

Request for City Council Action

Date: April 14, 2015

Agenda Section: General Business No. 6	Originating Department: City Manager			
Item: Ordinance Authorizing the City Manager to Execute a Revised Contract for the Sale of Land to Srinivas Gundala, d/b/a SSST, LLC, for Property at 518 S. Illinois Avenue No. 6.4	Approved:			
<p>Background:</p> <p>On December 27, 2012 the City Council approved an ordinance adopting tax increment financing (TIF) for Illinois-University Corridor TIF #2. TIF allows the increment property tax revenue created by new development within a redevelopment project area to be held in a special City fund to pay for certain redevelopment expenses incurred by the developer or the municipality.</p> <p>On November 18, 2014, the City Council approved a tax increment financing (TIF) redevelopment agreement for Srinivas Gundala, d/b/a SSST, LLC, and authorized the Mayor to execute a Quit Claim Deed for the conveyance of the property located at 518 S. Illinois Avenue and authorized the City Manager to execute a contract for the sale of said land. The terms of the agreement were amended on December 16, 2014 to provide that Mr. Gundala could receive up to \$90,000 in tax abatements for the development he is proposing at 518 S. Illinois Avenue.</p> <p>The contract that was approved by Council and executed on December 19, 2014 contained a performance clause that described the proposed project as a “mixed-use commercial/residential business”. Since that time, Mr. Gundala has modified his development concept to remove the residential portion of the project. Since the revised development proposal excludes residential, the contract must be amended.</p> <p>Recommended Action:</p> <p>It is recommended that the City Council approve an ordinance authorizing the City Manager to execute a revised Contract for the Sale of Land to Srinivas Gundala, d/b/a SSST, LLC, for property at 518 S. Illinois Avenue.</p>				
Engineering Approval Obtained	Finance Approval Obtained	Legal Approval Obtained	Approval Obtained	Manager's Approval Obtained
Council Action: Motion by _____ 2nd by _____ to _____				

CITY OF CARBONDALE, ILLINOIS

ORDINANCE NO. 2015- ____

**AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE A REVISED
CONTRACT FOR THE SALE OF LAND TO SSST, LLC, FOR
518 SOUTH ILLINOIS AVENUE**

ADOPTED BY THE CITY COUNCIL

OF THE CITY OF CARBONDALE, ILLINOIS

THE 14TH DAY OF APRIL, 2015

**Published in pamphlet form by authority of the City Council of the City of Carbondale,
Jackson County, Illinois, this 15th day of April, 2015.**

CERTIFICATE OF PUBLICATION

**I, Jennifer R. Sorrell, the duly qualified City Clerk of the City of Carbondale,
Illinois, and the official custodian of the records of said City, do hereby certify that this
ordinance was published in pamphlet form by authority of the City Council on the 15th day
of April, 2015.**

Jennifer R. Sorrell, City Clerk

ORDINANCE NO. 2015-____

**AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE A REVISED
CONTRACT FOR THE SALE OF LAND TO SSST, LLC, FOR
518 SOUTH ILLINOIS AVENUE**

WHEREAS, the City of Carbondale, Illinois, is a home rule unit of local government under the Illinois Constitution, 1970, Article VII, Section 6; and

WHEREAS, pursuant to Article VII, Section 6(a), of the Illinois Constitution, 1970, the City of Carbondale may exercise any power and perform any function pertaining to its government and affairs including, but not limited to, the power to regulate for the protection of the public health, safety, morals and welfare; and

WHEREAS, the City of Carbondale may sell or convey real estate when City-owned property is no longer necessary, appropriate, required for the use of, profitable to or for the best interests of the City, but instead would be of value to promote economic, industrial, commercial or residential development or redevelopment within the City, under Section 1-13-8 C of the Carbondale Revised Code with a two-thirds (2/3) vote of the City Council members then holding office; and

WHEREAS, the City of Carbondale is an Illinois municipal corporation, hereinafter referred to as "Seller" and SSST, LLC, hereinafter referred to as "Buyer"; and

WHEREAS, the Buyer is interested in purchasing City-owned property; and

WHEREAS, the City of Carbondale has determined that said property is no longer necessary, appropriate or required for the use of City of Carbondale and therefore is in the City's best interest to convey such property to SSST, LLC; and

WHEREAS, the City Council hereby believes that it is in the best interest of the City of Carbondale to convey the real estate described as parcel number 15-21-401-011 and more

particularly described as Fifty-five (55) feet of the North end of the South 115 feet of the East half of Lot 333 in Henry Sander's addition to the City of Carbondale, Illinois to SSST, LLC; and

