Manager Gentry



Mayor

Approved by:



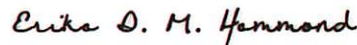
City Manager

Approved as to form:



City Attorney

ATTEST:



City Clerk

Introduced: 4/20/2021

Final Reading: 4/20/2021

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

AGREEMENT OF SALE
AND PURCHASE

THIS AGREEMENT is made as of the Effective Date as defined herein, between Dominion Energy South Carolina, Inc., a South Carolina corporation ("DESC"), and The City of Columbia, ("Buyer"). DESC and Buyer may be individually referred to herein as "Party" or jointly as the "Parties."

1. OFFER. For and in consideration of mutual promises and obligations specified herein, Buyer agrees to buy, and DESC agrees to sell, the within-described Property, subject to the terms and conditions hereinafter set forth.
2. DESCRIPTION: Said Property is situated in the town of Columbia, in the County of Richland, State of South Carolina (collectively, the "Property") and is described as follows:

2.1. Parcel 1 (3000 Harden Street):

All that certain piece, parcel or tract of land, located in the County of Richland, State of South Carolina, containing approximately 2.24 acres, more or less, together with all improvements thereon including but not limited to an approximately 5,546 SF +/- building, and all furniture, fixtures, equipment and personal property of DESC thereon that is not a component of DESC's confidential customer data or critical security infrastructure, and having an address of 3000 Harden Street, and tax map number 11502-02-01.

2.2. Parcel 2 (1213 Flora Street):

All that certain piece, parcel or tract of land, located in the County of Richland, State of South Carolina, containing approximately 3.15 acres, more or less, together with all improvements thereon including but not limited to an approximately 7,355 SF +/- building, and all furniture, fixtures, equipment and personal property of DESC thereon that is not a component of DESC's confidential customer data or critical security infrastructure, and having an address of 1213 Flora Street, and tax map number 11301-04-06 and tax map number 11301-04-24 (and all land between said tax map parcels), said property being generally shown on Exhibit B attached hereto and incorporated herein.

3. TITLE. This conveyance shall be made subject to any and all existing reservations, easements, encroachments, restrictions, covenants, zoning, governmental regulations, land use regulations, covenants of record, and rights-of-way, which may affect the Property or as may be revealed by an inspection of the Property and/or as shown on current plats of the Property to be obtained by the Buyer, except those objected to by Buyer as provided in this Agreement. DESC agrees to convey clear and marketable title and to deliver a limited warranty deed, together with any easements appurtenant to the Property or otherwise described as a portion of the Property, for ingress, egress and subject to utilities as may be reasonably necessary, in proper

form for recording free and clear of liens and encumbrances except as herein stated. The legal descriptions to be contained in the deed of conveyance shall be those set forth in the deed (s) by which DESC acquired the Property, as modified by subsequent conveyances or acquisitions related thereto. This conveyance shall further be subject to reserved easements to DESC, its successors and assigns (the "DESC Reserved Easements"), including the right of ingress, egress and access in, to, over, across and out of the above described Property for purpose of now existing utility lines, said easements to be (a) delineated by DESC within twenty (20) days after the Effective Date, (b) in accordance with DESC's standard easement terms and conditions and reasonably acceptable (both as to location and terms) to the Buyer, (c) shown on the Survey, and (d) reserved in the Deed(s) (as hereinafter defined).

4. PURCHASE PRICE. The purchase price for the Property (the "Purchase Price") is Two Million Nine Hundred Thirty Thousand and 00/100 Dollars (\$2,930,000.00), to be paid to DESC as follows: Fifty Thousand and 00/100 Dollars (\$50,000.00) as earnest money (the "Earnest Money") to be deposited in trust with DESC's Closing attorney, Gary C. Pennington, Esquire, c/o Pennington Law Firm, LLC, 2015 Boundary Street, Suite 223 , South Carolina 29902 (the "Escrow Agent"), no later than thirty (30) days after the Effective Date of this Agreement. The Earnest Money shall be applicable to the Purchase Price at Closing and shall be held and disbursed as provided in this Agreement. The balance of the Purchase Price shall be due at Closing. The Purchase Price shall be allocated between the two parcels that comprise the Property as follows: \$1,200,000 to Parcel 1 and \$1,730,000 to Parcel 2.

