STATE OF NORTH CAROLINA

COUNTY OF _TRANSYLVANIA __

OPTION TO PURCHASE AGREEMENT

THIS OPTION TO PURCHASE AGREEMENT (this "Agreement"), is made and entered into this ___ day of _____, 2024 (the "Effective Date"), by and between **_KIRK DAVIS HOOPER and wife, SHARON VANCE HOOPER and PATRICK BRIAN SCOTT and wife, AMBER HOOPER SCOTT__** owners of the described real property (hereinafter referred to as the "Optionor"), and _The City of Brevard , North Carolina **,** a public body corporate and politic of the State of North Carolina, established pursuant to Article 29 of Chapter 160A of the North Carolina General Statutes with a mailing address of __95 W. Main Street, Brevard NC 28712__(hereinafter referred to as the "Optionee").

W I T N E S S E T H:

That for and in consideration of the mutual agreements and undertakings set forth herein, including the purchase price, option fee and other good and valuable consideration paid to Optionor by Optionee, the receipt of which is hereby acknowledged, Optionor, on behalf of itself and its successors and assigns, does hereby give, bargain, grant and convey unto Optionee and its successors and assigns, the exclusive right and option (the "Option") to purchase from Optionor that certain tracts or parcels of property and all associated improvements located in or near the City of _Brevard_, North Carolina containing t h r e e (3) t r a c t s t o t a l i n g approximately 3.82 acres combined and more particularly described in **Exhibit A** attached hereto and incorporated herein by reference (the "Properties") for the sum of _One Million One Hundred Thousand Dollars ($1,100,000.00)____, subject to the following terms and conditions:

1. **Option Period Agreement.**
The Optionee shall make an initial payment of $40,000 for an initial option period of 3 months. This amount will be absorbed into the total sales price of the real estate asset.

2. Ascending Additional Payments.
Following the initial option term, the Optionee agrees to the following additional payments to extend the said option period:

a. For month 4 (one additional month), an additional payment of $20,000.
b. For month 5, (two additional months) an additional payment of $25,000.
c. For month 6, (three additional months) an additional payment of $30,000.

3. Total Sales Price Summary.

a. Total Payments Over 6 Months: $115,000 (Initial + Additional)
b. This total amount will be applied to the final sales price of the real estate (Exhibit A).
c. The total price of the real estate assets shall not exceed the agreed upon amount.

4. Terms and Conditions.

a. The option period shall commence on the effective date and continue for a total maximum of 6 months.
b. All payments are due at the beginning of each respective month to extend the option.
c. Upon completion of the option period and full payment, the total amount paid toward the option will be credited toward the final sales price of the asset.
d. Any failure to make timely payments may result in termination of the agreement.

5. Exercise of Option.

Optionee may exercise the Option at any time during the Option Period by providing written notice of such intent to Optionor (an "Exercise Notice"). In the event Optionee timely provides an Exercise Notice to Optionor in accordance with the terms hereof, Optionor shall be obligated to sell the Property to Optionee, and Optionee shall be obligated to purchase the Property from Optionor, on the terms and conditions provided in this Agreement.

TERMS OF PURCHASE

1. **Purchase Price and Time of Payment**. The purchase price for the Property (the "Purchase Price") shall be a sum equal to _ONE MILLION ONE HUNDRED THOUSAND and No/100 Dollars ($_1,100,000.00_); provided that all the conditions of the option have been satisfactory met by the Optionee. The Purchase Price shall be payable in United States currency by way of federal wire transfer to the trust account of the attorney conducting the Closing (as defined herein), subject to proration and other adjustments at Closing as set forth herein. The parties agree that the Option Fee shall be credited against the Purchase Price.

2. **Title**. In the event Optionee exercises the Option as provided herein, Optionor will convey to Optionee at Closing fee simple marketable title by a general warranty deed (the "Deed"), free and clear of all liens and encumbrances, except for ad valorem taxes for the Closing year and subsequent years; but subject to any restrictions, covenants, rights of way, easements and other matters of record in Optionor's chain of title; and all governmental land use laws, rules, regulations, and ordinances applicable to the Property. Notwithstanding the foregoing, any monetary liens, mortgages or deeds of trust shall be removed by Optionor at or before Closing.

