

RESOLUTION AUTHORIZING AN AGREEMENT OF SALE AMONG
THE CITY OF FOLEY, ALABAMA AND CRAINE CREEK FARMS, LLC

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FOLEY, ALABAMA (the “Council”), GOVERNING BODY OF THE CITY OF FOLEY, ALABAMA (the “City”), as follows:

Section 1. The City has heretofore, upon evidence duly presented to and considered by it, found and determined, and does hereby find, determine and declare that:

(a) The City currently owns approximately 1.37 acres of real property situated near the Northwest corner of the Coastal Alabama Farmers’ and Fishermen’s Market (“CAFFM”) in Foley, Baldwin County, Alabama (the “Property”). The City desires to locate a hydroponics facility in the City to expand the CAFFM, to expand the production of locally-grown fresh fruits and vegetables, and to educate the public about hydroponics. Craine Creek Farms, LLC (“Craine”) desires to purchase the Property and construct a hydroponics greenhouse on the Property, and the City intends to sell the Property to Craine for \$35,000.

(b) The City and Craine propose to execute and deliver an Agreement of Sale (the “Agreement”) wherein, among other things, the City will agree to sell, and Craine will agree to purchase, the Property for \$35,000. At closing, Craine will deliver the purchase price of \$35,000, and the City will execute and deliver a Statutory Warranty Deed in order to convey title to the Property to Craine.

(c) Pursuant to Amendment No. 772 of the Constitution of Alabama of 1901, as amended, and the Agreement, for the purpose of economic development of the City, the City proposes to sell to Craine the Property in consideration, and for the purpose, of the expansion of the CAFFM and construction of the hydroponics greenhouse on the Property, located in the City.

(d) The Agreement will be executed and delivered by Craine and the City.

(e) Pursuant to Amendment No. 772 to the Constitution of Alabama of 1901, as amended (“Amendment No. 772”), the City has caused the Notice attached hereto as Exhibit A (the “Notice”) to be published on July 22, 2015 in *The Foley Onlooker* with respect to certain actions proposed to be taken, and the Agreement proposed to be made and delivered, by the parties, to provide for the economic development of the City thereby. The information set forth in the Notice is true and correct and the publication of the Notice is hereby ratified and confirmed.

(f) The Agreement has been made available for public inspection with respect to the transactions described in the Notice and the undertakings by the City in connection therewith.

(g) The expenditure of public funds for the purposes specified in the Notice and the Agreement will serve a valid and sufficient public purpose, notwithstanding any incidental benefit accruing to any private entity or entities.

(h) The City seeks to achieve, by undertaking its obligations pursuant to the Agreement, to promote the local economic and commercial development of the City; to promote the expansion and retention of business enterprise within the City; to increase employment in the City; to promote and develop for the public good and welfare trade, commerce, industry, and employment opportunities in the City; to increase the tax and revenue base of the City and property values of the City; and to promote the convenience, order, prosperity and welfare of its citizens. The increased tax revenues, additional economic activity, creation of new jobs and the other benefits will directly benefit the City.

(i) It is necessary, desirable, and in the best interests of the taxpayers and citizens of the City for the City to deliver and perform the agreements and undertakings of the City set forth in the Agreement.

Section 2. The City does hereby approve, ratify and confirm (i) the form and content of, and the statements set forth in, the Notice and (ii) the publication of the Notice as set forth in Section 1 of this resolution.

Section 3. The City does hereby approve, adopt, authorize, direct, ratify and confirm the representations, agreements and covenants of the City set forth in, and the transactions to be undertaken by the City pursuant to, the Agreement.

Section 4. The Agreement is approved in substantially the form and the content attached hereto as Exhibit B.

Section 5. The Agreement presented to, considered and adopted by the City Council shall be filed in the permanent records of the City.

Section 6. The Mayor of the City is hereby authorized to execute, acknowledge and deliver on behalf of the City a Agreement in substantially the form attached hereto as Exhibit B, upon any conditions and with any revisions thereto as may be approved by the Mayor of the City, with such execution and delivery to be conclusive proof of the Mayor's approval.

