

**Request for City Council Action**

Date: June 9, 2015

<b>Agenda Section:</b> General Business  <b>No. 6</b>	<b>Originating Department:</b>  City Manager			
<b>Item:</b> Ordinance Authorizing the City Manager to Execute a Contract for the Sale of Land to Sai Krishna, LLC, for Property on the 200 block of West Elm Street, and to Authorize the Mayor to Execute a Quit Claim Deed for Conveyance of said Land  <b>No. 6.1</b>	<b>Approved:</b>			
<p><b>Background:</b></p> <p>Sai Krishna, LLC, has proposed to purchase City-owned property on the 200 block of West Elm Street for \$75,000.00. Sai Krishna, LLC plans to develop a 85 room Hilton Home2 Suites hotel that will consist of 4-5 floors. Sai Krishna, LLC intends to break ground for the new development within 6 months following conveyance of the property.</p> <p>The Carbondale Revised Code allows the city to sell property for economic development purposes upon passage of an Ordinance by a 2/3 affirmative vote (five votes). A public hearing was held previously as part of this meeting's agenda and a notice was published in the <i>Southern Illinoisan</i> on May 29, 2015.</p> <p>The Carbondale Comprehensive Plan encourages the development of a downtown hotel in Focus Area 5.1, Strategy 2(g) and in Focus Area 5.4, Strategy 1(d), and identifies a downtown hotel as a key amenity that can better serve SIU, SIH, and the community and help further redevelop and revitalize the City's downtown.</p> <p><b>Recommended Action:</b></p> <p>It is recommended that the City Council approve an ordinance authorizing the City Manager to execute a Contract for the Sale of Land to Sai Krishna, LLC for property on the 200 block of West Elm Street, and authorizing the Mayor to execute a Quit Claim Deed for the conveyance of said land.</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 CONTRACT FOR THE SALE OF LAND AND THE MAYOR TO EXECUTE A DEED TO SAI KRISHNA, LLC, FOR PROPERTY ON THE 200 BLOCK OF WEST ELM STREET IN THE AMOUNT OF \$75,000.00**

**ADOPTED BY THE CITY COUNCIL**

**OF THE CITY OF CARBONDALE, ILLINOIS**

**THE 9<sup>TH</sup> DAY OF JUNE, 2015**

**Published in pamphlet form by authority of the City Council of the City of Carbondale, Jackson County, Illinois, this 10<sup>th</sup> day of June, 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 10<sup>th</sup> day of June, 2015.**

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**Jennifer R. Sorrell, City Clerk**

**ORDINANCE NO. 2015-\_\_\_\_**

**AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT FOR THE SALE OF LAND AND THE MAYOR TO EXECUTE A DEED TO SAI KRISHNA, LLC, FOR PROPERTY ON THE 200 BLOCK OF WEST ELM STREET IN THE AMOUNT OF \$75,000.00**

**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 Sections 1-13-8 C & E 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 Sai Krishna, 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 Sai Krishna, 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 numbers 15-21-253-009, 15-21-253-

010, 15-21-253-011, 15-21-253-012, 15-21-253-013, 15-21-253-017, 15-21-253-018, 15-21-253-019 and more particularly described as Lots 474, 475, 476, 477, 478, 479, and 480 in D.H. Brush's Subdivision of Out Lot 55 as recorded in Plat Book "M" at Page 371 in the Recorder's office of Jackson County, Illinois, containing 0.9148 acres more or less, and all that part of a sixteen and one-half foot (16.5') wide alley east of Lot 477 in D.H. Brush's Subdivision of Out Lot 55 as recorded in Plat Book "M" at page 371 in the Recorder's office of Jackson County, Illinois, containing 0.0469 acres more or less, to Sai Krishna, 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 SEVENTY-FIVE THOUSAND AND 00/100 DOLLARS (\$75,000.00) and shall do all things necessary to effectuate said Contract; and

**WHEREAS**, the Mayor and City Clerk shall, upon completion of all terms of the said real estate sales contract, execute and attest a deed transferring the real estate to the Buyer.

**WHEREAS**, the City Manager has published in the Southern Illinoisan on May 29, 2015, the required notice for authorization of the execution of a deed of transfer for the said real estate, pursuant to Sections 1-13-8 C & E of the Carbondale Revised Code; and

**WHEREAS**, the City held a public hearing as required by City Ordinance, concerning the proposed sale of real estate.

**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 Sai Krishna, LLC for the purchase price of SEVENTY-FIVE THOUSAND AND 00/100 DOLLARS (\$75,000.00).

**SECTION 2.** That the City Manager shall negotiate and enter into a Contract for Sale of Land which will provide for the conveyance of the real estate to Sai Krishna, LLC for a purchase price of SEVENTY-FIVE THOUSAND AND 00/100 DOLLARS (\$75,000.00).

**SECTION 3.** That the Mayor and the City Clerk of the City of Carbondale be and are hereby authorized to sign and attest a Quitclaim Deed to Sai Krishna, LLC for the sale of the real property described as parcel numbers 15-21-253-009, 15-21-253-010, 15-21-253-011, 15-21-253-012, 15-21-253-013, 15-21-253-017, 15-21-253-018, 15-21-253-019, and more particularly described as Lots 474, 475, 476, 477, 478, 479, and 480 in D.H. Brush's Subdivision of Out Lot 55 as recorded in Plat Book "M" at Page 371 in the Recorder's office of Jackson County, Illinois, containing 0.9148 acres more or less, and all that part of a sixteen and one-half foot (16.5') wide alley east of Lot 477 in D.H. Brush's Subdivision of Out Lot 55 as recorded in Plat Book "M" at page 371 in the Recorder's office of Jackson County, Illinois, containing 0.0469 acres more or less.

