

NORTH CAROLINA

LEE COUNTY

NICK JORDAN and SMASHING BOXES  
LLC,

Plaintiffs,

vs.

The CITY OF SANFORD, a political  
subdivision of the State of North Carolina,

Defendant.

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION

23 CVS \_\_\_\_\_

23CV002518-520

**VERIFIED COMPLAINT, MOTION FOR  
TEMPORARY RESTRAINING ORDER,  
AND MOTION FOR PRELIMINARY  
INJUNCTION**

**(JURY TRIAL DEMANDED)**

NOW COME Plaintiffs, by and through their undersigned counsel, complaining of Defendant City of Sanford (“hereinafter Defendant”) as follows:

**NATURE OF THE ACTION**

1. This is an action for injunctive relief, declaratory judgment, breach of contract, and breach of the implied covenant of good faith and fair dealing related to Plaintiffs’ contractual rights to purchase certain real property with a commonly known address of 117 North First Street, Sanford, Lee County, North Carolina 27330 (hereinafter “Property”). A historic building is situated on said property and commonly known as the “Singer Factory.”
2. Legal action has become necessary because of Defendant’s efforts to secretly purchase the Property after releasing its exclusive rights to purchase the Property in favor of Plaintiffs.
3. Specifically, in 2019, Original Investors, Inc. (“Original Investors”), the current record owner of the Property, originally granted Defendant an exclusive option to purchase the Property. However, Defendant, with the consent of Original Investors, released its option to purchase the property in favor of Plaintiffs in 2021. Defendant’s release of its option to purchase was for the purpose of allowing Plaintiffs to purchase and develop the Property pursuant to a developer agreement between the Plaintiffs and Defendant.
4. Plaintiffs expended considerable time, money, and effort preparing to purchase and develop the Property. Plaintiffs provided Defendant with multi-phase development proposals, including development of a multi-use railway hub.
5. Plaintiffs have recently learned that Defendant secretly entered into a contract to purchase the Property for Defendant’s own benefit and without **any** prior notice to Plaintiffs. Upon

information and belief, Defendant's unlawful actions are largely based on its desire to apply for and receive a multi-million-dollar grant to develop the Property as a multi-use railway hub—the very development Plaintiffs had proposed for nearly two years.

6. After Defendant secretly executed the purchase agreement, Defendant attempted to justify its wrongful actions by issuing Plaintiffs a putative unilateral revocation of Defendant's release of the option to purchase in favor of Plaintiff.
7. Defendant's usurpation of Plaintiffs' rights is in direct contravention of the parties' written contract. Defendant's action during Plaintiffs' pursuit of a developer agreement constitutes acts of bad faith towards Plaintiffs. Defendant now seeks to financially benefit from its unlawful acts towards Plaintiffs. Plaintiffs seek redress from the Court to right these wrongs.
8. Further, although Defendant is actively in breach of its contractual obligations, Plaintiffs are informed and believe that Defendant has yet to close the purchase of the Property. Therefore, time is of the essence to maintain the status quo and Plaintiffs seek injunctive relief from the Court.

#### **PARTIES AND PROPERTY**

9. Plaintiff, Nick Jordan (hereinafter "Plaintiff Jordan"), is a citizen and resident of Durham County, North Carolina. Plaintiff Jordan is a small business owner, investor, real estate developer, and principal of Smashing Boxes, LLC.
10. Plaintiff, Smashing Boxes, LLC (hereinafter "Plaintiff Smashing Boxes") is a domestic limited liability company, duly organized and existing pursuant to North Carolina law, with its principal place of business located at 506 Ramseur Street, Suite 1, Durham, Durham County, North Carolina 27701.<sup>1</sup>
11. Defendant is a municipal corporation, duly chartered and existing pursuant to North Carolina law, located in Lee County, North Carolina.
12. Original Investors is a domestic corporation, duly organized and existing pursuant to North Carolina law, with its principal place of business located at 1504 South Horner Boulevard, Sanford, Lee County, North Carolina.
13. The subject property giving rise to this action is situated in Lee County, North Carolina, and recorded in Deed Book 431, Page 708, of the Lee County Registry.

---

<sup>1</sup> Plaintiff Jordan and Plaintiff Smashing Boxes may hereinafter be referred to in the collective as "Plaintiffs."

14. Original Investors is the record owner of the Property. The Property is highlighted in the screenshot depicted below, which was taken from the Lee County GIS website:



**JURISDICTION AND VENUE**

15. Plaintiffs reallege all preceding paragraphs and incorporate them herein by reference.

16. Pursuant to N.C. Gen. Stat. § 7A-240, this Court has subject matter jurisdiction over this action in that, *inter alia*, Plaintiffs seek injunctive relief, a declaratory judgment, and damages against Defendant for breach of contract.
17. Pursuant to N.C. Gen. Stat. § 1-75.4, this Court has personal jurisdiction over Defendant in that, *inter alia*, Defendant is domiciled in North Carolina, this action arises from a contract entered into in North Carolina, and this action arises from a contract to create an interest in real property situated in North Carolina.
18. Pursuant to N.C. Gen. Stat. § 1-76, venue is proper in Lee County, North Carolina in that, *inter alia*, Plaintiffs seek a determination of their rights and interest in real property situated in Lee County.
19. Pursuant to N.C. Gen. Stat. § 7A-243, superior court is the proper division for this action in that the controversy exceeds twenty-five thousand dollars (\$25,000.00).

## **FACTUAL ALLEGATIONS**

### **THE WRITTEN AGREEMENTS WHICH GOVERN THE RIGHT TO PURCHASE THE PROPERTY**

20. Plaintiffs reallege all preceding paragraphs and incorporate them herein by reference.
21. On or about November 18, 2019, Defendant and Original Investors entered into an option to purchase contract for the Property (“Option Contract”). A copy of said Option Contract is attached hereto and incorporated herein as **Exhibit A**.
22. Pursuant to said Option Contract, Original Investors granted Defendant an exclusive right and option to purchase the Property from Original Investors through and including March 31, 2021.
23. On or about January 25, 2021, Defendant and Original Investors entered into a Memorandum of Option to Purchase (“Memorandum of Option”), which purported to extend Defendant’s aforesaid right and option to purchase the property from Original Investors through and including March 31, 2024. A copy of said Memorandum of Option is attached hereto and incorporated herein as **Exhibit B**.
24. In or about the spring of 2021, Plaintiffs began exploring opportunities to develop property in Sanford, including the Property.
25. In or about the spring of 2021, Plaintiffs engaged in discussions with Defendant about purchasing and developing the Property.

26. On or about May 4, 2021, Plaintiffs, Defendant, and Original Investors entered into a Memorandum of Understanding (“Agreement”). A copy of the Agreement is attached hereto and incorporated herein as **Exhibit C**.
27. The Agreement contemplated that Defendant would release its Option to Purchase the Property in favor of Plaintiffs such that Plaintiffs could purchase and develop the Property under a developer agreement with Defendant. The developer agreement would establish the exact nature of the development to occur at the Property. (e.g. multi-family housing, commercial, or transportation ect.)
28. Pursuant to paragraph one (1) of the Agreement, the purpose of the Agreement was to facilitate Plaintiffs’ purchase of the Property from Original Investors.
29. On or about June 29, 2021, Plaintiffs and Original Investors entered into an Agreement for Purchase and Sale of Improved Real Estate (“First Purchase Contract”) whereby Plaintiffs agreed to purchase the property from Original Investors for four hundred ninety thousand dollars (\$490,000.00). A copy of said First Purchase Contract is attached hereto and incorporated herein as **Exhibit D**.
30. Pursuant to the First Purchase Contract, Plaintiffs’ purchase of the property was conditioned on Defendant’s approval of a developer agreement between Plaintiffs and Defendant. See **Exhibit D**.

**PLAINTIFFS’ EFFORTS TO OBTAIN A DEVELOPER AGREEMENT FROM DEFENDANT AND DEFENDANT’S FAILURE TO PROVIDE A DEVELOPER AGREEMENT IN VIOLATION OF THE AGREEMENT**

31. Between June 29, 2021, and November of 2023, Plaintiffs, in an effort to obtain a developer agreement from Defendant, consistently met, communicated, and engaged with Defendant. A substantial number of these meetings and communications were with Defendant’s employee Victor Czar (“Czar”) and Marshall Downey (“Downey”), who were largely tasked with preparing the developer agreement.
32. Between June 29, 2021, and January of 2022, Defendant communicated with Plaintiffs regarding Plaintiffs’ impending purchase and development of the Property.
33. However, Defendant did not provide a developer agreement.
34. In January of 2022, in an effort to jumpstart the process to finalize a developer agreement, Plaintiffs presented Defendant with a detailed presentation of how the Property and surrounding parcels of land would be developed under a developer agreement with

Defendant. These plans included, among other things, multi-use commercial use with a commuter rail.

35. Defendant indicated that it was on board with Plaintiffs' plan for development of the Property but did not provide Plaintiffs with a developer agreement.
36. With no developer agreement from Defendant, Plaintiffs proactively sent Defendant an initial draft of a developer agreement in March of 2022 ("Draft Developer Agreement"). Defendant provided no written response to the Draft Developer Agreement.
37. Plaintiffs continued to push Defendant to provide a developer agreement based upon the proposed development plans presented to Defendant—for a period of time that stretched over a year, Plaintiffs were meeting with Defendant, at a minimum, once per month in an effort to obtain the developer agreement.
38. By email dated April 26, 2022, Defendant's employee, Downey, stated that "we are still working with the city attorney on a draft of the developer agreement and we don't have much to bring to the table tomorrow."
39. Rather than wait for the Defendant to provide the developer agreement it was purportedly drafting, Plaintiffs again proactively provided an updated developer agreement for Defendant to review in July of 2022. Defendant provided no response to Plaintiffs' updated developer agreement proposal.
40. In spring of 2022, Defendant determined that it needed to obtain a grant for stream restoration and, upon information and belief, address other flood plain issues in and around the Property (collectively "Stream Restoration").
41. Defendant informed Plaintiffs that the developer agreement could not be finalized until a grant was obtained and the plans for the Stream Restoration were substantially complete. Defendant further informed Plaintiffs that these issues could stretch well into 2023.
42. Accordingly, Defendant put a hold on the developer agreement with Plaintiffs while Defendant attempted to obtain a grant and complete plans for the Stream Restoration.
43. Plaintiffs did not rest while awaiting plans for the Stream Restoration. Rather, Plaintiffs continued to engage in efforts with a variety of officials, consultants and other individuals, to pursue the purchase and development of the Property, including but not limited to, on the following dates: (1) July 18, 2022, (2) July 27, 2022, (3) September 1, 2022, (4) September 14, 2022, (5) October 21, 2022, (6) November 3, 2022, (7) December 13, 2022, (8) January 18, 2023, (9) March 13, 2023, (10) March 20, 2023, and (11) April 12, 2023.
44. In the Summer of 2023, Defendant finally released the plan to address the Stream Restoration to Plaintiffs. To the shock of Plaintiffs, the plan called for the stream to be diverted in such a way that it would encroach on a building located on the Property. Such

a plan would naturally require removal of the building and, ultimately, destroy development plans for the Property.