Section 7. The officers of the City, or any one or more of them, are hereby authorized and directed to do and perform or cause to be done or performed in the name and on behalf of the City such other acts, and execute, deliver, file and record such other instruments, documents, certificates, notifications and related documents, all as shall be required by law or necessary or desirable to carry out the provisions and purposes of this Resolution and the Agreement.

Section 8.

(a) All ordinances, resolutions, orders, or parts thereof in conflict or inconsistent with any provision herein hereby are, to the extent of such conflict or inconsistency, repealed.

(b) This resolution shall take effect immediately.

I, Vickey Southern, City Clerk of the City of Foley, Alabama, do hereby certify that the attached is a true and correct copy of the Resolution Authorizing an Agreement of Sale among the City of Foley, Alabama and Craine Creek Farms, LLC, duly passed by the City Council in their meeting of August 3, 2015, 2015, as to which proper notice was given and at which a quorum was in attendance and acting. I further certify that the said resolution has not been amended, repealed or revoked.

WITNESS my hand and seal of the City of Foley, Alabama, this the ____ day of _____, 2015.

[SEAL]

Vickey Southern,
City Clerk of the City of Foley, Alabama

EXHIBIT A

LEGAL NOTICE

(See Attached)

GULF COAST MEDIA

A DIVISION OF OPC NEWS, LLC
PO BOX 1677 • SUMTER, SC 29150

PROOF OF PUBLICATION STATE OF ALABAMA • BALDWIN COUNTY

Before me, the undersigned authority in and for said County, in said State, personally appeared April M. Wallace who, by me duly sworn, deposes and says that: she is the Legal Representative of the following newspaper listed below, a newspaper of GENERAL CIRCULATION, PUBLISHED and PRINTED in Baldwin County, Alabama, and that there was published in the Onlooker in the issue/s of:

07/22/2015, , ,

a legal notice, a copy of which is hereto attached. The sum charged by the Newspaper for said publication does not exceed the lowest classified rate paid by commercial customers for an advertisement of similar size and frequency in the same newspaper(s) in which the public notice appeared.

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.

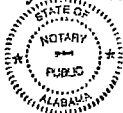
X April Wallace

April M. Wallace, Legal Ad Representative

X Amber Kimbler

Amber Kimbler, Notary Public
Baldwin County, Alabama

My commission expires April 10, 2018



AMBER KIMBLER
My Commission Expires
APRIL 10, 2018

Sworn and subscribed to on 07/22/2015.

Advertiser Account Name: ADAMS AND REESE LLP- LEGAL ACCO

Acct#: 986134

Description:

Amount of Ad: \$130.80

Legal File# Craine Creek

TWICE WEEKLY

The Courier • 251-928-2321
The Foley Onlooker • 251-943-2151
The Islander • 251-943-2151

WEEKLY

The Times Independent
251-947-7712

LEGAL NOTICE OF A PUBLIC MEETING OF FOLEY CITY COUNCIL Regarding Economic Development Action Under Alabama Constitutional Amendment No. 772 for Craine Creek Farm, LLC

Notice is hereby given that the City Council (the "City Council") of the City of Foley, Alabama (the "City"), will meet in public session at 5:30 p.m. on Monday, August 3, 2015, in City Hall in the City for the purpose of consideration of the transaction of any business that may properly come before the City Council, such business to include, but not be limited to, the authorization by the City Council, pursuant to Amendment No. 772 of the Constitution of Alabama of 1901, as amended, of a resolution (the "Resolution"), authorizing the conveyance of certain property to Craine Creek Farm, LLC ("Craine") and the execution and delivery of an Agreement of Sale (the "Agreement") to be entered into by the City and Craine, and authorizing the City to execute such documents necessary to carry out the terms of the Agreement, as more particularly described hereinafter.

The Agreement will be executed and delivered by the City and Craine.

The City currently owns approximately 113.7 acres of real property situated near the Northwest corner of the Coastal Alabama Farmers' and Fishermen's Market ("CAFFM") in Foley, Baldwin County, Alabama (the "Property"). The City desires to expand the CAFFM to include a hydroponics facility in order to produce locally-grown fresh fruits and vegetables and educate the public about hydroponics. Craine desires to purchase the Property and construct a hydroponics greenhouse on the Property, and the City intends to sell the Property to Craine for \$35,000.