5. INSPECTION PERIOD.

5.1. Buyer shall be entitled during the sixty (60) day period commencing on the Effective Date, as described hereinbelow, of this Agreement (the "Inspection Period") to enter onto the Property to make on-sight inspections and studies regarding the Property and to investigate, whether, in Buyer's sole discretion, the Property is suitable for Buyer's contemplated use, including but not limited to the examination of title resulting in a commitment for title insurance by a title insurance company, the making of inquiries into such matters as zoning, land use, the availability of necessary utilities, the physical characteristics, attributes and detriments of the Property itself, the absence of environmentally adverse conditions affecting the Property, the availability of licenses, including State, Federal, Board and local approvals, matters shown on the survey to be obtained, and such other matters as Buyer shall, in its sole discretion, determine relevant. During the Inspection Period, Buyer, its agents and contractors, shall have the right to enter upon the Property for the purpose of making such inspections as Buyer determines reasonably necessary to decide whether or not it wishes to purchase the Property in accordance with the terms of this Agreement. Buyer will advise DESC if environmental Phase II will be required. DESC's refusal to permit the required environmental assessments is grounds for termination of this Agreement. Buyer shall be responsible to repair any damage caused to the Property by Buyer or its agents or contractors during its inspections of the Property if Buyer should elect not to purchase the Property. If DESC requests, Buyer shall share any and all reports generated during the Inspection Period with DESC by forwarding a copy of same to Land Department Manager at the address in *Section 19 – Notices* below; provided, however, that Buyer makes no representation or warranty to DESC regarding such reports and does not provide any assurance to DESC as to

whether DESC is entitled to rely on such reports. If Buyer shall elect not to proceed with the purchase of the Property for any reason within its sole discretion, it shall notify DESC in writing in accordance with *Section 19 - Notices* of its intention on or before the expiration of the Inspection Period. Buyer's election not to proceed shall not be regarded as a "default" under *Section 16 - Default* hereof. Should Buyer decide to terminate the Agreement during the Inspection Period for any reason, all Earnest Money will be returned to Buyer and this Agreement will be null and void. In the event that Buyer does not duly render notice of its intention not to purchase the Property, it shall be deemed to have consented to the purchase of the Property in accordance with the terms of this Agreement; however BUYER WILL WAIVE THE RIGHT TO OBJECT TO ANY MATTER ACTUALLY KNOWN TO BUYER – INCLUDING MATTERS CONCERNING TITLE OR ENVIRONMENTAL CONDITION – AS TO WHICH BUYER DID NOT SPECIFICALLY ADVISE DESC OF IN WRITING IN ACCORDANCE WITH *SECTION 19* HEREOF DURING THE INSPECTION PERIOD.

- 5.2. Within twenty (20) days after the Effective Date, DESC shall provide one copy of each of the materials listed on **Exhibit "A"** ("Due Diligence Materials") to Buyer with respect to the Property to the extent same are in Seller's possession or control.
- 5.3. Between the Effective Date and the Closing, DESC will maintain the Property in the ordinary course of business in the manner and condition in which it has been maintained during DESC's ownership thereof, and shall deliver the Property to the Buyer at Closing in substantially the same condition as existing on the Effective Date (subject to Acts of God). Between the Effective Date and the Closing, DESC shall not enter into any leases, contracts for services, easements or other encumbrances of the Property without the prior written consent of Buyer in each instance.
- 5.4. During the period after the end of the Inspection Period through the Closing, the Buyer shall continue to have access to the Property to make on-sight inspections and studies regarding the Property and for purposes of planning.
6. NO WARRANTY. Except for the representations and warranties of DESC set forth in this Agreement and the warranties of title set forth in the Deed(s), Buyer and DESC agree that the PROPERTY IS BEING SOLD IN "AS IS" CONDITION WITH NO WARRANTY OR GUARANTEE EXPRESSED OR IMPLIED. DESC makes no representation as to the use or usefulness of the Property for any purpose. Buyer acknowledges that Buyer has made an on-site inspection of the Property and is purchasing based on Buyer's own inspection and other independent due diligence. DESC has not made any commitments or accepted any obligations for further work on the Property or in the neighborhood of the Property.
7. SURVEY. Prior to the end of the Inspection Period, Buyer, at its expense, shall cause current surveys of the Property (the "Surveys") to be made by a registered surveyor. The Surveys shall indicate the boundary lines of the Property, the location of all improvements, easements, including reserved easements to Seller, roadways and other rights-of-way, flood plain areas, any existing building setback lines, the DESC Reserved Easements, and any encroachments and other matters affecting the Property. The Surveys shall contain a legal description of the Property, the number of acres contained in the Property calculated to the nearest 1/1000 of an

acre and a certificate in standard form addressed to the Buyer and signed and sealed by the surveyor. Upon receipt of the Surveys, Buyer shall promptly provide a copy of same to DESC.