3. **Changes Prior To Closing**. During the term of this Agreement, Optionor shall not, without the express written consent of Optionee, cause or allow any liens or encumbrances with respect to the Property that may adversely affect the Property or transfer any interest in the Property except as otherwise permitted herein.

4. **Closing**. The consummation of the sale and purchase hereunder (the "Closing") shall take place at a mutually convenient time and place on or before the date which is no more than thirty (30) days after the date of the Exercise Notice. Exclusive possession of the Property or applicable portion thereof shall be delivered to Optionee at Closing. Optionor also agrees to provide at Closing, an executed owner's affidavit or other document(s) reasonably required by

Optionee's title insurance company as a condition to the issuance of a final title insurance policy in favor of Optionee with affirmative coverage against the possible lien claims of mechanics, laborers and materialmen.

5. **Closing Costs**. At Closing, Optionor shall furnish and pay the expense of preparation of the Deed, any documentary or transfer tax stamps and the fees and costs of Optionor's own attorney. Optionor shall also be responsible for and discharge prior to Closing all assessments (special or otherwise), rollback or deferred taxes and charges placed against or applicable to the Property, whether or not same are due and payable prior to Closing. At Closing, Optionee shall pay for the expense of recording the Deed, any title insurance premium for coverage insuring Optionee's title to the Property and the fees and costs of Optionee's own attorney. Ad valorem property taxes respecting the Property for the calendar year in which the Closing occurs shall be prorated and accounted for between Optionor and Optionee at Closing on a calendar year basis.

6. **Default**. In the event of a breach of this Agreement by Optionor, Optionee shall be entitled, after ten (10) days' prior written notice and failure to cure such breach by Optionor, to either (i) terminate this Agreement and, notwithstanding anything to the contrary herein, obtain a refund of the Option Fee, or (ii) the remedy of specific performance. In the event of a breach of this Agreement by Optionee, Optionor, as its sole right and remedy, shall, after ten (10) days' prior written notice and failure to cure such breach by Optionee, be entitled to retain the Option Fee as liquidated damages. The parties hereby agree that the amount of the liquidated damages provided in the immediately preceding sentence is a reasonable estimate of Optionor's damages in the event of Optionee's default, the actual amount of such damages being difficult or impractical to determine.

7. **Brokerage**. Optionor and Optionee represent and warrant each to the other that they have not dealt with any broker in connection with this transaction.

8. **Notices**. Any notices, requests, or other communications required or permitted to be given hereunder shall be in writing, shall be delivered by hand, delivered by overnight delivery service (*e.g.*, Federal Express), or mailed by United States registered mail, return receipt requested, postage prepaid, and addressed to each party at the applicable addresses set forth in the introductory paragraph of this Agreement. Notice by personal delivery shall be effective on the day of personal delivery. Notice deposited in the mail in the manner hereinabove described shall be deemed received by the intended recipient and effective on the date that is three (3) calendar days after it is so deposited. Notice by overnight delivery service shall be effective on the first business day after said notice is sent. By giving at least ten (10) days' prior written notice thereof, any party hereto may, from time to time and at any time, change its mailing address hereunder.

9. **Assignment; Time is of the Essence**. Optionee reserves the right to assign its rights under this Agreement to any corporation, partnership, limited liability company or other entity which is owned or controlled by the Optionee. The consent of Optionor shall not be required for any such assignment by Optionee. TIME IS OF THE ESSENCE with respect to this Agreement.

10. **Recordation of Memorandum of Option**. This Option to Purchase Agreement

may not be recorded by any party hereto. Instead, a memorandum of this Agreement in the form attached hereto as Exhibit B and incorporated herein by reference may be recorded in the Office of the Register of Deeds of Transylvania County, North Carolina. The costs of the recordation of such memorandum shall be borne by Optionee.

IN TESTIMONY WHEREOF, the parties have executed this Agreement through their duly authorized agents as of the day and year first above written.