Among other things, by entering into the Agreement, the City agrees to sell, and Craine agrees to purchase the Property for \$35,000. At closing, Craine will deliver the purchase price of \$35,000, and the City will execute and deliver a Statutory Warranty Deed in order to convey title to the Property to Craine.

Pursuant to Amendment No. 772 of the Constitution of Alabama of 1901, as amended, and the Agreement, for the purpose of economic development of the City, the City will sell to Craine the Property in consideration, and for the purpose, of the expansion of the CAFFM and construction of the hydroponics greenhouse on the Property, located in the City.

The City seeks to achieve, by selling the Property and undertaking its obligations pursuant to the Agreement, to promote the local economic and commercial development of the City, to promote the economic and social well-being of the City, to increase employment in the City, to promote and develop for the public good and welfare trade, commerce, industry, and employment opportunities in the City, to increase the tax and revenue base of the City, and to promote the convenience, order, prosperity and welfare of its citizens. The increased tax revenue, additional economic activity, creation of new jobs and the other benefits will directly benefit the City and serve a valid and sufficient public purpose.

The City Council expects to determine at its public meeting that the grant of funds and things of value in connection with the transaction described above will serve a valid and sufficient public purpose, notwithstanding any incidental benefit accruing to Craine or any other private entity or entities, including from any additional value the Property might otherwise have generated.

All interested persons may examine and review the Agreement, and make copies thereof at their personal expense, at the offices of the City Manager of the City in City Hall, Foley, Alabama, during normal business hours, before and after the meeting of the City Council referenced herein.

Further information concerning the information in the Notice may be obtained from the City Manager of the City at the offices thereof in City Hall during normal business hours.

The Foley Onlooker
July 22, 2015

EXHIBIT B

AGREEMENT OF SALE

(See Attached)

AGREEMENT OF SALE

THIS AGREEMENT made by and between **CITY OF FOLEY**, a Alabama municipality("Seller"), and **CRAINE CREEK FARM, LLC**, an Alabama limited liability company ("Buyer") concerning the purchase and sale of real property as described in this Agreement of Sale ("Agreement").

1. Purchase and Sale.

1.1 Agreement to Purchase and Sell. Seller shall sell to Buyer and Buyer shall purchase from Seller, for the Purchase Price hereinafter set forth, and upon and subject to all of the terms and conditions contained herein, the surface estate in and to all that certain real property situated in Baldwin County, Alabama, consisting of approximately 1.37 acres, more or less, together with all or any improvements, which is more particularly described on **Schedule 1.1** (the "Premises"). The Premises shall not include (i) any oil, gas, sand, gravel or other minerals reserved by Seller's predecessors in title and/or owned by other parties, and shall be subject to any easements associated therewith and (ii) any other rights or interests of any kind or nature that were not to be acquired by Buyer.

1.2 Assumed Liabilities. At Closing, Buyer agrees to assume, and agrees to perform or satisfy, upon the terms and subject to the conditions set forth herein, any liabilities, obligations, claims, damages, causes of action, costs and expenses, including capital expenditures, whenever arising under or relating to any Environmental Laws with respect to conditions existing on or under the Premises on or after the Closing Date. "Environmental Laws" means any federal, state and local laws, statute, code, ordinance, rule, regulation or other legal requirement relating to the protection of the environment, natural resources, pollution control, public or employee health or hazardous materials.

2. Purchase Price.

2.1 Amount of Purchase Price. The total purchase price for the Premises (the "Purchase Price") shall be the sum of **Thirty Five Thousand Dollars and Zero Cents (\$35,000.00)**.

2.2 Payment of Purchase Price. At the Closing, Buyer shall deliver to Seller the Purchase Price, in cash by wire transfer of immediately available funds to an account designated in writing by Seller. All amounts specified in this Agreement are in lawful money of the United States.