7.1. In addition to the limited warranty deed to be executed by DESC and delivered to Buyer pursuant to *Section 3* herein, DESC, at the request of Buyer, shall execute a quit-claim deed to Buyer using the legal description of the Property prepared in accordance with the Surveys.

8. EFFECTIVE DATE AND CLOSING REQUIREMENTS.

8.1. The effective date (“Effective Date”) of this Agreement is the last signature date thereon. The closing shall take place at a location and date agreed upon by both Parties no later than forty five (45) days after the end of the Inspection Period (the “Closing” or “Closing Date”) unless otherwise agreed to by both Parties in writing; however, if approval of the South Carolina Public Service Commission (“SCPSC”), is required and not obtained prior to the scheduled Closing, Buyer and DESC shall agree to extend the Closing until such a determination is made; provided, however, that at any time prior to Buyer receiving written notice of the final determination of the SCPSC, Buyer shall have the right, at its sole option, to terminate this Agreement by written notice to DESC and receive a full refund of the Earnest Money. If the final determination of the SCPSC does not approve the sale of the Property to Buyer in accordance with this Agreement, then this Agreement shall terminate and Buyer shall receive a full refund of the Earnest Money. All Closing expenses shall be paid by the Party normally paying them in the area in which the Property is located, except as stated and shown in this Agreement.

8.2. At Closing, DESC shall deliver to the Buyer the following with respect to the Property, all in form reasonably satisfactory to Buyer and DESC:

8.2.1. Limited warranty deed(s) for each individual Property, executed and acknowledged by DESC as of the Closing Date (the “Deed”), including the DESC Reserved Easements;

8.2.2. A bill of sale executed by DESC conveying all personal property, if any, included on the Property;

8.2.3. A certificate and affidavit of non-foreign status (the “FIRPTA Affidavit”), executed by DESC as of the Closing Date;

8.2.4. Incumbency Certificate evidencing DESC’s authority to execute and deliver the Deed and including DESC’s articles and current certificate of existence.;

8.2.5. An executed closing statement, in a form reasonably acceptable to Buyer;

8.2.6. An owner’s affidavit reasonably satisfactory to Title Company and Buyer;

8.2.7. 1099-S;

8.2.8. South Carolina tax withholding affidavit;

8.2.9. South Carolina tax compliance letter;

8.2.10. 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 DESC between the date of the last title update and the date of Closing; ; and

- 8.2.11. All other documents reasonably necessary to effectuate the transaction under the terms of this Agreement.
- 8.3. At the Closing, Buyer shall deliver to DESC the following with respect to the Property:
- 8.3.1. On the Closing Date, Buyer shall have deposited in escrow with Buyer's attorney the Purchase Price by wire transfer via the Federal Reserve System (plus or minus the net adjustments computed hereunder);
- 8.3.2. Closing statement in a form reasonably acceptable to DESC; and
- 8.3.3. All other documents reasonably necessary to effectuate the transaction under the terms of this Agreement.
9. TAXES. DESC will pay the 2021 property taxes, with this obligation surviving the Closing. No rollback taxes are applicable to the Property.
10. CLOSING COSTS. DESC shall pay the state and county documentary stamp tax on the conveyance deed(s), if applicable; the expense of preparation of the deed and, if applicable, the fees of DESC's attorney. The Buyer shall pay the premium for the owner's title insurance policy to be issued to the Buyer, the grantee's cost of recordation of the Deed, the costs incurred by the Buyer in connection with its investigations of the Property and the fees of Buyer's attorneys.
11. PROFESSIONAL SERVICES FEES. Buyer shall pay the fees of any realtor, property advisor or attorney, if any, it has engaged in connection with this transaction, and DESC shall have no obligation or liability therefor. DESC shall pay the fees of any realtor, property advisor or attorney, if any, it has engaged in connection with this transaction, and Buyer shall have no obligation or liability therefor.
12. TITLE DEFECTS.
- 12.1. On or before Closing, except as otherwise provided in this Agreement, DESC will do, make, execute and deliver all such additional and further acts, deeds, instruments and documents as may be reasonably required by Buyer to completely vest in and assure to Buyer full rights in or to the Property, free and clear of all encumbrances except those acceptable to Buyer. In the event of an objection to title that Buyer has made DESC aware of in writing during the Inspection Period in accordance with *Section 5 - Inspection Period* and *Section 18 - Notices* herein that DESC elects not to cure or is unable to cure and the Buyer does not otherwise agree to waive, the Buyer may declare this Agreement null and void with full refund of Earnest Money. Buyer waives those title objections which Buyer has not given to DESC specific written notice of during the Inspection Period; failure of Buyer to Close for such reason shall constitute Default on the part of Buyer.
- 12.2. DESC will cause the Property to be released from all indentures, mortgages, deeds of trust, deeds to secure debt, security agreements, financing statements and all other security interests relating to existing indebtedness that is secured in whole or in part by the Property. DESC shall request the release of the Property from the indenture encumbering DESC's assets as soon as the Survey and legal description of the Property are finalized; if the process of obtaining such release from DESC's indenture extends beyond Closing, DESC will diligently pursue such release and shall provide such release