45. Plaintiffs, at their own expense, quickly hired an engineering firm to create an alternative plan for the Stream Restoration that would both address the stream restoration needs and preserve the ability to develop the Property (“Alternative Stream Restoration Plan”).
46. On or around July 25, 2023, Plaintiffs met with Defendant to share the Alternative Stream Restoration Plan. Defendant agreed to use the Alternative Stream Restoration Plan so long as Defendant confirmed it to be feasible from an engineering standpoint.
47. In September 2023, Plaintiffs attended a City Council Workshop and spoke with Defendant’s employees Czar and Downey. Plaintiffs discussed the purchase of the Property and developer agreement and asked Defendant to identify any additional information needed to complete the developer agreement and purchase of the Property.
48. Defendant, through Czar and Downey, asked Plaintiff to prepare a bullet point list of information for Defendant to review and provide comment.
49. By email dated September 27, 2023, Plaintiffs provided the requested bullet points of information.
50. Defendant did not respond to Plaintiffs’ September 27<sup>th</sup> email.
51. By email dated October 2, 2023, Plaintiffs followed up with Czar and Downey, and further requested an in-person meeting to discuss.
52. After a few calls with the city, Plaintiffs were finally able to set up a meeting with Defendant’s representatives for the middle of October 2023.
53. At this meeting, Defendant informed Plaintiffs that Defendant had the necessary information to finally complete the developer agreement and that the Defendant would put the information in its “template” as it would be quicker and easier to present to the city council.
54. Plaintiffs left the October 2023 meeting with the understanding that Defendant would finally provide a developer agreement to Plaintiffs, and Plaintiffs could move forward with the purchase and development of the Property.
55. Between June 29, 2021, and November of 2023, Plaintiffs, in reliance on Defendant’s release of its Option to Purchase in favor of Plaintiffs, and Defendant’s representations of a forthcoming developer agreement, and in furtherance of the contractual obligations contained in the Agreement and First Purchase Contract, expended considerable time, money, and effort developing plans for the Property. Specifically, Plaintiffs’ **minimum** incurred costs including, but not limited to:

- a. \$22,000 in architectural fees, for creation of a base drawing sets, initial layouts and feasibility. The architectural presentation was first completed in the Fall of 2021. Plaintiff paid to have the design concept updated in January of 2022 and Early 2023.
- b. \$9,000 in civil engineering costs for creation of a site plan and an updated the same to account for the new steam layout.
- c. \$35,000 in developer consultant fees for assistance with environmental analysis, flood plain analysis, and utility analysis.
- d. \$15,000 in legal work including title work, contact reviews, and corporate work.
- e. \$16,500 in consulting fees including, but not limited to: asbestos testing, structural engineering, concept layouts, and historical tax credit consulting.
- f. \$50,000 in costs to address lack of parking based on Defendant's representations regarding the need to independently address parking for future development of the Property.

**DEFENDANT ENTERS INTO CONTRACT TO PURCHASE PROPERTY  
IN VIOLATION OF THE AGREEMENT**

56. On or about November 3, 2023, Defendant secretly entered into an Agreement for Purchase and Sale of Real Property ("City Purchase Contract") with Original Investors to purchase the Property. The City Purchase Contract is attached hereto and incorporated herein as **Exhibit E**.
57. On or about November 6, 2023, Defendant informed Plaintiff – without any prior notice – that Defendant had purportedly revoked the exclusive release it granted to Plaintiffs in the Agreement, and that Defendant had exercised its alleged Right to Purchase the Property from Original Investors.
58. Upon information and belief, Defendant was intentionally delaying Plaintiffs' efforts to finalize and execute a developer agreement, which was a prerequisite to Plaintiffs' ability to close their purchase of the Property.
59. Upon information and belief, Defendant intentionally delayed providing and executing a developer agreement with Plaintiffs to prevent Plaintiffs from purchasing the Property.
60. Upon information and belief, Defendant intentionally delayed providing and executing a developer agreement with Plaintiff to manufacture a basis for which Defendant could purchase the Property itself.
61. Upon information and belief, while Defendant was intentionally delaying providing and executing a developer agreement with Plaintiffs, Defendant was simultaneously preparing

to apply for a grant to allow Defendant to develop the Property. Upon information and belief, the grant would allow Defendant to develop the Property into a mixed-use commuter rail—the very same development Plaintiffs had been proposing for nearly two years.

**FIRST CLAIM FOR RELIEF AGAINST DEFENDANT**

*(Motion for Temporary Restraining Order and Preliminary Injunction)*

62. Plaintiffs reallege all preceding paragraphs and incorporate them herein by reference.
63. Pursuant to Rule 65(b) of the North Carolina Rules of Civil Procedure, Plaintiffs move this Court to issue a Temporary Restraining Order enjoining Defendant from taking the following actions:
- a) purchasing the Property pursuant to the City Purchase Contract;
  - b) entering into contracts concerning the transfer of any interest in the subject Property;
  - c) taking any interest in the Property, in whole or in part, by deed or any other transfer allowed by law; and
  - d) taking any further actions to usurp Plaintiffs' right to purchase the Property.
64. As alleged hereinabove, Defendant has undertaken actions that interfere with Plaintiffs' right to purchase the Property in accordance with its Agreement with Defendant.
65. As alleged hereinabove, Plaintiffs have expended considerable time, money, and effort to purchase the Property in accordance with its Agreement with Defendant.
66. Pursuant to the City Purchase Contract, Defendant is scheduled to close the purchase of the subject Property at any time before December 15, 2023, at which time a deed transferring the Property to Defendant in violation of the Agreement would be recorded with the Lee County Register of Deeds.
67. Such transfer would foreclose Plaintiffs' right to obtain the Property from Original Investors, the current record owner of the Property.
68. Further, an injunction is proper because Defendant would not be harmed by an injunction because the exclusive right to purchase the Property would not be extinguished by any bar on closing the sale under the unlawful City Purchase Agreement.

69. Unless Defendant is enjoined from undertaking the actions alleged hereinabove, Plaintiffs will suffer immediate and irreparable loss before Plaintiffs' Motion for a Preliminary Injunction can be heard.

**SECOND CLAIM FOR RELIEF AGAINST DEFENDANT**

*(Motion for Preliminary Injunction)*

70. Plaintiffs reallege all preceding paragraphs and incorporate them herein by reference.

71. Pursuant to N.C. Gen. Stat. § 1-485 and Rule 65 of the North Carolina Rules of Civil Procedure, Plaintiffs move this Court to issue a Preliminary Injunction that prohibits Defendant from taking the following actions during the duration of this action:

- a) purchasing the Property pursuant to the City Purchase Contract;
- b) entering into contracts concerning the transfer of any interest in the subject Property; and
- c) taking any interest in the Property, in whole or in part, by deed or any other transfer allowed by law;
- d) taking any further actions to usurp Plaintiffs' right to purchase the property.

72. Plaintiffs are likely to succeed on the merits of their case as set forth herein.

73. Unless a Preliminary Injunction is issued, Plaintiffs will suffer irreparable loss in that it could no longer purchase a unique piece of real property as contemplated under the Agreement.

74. Issuing a Preliminary Injunction is necessary for the protection of Plaintiffs' rights during the litigation of this action.

**THIRD CLAIM FOR RELIEF AGAINST DEFENDANT**

*(Declaratory Judgement)*

75. Plaintiffs reallege all preceding paragraphs and incorporate them herein by reference.

76. Pursuant to N.C. Gen. Stat. § 1-253 and Rule 57 of the North Carolina Rules of Civil Procedure, Plaintiffs seek declaratory relief of an actual, justiciable controversy concerning the parties' rights to purchase and transfer any interests in the Property.

77. Plaintiffs request that the Court hold a hearing to declare the parties' rights and legal relations under the Agreement. Specifically, Plaintiffs request said hearing to declare the

parties' rights related to the release of an exclusive option to purchase the property in favor of Plaintiffs, and the parties' rights to purchase and transfer any interests in the property.

78. Plaintiffs further request that the Court hold a hearing to declare the parties' rights and legal relations under the City Purchase Contract, including the validity of the transaction contemplated in said City Purchase Contract.

**FOURTH CLAIM FOR RELIEF AGAINST DEFENDANT**

*(Breach of Contract)*

79. Plaintiffs reallege all preceding paragraphs and incorporate them herein by reference.
80. On or about May 4, 2021, Plaintiffs, Defendant, and Original Investors entered into an Agreement.
81. Pursuant to the Agreement, Defendant would release its Option to Purchase the Property to Plaintiffs such that Plaintiffs could purchase the Property and develop it under a developer agreement between Defendant and Plaintiffs.
82. Said Agreement is a valid and enforceable contract.
83. Thereafter, in reliance on Defendant's release of its option to purchase in favor of Plaintiffs, Plaintiffs expended considerable time, money, and effort developing plans for the Property.
84. Between May 4, 2021, and October of 2023, the course of performance between the parties demonstrated a consensus understanding that Plaintiffs were purchasing the Property from Original Investors for the purpose of developing the Property in accordance with a developer agreement provided by Defendant.
85. Plaintiffs remain ready, willing, and able to purchase the Property.
86. Defendant breached the Agreement by, *inter alia*, (1) refusing to provide a developer agreement with the Plaintiffs; (2) entering into the City Purchase Agreement in violation of Paragraph 1 of the Agreement.
87. Plaintiffs' remedy at law for Defendant's breach of the Agreement as set out herein is inadequate due to the nature of Defendant's breaches and the likelihood of multiple future lawsuits on the same issues, and the ongoing nature of Defendant's breaches, among other things.
88. Plaintiffs are in need of an order for specific performance requiring Defendant to comply with the terms of the Agreement.