3. Conveyance and Title; Delivery of Information; Survey.

3.1 Assurance of Seller's Title. Buyer shall arrange for the preparation of a title insurance commitment covering the Premises. All costs associated with the title commitment and title insurance shall be paid by the Buyer. The Premises are being sold by Seller **"AS-IS"**, as provided in Section 7.2(a) of the Agreement.

Buyer shall solely and exclusively seek to recover any damage regarding title from and under Buyer's policy of title insurance. This limitation of remedies shall survive Closing.

3.2 Restriction on Use and Right of First Refusal.

- (a) Buyer shall only use the Premises for construction and operation of a hydroponics greenhouse, which use restriction shall be included in the deed from Seller with a reversionary clause should Buyer violate the use restriction.
- (b) Seller shall have the first right of refusal to purchase the property at the Purchase Price should Buyer default on any financing arrangements secured by the Premises.

4. Conditions to Parties' Obligations to Close.

4.1 Conditions to Buyer's Obligation to Close. Buyer's obligation to close this transaction shall be subject to the satisfaction or waiver by Buyer of all of the following conditions within the time permitted therefor.

- (a) Performance by Seller of all of its obligations pursuant to this Agreement within the time permitted therefor.
- (b) The representations and warranties of Seller contained in this Agreement shall be true and correct in all material respects on and as of the Closing Date, with the same force and effect as if made at and as of the Closing Date, except for any changes consented to in writing by Buyer and except for any written representations and warranties of Seller given as of a specific date subsequent to this Agreement, which representations and warranties shall continue to be true and correct in all material respects as of such date.
- (c) Buyer obtaining a pro forma policy or marked owner's title commitment insuring Buyer's title to the Premises without exception other than those set forth in the commitment and accepted by Buyer and the Permitted Exceptions.

4.2 Conditions to Seller's Obligation to Close. Seller's obligation to close the transaction shall be subject to the satisfaction or waiver by Seller of all of the following conditions within the time permitted therefor:

- (a) Performance by Buyer of all of its obligations pursuant to this Agreement within the time permitted therefor.

- (b) The representations and warranties of Buyer contained in this Agreement shall be true and correct in all material respects on and as of the Closing Date, with the same force and effect as if made at and as of the Closing Date, except for any written representations and warranties of Buyer given as of a specific date subsequent to this Agreement, which representations and warranties shall continue to be true and correct in all material respects as of such date;

4.3 Failure of Buyer's Conditions Precedent. Without limiting any other rights or remedies the parties may have with respect to this Agreement, if any of the foregoing conditions precedent listed in Paragraph 4.1 of this Agreement are not satisfied or waived in writing by Buyer on or prior to the Closing and Seller is otherwise in default of this Agreement (and Buyer is not in default), Buyer may, at its option: (i) cancel this Agreement, and the parties shall be released from all further obligations and liabilities under this Agreement or, (ii) to the extent Seller is in breach under this Agreement, proceed to enforce any rights or remedies it may have with respect to this Agreement in law or equity.

4.4 Failure of Seller's Conditions Precedent. Without limiting any other rights or remedies the parties may have with respect to this Agreement, if any of the foregoing conditions precedent listed in Paragraph 4.2 of this Agreement are not satisfied or waived in writing by Seller on or prior to Closing and Buyer is otherwise in default of this Agreement (and Seller is not in default under this Agreement), Seller may, at its option: (i) cancel this Agreement, and the parties shall be released from all further obligations and liabilities under this Agreement, or (ii) to the extent Buyer is in breach under this Agreement proceed to enforce any rights or remedies it may have with respect to this Agreement in law or equity.

5. Closing.

5.1 Place and Date of Closing. Closing (the "Closing") shall take place by mail or at the Mobile, Alabama law offices of Adams and Reese LLP. The Closing shall take place no later than [_____, 2015]. The date on which the Closing actually occurs is referred to as the "Closing Date."