WHEREAS, the City Manager shall negotiate and enter into the Contract for Sale of Land and the City Clerk shall attest such Contract for the sale of the real estate for a purchase price of THIRTY THOUSAND AND 00/100 DOLLARS (\$30,000.00) and shall do all things necessary to effectuate said Contract; and

WHEREAS, the City Manager has published in the Southern Illinoisan on November 12, 2014, the required notice for authorization of the execution of a deed of transfer for the said real estate, pursuant to Section 1-13-8 C. of the Carbondale Revised Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CARBONDALE AS FOLLOWS:

SECTION 1. That the City Council deems it in the best interest of the citizens of Carbondale to sell the real property to SSST, LLC for the purchase price of THIRTY THOUSAND AND 00/100 DOLLARS (\$30,000.00).

SECTION 2. That the City Manager shall enter into a revised Contract for Sale of Land which will provide for the conveyance of the real estate to SSST, LLC for a purchase price of THIRTY THOUSAND AND 00/100 DOLLARS (\$30,000.00).

SECTION 3. That the City Manager of the City of Carbondale is hereby authorized to and shall take any and all reasonable, necessary and proper action to carry out the intent and purposes of this Ordinance.

SECTION 4. That all ordinances and parts thereof in conflict herewith are expressly repealed and are of no other force and effect.

SECTION 5. That repeal of any ordinance by this Ordinance shall not affect any rights accrued or liability incurred under said repealed ordinance to the effective date hereof. The

provisions of this Ordinance insofar as they are the same or substantially the same as those of any prior ordinance, shall be construed as a continuation of said prior ordinances.

SECTION 6. That it is the intention of the City Council of the City of Carbondale that this Ordinance and every provision thereof shall be considered separable, and the invalidity of any section, clause, or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

SECTION 7. That the City Council of the City of Carbondale finds that the subject matter of this Ordinance pertains to the government and affairs of the City of Carbondale and is passed pursuant to authorities granted it by State statutes and the Home Rule powers of the City of Carbondale pursuant to the provisions of Article VII, Section 6(a) of the Illinois Constitution.

SECTION 8. That this Ordinance shall take effect upon its passage, approval, recording, and publication in pamphlet form in accordance with law.

APPROVED: _____
Donald D. Monty, Acting Mayor

ATTEST: _____
Jennifer R. Sorrell, City Clerk

APPROVED AS TO LEGALITY AND FORM:

P. Michael Kimmel, City Attorney

CONTRACT FOR SALE OF LAND

THIS CONTRACT is made on the ____ day of _____, 2015, by and between the City of Carbondale, Illinois, an Illinois Municipal Corporation, having its principal office at 200 South Illinois Avenue, Carbondale, Illinois 62901, herein referred to as "Seller" and SSST, LLC, having its principal residence at 3255 Cinnabar Point, Carbondale, Illinois, 62901, herein referred to as "Purchaser."

WHEREAS, the Seller has offered to sell and the Purchaser is willing to purchase certain real property (hereinafter referred to as "Property"), particularly described as follows:

General Description

Fifty-five (55) feet of the North end of the South 115 feet of the East half of Lot 333 in Henry Sander's addition to the City of Carbondale, Illinois, more particularly described as follows: Commencing at a point 60 feet North of the Southeast corner of the East half of said Lot 333, thence running North along the East line of said East half of said Lot, 55 feet; thence running in a Westerly direction to the West line of the East half of said Lot; thence running South along the West line of said East half of said Lot, 55 feet; thence running East to the point of beginning.

WHEREAS, said property is conveyed by Seller and purchased by Purchaser for and in accordance with the provisions of this Contract.

NOW, THEREFORE, in consideration of the premises and mutual obligations of the parties, hereto each of them does hereby covenant and agree with the following terms:

ARTICLE I. PURCHASE AND SALE

SECTION A. Purchase Price of Property.

Subject to all the terms, covenants and conditions of this Contract, the Seller shall sell the Property to the Purchaser and the Purchaser shall purchase the Property from the Seller for an amount of THIRTY THOUSAND AND NO/100 DOLLARS (\$30,000.00), hereinafter referred to as the "Purchase Price," which shall be due at full closing. The Purchaser shall deliver such Purchase Price in the form of cash or check simultaneously with the Seller's delivery of the

Quitclaim Deed conveying the Property to the Purchaser.

SECTION B. “As Is” Sale.

The sale of the Property shall be “as is.” The Purchaser has personally conducted a thorough inspection of the Property and accepts same “as is.” The Seller makes no warranties of any type whatsoever regarding the Property or its boundaries.