89. Alternatively, as a result of Defendant's breach, all which has directly and proximately caused Plaintiffs to incur damages in an amount to be determined at trial, but certainly in excess of \$25,000.

**FIFTH CLAIM FOR RELIEF AGAINST DEFENDANT**  
*(Breach of Implied Covenant of Good Faith and Fair Dealing)*

90. Plaintiffs reallege all preceding paragraphs and incorporate them herein by reference.

91. Plaintiffs, Defendant, and Original Investors entered into the Agreement.

92. Plaintiffs have performed, and continue to perform all conditions, covenants, and promises required to be performed under the Agreement.

93. Pursuant to the Agreement, Plaintiffs were required to enter into a developer agreement with Defendant.

94. Implied in the Agreement is a covenant of good faith and fair dealing by which Defendant agreed to take no action to interfere with the rights of Plaintiffs to obtain the benefits of the Agreement.

95. Defendant has interfered with Plaintiffs' right to obtain the benefits of the Agreement by including, but not limited to:

- a. Engaging in dilatory tactics such as repeatedly requesting "additional information" from Plaintiffs while working in secret to purchase the Property out from under Plaintiffs;
- b. Purposefully failing to keep Plaintiffs reasonably informed of Defendant's interests to purchase the Property;
- c. Representing to Plaintiffs, through Defendant's agents, that the developer agreement was being finalized in October of 2023 when, in fact, Defendant had no intention of doing so;
- d. Falsely claiming to purchase the Property to protect its interests prior to the expiration of the Option to Purchase in March of 2024 when, in fact, Plaintiffs could have purchased the Property just as quickly;
- e. Falsely claiming to purchase the Property to protect its interests prior to the expiration of the Option to Purchase in March of 2024, when the Defendant had been working in secret for a substantial amount of time to purchase the Property itself and obtain a grant to develop the Property.

- f. Falsely claiming that Defendant was working on a draft of a developer agreement when, in fact, they had no intention of preparing an agreement.
96. Defendant's breach of the implied covenant of good faith and fair dealing in the Agreement has caused Plaintiffs to suffer damages in an amount to be proven at trial, but certainly in excess of \$25,000.
97. In addition to recovering damages, specific performance is warranted because there is no adequate remedy at law for Defendant's breach of the implied covenant of good faith and fair dealing. Money damages cannot remedy Defendant's breach of contract because of the unique nature of the Property at issue.
98. Plaintiffs are entitled to specific performance of the implied covenant of good faith and fair dealing in the Agreement and the transfer of Defendant's Option to Purchase the Property pursuant to the conditions, covenants, and promises required to be performed under the Agreement.

**SIXTH CLAIM FOR RELIEF AGAINST DEFENDANT**

*(In the Alternative – Unjust Enrichment/Quantum Meruit)*

99. Plaintiffs reallege all preceding paragraphs and incorporate them herein by reference.
100. Defendant was aware of the expenses incurred and the effort made by Plaintiff to complete a developer agreement with Defendant and purchase the Property.
101. Defendant accepted Plaintiffs' effort and improvements to the design/property by, *inter alia*:
  - a. Allowing and encouraging Plaintiffs to create detailed plans for development of the Property;
  - b. Allowing the Plaintiffs to provide an Alternative Stream Restoration that would allow for the development of the Property; and
  - c. Using Plaintiffs' pre-development due diligence to swoop in and purchase the Property from under Plaintiffs.
102. Defendant has been unjustly enriched as a result, and under the circumstances, it would be inequitable for Defendant to retain all the improvements to the design/property made by

Plaintiffs, without paying Plaintiffs for the value of their services.

103. As a result, Defendant has been unjustly enriched in an amount to be proven at trial, but certainly in excess of \$25,000.

**WHEREFORE**, Plaintiffs pray the Court as follows:

1. That a temporary restraining order be issued enjoining Defendant as set forth herein and continue and remain in full force and effect until a hearing on Plaintiffs' Motion for a Preliminary Injunction, unless further extended by the Court or consent of the parties;
2. That a preliminary injunction be issued enjoining Defendant as set forth herein and continue and remain in full force and effect until full resolution of this matter or is otherwise modified or dissolved by the Court;
3. That Defendant be ordered to specifically perform under the Agreement;
4. That Plaintiffs have and recover damages from Defendant in an amount exceeding twenty-five thousand dollars (\$25,000.00);
5. That the costs of this action, including Plaintiffs' reasonable attorney's fees, be taxed against Defendant as permitted by law;
6. For trial by jury on all issues so triable;
7. For such other and further relief as the Court deems just, fit, and proper.

This the 29<sup>th</sup> day of November, 2023.

POST | FOUSHEE | GORDON

By:  \_\_\_\_\_

William A. Gordon  
N.C. State Bar. No. 53022  
Kevin C. Foushee  
N.C. State Bar. No. 32677  
205 Courtland Drive  
Sanford, North Carolina 27330  
Phone: (919) 775-5616  
Facsimile: (919) 774-7148  
Email: [will@centralcarolinallawyers.com](mailto:will@centralcarolinallawyers.com)  
Email: [kevin@centralcarolinallawyers.com](mailto:kevin@centralcarolinallawyers.com)

*Counsel for Plaintiffs*

**WICKER LAW FIRM, P.L.L.C.**

By:  \_\_\_\_\_

Jackson D. Wicker  
N.C. State Bar No. 44909  
Va. State Bar No. 93008  
Harrison L. Wicker  
N.C. State Bar No. 56420  
4000 Westchase Blvd., Suite 120  
Raleigh, North Carolina 27607  
Phone: (919) 390-3328  
Facsimile: (919) 726-3369  
Email: [jackson.wicker@wickerlawfirm.com](mailto:jackson.wicker@wickerlawfirm.com)  
Email: [harrison.wicker@wickerlawfirm.com](mailto:harrison.wicker@wickerlawfirm.com)

*Counsel for Plaintiffs*

NORTH CAROLINA

LEE COUNTY

Nick Jordan, being first duly sworn, deposes and says:

That he is a Plaintiff in this action and that he has read the foregoing Complaint and that the matters and things therein expressed are true to the best of his knowledge, except as to matters and things stated upon information and belief, and as to those he believes them to be true.



Nick Jordan

State of North Carolina

County of Lee

I certify that Nick Jordan personally appeared before me this day, and:

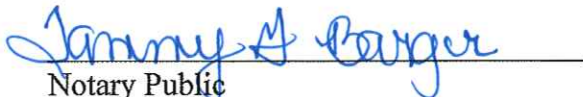
I have personal knowledge of the identity of the principal.

I have seen satisfactory evidence of the principal's identity, by a current state or federal identification with the principal's photograph in the form of a driver's license.

A credible witness has sworn to the identity of the principal.

The principal acknowledged to me that he voluntarily signed the foregoing document for the purpose stated therein.

This the 20th day of November, 2023.



Notary Public  
(Seal)

Tammy G Barger  
NOTARY PUBLIC  
Lee County County  
North Carolina  
My Commission Expires December 12, 2026

Tammy G Barger  
Printed name of Notary Public

My commission expires: 12-12-2026



STATE OF NORTH CAROLINA  
COUNTY OF LEE

OPTION TO PURCHASE REAL ESTATE

THIS OPTION TO PURCHASE REAL ESTATE (the "Agreement") is made and entered into this 18 day of November, 2019, by and between CITY OF SANFORD, a North Carolina governmental entity ("Purchaser"), or its assigns, and ORIGINAL INVESTORS INC., a North Carolina corporation ("Seller");

WITNESSETH

WHEREAS, Seller owns the parcels of land identified as 117, 119, 133 & 251 N. First Street, Sanford, NC 27330, being all of tax parcel identification number 9643-70-4938-00. Said parcels are further shown on Exhibit A attached hereto (the "Property"); and,

WHEREAS, the Seller desires to grant to Purchaser an option to purchase the Property pursuant to the terms and conditions contained in this Agreement.

NOW, THEREFORE, in consideration of the mutual representations, warranties, covenants and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto intending to be legally bound hereby agree as follows:

1. Property. Subject to the terms and conditions of this Agreement, Seller hereby agrees to sell to Purchaser, and Purchaser hereby agrees to purchase from Seller, 117, 119, 133 & 251 N. First Street, Sanford, NC 27330, being all of tax parcel identification number 9643-70-4938-00, and containing approximately 4.624 acres, as shown on Exhibit A and being a portion of that property conveyed to Seller in that instrument recorded in Deed Book 431, Page 708, Lee County Registry, and hereinafter jointly described as "Property".

2. Grant of Option. For and in consideration of the payment by the Purchaser to the Seller of the sum of One Dollar (\$1.00), for the Option Period (the "Option Fee"), the receipt of which is hereby acknowledged, the Seller hereby gives and grants unto the Purchaser the exclusive right and option to purchase from Seller the Property upon the terms and conditions hereinafter set forth (the "Option"). Said Option Fee shall be non-refundable. However, in the event that the Purchaser exercises the Option, then said Option Fee shall be applied to the purchase price at closing. If Seller is unable to convey title to the Subject Property as provided by the terms of this Agreement, Purchaser shall be refunded the Option Deposit given to the Seller for the grant of this Option.

3. Phase I Feasibility Study. In addition to the Option Fee, Purchaser shall pay to conduct a Phase I Feasibility Analysis ("Analysis") on the Property. Seller covenants that Purchaser and Purchaser's agents, employees and independent contractors shall have the right and privilege to enter upon the entirety of the Property at any time following the Effective Date and prior to end of the Option Period to survey, test, investigate, review and inspect the Property and to conduct soil borings and other geological, engineering, or environmental tests or studies on the Property and any other tests or inspections Purchaser deems appropriate, all at Purchaser's sole cost and expense. Purchaser shall defend and hold Seller harmless from and against any liens, claims, losses, damages and liabilities resulting from Purchaser's exercising the right and privilege to go upon the Property as provided herein; provided, however, that Purchaser shall have no responsibility or liability for (a) any act or omission of Seller or its employees, agents, contractors or invitees; or (b) any adverse condition or defect on or affecting the Property not caused by Purchaser or its employees, agents, consultants, or contractors but

discovered or impacted during their inspections including, without limitation, the pre-existing presence or discovery of any matter such as, but not limited to, any hazardous materials. If this transaction does not close, Purchaser shall restore the Property to a reasonably neat and presentable condition free from any damage to the Property caused by Purchaser's activities on the Property.