5.2 Deliveries from Seller to Buyer. At Closing, Seller shall deliver to Buyer:

- (a) Duly executed Statutory Warranty Deed conveying title to the Premises, containing a restriction on use of the Premises to a hydroponics greenhouse facility, subject only to the Permitted Exceptions set forth on Schedule 5.2 (the "Permitted Exceptions"). Such Statutory Warranty Deed shall be in recordable form, and shall be executed by Seller on or before Closing.
- (b) Each of the following documents:

- (i) a Resolution of the City Council evidencing satisfaction of the conditions specified in Section 4.1(a) as Buyer shall reasonably request;
- (ii) such other documents, instruments or certificates as Buyer may reasonably request that are agreed to by Seller. Provided however, that Seller will not be required to execute any affidavits that expands its limited warranty of title set forth herein and in the deed; and any such additional documents must be submitted for Seller's review and approval no later than five (5) business days prior to the Closing date set forth herein.

5.3 Deliveries from Buyer to Seller. At Closing, Buyer shall, at its expense, obtain and deliver the following to Seller:

- (a) The Purchase Price;
- (b) Such certificates executed by Buyer evidencing satisfaction of the conditions specified in Section 4.2(a) as Seller shall reasonably request; and
- (c) Such other documents, instruments or certificates as Seller may reasonably request.

6. Expenses, Taxes and Assessments; Prorations. Each party shall be responsible for its own attorney's fees. Buyer shall be responsible for all other closing costs, including but not limited to, title abstracting, certificate of title, costs associated with filing the documents to be recorded and any realtor or broker's fees. Furthermore, Buyer shall be responsible for any recapture, reassessment, roll-back taxes or changes in tax assessments caused by Buyer's removing the Premises from its present classification or subsequent changes in use. Buyer shall also be responsible for all real estate transfer taxes. Real property, ad valorem and personal property taxes, as well as any other charges which are appropriate subjects for proration, for the current tax year for which the same are levied, imposed or assessed shall be prorated at Closing as per the Closing Date.

7. Representations and Warranties.

7.1 Representations and Warranties of Seller. Seller represents and warrants to Buyer that:

- (a) Neither Seller's execution of this Agreement nor its performance of its obligations hereunder will violate, or constitute a default under or breach

of, any agreement between Seller and any third party or by which Seller is bound.

7.2 Representations and Warranties of Buyer. Buyer represents and warrants to Seller as follows:

- (a) Buyer has conducted its own inspection and investigation of the Premises, and particularly any timber or improvements located thereon, and, except as set forth in this Agreement, Buyer is not relying upon any statement made by Seller, written or oral, or upon the statements made by any of Seller's advisers, appraisers or other consultants, in entering into this Agreement. Buyer acknowledges and agrees that, except as set forth in this Agreement Seller makes no covenants, representations or warranties whatsoever, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY AND/OR FITNESS, with respect to matters of zoning, planning, subdivision regulations, tax consequences, title, physical or environmental conditions, availability of access, ingress or egress, property value, quantities, grades or quality of timber, governmental approvals, governmental regulations, the availability, enforceability, title or adequacy of any access rights to the Premises or any other matter or thing relating to or affecting the Premises, the purchase and sale of which shall, except as set forth in this Agreement, be "AS-IS". Buyer agrees that, with respect to the Premises, Buyer has not relied upon and will not rely upon, either directly or indirectly, any representation or warranty of Seller or any of its respective agents or attorneys.
- (b) Buyer is an Alabama limited liability company and is fully authorized to enter into and perform its obligations under this Agreement. This Agreement is and when executed and delivered, will be the valid, binding and enforceable obligations of the Buyer. There are no governmental or other consents or filings which must be obtained or made as a condition to execution and performance of this Agreement.
- (c) Buyer (which for this purpose includes Buyer's partners, members, executive officers, directors, managers, principal stockholders and any other constituent entities) represents and warrants that it is not (i) the target of any sanctions program that is established by Executive Order of the President or published by the Office of Foreign Assets Control, U.S. Department of the Treasury ("OFAC"); (ii) designated by the President or OFAC pursuant to the Trading with the Enemy Act, 50 U.S.C. App. § 5, the International Emergency Economic Powers Act, 50 U.S.C. §§ 1701-06, the Patriot Act, Public Law 107-56, Executive Order 13224 entitled "Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism" (September 23, 2001) or any executive order of the President issued pursuant to such

statutes; or (iii) persons or entities with whom U.S. persons or entities are restricted from doing business under regulations of OFAC (including those named on OFAC's Specially Designated and Blocked Persons List) or under any statute, executive order (including Executive Order 13224) or other governmental action. Further Buyer represents and warrants that Buyer's activities do not violate the International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001 or the regulations or orders promulgated thereunder. Buyer further covenants and agrees to promptly deliver to Seller such reasonable documentation that Seller may request in order to confirm the accuracy of the representations and warranties made in this Paragraph 7.2(c).