SECTION C. Condemnation.

If, prior to closing, all or any portion of the Property is taken by exercise of the power of eminent domain or any proceedings are instituted to effect such a taking, Seller shall promptly notify the Purchaser thereof and Purchaser shall have the option, exercisable by the delivery of notice to Seller within 15 days after Purchaser received notice of such taking, to terminate this Agreement. If Purchaser does not elect to terminate this Agreement as aforesaid, Seller shall, at closing, assign or pay to Purchaser all condemnation awards collected or claimed relative to such taking up to the amount of the Purchase Price.

SECTION D. Prorations and Expenses.

1. Seller shall order, at Seller’s cost, a commitment for a title insurance policy in the full amount of the Purchase Price, covering title to the Property on or after the date hereof, showing title in Seller. Purchaser shall pay for the title policy and all costs for the final search charged shall be the sole cost of the Purchaser.

2. Seller shall give Purchaser credit for the general real estate taxes for all prior years and shall give Purchaser credit for Seller’s Pro-rata share of taxes for the year of closing. Credit to Purchaser for the general real estate taxes not yet payable shall be computed to date of closing. No adjustments for such taxes shall be required after closing. All documentary or transfer of taxes shall be paid by Seller. Each party shall pay the fees and expenses of its own attorney.

3. Seller shall bear all risk of loss or damage prior to closing.

ARTICLE II. CONVEYANCE OF PROPERTY

SECTION A. Form of Deed.

The Seller shall convey the Property by Quitclaim Deed to the Purchaser. The conveyance and title shall, in addition to the provisions, conditions and covenants of this Contract, and restrictions set forth or referred to elsewhere in this Contract be subject to:

1. Any and all easements currently located upon the property as shown in the Title Insurance Policy including public right-of-ways and utilities;
2. Any building or zoning restrictions, reservations, easements, roads, alleys, sidewalks, and other right-of-way of record.

SECTION B. Delivery of Deed.

1. The Seller shall prepare, execute, convey and deliver a recordable, stamped Quitclaim Deed, in addition to delivering possession of the property to the Purchaser at a mutually agreed-upon date. The Purchaser shall accept the conveyance and pay the Purchase Price to the Seller at the mutually agreed-upon date, time and place, but in no event later than January 1, 2015. At closing, Seller and Purchaser shall execute a closing statement reflecting any adjustments to the Purchase Price.

2. The delivery of the Deed by Seller, and the acceptance thereof by Purchaser, shall be deemed the full performance and discharge of every obligation on the part of the Seller to be performed hereunder, except those obligations of Seller which are expressly stated in this Contract to survive the Closing.

SECTION C. Closing and Possession.

1. The transaction contemplated hereby shall close within 30 days from the date of this agreement at a time and place mutually agreed upon by both parties but in no event after January 1, 2015.

2. At closing, Purchaser shall pay to Seller the Purchase Price and execute a closing statement reflecting any adjustments thereto and execute on or prior to closing such affidavits as may be reasonably required and designated by the title insurer to fully effect and consummate the transactions contemplated hereby.

3. At closing, Seller shall execute and deliver a corporate quitclaim deed to the Property, execute a closing statement reflecting any adjustments to the Purchase Price, execute on or prior to closing such affidavits as may be reasonably required and designated by the title insurer to fully effect and consummate the transactions contemplated hereby, and deliver possession of the Property to Purchaser.

SECTION D. Performance Clause

The Purchaser hereby agrees to substantially develop the Property for their commercial business within six (6) months from the date the deed is recorded. In the event that the Purchaser fails to, or refuses to, substantially develop said Property within such time frame then the Property shall

automatically revert back to the Seller upon Seller's demand. Upon Purchaser's receipt of written notice by Seller of Purchaser's failure to perform their obligations under this Section and demand for the Property, the City of Carbondale, as Seller, shall have the right to re-enter and take possession in fee simple title to the Property. The Seller shall reimburse the Purchaser the purchase price paid by Purchaser for the Property under this contract, minus any and all costs incurred by the Seller to enforce the provisions of this Contract. This provision shall survive the closing of the property transaction.

SECTION E. First Right of Refusal

Purchaser hereby grants to Seller a first right of refusal to purchase said property from Purchaser in the event that Purchaser decides to convey, sell or deliver title to all or portions of the property. Purchaser agrees not to sell, convey, or transfer any rights or interest in the property until the Purchaser has contacted the Seller in writing and offered to convey all or portions of said property to Seller.