4. Option Period. The Option term shall exist and continue from the effective date of this Agreement to and including March 31, 2021, unless extended by mutual written agreement of the Parties.

5. Exercise of Option to Purchase. Purchaser may exercise the Option granted hereunder by giving Seller written notice of such exercise at any time within the Option Period. Said notice of the exercise shall be effective if given by certified mail, return receipt requested, to Seller at Seller's Notice Address. If exercised in this manner, notice of exercise of the Option shall be deemed to have been received by Seller two (2) days after deposit of the notice of exercise with the United States Postal Service (USPS) as established by an official USPS receipt. Alternatively, the Option may be exercised by personal delivery of said written notice within the time specified to Seller at Seller's Notice Address. If served in this manner, the notice of exercise of the Option shall be the date that personal delivery is made. Alternatively, the Option may be exercised by delivery of the written notice of exercise to Seller at Seller's Notice Address via a reputable overnight carrier such as FedEx. If exercised in this manner, notice of the exercise of the Option shall be deemed to have been received by Seller one (1) day after deposit of the notice of exercise with said overnight carrier. Upon exercise by the Purchaser of the Option, the parties shall, within thirty (30) days of the exercise of this Option, execute a written real estate purchase agreement containing the terms and conditions set forth in this Agreement.

6. Purchase Price. The initial purchase price for the Property shall be equal to the appraised price of the Property established by an appraisal paid for by the buyer dated no more than thirty days prior to the date of Closing ("the Purchase Price"). Under no circumstances shall the sales price be less than Four Hundred Ninety Thousand Dollars and 00/100. The purchase price shall be paid as follows:

- (a) Four Hundred Ninety Thousand Dollars and 00/100 payable in cash at Closing.
- (b) The difference between the Purchase Price and the Four Hundred Ninety Thousand Dollars and 00/100 shall be donated to the buyer in the form of a gift from the Seller.

7. Seller's Right to Sell. Up until Closing, Seller shall not have the right to solicit and/or entertain any third party offers for purchase or other transfer of the Property.

8. Closing. The closing of this transaction (the "Closing") shall be held as soon as a title search is complete, or no later than thirty (30) days after the exercise of the Option granted hereunder, unless the Option Period is extended in accordance with the terms of Paragraph 3 herein. Closing shall occur at the office of Purchaser's counsel. At Closing, subject to the conditions hereafter stated, Seller shall deliver to Purchaser a General Warranty Deed conveying to Purchaser fee simple title to the Property. The Purchaser shall be responsible for the costs of deed preparation, revenue stamps and rollback taxes, if any, due and owing on the subject property.

9. Condition of Property. Should Purchaser exercise this Option, Purchaser shall buy the property in AS-IS condition.

10. **Risk of Loss.** Prior to Closing, risk of loss or damage to the Property, but excluding loss or damage caused by Purchaser's negligence or willful misconduct, shall be on Seller. Upon Closing, risk of loss to the Property shall be on Purchaser.

11. **Notice Addresses.**

"Purchaser's Notice Address" shall be as follows:

City of Sanford  
Attn: Hal Hegwer  
PO Box 3729  
Sanford, NC 27331

"Seller's Notice Address" shall be as follows:

Original Investors, Inc.  
Attn: Van Groce  
1504 S. Horner Blvd  
Sanford, NC 27330

12. **Taxes.** Seller shall pay all past due real property and any and all business personal property taxes owed and due prior to the date of Closing, if any. The real property taxes for the calendar year in which Closing occurs shall be pro-rated between Purchaser and Seller.

13. **Construction of Agreement.**

- a. The parties hereto agree that this Agreement constitutes the entire agreement between the parties; that no representations, stipulations, agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in the provisions of this Agreement, and that this Agreement may not be added to or modified except by written agreement signed by each of the parties.
- b. No waiver of any term or condition of this Agreement shall be deemed a waiver of such term or condition in the future unless such waiver shall be in writing and signed by each of the parties.
- c. It is understood and recognized that the drafting of this Agreement is the joint undertaking of the parties hereto and results from their common negotiation.

14. **Assignment.** The Purchaser may assign its rights and obligations under this Agreement provided said Assignee accepts all obligations of the Purchaser hereunder.

15. **Seller's Representations and Warranties.**

- a. All monetary liens affecting the Property shall be cancelled or released at the Closing.
- b. Seller has the right, power and authority to enter into this Agreement to sell and convey the Property in accordance with the terms and conditions herein contained.

- c. Seller has no actual knowledge of (i) any notice of condemnation(s) affecting the Property; (ii) actions, suits or proceedings pending or threatened against the Property; or (iii) governmental special assessments, either pending or confirmed, for sidewalk, paving, water, sewer, or other improvements on the Property.
- d. Seller has not received any notice that it has failed to comply with applicable laws, ordinances, regulations, statutes, rules and restrictions pertaining to or affecting the Property, and performance of this Agreement will not result in the breach of, constitute any default under or result in the imposition of any lien or encumbrance upon the Property under any agreement or other instrument to which Seller is a party or by which Seller or the Property is bound.

16. **No Survival.** Except as otherwise specifically provided for in this Agreement, it is understood and agreed that the provisions of this Agreement or any warranty or representation made herein shall not survive the exercise and Closing of title and the delivery of the deed hereunder.

17. **Documents at Closing.** At Closing, Seller shall:

- a. Execute, acknowledge and deliver to Purchaser the instruments of conveyance described in Paragraph 7 of this Agreement.
- b. Execute and deliver any and all documents and papers (including those documents specified above) that may be reasonably necessary in connection with the consummation of the transaction contemplated by this Agreement.

18. **Specific Performance.** Should Seller default under any of the provisions of this Agreement, Purchaser may demand specific performance of this Agreement.

19. **Brokerage.** The parties hereby represent one to the other that there are no real estate brokers involved in this transaction. Any claim for brokerage commission due because of this sale shall be dealt with exclusively by the party against whom such claim is made, and the party against whom such claim is made, if any, herewith indemnifies and holds harmless the other party from such claim. This provision shall survive the Closing.

20. **Memorandum of Option.** A Memorandum of this Agreement shall be recorded at the election and cost of Purchaser, provided, if the Option expires without exercise, Purchaser shall, at the request of Seller, record a Notice of Termination of this Agreement.

21. **Time is of the Essence.** Time is of the essence with respect to the performance of the terms of this Agreement.

22. **Notices.** Unless otherwise provided herein, and excluding notice of an exercise of Option to Purchase which is set forth in Paragraph 4 of this Agreement, all notices and communications which may be or are required to be given or made by any party to the other in connection herewith shall be in writing and shall be deemed to have been properly given and received on the date delivered in

person or two days after deposit in the United States mail, registered or certified, return receipt requested, to the addresses set out in Paragraph 10 as to Seller and Purchaser, or one day after deposit with a reputable overnight carrier such as FedEx, or at such other addresses as specified by written notice delivered in accordance herewith.

23. Governing Law and Jurisdiction. This Agreement and all matters relating thereto shall be governed by and construed and interpreted in accordance with the laws of the State of North Carolina.

24. Binding Effect. The provisions hereof shall inure to the benefit of and be binding upon the parties hereto and their heirs, legal representatives, successors and assigns.

25. Descriptive Headings. The descriptive headings of this Agreement are for convenience only and shall not control or affect the meaning or construction of any provision of this Agreement.

26. Counterparts. This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement, and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other parties.

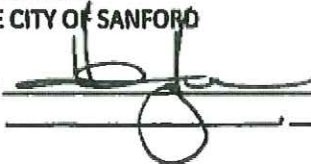
IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the day and year first above written.

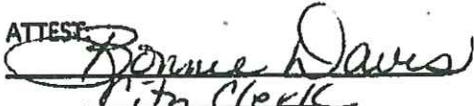
SELLER:  
Original Investors, Inc., a North Carolina  
corporation

BY: 

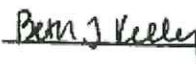
TITLE: Pres.