as quickly as administratively practicable, and shall indemnify and hold harmless the Buyer from and against all claims, losses and damages that may arise in connection with the failure to provide such release at Closing, such obligations to survive Closing.

- 12.3. Notwithstanding anything to the contrary in this Agreement, Buyer shall have the right to update title prior to Closing and to object to any matter revealed by such update which did not appear on Buyer's initial title insurance commitment. If DESC does not cure such matters objected to by Buyer prior to the Closing Date, Buyer, at its option, shall have the right to terminate this Agreement, receive a full refund of the Earnest Money..
13. DEED RESTRICTIONS. This conveyance shall be made subject to any and all existing reservations, easements, encroachments, restrictions, covenants, zoning, governmental regulations, land use regulations, and rights-of-way, which may affect the Property which may be evident upon visible inspection of the Property and/or as shown on the Surveys, except those objected to by Buyer as provided herein.
14. POSSESSION. Buyer shall have the right of occupancy immediately at Closing.
15. FIRE OR CASUALTY. In case the Property herein referred to is destroyed wholly or partially before Closing by fire or other casualty, DESC shall give notice thereof to Buyer as soon as possible in accordance with the Notice provision of *Section 18 - Notices* below, and Buyer shall have the option for ten (10) business days after Buyer's receipt of such notice of, at Buyer's sole option, either (a) proceeding to Closing with a mutually-agreed adjustment in the Purchase Price, (b) proceeding to Closing with DESC assigning all rights to insurance proceeds for such casualty to the Buyer and a credit against the Purchase Price in the amount of the deductible on DESC's insurance, or (c) terminating this Agreement, receiving a full refund of the Earnest Money.
16. DEFAULT. The remedies of the Parties in the event of default are as follows:
- 16.1. Buyer's Default: In the event Buyer fails to purchase the Property by said Closing Date as provided herein or otherwise breaches any of its obligations pursuant to this Agreement (each a "Buyer Default"), DESC, after fifteen (15) days prior written notice and right to cure to the Buyer, shall be entitled to terminate this Agreement and to immediately receive Buyer's Earnest Money deposit as its liquidated damages and DESC's sole and exclusive remedy hereunder.
- 16.2. DESC's Default: In the event DESC fails to sell the Premises by said Closing Date as provided herein or otherwise breaches any of its obligations pursuant to this Agreement (each a "Seller Default"; Buyer Default and Seller Default referred to together as a "Default"), Buyer's remedies shall, at Buyer's option, be to (i) terminate this Agreement and immediately receive a refund of its Earnest Money deposit and be reimbursed by DESC for all expenses, up to Forty Thousand and/100 Dollars (\$40,000.00), incurred by the Buyer in connection with this transaction; or (ii) to sue for specific performance or for any other remedy at law or equity.

17. [INTENTIONALLY OMITTED]

18. ELECTRONIC IMAGES/ELECTRONIC SIGNATURE. Both Buyer and DESC agree that receipt of an electronically signed Agreement by electronically scanned image, addressed to the email address for each party set forth in this Agreement, shall be the same as receipt of an original signed Agreement.