7.3 No Other Representations and Warranties. Each party hereby acknowledges that no representations or warranties have been made with respect to the Premises or the transactions contemplated by this Agreement other than those expressly set forth in this Article 7.

7.4 Indemnity. Buyer shall come in, indemnify, defend and save harmless Seller, Seller's directors, elected officials, council members officers, agents and employees, and the Premises from and against any and all loss, damage, expense, liabilities, attorney's fees, demands and causes of action, and any expense incidental to the defense thereof by Seller, resulting from or related to injury or death of person, or damage to property, occurring on or about Seller's properties or in any manner directly or indirectly growing out of or in connection with any breach or default by Buyer under this Agreement. The indemnities set forth herein will survive the termination or expiration of this Agreement.

7.5 Further Understandings. Each party agrees to give written notice to the other party prior to Closing of any breach of representations and warranties under this Agreement, to the extent such party becomes aware of any such breach. Neither the existence of any such breach nor a party's failure to give notice thereof under this Section 7.5 shall relieve any party of its duties and obligations under this Agreement, except that Buyer shall in all events be obligated to give Seller written notice pursuant to Section 10 of this Agreement of any such breach discovered by Buyer prior to Closing. The provisions of this Section 7.5 shall not be construed as a waiver by any party of any damages resulting from any such breach or failure to notify.

8. Inspection and Cooperation. During the term of this Agreement, Buyer and its representatives shall, after reasonable notice to Seller and at reasonable times, be entitled to go upon the Premises for the purpose of making or conducting any inspection, investigation or survey (other than environmental testing or assessments, which must be specifically authorized in writing by Seller, at its sole discretion) reasonably related to the purchase of the Premises or to Buyer's prospective use thereof, provided only that all such activities shall be without expense to Seller. Buyer shall protect, defend and hold harmless Seller from any loss, liability or damage to persons or property arising out of or related to Buyer's activities on the Premises, including without limitation any liability

arising out of any injury to any employee of Buyer occurring on the Premises. If Buyer fails to purchase the Premises, Buyer shall fully compensate Seller for any physical damage to the Premises, or lien, encumbrance or charge thereon attributable to Buyer's activities with respect thereto.

9. Intentionally Omitted.

10. Notices. The addresses for notices to Seller and Buyer are as follows:

If to Seller:

City of Foley
407 East Laurel Ave.
Foley, AL 36535
Attention: Jeff Rouzie

With a copy to:

Adams and Reese LLP
RSA Battle House Tower
11 North Water Street, Suite 23200
Mobile, AL 36602
Attention: C. Britton Bonner

If to the Buyer:

Craine Creek Farm, LLC

With a copy to:

Except for any notices, demands, requests or other communications required under applicable law to be given in another manner, whenever Seller and Buyer give or serve any notices, demands, requests or other communications with respect to this Agreement, each such notice, demand, request or other communication shall be in writing and shall be delivered personally, mailed by certified or registered mail or sent by a nationally recognized courier service such as Federal Express, and properly addressed in accordance with this Section and shall be deemed given upon receipt or refusal to accept. Any party may change its address for such notices by delivering or mailing to the other party hereto, as aforesaid, a notice of such change.

11. Miscellaneous.

11.1 Independent Contractors. Nothing contained in this Agreement shall be construed to make Seller and Buyer partners or joint venturers or to render either party liable for the debts or obligations of the other.