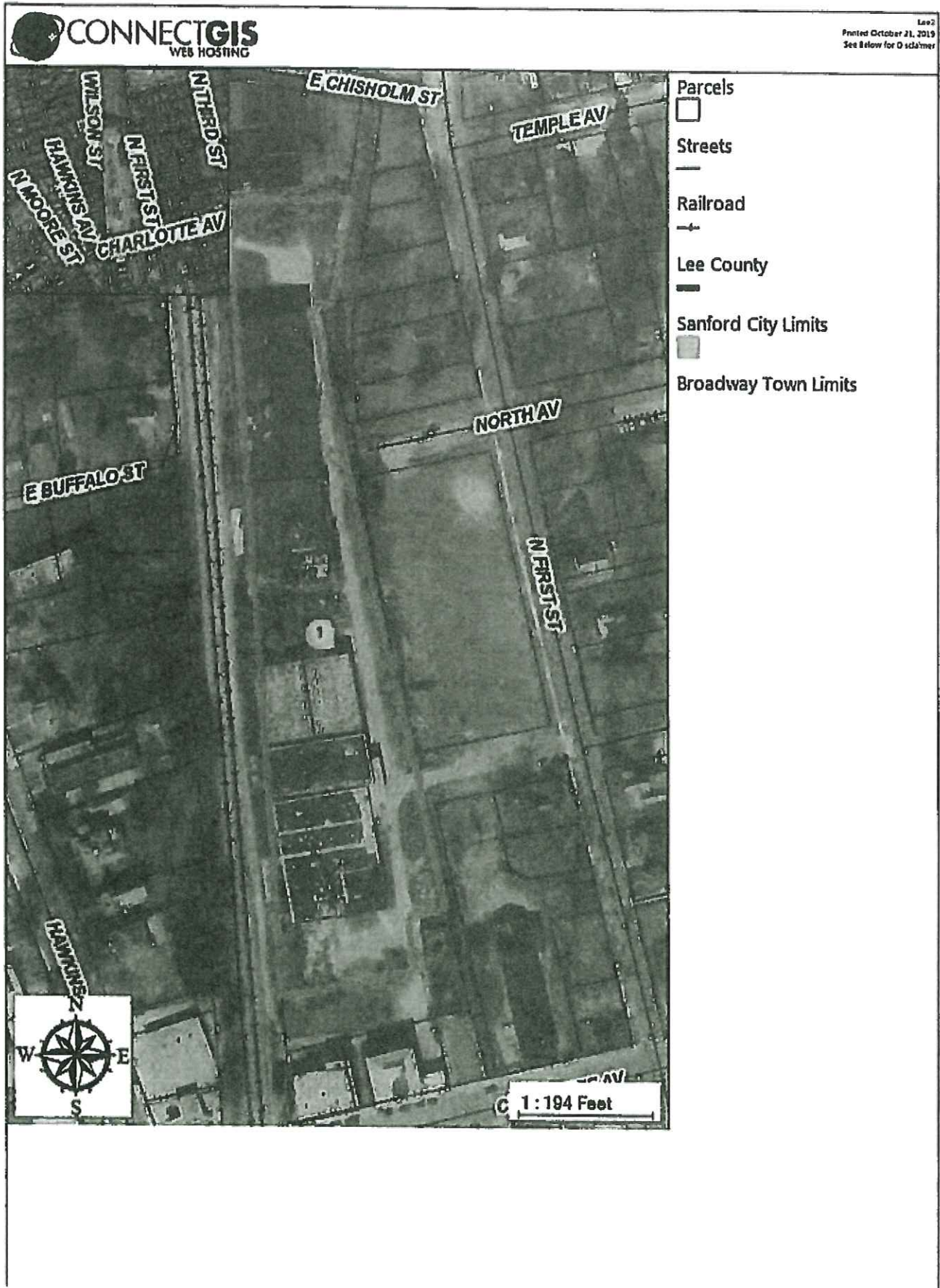
PURCHASER  
THE CITY OF SANFORD

BY: 

ATTEST:  
  
City Clerk

This disbursement has been approved as required by  
the Local Government Budget and Fiscal Control Act.

  
Finance Officer, Sanford North Carolina



<b><u>PIN</u></b> 9643-70-4938-00	<b><u>Acres</u></b> 4.62432118	<b><u>Parcel Address</u></b> 117 FIRST ST
<b><u>PARID</u></b> 964370493800	<b><u>Appraised Land</u></b> 242000	<b><u>Appraised Building</u></b> 367600
<b><u>Book</u></b> 431	<b><u>Page</u></b> 708	<b><u>Tax District</u></b> CSF
<b><u>Subdivision</u></b>	<b><u>Legal 1</u></b> 117, 119, 133 & 251 N FIRST ST	<b><u>Legal 2</u></b> PC 10/22(REMAIN)
<b><u>Legal 3</u></b>	<b><u>Owner</u></b> ORIGINAL INVESTORS, INC	<b><u>Owner2</u></b>
<b><u>Mail Address</u></b>	<b><u>Mail Suffix</u></b>	<b><u>Mail Street Dir</u></b>
<b><u>Mail Street</u></b> PO BOX 2825	<b><u>MailADRSUF</u></b>	<b><u>Mail City</u></b> SANFORD
<b><u>Mail State</u></b> NC	<b><u>Mail Zip</u></b> 27330	<b><u>Out BLDG Description</u></b> PAVING ASPHALT PARKING LIGHT
<b><u>Out BLDG YRBLT</u></b> 1965	<b><u>Dwelling Style</u></b>	<b><u>Dwelling DESCR</u></b>
<b><u>Dwelling YRBLT</u></b> 0	<b><u>Shape Length</u></b> 2734.87494909614	<b><u>Appraised Total</u></b> 609600
<b><u>Out BLDG Area</u></b> 14000	<b><u>Dwelling SFLA</u></b> 0	<b><u>OBJECTID 1</u></b> 20592
<b><u>TaxCard</u></b> <a href="http://taxaccess.lee-county-nc.gov/PT/Datalets/Datalet.aspx?mode=&amp;UseSearch=no&amp;pin=964370493800&amp;jur=000&amp;taxyr=2019">http://taxaccess.lee-county-nc.gov/PT/Datalets/Datalet.aspx?mode=&amp;UseSearch=no&amp;pin=964370493800&amp;jur=000&amp;taxyr=2019</a>		

This site is prepared for the inventory of real property found within this jurisdiction and is compiled from recorded deeds, plats and other public records and data. Users of this site are hereby notified that the aforementioned public primary information sources should be consulted for verification of the information contained on this site. The County of Lee and Dude Solutions, Inc. assumes no legal responsibility for the information contained on this site. Please be advised that you must contact the Lee County Tax Office for accurate tax values. Please contact the Lee County Appraisal Department if any building information is incorrect. The map, layer, data and website (collectively known as the layer(s)) are for graphical and illustration purposes only. The Lee County Strategic Services Department (hereinafter the Department) provides the layer and the information contained within to the general public and has not customized the information for any specific or general purpose. Such information was generated from data maintained by different sources and agencies and as such, some limitations may apply based upon restrictions imposed by other sources or agencies supplying data to Lee County (hereinafter the County). While the Department strives to make the information on the GIS website as timely, reliable and accurate as possible, neither the Department nor the County local governments make any claim, promise, or guarantee about the accuracy, completeness or adequacy of any type, implied, expressed, statutory, UCC or otherwise, including, but not limited to, the warranties of non-infringement of third party rights, title, accuracy of data, merchantability, or fitness for a particular purpose, is given with respect to the substantive content of this layer or its use in private or commercial financial transactions. The fact of distribution of the layer does not constitute any warranty, express, implied or otherwise. The user assumes the entire risk related to the use of this data. If the user intends to make any legal or financial decision based on this data, the user should independently verify the accuracy of the same. The Strategic Services Department and the Lee County local governments are providing this data "as is." In no event will any of the foregoing local governments or their officers and employees be liable to you or to any third party for any direct, indirect, incidental, consequential, special or exemplary damages or lost profit resulting from any use or misuse of this data. Unless otherwise noted on an individual document, files, documents, and information contained in this layer may be copied and distributed for non-commercial use, provided they are copied and distributed without alteration.



LEE COUNTY NC  
 PAMELA G. BRITT  
 REGISTER OF DEEDS

---

FILED	Feb 01, 2021
AT	03:34:15 pm
BOOK	01611
START PAGE	0375
END PAGE	0377
INSTRUMENT #	00800
EXCISE TAX	(None)

STAMPS: \$~~0.00~~  
 Prepared by and return to:  
 M. Andrew Lucas  
 1410 Elm Street, Sanford, NC 27330

**MEMORANDUM OF  
 OPTION TO PURCHASE**

STATE OF NORTH CAROLINA )  
 COUNTY OF LEE )

THIS MEMORANDUM OF OPTION TO PURCHASE REAL ESTATE (the "Agreement") is made and entered into this 25 day of January, 2021, by and between CITY OF SANFORD, a North Carolina governmental entity ("Grantee"), or its assigns, and ORIGINAL INVESTORS INC., a North Carolina corporation ("Grantor");

Grantor gives Grantee an OPTION TO PURCHASE, certain tracts of land along with the buildings/improvements located thereon, in Lee County North Carolina, more particularly described as 117, 119, 133 & 251 N. First Street, Sanford, NC 27330, being all of tax parcel identification number 9643-70-4938-00, and containing approximately 4.624 acres, and being a portion of that property conveyed to Grantor in that instrument recorded in Deed Book 431, Page 708, Lee County Registry, and hereinafter jointly described as "Property" for a maximum term to and including the 31st day of March, 2024 including extensions, if any.

The provisions set forth in the Amendment to Option to Purchase Agreement between the parties hereto dated the 25 day of January, 2021, are hereby incorporated by reference into this memorandum.

IN TESTIMONY WHEREOF, the parties have executed this Agreement, the day and year first above written.

Original Investors, Inc. , a North Carolina corporation

BY: *V. R. Grace*

TITLE: *Ven R. Grace, President*

City of Sanford, a NC Municipal Corporation

*T. Chet Mann* (SEAL)  
T. Chet Mann, Mayor

*Bonnie Davis* (SEAL)  
*Bonnie Davis*, City Clerk

STATE OF NORTH CAROLINA  
COUNTY OF LEE

I, a Notary Public of the County and State aforesaid, certify that

*Bonnie Davis* came before me this day and acknowledged that she is the Clerk of the City of Sanford and that by authority duly given and as the act of the Sanford City Council, the foregoing instrument was signed in its name by its Mayor, sealed with its corporate seal and attested by her as its Clerk.

Witness my hand and stamp and seal, this *25* day of *January*, 20*21*.

*Sharon T. Martin*  
Notary Public *Sharon T. Martin*

My Commission expires: *06-06-2022*



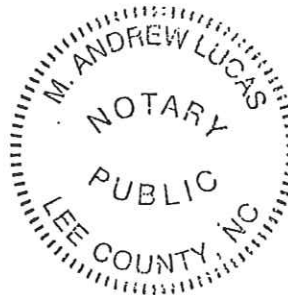
State of North Carolina  
County of Lee

I, M. Andrew Lucas, a Notary Public of the county and state aforesaid, certify that Van R. Grace personally came before me this day and acknowledged that he is President of **Original Investors, Inc.** a North Carolina corporation, and that he, as President, being authorized to do so, executed the foregoing on behalf of the corporation.

Witness my hand and official seal, this 1 day of February, 2021.

*M. Andrew Lucas*  
Notary Public

My commission expires: 10/23/2025





**STATE OF NORTH CAROLINA**

**MEMORANDUM OF UNDERSTANDING**

**COUNTY OF LEE**

This Memorandum of Understanding made and entered into this 4 day of ~~April~~ <sup>MAY</sup>, 2021, by and between Nick Jordan of Smashing Boxes, LLC, of 506 Ramseur Street, Suite 1, Durham, NC 27701, hereinafter “Buyer”; Original Investors, Inc., a North Carolina corporation, of P.O. Box 2825, Sanford, NC 27331-2825, hereinafter “Seller”; and City of Sanford, a North Carolina Municipal Corporation, of P.O. Box 3729, Sanford, NC 27331-3729, hereinafter “City”.