OPTIONORS/GRANTOR:

_____

KIRK DAVIS HOOPER

_____

SHARON VANCE HOOPER

_____

PATRICK BRIAN HOOPER

_____

AMBER SCOTT HOOPER

` OPTIONEE/GRANTEE:

_____

WILSON HOOPER, City Manager

STATE OF NORTH CAROLINA

COUNTY OF _____

I, _____, a Notary Public in and for _____ County, North Carolina, certify that KIRK DAVIS HOOPER and wife, SHARON VANCE HOOPER and PATRICK BRIAN SCOTT and wife, AMBER HOOPER SCOTT personally came before me this day and acknowledged that personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed.

WITNESS my hand and official seal this ___ day of _____, 2024.

_____

Notary Public

My commission expires:

_____

[NOTARIAL SEAL]

STATE OF NORTH CAROLINA

COUNTY OF _____

I, _____, a Notary Public in and for _____ County, North Carolina, certify that _ WILSON HOOPER_____ personally came before me this day and acknowledged that he is CITY MANAGER of **the CITY OF BREVARD, NORTH CAROLINA_,** a public body corporate and politic of the State of North Carolina, established pursuant to Article 29 of Chapter 160A of the North Carolina General Statutes, and that by authority duly given and as the act of the authority, the foregoing instrument was signed in its name by him/her as its CITY MANAGER.

WITNESS my hand and official seal this ___ day of _____, 2024.

_____

Notary Public

My commission expires:

_____

[NOTARIAL SEAL]

EXHIBIT A

All of those 3 certain tracts or parcels of land, lying and being in Transylvania County_, North Carolina, more particularly described as follows:

TRACT 1

BEGINNING at an iron pin near the eastern edge of Azalea Avenue in the line of Mills, and running thence with said line, N 70 deg. 11 min. E 98.01 ft.; thence S 2S deg. E 4.0 feet to an iron pin, corner of Green; thence with Green's line, N 67 Deg. 29 min. E 99.54 ft. to an iron pin, corner of a 9.11 acre tract; thence with the line of said tract, N 25 deg. W 513.64 ft. to an iron pin in the line of Morris; thence with said line, S 64 deg. 07 min. W 141.30 ft. to an iron pin, corner of Hunnicut; thence with the line of Hunnicut, two calls as follows; S 25 deg. 46 min. E 101.71 ft. to an iron pin, and S 63 deg. 14 min. W 143.73 ft, to a stake at the edge of the pavement of Azalea Avenue; thence along said edge, S 25 deg. 29 min. E 377.225 ft. to a stake; thence N. 70 deg. 11 min. E 7.5 ft. to the point of BEGINNING. Containing 2.87 acres, more or less.

Being all the property described in Deed Book 191, Page 536, Transylvania County.

TOGETHER WITH AND SUBJECT TO those rights of way, easements and restrictive covenants as recorded in the Transylvania County, North Carolina Register's Office; reference to which is hereby made and incorporated herein.

Being that property described in Deed Book 277, at Page 443 of the Transylvania County, NC Register's office; reference to which is hereby made and incorporated for a more particular description of said property.

PIN: **8596-05-5538-000**

TRACT 2

Being all of the same land described in a deed from Gregory Cochran and wife, Martha Cochran, to Thomas Fulcher dated January 12, 1996, and recorded in the office of the Register of Deeds for Transylvania County in Deed Book 396, page 801, said land being more particularly described in said deed as follows:

BEGINNING at an iron pipe found in the north margin of the right of way of Old US Highway 64, said iron pipe being located in the property line of a tract of land described in a deed to Miller recorded in Book 278, Page 450, Records of Deeds for Transylvania County, and runs thence leaving said margin of the right of way of said highway and along the property line of Miller, North 25 deg. 00 nun. 00 sec. West 150.19 feet to an iron pipe found just south of a fence line in the property line of a tract of land described in a deed to Cain recorded in Book 277, Page 443, Records of Deeds for Transylvania County; thence leaving the property line of Miller and along the property line of Cain, North 68 deg. 10 min. 09 sec. East 99.96 feet to an iron pipe found in the property line of a tract of land conveyed to Lyday in a deed recorded in Book 222, Page 258, Records of Deeds for Transylvania County; thence leaving the property line of Cain and along the property line of Lyday, South 24 deg. 59 min. 29 sec. East 142.82 feet to an Iron pipe found in