11.2 Survival of Covenants and Agreements. Notwithstanding any presumption to the contrary, but subject to any provision relating to survival set forth elsewhere in this Agreement, all covenants, conditions, representations and warranties contained in this Agreement, which, by their nature, impliedly or expressly involve performance in any particularity after Closing, or which cannot reasonably be ascertained to have been fully performed until after Closing shall survive Closing and be fully enforceable thereafter, including, without limitation, the provisions of Sections 7 and 11.10.

11.3 Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the state where the Premises are located.

11.4 Time is of the Essence. Time is of the essence in the performance of this Agreement.

11.5 Partial Invalidity. If any provision of this Agreement or the application thereof to any party or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

11.6 Modifications. Any alteration, change or modification hereof, in order to become effective, shall be made by written instrument or endorsed hereon and, in each such instance, shall be executed on behalf of each party hereto. No act or omission of any employee or agent of either party shall alter, change or modify any of the provisions hereof.

11.7 Successors and Assigns. This Agreement shall bind and inure to the benefit of the respective successors and permitted assigns of the parties. Notwithstanding this provision, Buyer shall not assign this Agreement, or its rights thereunder, without the prior written consent of Seller. Buyer acknowledges that Seller has the right to assign its interest in the Agreement to another entity. Seller agrees and covenants that any such

assignment shall be with the condition that the assignee be bound by this Agreement to the same extent as if the Assignee had signed this Agreement in the first place.

11.8 Recording. This Agreement shall not be recorded in any office or place of public record and any action in violation of this Section 11.8 shall be deemed to be a default hereunder and shall permit the other party to terminate this Agreement immediately and without further notice.

11.9 Section Headings. The section headings in this Agreement are for convenience and reference only and in no way define or limit the scope or content of this Agreement or in any way affect its provisions.

11.10 Public Announcements/Confidentiality. Buyer will not make any public announcement, publicity release or other disclosure to any third party relating to this Agreement, its terms or the transaction contemplated thereby without the prior written consent of Seller and such consent shall not be unreasonably withheld.

11.11 Waiver. No waiver by any party of any provision hereof shall be deemed a waiver of any other provision hereof or of any subsequent breach by the other party of the same or any other provision. Either party's consent to or approval of any act shall not be deemed to render unnecessary the obtaining of such party's express written consent to or approval of any subsequent act by the other party.

11.12 Waiver of Jury Trial. EACH OF THE PARTIES HERETO KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHTS IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY EXHIBIT HERETO, OR ANY COURSE OF CONDUCT, COURSE OF DEALING OR STATEMENTS (WHETHER VERBAL OR WRITTEN) MADE BY THE PARTIES HEREIN.

11.13 Real Estate Commission. Seller and Buyer acknowledge that no broker or real estate agent was involved in procuring this sale. The parties affirm that there are no brokers', finders' or referral fees or any real estate commissions payable by either to any broker, agent or other party in connection with the negotiation or execution of this Agreement or the sale of the Premises. Each party shall defend, indemnify and hold harmless the other party from and against any and all liability, loss, cost, damage and expense (including but not limited to attorneys' fees and costs of litigation reasonably and actually incurred) suffered or incurred because of any claim by a broker or agent claiming by, through or under either party for any fee, commission or other compensation with respect to the transaction described herein. This paragraph shall survive the termination of this Agreement or the Closing and delivery of the deed to Buyer.

11.14 Intentionally omitted.

11.15 Entire Agreement. This Agreement, including the Schedules and Exhibits hereto and other documents delivered pursuant hereto in connection with Closing, sets forth the entire agreement of the parties with respect to the subject matter contained herein, and supersedes all prior agreements, promises, covenants, arrangements, communications, representations or warranties, whether oral or written, by any officer, employee or representative of Seller or Buyer. Nothing herein expressed or so implied is intended or shall be construed to confer upon or give to any person or corporation other than the parties hereto and their successors and assigns, any rights or remedies under or by reason of this Agreement.

11.16 Attorneys' Fees. In the event of any litigation or arbitration in connection with any controversy arising out of this Agreement or to enforce any rights hereunder, the prevailing party shall be entitled to recover such amount as the court may adjudge reasonable as attorneys' fees at trial or on any appeal, in addition to all other amounts provided by law. The "prevailing party" shall mean the party who receives substantially the relief desired, whether by settlement, dismissal, summary judgment, judgment or otherwise.