The Seller shall have forty-five (45) days from the date of receipt of Purchaser's written offer to either accept or reject said offer. This provision shall survive the closing of this property transaction.

SECTION F. Runs with the Land

All the agreements, terms and conditions contained herein shall extend to and run with the land, and shall bind the heirs, executors, administrators, successors and assigns of the respective parties.

SECTION G. Default

1. In the event the Purchaser defaults in the performance of its obligations hereunder, and provided Seller is not then in default in the performance of its obligations hereunder, Seller shall have the right to bring an action at law for any and all damages suffered by Seller as a result of Purchaser's default or bring an action in equity to specifically enforce Purchaser's obligations under this agreement.
2. In the event the Seller defaults in the performance of its obligations hereunder, and provided Purchaser is not then in default in the performance of its obligations hereunder, Purchaser shall have the right to bring an action at law for any and all damages suffered by Purchaser as a result of Seller's default or bring an action in equity to specifically enforce Seller's obligations under this agreement.

SECTION H. Recordation of Deed

The Purchaser shall promptly file the Deed for recordation among the land records of the place in which the Property is located. The Purchaser shall pay all costs for recording the Deed.

SECTION I. Modification of Contract.

Any modification of this Contract must be in writing and signed by the parties. The parties hereby authorize release of information pertaining to this property necessary to allow for the performance of this Contract.

SECTION J. Representations and Warranties of Seller.

To induce Purchaser to execute, deliver, perform, and close on this Agreement, Seller hereby represents and warrants to Purchaser on and as of the date hereof and on and as of the date of closing as follows:

1. Seller has the power and authority to enter into this Agreement and to consummate transactions contemplated herein.
2. At closing Seller will have good and clear marketable title to the Property, free and clear of liens, security interests, encumbrances, and restrictions of every kind and description, except the Permitted Title Exceptions.
3. Seller has not received any notices from any federal, state, county, or municipal governmental authority alleging any health, safety, or other violation of law in respect to the Property or any part thereof which has not been disclosed to Purchaser.

SECTION K. Purchaser's Risk Act.

The provisions of the Uniform Vendor and Purchaser's Risk Act, if effective in the state in which the property is located, shall apply to the sale and purchase provided for in this Contract.

ARTICLE III. MISCELLANEOUS PROVISIONS

SECTION A. Entire Agreement.

This Contract embodies and constitutes the entire understanding between the parties with respect to the transaction contemplated herein, and all prior agreements, understandings, representations and statements, oral or written, are merged into this Contract. Neither this Contract nor any provision hereof may be waived, modified, amended, discharged or terminated except by an instrument signed by the party against whom the enforcement of such waiver, modification, amendment, discharge or termination is sought, and then only to the extent set forth in such instrument.

SECTION B. Assignment.

Neither Seller nor Purchaser shall have the right to assign this Agreement without prior written consent of the other.

SECTION C. Governing Law.

This Contract shall be governed by and construed in accordance with the laws of the state of Illinois.

SECTION D. Captions.

The captions in this Contract are inserted for convenience or reference only and in no way define, describe or limit the scope or intent of this Contract or any provisions hereof.

SECTION E. Binding on Parties.

This Contract shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs or successors and permitted assigns.

SECTION F. Execution and Delivery.

This Contract shall not be binding or effective until properly executed and delivered by Seller and Purchaser.

SECTION G. Authority to Execute Contract.

The parties acknowledge and warrant that the respective governing bodies of each have authorized the undersigned signatories to execute on behalf of each party to this Contract.

SECTION H. Notices.

Any notice, request, demand, instruction, or other document to be given hereunder shall be in writing and shall be delivered personally or sent by United States registered or certified mail, return receipt requested, postage prepaid and addressed to the parties at the respective addresses set forth below, and the same shall be effective upon receipt if delivered personally or one business day after deposit in the mail if mailed. A party may change its address for receipt of notices by service of a notice such change in accordance herewith.

If to Seller:

City Manager
City of Carbondale, Illinois
200 South Illinois Avenue
Carbondale, IL 62901

If to Purchaser

SSST, LLC
3255 Cinnabar Point
Carbondale, IL 62901

IN WITNESS HEREOF, and upon execution below, the parties do hereby agree to abide by the terms and conditions provided within this Contract and have executed this Contract in duplicate on the date stated above.

SELLER:
City of Carbondale, Illinois
A Municipal Corporation

BY: _____
Kevin Baity, City Manager

ATTEST:

Jennifer Sorrell, City Clerk

PURCHASER:
SSST, LLC

BY: _____
Srinivas Gundala

BY: _____
Attest