19. NOTICES. All notices required or permitted to be given pursuant to this Agreement shall be in writing and shall be effective upon personal delivery to the Party to whom they are addressed; or upon receipt/confirmation, if sent via e-mail to the addresses indicated below; or, if mailed, five (5) days following deposit in the United States mail first class postage prepaid, registered or certified; or, if sent by nationally recognized overnight courier, the date when signed for, if required, or delivered at addressee's residence or place of business and addressed to each Party at the following address:

DESC:

Robert Wright
Real Estate Agent – Land Management
Dominion Energy South Carolina, Inc.
220 Operation Way, D112
Cayce, South Carolina 29033-3701
Email: robert.wright@dominionenergy.com
Office Number: (803) 217-8083
Mobile Number: (803) 530-2148

Copy to:

Gary C. Pennington
Pennington Law Firm, LLC
2015 Boundary Street, Suite 223
Beaufort, South Carolina 29902
Email: garypennington@pennlawfirm.com
Telephone: (803) 929-1070

Buyer:

City of Columbia
Attn: City Manager
P.O. Box 147
Columbia, South Carolina 29217
Office Number: (803) 545-3480
Facsimile Number:
Email: Teresa.Wilson@columbiasc.gov

City of Columbia
Attn: Assistant City Manager
P.O. Box 147
Columbia, South Carolina 29217
Office Number: (803) 545-3037
Mobile Number: (803) 315-5125
Facsimile Number: _____
Email: Missy.Gentry@columbiasc.gov

20. GOVERNING LAW. This Agreement shall be governed and construed in accordance with the laws of the State of South Carolina, exclusive of its choice of law rules.

21. APPROVALS. The obligations of DESC hereunder are conditional upon DESC's receiving approval from the South Carolina Public Service Commission ("SCPSC). Such approval will be sought by DESC as soon as practicable after the Effective Date of this Agreement and diligently pursued to its completion. The approvals contemplated by this section may be waived by DESC to the extent permitted by law. In the event (a) SCPSC approval is required and has not been obtained prior to the scheduled Closing, Buyer and DESC agree to extend the Closing until SCPSC provides its approval; provided, however, that at any time prior to

Buyer receiving written notice of the final determination of the SCPSC, Buyer shall have the right, at its sole option, to terminate this Agreement by written notice to DESC and receive a full refund of the Earnest Money. DESC warrants and represents that it has the authority to enter into the provisions set forth in this section, and the provisions of this section are binding on DESC.

22. [INTENTIONALLY DELETED]

23. COOPERATION OF PARTIES. Both Parties agree that they will cooperate in the negotiation, preparation and execution of all documents required to effectuate the transaction contemplated herein.

24. UTILITY FACILITIES. If DESC-owned rights-of-way, utility equipment or facilities or any such installation owned by any other Dominion Energy affiliated company, and fiber optic owned by SEGRA, are situated on the Property, Buyer shall allow DESC or other Dominion Energy affiliate company the right to retain or receive at Closing such perpetual utility right-of-way(s) and/or easement(s), including ingress and egress, in general accordance with right-of-way/easement forms used by DESC and/or other Dominion Energy affiliate companies, provided that DESC notifies the Buyer in writing of same (including the location of such matters on the Property) within twenty (20) days after the Effective Date of this Agreement, such rights of way will be shown on the Survey, and such rights of way are in locations and on terms reasonably acceptable to Buyer.

25. ASSIGNMENT. The rights of Buyer under this Agreement may not be assigned or otherwise transferred without the express written consent of DESC, which consent may be withheld for any reason. Any attempt by Buyer to assign this Agreement without the express written consent of DESC shall be deemed a default of Buyer and DESC shall not be bound by such assignment.

26. SURVIVAL OF PROVISIONS. The provisions of this Agreement which are not fully executed by the Closing of this transaction, including without limitation the following: *Section 3 – Title; Section 7 – Effective Date and Closing Requirements; Section 8 – Taxes; Section 9 – Professional Services Fees; Section 10 – Title Defects; and Section 16 – Default through Section 26 – Entire Contract; Binding Contract*, shall survive the closing and remain in full force and effect, enforceable by the Parties according to such terms.

27. SEVERABILITY. Any term of this Agreement held to be illegal or invalid will be held as if it had never existed, and the remainder of the Agreement will remain legal and valid.