**SECTION 4.** That the Mayor and City Manager of the City of Carbondale are 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 5.** That all ordinances and parts thereof in conflict herewith are expressly repealed and are of no other force and effect.

**SECTION 6.** 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 7.** 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 8.** 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 9.** That this Ordinance shall take effect upon its passage, approval, recording, and publication in pamphlet form in accordance with law.

APPROVED: \_\_\_\_\_  
John "Mike" Henry, Mayor

ATTEST: \_\_\_\_\_  
Jennifer R. Sorrell, City Clerk

APPROVED AS TO LEGALITY AND FORM:

\_\_\_\_\_  
P. Michael Kimmel, City Attorney

## QUITCLAIM DEED

THIS INDENTURE WITNESSETH, that the Grantor, the City of Carbondale, Illinois, an Illinois Municipal Corporation with its principal office at 200 South Illinois Avenue, Carbondale, Illinois 62902, for and in consideration of SEVENTY-FIVE THOUSAND AND 00/100 DOLLARS (\$75,000.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, and pursuant to authority given by the City Council of the City of Carbondale, CONVEYS and QUIT CLAIMS to Grantee, Sai Krishna, LLC, with its principal office at 611 Deer Lake Drive West, Carbondale, Illinois, 62901, the following described real estate, to-wit:

### **General Description**

Lots 474, 475, 476, 477, 478, 479, and 480 in D.H. Brush's Subdivision of Out Lot 55 as recorded in Plat Book "M" at Page 371 in the Recorder's office of Jackson County, Illinois, containing 0.9148 acres more or less, and all that part of a sixteen and one-half foot (16.5') wide alley east of Lot 477 in D.H. Brush's Subdivision of Out Lot 55 as recorded in Plat Book "M" at page 371 in the Recorder's office of Jackson County, Illinois, containing 0.0469 acres more or less.

Subject to easements, covenants, conditions, reservations, rights-of-way, encumbrances and restrictions of record, if any, easements or claims of easements, not shown of public record and all rights or claims of parties in possession not shown of public record. Subject to rights of the public, State of Illinois, the County, the Township and municipality in and to that part of the premises in question taken, used, or dedicated for roads and highways, rights of way for drainage ditched, drain tile, feeders, laterals, underground pipe, if any.

Situated in the County of Jackson and State of Illinois

IN WITNESS WHEREOF, said Grantor has caused its corporate seal to be hereto affixed and has caused its name to be signed to its presence by its Mayor, and attested to by its City Clerk, this the \_\_\_\_ day of \_\_\_\_\_, 2015.

**City of Carbondale**  
A municipal corporation

\_\_\_\_\_  
John "Mike" Henry, Mayor

Attest:

\_\_\_\_\_  
Jennifer Sorrell, City Clerk

Exempt pursuant to Section 4(b) of  
the Real Estate Transfer Tax Act for  
the City of Carbondale as Seller

STATE OF ILLINOIS        )  
  ) SS  
COUNTY OF JACKSON     )

CORPORATE ACKNOWLEDGEMENT

I, the undersigned, a notary public in and for the State and County aforesaid, do hereby certify that John “Mike” Henry of the City of Carbondale, personally known to me to be the authorized agent of the City of Carbondale and the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument in his capacity as Mayor of the City of Carbondale, with authorization from the corporate authorities of the City of Carbondale, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute this Agreement and in fact executed this agreement on behalf of the corporate authorities of the City of Carbondale.

Given under my hand the official seal this \_\_\_\_\_ day of \_\_\_\_\_,  
2015.

\_\_\_\_\_  
Notary Public

## 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 Sai Krishna, LLC, having its principal residence at 611 Deer Lake Drive West, 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

Lots 474, 475, 476, 477, 478, 479, and 480 in D.H. Brush's Subdivision of Out Lot 55 as recorded in Plat Book "M" at Page 371 in the Recorder's office of Jackson County, Illinois, containing 0.9148 acres more or less, and all that part of a sixteen and one-half foot (16.5') wide alley east of Lot 477 in D.H. Brush's Subdivision of Out Lot 55 as recorded in Plat Book "M" at page 371 in the Recorder's office of Jackson County, Illinois, containing 0.0469 acres more or less.

Subject to easements, covenants, conditions, reservations, rights-of-way, encumbrances and restrictions of record, if any, easements or claims of easements, not shown of public record and all rights or claims of parties in possession not shown of public record. Subject to rights of the public, State of Illinois, the County, the Township and municipality in and to that part of the premises in question taken, used, or dedicated for roads and highways, rights of way for drainage ditched, drain tile, feeders, laterals, underground pipe, if any.

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 SEVENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$75,000.00), 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 bear all costs to relocate Ameren electric power lines currently located on the Property as described in "Exhibit A".
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, to be determined. 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.

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 initiate the development and construction of the Property for their proposed Hilton Home2 Suites hotel project within six (6) months from the date the deed is recorded, and agree to substantially complete the hotel project within eighteen (18) months from the date the deed is recorded. In the event that the Purchaser fails to, or refuses to, initiate development and construction of 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. 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 F. 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 G. 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 H. 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 I. 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. 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 J. 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

Sai Krishna, LLC  
611 Deer Lake Dr. West  
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:  
Sai Krishna, LLC

BY: \_\_\_\_\_  
Naresh Patel

BY: \_\_\_\_\_  
Attest

EXHIBIT A