**WITNESSETH :**

WHEREAS, Buyer intends to purchase the property known as the Singer Factory more particularly described as follows:

117, 119, 133 & 251 N. First Street, Sanford, North Carolina, and being all of PIN number 9643-70-4938-00, containing approximately 4.624 acres, and described in Deed Book 431 Page 708, Lee County Registry; and,

WHEREAS, City holds an exclusive purchase option on the property; and,

WHEREAS, Buyer’s purchase is contingent upon release of the City’s option and to induce said release, Buyer requests that a Memorandum of Understanding (MOU) for a Developers Agreement to be executed between the parties to set forth the expectations of the parties and to establish the basic business terms for the Developer’s Agreement; and,

WHEREAS, Buyer has submitted to City an early conceptual budget and proforma based upon a construction cost estimate by Progressive Contracting of Sanford to “stabilize” the entire building to bring the building to a shell condition for distribution, co-manufacturing and a small amount of retail and office space; and,

WHEREAS, Buyer anticipates that public funding will be needed to make the project feasible from numerous sources; and,

WHEREAS, it is acknowledged that renovations may be needed to the Singer Factory to facilitate traditional distribution and without rerouting Buffalo Creek, it may be a challenge to build a truck court to accommodate substantial distribution uses; and,

WHEREAS, both Buyer and Seller need to investigate the potential of the rail asset adjacent to the Singer Factory.

NOW, THEREFORE, it is understood between the parties that each commits to the items set forth below:

1. In order to facilitate the purchase of the Singer Factory site as described above, and in exchange for the agreement of the Buyer to enter into a Developer's Agreement regarding development of the property, City agrees to release its Option to Purchase the site as recorded in Deed Book 1611, Page 375, Lee County Registry. In the event Buyer doesn't purchase the property, it is agreed that City's option remains in place and any release will be null and void. The release shall not be recorded until closing.
2. Buyer agrees to enter into a Developer's Agreement setting forth design standards for the site, including zoning uses, site improvements, environmental treatments, and integrated development plans to connect the site to the King Roofing Building, the site of the future Farmer's Market and downtown.
3. Buyer further agrees to reserve a future space for the train station and will develop a budget for a future platform for both passengers and freight on site.
4. The Developer's Agreement will set forth designated uses for the site allowed within the selected zoning category, and if necessary, will petition for a zoning category to allow all anticipated uses for the site.
5. Buyer agrees to make exterior improvements that will enhance the appearance of the Singer Factory and allow for connectivity to downtown and improve the ambiance of the site in connection with City vision for the area along Buffalo Creek.
6. Buyer agrees to purchase the site and will enter into and execute a Developer's Agreement as soon as possible thereafter.
7. Buyer will undertake redevelopment and improvement of the property within a time frame set forth in the Developer's Agreement.
8. The City will cooperate to the extent that it can, in the investigation of access points to the property, including the bridge at Midland Avenue.
9. Buyer agrees to "stabilize" and improve the buildings on the site so that deterioration ceases and the buildings aesthetics improve, whether left vacant or occupied.
10. As the phases of development occur, Buyer will provide plans and specifications to the City departments on land use and building inspections and to administration so that development plans will be shared with City.
11. Buyer agrees that the Developer's Agreement will be recorded at the Register of Deeds and shall "run with the land" for any subsequent owner, which shall be obligated to provide space for the rail platform and station, in the event same shall be permitted by the Department of Transportation.
12. Buyer will comply with all laws and regulations in redevelopment of the property.
13. In the event the Buyer develops a need for rerouting portions of Buffalo Creek to accomplish redevelopment goals, it is recognized that substantial funding from state and federal sources will be needed to accomplish this task.
14. This Memorandum of Understanding is governed by and shall be construed in accordance with the laws of the State of North Carolina; venue for any action shall be in the General Courts of Justice in Lee County.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Understanding as of the day and year first above written.

Buyer:

Smashing Boxes, LLC

Nick Jordan  
Nick Jordan, Manager

Seller:

Original Investors, Inc.

By: Van Groce  
Van Groce, President

City Of Sanford

By: T. Chalmers

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

Beth T. Kelly  
Beth T. Kelly, Finance Director



AGREEMENT FOR PURCHASE AND SALE OF IMPROVED REAL PROPERTY

THIS AGREEMENT, including any and all addenda attached hereto ("Agreement"), is by and between

Nick Jordan and/or assigns, individual ("Buyer"), and Original Investors, LLC Limited Liability Company ("Seller").

(NOTE: If the Buyer or Seller is an entity, in order to form a binding agreement and complete a transaction, the entities listed as Buyer or Seller in this Agreement should be validly formed and in good standing with the Secretary of State in the State of formation of the entity.)

FOR AND IN CONSIDERATION OF THE MUTUAL PROMISES SET FORTH HEREIN AND OTHER GOOD AND VALUABLE CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH ARE HEREBY ACKNOWLEDGED, THE PARTIES HERETO AGREE AS FOLLOWS:

Section 1. Terms and Definitions: The terms listed below shall have the respective meaning given them as set forth adjacent to each term.

(a) "Property": (Address) 117-251 N. First Street, Sanford, NC 27703

Plat Reference: Lot(s) , Block or Section , as shown on Plat Book or Slide at Page(s) County, consisting of acres.

[X] If this box is checked, "Property" shall mean that property described on Exhibit A attached hereto and incorporated herewith by reference,

(For information purposes: (i) the tax parcel number of the Property is: 964370493800 ; and, (ii) some or all of the Property, consisting of approximately 4.84 acres, is described in Deed Book 431 , Page No. 708 , Lee County.)

together with all buildings and improvements thereon and all fixtures and appurtenances thereto and all personal property, if any, itemized on Exhibit A.

\$ 490,000.00 (b) "Purchase Price" shall mean the sum of Four Hundred Ninety Thousand Dollars,

payable on the following terms: (i) "Earnest Money" shall mean Twenty Thousand Dollars or terms as follows: See Exhibit B

The Earnest Money shall be deposited in escrow with Forrest Firm (name of person/entity with whom deposited- "Escrow Agent") within five (5) calendar days of the Contract Date, to be applied as part payment of the Purchase Price of the Property at Closing, or disbursed as agreed upon under the provisions of Section 10 herein. Should Buyer fail to deliver the Earnest Money by the date required hereunder, or should any check or other funds paid by Buyer be dishonored, for any reason, by the



This form jointly approved by: North Carolina Bar Association North Carolina Association of REALTORS®, Inc.

STANDARD FORM 580-T Revised 7/2020 © 7/2020

Buyer Initials Seller Initials

the institution upon which the payment is drawn, Buyer shall have one (1) banking day after written notice of such dishonor to deliver cash, official bank check, wire transfer or electronic transfer to the Escrow Agent. If Buyer fails to deliver the required funds within one (1) banking day after written notice, then Seller may terminate this Agreement by written notice to Buyer at any time thereafter, provided Seller has not then received acknowledgement by Escrow Agent of its receipt of funds from Buyer. If the Escrow Agent has not delivered to the Seller the acknowledgement of Earnest Money on the last page of this Agreement by the calendar day following the date the Earnest Money is required to be delivered hereunder, it shall be presumed that the Earnest Money was not delivered by the required time (unless, upon the written request of Seller, Escrow Agent can provide proof of its receipt of the Earnest Money by the required time). Buyer and Seller consent to the disclosure by the Escrow Agent, to the parties to this Agreement, the Broker(s) and any Buyer lender, of any material facts pertaining to the Earnest Money.

ANY EARNEST MONEY DEPOSITED BY BUYER IN A TRUST ACCOUNT MAY BE PLACED IN AN INTEREST BEARING TRUST ACCOUNT, AND: (check only ONE box)

ANY INTEREST EARNED THEREON SHALL BE APPLIED AS PART PAYMENT OF THE PURCHASE PRICE OF THE PROPERTY AT CLOSING, OR DISBURSED AS AGREED UPON UNDER THE PROVISIONS OF SECTION 10 HEREIN. (Buyer's Taxpayer Identification Number is: \_\_\_\_\_)

ANY INTEREST EARNED THEREON SHALL BELONG TO THE ACCOUNT HOLDER IN CONSIDERATION OF THE EXPENSES INCURRED BY MAINTAINING SUCH ACCOUNT AND RECORDS ASSOCIATED THEREWITH.

\$ \_\_\_\_\_ (ii) Delivery of a promissory note secured by a deed of trust, said promissory note in the amount of \_\_\_\_\_ Dollars

being payable over a term of \_\_\_\_\_ years, with an amortization period of \_\_\_\_\_ years, payable in monthly installments of principal, together with accrued interest on the outstanding principal balance at the rate of \_\_\_\_\_ percent ( \_\_\_\_\_ %) per annum in the amount of \$ \_\_\_\_\_, with the first principal payment beginning on the first day of the month next succeeding the date of Closing, or such other terms as may be set forth on Exhibit B. At any time, the promissory note may be prepaid in whole or in part without penalty and without further interest on the amounts prepaid from the date of such prepayment. (NOTE: In the event of Buyer's subsequent default upon a promissory note and deed of trust given hereunder, Seller's remedies may be limited to foreclosure of the Property. If the deed of trust given hereunder is subordinated to senior financing, the material terms of such financing must be set forth on Exhibit B. If such senior financing is subsequently foreclosed, the Seller may have no remedy to recover under the note.)

\$ 470,000.00 (iii) Cash, balance of Purchase Price, at Closing in the amount of Four Hundred Seventy Thousand Dollars.

Buyer, at Buyer's expense, shall be entitled to pursue qualification for and approval of any loan Buyer intends to obtain in connection with the transaction contemplated by this Agreement. (Note: Buyer's obligations under this Agreement are not conditioned upon obtaining or closing any loan. Therefore, Buyer is advised to consult with Buyer's lender prior to signing this offer to assure that the Examination Period allows sufficient time for Buyer's lender to provide Buyer sufficient information to decide whether to proceed with or terminate the transaction.)

(c) "Closing" shall mean the date of completion of the process detailed in Section 11 of this Agreement. Closing shall occur on or before \_\_\_\_\_ or See Exhibit B

(d) "Contract Date" means the date this Agreement has been fully executed by both Buyer and Seller.