28. COUNTERPARTS. So that each Party may have an original of this Agreement, this document shall be executed in two identically worded counterparts.

29. ESCROW AGENT. The Parties acknowledge and agree that Escrow Agent is entitled, without further consent from either Party, to dispose of all Earnest Money held by Escrow Agent in accordance with the terms of this Agreement. In the event the Escrow Agent determines in its discretion that there is a bona fide dispute between the Parties as to who is entitled to the Earnest Money, and that the rights of the Parties as to the Earnest Money are unclear under this Agreement, the Escrow Agent may file an action for interpleader or

otherwise seek a judicial determination as to the rights of the Parties. In such event, the Parties shall hold Escrow Agent harmless and shall share equally any expenses of Escrow Agent in connection with such action. Buyer acknowledges that Escrow Agent may also act as DESC's attorney with respect to the transaction contemplated by this Agreement and any disputes arising therefrom.

30. ENVIRONMENTAL; NO TENANTS

30.1. Buyer shall have the right to obtain a complete environmental review of the Property, with results satisfactory to Buyer in its sole discretion. Should DESC refuse to allow the Buyer to complete all aspects of the Buyer's desired environmental assessment prior to the end of the Inspection Period, including Phase I, and Phase II upon Seller's approval, monitoring or other studies, Buyer shall have the right, at Buyer's sole option, to terminate this Agreement within the Inspection and receive a full refund of all Earnest Money.

30.2. DESC affirms that the Property is vacant at the time of this Agreement and is not occupied by DESC or any affiliate thereof, that there are no tenants or other parties with any right to occupy or possess any part of the Property, and that same will remain so up to and through Closing. DESC shall not allow occupy, or all ow any tenants or other parties to occupy, the Property at any time during the period from the Effective Date through the Closing Date.

31. ENTIRE CONTRACT; BINDING CONTRACT. This Agreement expresses the entire agreement between the Parties, and there is no other agreement, oral or otherwise, modifying the terms hereunder and the Agreement shall be binding on both Parties, their principals, heirs, personal representatives, successors, and assigns as state law permits. This Agreement shall only be amended by a written agreement signed by both Parties.

32. SIGNATURE AUTHORITY. Each Party to the Agreement represents and warrants that it has full and complete authority to enter into and perform its respective obligations under this Agreement. Any person who executes this Agreement on behalf of either Party represents and warrants that he or she has full and complete authority to do so and that such represented Party shall be bound thereby.

33. BUYER/LEASE PRIOR TO CLOSING. If the SCPSC has not approved the sale of the Property to Buyer within ninety (90) days after the Effective Date, Buyer, at its option, may elect to lease Parcel 1 of the Property prior to Closing or terminate this Agreement. Buyer shall notify DESC in writing of its desire to lease Parcel 1 and DESC and Buyer shall enter into a lease agreement reasonably satisfactory to both parties. Rent to be paid during such rental period shall be a fair market rent as agreed by the Parties. Such lease will allow Buyer to proceed with renovations to Parcel 1 during the lease term at Buyer's expense. If, acting in good faith and with reasonable diligence, the parties are unable to mutually agree upon the lease terms, the Buyer, at its sole option and discretion, shall either withdraw its request to lease Parcel 1 or terminate this Agreement, and Buyer shall receive a refund of the Earnest Money with neither party having any further obligations under this Agreement.

34. DESC REPRESENTATIONS AND WARRANTIES. DESC hereby represents and warrants to Buyer that the following statements are true as of the Effective Date and shall be true on the Closing Date:

(a) Subject to SCPSC approval, DESC has full power and authority to enter into this Agreement and to perform all its obligations hereunder; the execution and delivery of this Agreement and the performance by DESC 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 Agreement as a binding and enforceable obligation of DESC. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereunder on the part of DESC do not and will not conflict with or result in the breach of any condition or provision of, or constitute, a lien, charge or encumbrance upon any of the property or assets of DESC by reason of the terms of any contract, mortgage, lien, lease, indenture, instrument, or judgment to which DESC is a party or which is or purports to be binding upon DESC or which affects DESC; and, subject to SCPSC, no action by any federal state or municipal or other governmental department, commission, board, bureau or instrumentality is necessary to make this Agreement a valid instrument binding upon Seller in accordance with its terms.

(b) DESC has received no written notice, and to DESC's knowledge, there is no action, suit or proceeding, 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.