the north margin of the right of way of Old US Highway 64; thence leaving the property line of Lyday and along said margin of the right of way of said highway, South 63 deg. 56 min. 25 sec. West 99.80 feet to the BEGINNING. Containing 0.336 acres, more or less, as surveyed and platted by Robert L. Haller, RLS, on October 31, 1990, and updated on January 8, 1996, designated as Drawing Number 95135.

This conveyance is made subject to the right of way of all roads which may presently traverse the property, to all road rights of way which may presently appear of record, to the rights of way of all utility lines which may presently traverse the property and to all rights of way for utility lines which may presently appear of record.

PIN: **8596-05-6391-000**

TRACT 3

Being all of Lot 1, 0.463 acres, more or less, as shown on a survey entitled Martha Lyday Dobbins et al dated November 9, 2009 and recorded in Plat File 13 at Slide 339, Transylvania County Registry.

This conveyance is made subject to all roads rights-of-way of all roads which may presently traverse the property, to all road rights of way which may presently appear of record, to the rights- of-way of all utility lines which may presently traverse the property to all rights of way for public utilities which may presently appear of record.

PIN: **8596-05-8315-000**

Exhibit B

Memorandum of Option to Purchase

STATE OF NORTH CAROLINA

COUNTY OF ___TRANSYLVANIA__

MEMORANDUM OF
OPTION TO PURCHASE

IN CONSIDERATION OF the sum of Ten Dollars ($10.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, **_ KIRK DAVIS HOOPER and wife, SHARON VANCE HOOPER and PATRICK BRIAN SCOTT and wife, AMBER HOOPER SCOTT,** (the "Grantor"), does hereby grant to **_the City of Brevard, North Carolina_,** a public body corporate and politic of the State of North Carolina, established pursuant to Article 29 of Chapter 160A of the North Carolina General Statutes (the "Grantee"), an option (the "Option") to purchase the property described in Exhibit A attached hereto and incorporated herein by reference (the "Property"), on the terms and conditions provided in that certain Option to Purchase Agreement (the "Option Agreement") between Grantor and Grantee of even date herewith (the terms of which Option Agreement are incorporated in this memorandum as if fully set forth herein).

The Option shall terminate if Grantee does not exercise the Option prior to the date which is six (6) months from the date of the Option Agreement.

{Signatures appear on the following two (2) pages.]

WITNESS our hands this _____ day of _____, 2024.

GRANTORS:

_____

By: _____
Name: _____
Title: _____

STATE OF NORTH CAROLINA

COUNTY OF _____

I, _____, a Notary Public in and for _____County, North Carolina, certify that KIRK DAVIS HOOPER and wife, SHARON VANCE HOOPER and PATRICK BRIAN SCOTT and wife, AMBER HOOPER SCOTT personally came before me this day and acknowledged that personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed.

WITNESS my hand and official seal this ___ day of _____, 2024.

_____

Notary Public

My commission expires:

_____

[NOTARIAL SEAL]

GRANTEE:

CITY OF BREVARD, NORTH CAROLINA

By: WILSON HOOPER, CITY MANAGER____

STATE OF NORTH CAROLINA

COUNTY OF _____

I, _____, a Notary Public in and for _____ County, North Carolina, certify that _ WILSON HOOPER_____ personally came before me this day and acknowledged that he is CITY MANAGER of **the CITY OF BREVARD, NORTH CAROLINA_,** a public body corporate and politic of the State of North Carolina, established pursuant to Article 29 of Chapter 160A of the North Carolina General Statutes, and that by authority duly given and as the act of the authority, the foregoing instrument was signed in its name by him/her as its CITY MANAGER.

WITNESS my hand and official seal this ___ day of _____, 2024.

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Notary Public

My commission expires:

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