Buyer Initials MS Seller Initials VAG Page 2 of 9

STANDARD FORM 580-T  
Revised 7/2020  
© 7/2020

(e) **"Examination Period"** shall mean the period beginning on the first day after the Contract Date and extending through 5:00pm (based upon time at the locale of the Property) on

See Exhibit B  
**TIME IS OF THE ESSENCE AS TO THE EXAMINATION PERIOD.**

(f) **"Broker(s)"** shall mean: \_\_\_\_\_ ("Listing Agency"),  
\_\_\_\_\_ ("Listing Agent" - License # \_\_\_\_\_)

Acting as:  Seller's Agent;  Dual Agent  
and Avison Young - North Carolina, LLC ("Selling Agency"),  
Marcus Jackson ("Selling Agent" - License # 211107)

Acting as:  Buyer's Agent;  Seller's (Sub) Agent;  Dual Agent

(g) **"Seller's Notice Address"** shall be as follows:

PO Box 2825, Sanford, NC 27730

e-mail address: \_\_\_\_\_ fax number: \_\_\_\_\_  
except as same may be changed pursuant to Section 12.

(h) **"Buyer's Notice Address"** shall be as follows:

506 Ramseur St. Durham NC 27701

e-mail address: \_\_\_\_\_ fax number: \_\_\_\_\_  
except as same may be changed pursuant to Section 12.

- (i) If this block is marked, additional terms of this Agreement are set forth on Exhibit B attached hereto and incorporated herein by reference. (Note: Under North Carolina law, real estate agents are not permitted to draft conditions or contingencies to this Agreement.)
- (j) If this block is marked, additional terms of this Agreement are set forth on the Additional Provisions Addendum (Form 581-T) attached hereto and incorporated herein by reference.
- (k) If this block is marked, additional terms of this Agreement are set forth on the Back Up Agreement Addendum (Form 581A-T) attached hereto and incorporated herein by reference.

**Section 2. Sale of Property and Payment of Purchase Price:** Seller agrees to sell and Buyer agrees to buy the Property for the Purchase Price.

**Section 3. Proration of Expenses and Payment of Costs:** Seller and Buyer agree that all property taxes (on a calendar year basis), leases, rents, mortgage payments and utilities or any other assumed liabilities as detailed on attached **Exhibit B**, if any, shall be prorated as of the date of Closing. Seller shall pay for preparation of a deed and all other documents necessary to perform Seller's obligations under this Agreement, excise tax (revenue stamps), any deferred or rollback taxes, and other conveyance fees or taxes required by law, any fees required for confirming Seller's account payment information on owners' association dues or assessments for payment or proration; any fees imposed by an owners' association and/or a management company as agent of the owners' association in connection with the transaction contemplated by this Agreement other than those fees required to be paid by Buyer in this Section 3 below, and the following:

N/A

Buyer shall pay recording costs, costs of any title search, title insurance, survey, the cost of any inspections or investigations undertaken by Buyer under this Agreement, charges required by an owners' association declaration to be paid by Buyer for Buyer's future use and enjoyment of the Property, including, without limitation, working capital contributions, membership fees, or charges for Buyer's use of the common elements and/or services provided to Buyer, any costs or charges for determining restrictive covenant compliance, and the following:

N/A

Each party shall pay its own attorney's fees.

Buyer Initials DS NJ Seller Initials VRG Page 3 of 9

**Section 4. Deliveries:** Seller agrees to use best efforts to deliver to Buyer, as soon as reasonably possible after the Contract Date, copies of all material information relevant to the Property in the possession of Seller, including but not limited to: title insurance policies (and copies of any documents referenced therein), surveys, soil test reports, environmental surveys or reports, site plans, civil drawings, building plans, maintenance records and copies of all presently effective warranties or service contracts related to the Property. Seller authorizes (1) any attorney presently or previously representing Seller to release and disclose any title insurance policy in such attorney's file to Buyer and both Buyer's and Seller's agents and attorneys; and (2) the Property's title insurer or its agent to release and disclose all materials in the Property's title insurer's (or title insurer's agent's) file to Buyer and both Buyer's and Seller's agents and attorneys. If Buyer does not consummate the Closing for any reason other than Seller default, then Buyer shall return to Seller all hard copy materials delivered by Seller to Buyer pursuant to this Section 4 (or Section 7, if applicable), if any, and shall, upon Seller's request, following release of the Earnest Money, provide to Seller copies of (subject to the ownership and copyright interests of the preparer thereof) any and all studies, reports, surveys and other information relating directly to the Property prepared by or at the request of Buyer, its employees and agents, without any warranty or representation by Buyer as to the contents, accuracy or correctness thereof. Notwithstanding the above provisions regarding delivery and return of information and documentation, should there exist a separate non-disclosure, confidentiality, or similar agreement between Buyer and Seller, the terms of which conflict with this provision insofar as delivery and return of information and documentation, then the terms of such non-disclosure, confidentiality, or similar agreement shall control as to the delivery and return of information and documentation.

**Section 5. Evidence of Title:** Seller agrees to convey fee simple insurable title to the Property without exception for mechanics' liens, free and clear of all liens, encumbrances and defects of title other than: (a) zoning ordinances affecting the Property, (b) Leases (as defined in Section 7, if applicable) and (c) specific instruments on the public record at the Contract Date agreed to by Buyer (not objected to by Buyer prior to the end of the Examination Period), which specific instruments shall be enumerated in the deed referenced in Section 11 (items 5(a), 5(b) and 5(c) being collectively "Permitted Exceptions"); provided that Seller shall be required to satisfy, at or prior to Closing, any encumbrances that may be satisfied by the payment of a fixed sum of money, such as deeds of trust, mortgages or statutory liens. Seller shall not enter into or record any instrument that affects the Property (or any personal property listed on **Exhibit A**) after the Contract Date without the prior written consent of Buyer, which consent shall not be unreasonably withheld, conditioned or delayed.

**Section 6. Conditions:** This Agreement and the rights and obligations of the parties under this Agreement are hereby made expressly conditioned upon fulfillment (or waiver by Buyer, whether explicit or implied) of the following conditions:

(a) **Title Examination:** After the Contract Date, Buyer shall, at Buyer's expense, cause a title examination to be made of the Property before the end of the Examination Period. In the event that such title examination shall show that Seller's title is not fee simple insurable, subject only to Permitted Exceptions, then Buyer shall promptly notify Seller in writing of all such title defects and exceptions, in no case later than the end of the Examination Period, and Seller shall have thirty (30) days to cure said noticed defects. If Seller does not cure the defects or objections within thirty (30) days of notice thereof, then Buyer may terminate this Agreement and receive a return of Earnest Money (notwithstanding that the Examination Period may have expired). If Buyer is to purchase title insurance, the insuring company must be licensed to do business in the state in which the Property is located. Title to the Property must be insurable at regular rates, subject only to standard exceptions and Permitted Exceptions.

(b) **Same Condition:** If the Property is not in substantially the same condition at Closing as of the date of the offer, reasonable wear and tear excepted, then the Buyer may (i) terminate this Agreement and receive a return of the Earnest Money or (ii) proceed to Closing whereupon Buyer shall be entitled to receive, in addition to the Property, any of the Seller's insurance proceeds payable on account of the damage or destruction applicable to the Property.

(c) **Inspections:** Buyer, its agents or representatives, at Buyer's expense and at reasonable times during normal business hours, shall have the right to enter upon the Property for the purpose of inspecting, examining, conducting timber cruises, and surveying the Property; provided, however, that Buyer shall not conduct any invasive testing of any nature without the prior express written approval of Seller as to each specific invasive test intended to be conducted by Buyer. Buyer shall conduct all such on-site inspections, examinations, testing, timber cruises and surveying of the Property in a good and workmanlike manner, at Buyer's expense, shall repair any damage to the Property caused by Buyer's entry and on-site inspections and shall conduct same in a manner that does not unreasonably interfere with Seller's or any tenant's use and enjoyment of the Property. In that respect, Buyer shall make reasonable efforts to undertake on-site inspections outside of the hours Seller's or any tenant's business is open to the public. Buyer shall provide Seller or any tenant (as applicable) reasonable advance notice of and Buyer shall cause its agents or representatives and third party service providers (e.g. inspectors, surveyors, etc.) to give reasonable advance notice of any entry onto the Property. Buyer shall be obligated to observe and comply with any terms of any tenant lease which conditions access to such tenant's space at the Property. Upon Seller's request, Buyer shall provide to Seller evidence of general liability insurance. Buyer shall also have a right to

Buyer Initials DS  
NJ Seller Initials                      Page 4 of 9

**STANDARD FORM 580-T**  
Revised 7/2020  
© 7/2020

review and inspect all contracts or other agreements affecting or related directly to the Property and shall be entitled to review such books and records of Seller that relate directly to the operation and maintenance of the Property, provided, however, that Buyer shall not disclose any information regarding this Property (or any tenant therein) unless required by law, and the same shall be regarded as confidential, to any person, except to its attorneys, accountants, lenders and other professional advisors, in which case Buyer shall obtain their agreement to maintain such confidentiality. Buyer assumes all responsibility for the acts of itself and its agents or representatives in exercising its rights under this Section 6(d) and agrees to indemnify and hold Seller harmless from any damages resulting therefrom. This indemnification obligation of Buyer shall survive the Closing or earlier termination of this Agreement. Except as provided in Section 6(b) above, Buyer shall have from the Contract Date through the end of the Examination Period to perform the above inspections, examinations and testing. **IF BUYER CHOOSES NOT TO PURCHASE THE PROPERTY, FOR ANY REASON OR NO REASON, AND PROVIDES WRITTEN NOTICE TO SELLER THEREOF PRIOR TO THE EXPIRATION OF THE EXAMINATION PERIOD, THEN THIS AGREEMENT SHALL TERMINATE, AND BUYER SHALL RECEIVE A RETURN OF THE EARNEST MONEY.**

**Section 7. Leases (Check one of the following, as applicable):**

If this box is checked, Seller affirmatively represents and warrants that there are no Leases (as hereinafter defined) affecting the Property.

If this box is checked, Seller discloses that there are one or more leases affecting the Property ("Leases") and the following provisions are hereby made a part of this Agreement.