(c) DESC has received no written notice and, to DESC's knowledge, is not aware that there is any pending or threatened condemnation or similar proceeding or assessment affecting the Property, or any part thereof.

(d) There are no tenants or parties with any right to possess all or any portion of the Property excepting the right of SEGRA for the fiber, which such right shall be documented as a Reserved Easement prior to Closing.

(e) No person or entity has any right or option to acquire the Property or any portion thereof.

(f) DESC has received no written notice from any governmental agency having jurisdiction asserting that the Property is affected by the presence and/or harmful effects of any asbestos, petroleum, toxic, or hazardous substances as defined by applicable federal, state, or local laws (collectively, "Hazardous Materials") affecting the Property, or requiring any clean-up thereof. DESC has no knowledge of any underground storage tanks currently located at the Property or being located at the Property in the past. DESC has no knowledge that any portion of the Property has been used for an onsite dry-cleaning facility. DESC has no knowledge of any Hazardous Materials affecting the Property.

The representations and warranties set forth in this Section shall survive Closing for a period of six (6) months only. In the event the Buyer has not given written notice to DESC of a claim based on breach of a representation or warranty or covenant set forth in this Agreement within six (6) months after the Closing Date (and filed an action in court to enforce such claim within 30 days after having given notice to DESC), Buyer agrees that DESC shall be fully released and discharged from any liability whatsoever arising out of the representations, warranties and covenants set forth in this Agreement.

35. CLOSING CONDITIONS. In addition to the other conditions set forth herein, the obligation of Buyer hereunder to purchase the Property from DESC is subject to the satisfaction of each of the following conditions (the “Closing Conditions”) (any of which may be waived in whole or in part in writing by Buyer at or before the time period stated below):

35.1. All of the representations of DESC set forth in this Agreement shall be true and complete in all material respects as of the Closing Date.

35.2. As of the Closing Date, DESC shall not have made an assignment for the benefit of creditors, or admitted in writing its inability to pay its debts as they mature; or been adjudicated as bankrupt; or filed a petition in voluntary bankruptcy or a petition or answer seeking reorganization or an arrangement with creditors under the federal bankruptcy law or any other similar law or statute of the United States or any state; and no such petition shall have been filed against it.

35.3. At the Closing, DESC shall convey to Buyer fee simple title to the Property, free and clear of all matters affecting title except encumbrances as provided herein.

35.4. At Closing, all leases and rights to possess all or any part of the Property, except the Reserved Easements, shall be terminated.

If any condition listed in this Section is not satisfied on or before the applicable time period stated in this Section, then Buyer may, at its election, (i) waive such condition(s) and close on the Property in accordance with the terms and provisions of this Agreement with no adjustment in the Purchase Price, or (ii) terminate this Agreement, recover the Earnest Money by delivering written notice thereof to DESC and Escrow Agent and be reimbursed by DESC for its expenses in connection with this Agreement up to Forty Thousand Dollars (\$40,000.00), in which case neither DESC nor Buyer shall have any further obligations hereunder except those that expressly survive the termination of this Agreement.

SIGNATURE PAGES FOLLOW

WITNESS the Parties hereby by their hands and seals the day and year written below.
In the Presence of:

WITNESSES:

DOMINION ENERGY SOUTH CAROLINA, INC.

Print Name: _____

Print Name: _____

Print Name: _____

Print Name: _____

By: P. Rodney Blevins
P. Rodney Blevins (Apr 22, 2021 11:23 EDT)
Print Name: P. Rodney Blevins
Its: President
Date: Apr 22, 2021

JB
JB

Apr 22, 2021

THE CITY OF COLUMBIA

By: Teresa B. Wilson
Print Name: Teresa B. Wilson
Its: City Manager
Date: 4/20/2021

APPROVED AS TO FORM

Teresa M. [Signature]
Legal Department City of Columbia, SC

EXHIBIT "A"

DUE DILIGENCE MATERIALS

The following, to the extent they are in DESC's possession or control:

- (1) Copy of any owner's title insurance policy with all exhibits.
- (2) A copy of any surveys and plats.
- (3) Copy of all plans pertaining to the Property.
- (4) Copies of any covenants, restrictions and/or declarations that encumber the Property that are not of record in the Richland County RMC Office

EXHIBIT B

GENERAL DEPICTION OF PROPERTY PARCEL 2