11.17 Counterparts. This Agreement has been executed in multiple copies, each of which will for all purposes constitute the Agreement, binding on the parties.

11.18 No Binding Agreement Without Delivery. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, THIS AGREEMENT, ONCE EXECUTED BY BUYER, SHALL REPRESENT NOTHING MORE THAN BUYER'S WRITTEN OFFER TO PURCHASE UNDER THE TERMS AND CONDITIONS HEREOF. NO BINDING AGREEMENT OF SALE SHALL EXIST BETWEEN THE PARTIES UNTIL SUCH TIME AS SELLER HAS ACCEPTED SAID OFFER BY THE EXECUTION AND DELIVERY OF A DUPLICATE ORIGINAL HEREOF TO BUYER.

(Buyer's execution follows on next page)

BUYER:

CRAINE CREEK FARM, LLC

By:_____

Name:_____

Its:_____

Date:_____

(SELLER's execution follows on next page)

SELLER:

CITY OF FOLEY

By: _____

Name: _____

Date: _____

Attest: _____

Schedule 1.1
(The Premises)

[To be Inserted]

Schedule 5.2 (Permitted Exceptions)

“Permitted Exceptions” shall mean: (a) the lien for ad valorem taxes not yet due and payable and roll back taxes, if any; (b) all oil, gas and other minerals as may have been previously reserved by or conveyed to others and any mineral leases or other documents concerning the mineral estate; (c) all rights, easements and servitudes incident to and a part of the mineral estate underlying the Premises and all oil, gas, salt water or disposal wells sites and related agreements; (d) all public and private unrecorded and recorded rights-of-way, public roads, utility easements, utility rights-of-way and pipeline rights-of-way now in existence in, on, under, over and across the surface of the Premises and all reservations of such rights whether or not in existence; (e) all rights of the states in which the Premises are located and the United States, if any, in and to any navigable waterways situated on or about the Premises and all navigational servitudes arising from any navigable waterways situated on or about the Premises, all existing easements relating to flowage rights, locks, dams, canals or other improvements pertaining to waterways on the Premises; (f) riparian and other rights created by the fact that the Premises is bounded by or transversed by a river; (g) the right, if any, of neighboring riparian owners and the public or others to use the waters of a river or the rights of the public to use the beaches or shores for recreational purposes; (h) land formerly or presently comprising the shores or bottom of navigable waters or to artificial accretions or fill or rights or claims of parties to such land; (i) sovereignty lands and other land which may lie beneath the ordinary high water mark as established as of the date the State of Alabama was admitted to the Union; (j) any lack of access to all or any part of the Premises; (k) intentionally deleted; (l) boundary line disputes, overlaps, encroachments, graveyards, the names of roads, rivers, or other monuments in legal descriptions, the precise location of property having an indefinite description and any other similar matters not of record which will be disclosed by an accurate survey and inspection of the Premises; (m) unrecorded and recorded easements and rights-of-way for existing roads (public or private), railroads and public utility lines running through, over or across the Premises; (n) all standard exceptions and limitations or exclusions from coverage shown on the American Land Title Commitment, (o) all land use (including environmental and wetlands), building and zoning laws, regulations, codes and ordinances affecting the Property; and (p) any other defect in title to the Premises, or any portion thereof, that does not materially adversely affect the use of the Premises as commercial timber property; provided, however, that no defect in title shall be deemed to have an adverse effect on the use of the Premises unless such defect or defects result in a loss of value of \$3,000.00 individually or \$15,000.00 in the aggregate; and provided further, however, that the exceptions set forth hereinabove in clauses (a) through (o) shall not be deemed to have any adverse effect on the use of the Premises. Furthermore, no objection shall be made as to whether or not there has been a reversion to SELLER and/or its predecessors in title of the rights or obligations otherwise granted to a third party under any instrument. Additionally, the above permitted exceptions (or such less restrictive versions thereof as chosen by SELLER, in its discretion) shall appear on the deed as exceptions to the special warranty thereof.