(a) A list of all Leases shall be set forth on **Exhibit B**. Seller represents and warrants, that as of the Contract Date, there are no other Leases, oral or written, recorded or not, nor any subleases affecting the Property, except as set forth on **Exhibit B**;

(b) Seller shall deliver copies of any Leases to Buyer pursuant to Section 4 as if the Leases were listed therein;

(c) Seller represents and warrants that as of the Contract Date, there are no current defaults (or any existing situation which, with the passage of time, or the giving of notice, or both, or at the election of either landlord or tenant could constitute a default) either by Seller, as landlord, or by any tenant under any Lease ("Lease Default"). In the event there is any Lease Default as of the Contract Date, Seller agrees to provide Buyer with a detailed description of the situation in accordance with Section 4. Seller agrees not to commit a Lease Default as Landlord after the Contract Date; and agrees further to notify Buyer immediately in the event a Lease Default arises or is claimed, asserted or threatened to be asserted by either Seller or a tenant under the Lease.

(d) In addition to the conditions provided in Section 6 of this Agreement, this Agreement and the rights and obligations of the parties under this Agreement are hereby made expressly conditioned upon the assignment of Seller's interest in any Lease to Buyer in form and content acceptable to Buyer (with tenant's written consent and acknowledgement, if required under the Lease). Seller agrees to deliver an assignment of any Lease at or before Closing, with any security deposits held by Seller under any Leases to be transferred or credited to Buyer at or before Closing. The assignment shall provide: (i) that Seller shall defend, indemnify and hold Buyer harmless from claims, losses, damages and liabilities (including, without limitation, court costs and attorneys' fees) asserted against or incurred by Buyer which are caused by or the result of any default by Seller under any Lease prior to the date of Closing, and (ii) that Buyer shall defend, indemnify and hold Seller harmless from claims, losses, damages and liabilities (including, without limitation, court costs and attorneys' fees) asserted against or incurred by Seller which are caused by or the result of any default by Buyer under any Lease after the date of Closing.

(e) Seller also agrees to work diligently to obtain any tenant signatures on any estoppel certificates in such form as Buyer may reasonably request and to work diligently to obtain any subordination, nondisturbance and attornment agreements in such form as Buyer may reasonably request.

**Section 8. Environmental:** Seller represents and warrants that it has no actual knowledge of the presence or disposal, except as in accordance with applicable law, within the buildings or on the Property of hazardous or toxic waste or substances, which are defined as those substances, materials, and wastes, including, but not limited to: those substances, materials and wastes listed in the United States Department of Transportation Hazardous Materials Table (49 CFR Part 172.101) or by the Environmental Protection Agency as hazardous substances (40 CFR Part 302.4) and amendments thereto, or such substances, materials and wastes, which are or become regulated under any applicable local, state or federal law, including, without limitation, any material, waste or substance which is (i) petroleum, (ii) asbestos, (iii) polychlorinated biphenyls, (iv) designated as a Hazardous Substance pursuant to Section 311 of the Clean Water Act of 1977 (33 U.S.C. §1317), (v) defined as a hazardous waste pursuant to Section 1004 of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. §6903) or (vi) defined as a hazardous substance pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and

Buyer Initials DS NJ Seller Initials AKG Page 5 of 9

**STANDARD FORM 580-T**  
Revised 7/2020  
© 7/2020

Liability Act of 1980 (42 U.S.C. §9601). Seller has no actual knowledge of any contamination of the Property from such substances as may have been disposed of or stored on neighboring tracts.

**Section 9. Risk of Loss/Damage/Repair:** Until Closing, the risk of loss or damage to the Property, except as otherwise provided herein, shall be borne by Seller. Except as to maintaining the Property in its same condition, Seller shall have no responsibility for the repair of the Property, including any improvements, unless the parties hereto agree in writing.

**Section 10. Earnest Money Disbursement:** In the event that any condition hereto is not satisfied, then the Earnest Money shall be refunded to Buyer. In the event of breach of this Agreement by Seller, the Earnest Money shall be refunded to Buyer upon Buyer's request, but such return shall not affect any other remedies available to Buyer for such breach. In the event of breach of this Agreement by Buyer, the Earnest Money shall be paid to Seller as liquidated damages and as Seller's sole and exclusive remedy for such breach, but without limiting Seller's rights under Section 6(d) or Section 22 of this Agreement. It is acknowledged by the parties that payment of the Earnest Money to Seller in the event of a breach of this Agreement by Buyer is compensatory and not punitive, such amount being a reasonable estimation of the actual loss that Seller would incur as a result of such breach. The payment of the Earnest Money to Seller shall not constitute a penalty or forfeiture but actual compensation for Seller's anticipated loss, both parties acknowledging the difficulty determining Seller's actual damages for such breach.

**NOTE:** In the event of a dispute between Seller and Buyer over the disposition of the Earnest Money held in escrow, a licensed real estate broker is required by state law (and Escrow Agent, if not a broker, hereby agrees) to retain the Earnest Money in the Escrow Agent's trust or escrow account until Escrow Agent has obtained a written release from the parties consenting to its disposition or until disbursement is ordered by a court of competent jurisdiction. Alternatively, if a broker or an attorney licensed to practice law in North Carolina is holding the Earnest Money, the broker or attorney may deposit the disputed monies with the appropriate clerk of court in accordance with the provisions of N.C.G.S. §93A- 12.

Seller and Buyer hereby agree and acknowledge that the Escrow Agent assumes no liability in connection with the holding of the Earnest Money pursuant hereto except for negligence or willful misconduct of Escrow Agent. Escrow Agent shall not be responsible for the validity, correctness or genuineness of any document or notice referred to under this Agreement. Seller and Buyer hereby agree to indemnify, protect, save and hold harmless Escrow Agent and its successors, assigns and agents pursuant to this Agreement, from any and all liabilities, obligations, losses, damages, claims, actions, suits, costs or expenses (including attorney fees) of whatsoever kind or nature imposed on, incurred by or asserted against Escrow Agent which in any way relate to or arise out of the execution and delivery of this Agreement and any action taken hereunder; provided, however, that Seller and Buyer shall have no such obligation to indemnify, save and hold harmless Escrow Agent for any liability incurred by, imposed upon or established against it as a result of Escrow Agent's negligence or willful misconduct.

**Section 11. Closing:** At or before Closing, Seller shall deliver to Buyer a special warranty deed unless otherwise specified on **Exhibit B** and other documents customarily executed or delivered by a seller in similar transactions, including without limitation, a bill of sale for any personal property listed on Exhibit A, an owner's affidavit, lien waiver forms (and such other lien related documentation as shall permit the Property to be conveyed free and clear of any claim for mechanics' liens) and a non-foreign status affidavit (pursuant to the Foreign Investment in Real Property Tax Act), and Buyer shall cause to be delivered the funds necessary to pay to Seller the Purchase Price. The Closing shall be conducted by Buyer's attorney or handled in such other manner as the parties hereto may mutually agree in writing. Possession shall be delivered at Closing, unless otherwise agreed herein. The Purchase Price and other funds to be disbursed pursuant to this Agreement shall not be disbursed until the Buyer's attorney's (or other designated settlement agent's) receipt of authorization to disburse all necessary funds.

**Section 12. Notices:** Unless otherwise provided herein, all notices and other communications which may be or are required to be given or made by any party to the other in connection herewith shall be in writing (which shall include electronic mail) and shall be deemed to have been properly given and received (i) on the date delivered in person or (ii) the date deposited in the United States mail, registered or certified, return receipt requested, to the addresses set out in Section 1(g) as to Seller, and in Section 1(h) as to Buyer, or at such other addresses as specified by written notice delivered in accordance herewith, (iii) at such time as the sender performs the final act to send such transmission, in a form capable of being processed by the receiving party's system, to any electronic mail address or facsimile number, if any, provided in Section 1(g) as to Seller, and in Section 1(h) as to Buyer or (iv) on the date deposited with a recognized overnight delivery service, addressed to the addresses set out in Section 1(g) as to Seller, and in Section 1(h) as to Buyer, or at such other addresses as specified by written notice delivered in accordance herewith. If a notice is sent by more than one method, it will be deemed received upon the earlier of the dates of receipt pursuant to this Section.

Buyer Initials DS  
NJ Seller Initials VAG Page 6 of 9

**STANDARD FORM 580-T**  
Revised 7/2020  
© 7/2020

**Section 13. Counterparts; Entire Agreement:** This Agreement may be executed in one or more counterparts, which taken together, shall constitute one and the same original document. Copies of original signature pages of this Agreement may be exchanged via facsimile or e-mail, and any such copies shall constitute originals. This Agreement constitutes the sole and entire agreement among the parties hereto and no modification of this Agreement shall be binding unless in writing and signed by all parties hereto. The invalidity of one or more provisions of this Agreement shall not affect the validity of any other provisions hereof and this Agreement shall be construed and enforced as if such invalid provisions were not included.

**Section 14. Enforceability:** This Agreement shall become a contract when signed by both Buyer and Seller and such signing is communicated to both parties; it being expressly agreed that notice given in accordance with Section 12 is not required for effective communication for the purposes of this Section 14. The parties acknowledge and agree that: (i) the initials lines at the bottom of each page of this Agreement are merely evidence of their having reviewed the terms of each page, and (ii) the complete execution of such initials lines shall not be a condition of the effectiveness of this Agreement. This Agreement shall be binding upon and inure to the benefit of the parties, their heirs, successors and assigns and their personal representatives.

**Section 15. Adverse Information and Compliance with Laws:**

(a) **Seller Knowledge/Assessments:** Seller has no actual knowledge of (i) condemnation(s) affecting or contemplated with respect to the Property; (ii) actions, suits or proceedings pending or threatened against the Property; (iii) changes contemplated in any applicable laws, ordinances or restrictions affecting the Property; or (iv) governmental special assessments, either pending or confirmed, for sidewalk, paving, water, sewer, or other improvements on or adjoining the Property, and no pending or confirmed owners' association special assessments, except as follows (Insert "None" or the identification of any matters relating to (i) through (iv) above, if any):

---

**Note:** For purposes of this Agreement: (i) a "special assessment" is defined as a charge against the Property by a governmental authority in addition to ad valorem taxes and recurring governmental service fees levied with such taxes, or by an owners' association in addition to any regular assessment (dues), either of which may be a lien against the Property; a special assessment may be either pending or confirmed; (ii) a "confirmed" special assessment is defined as an assessment that has been approved by a governmental agency or an owners' association for the purpose(s) stated, whether, at the time of Closing, it is payable in a lump sum or future installments; (iii) a "pending" special assessment is defined as an assessment that is under formal consideration by a governmental agency or an owners' association but which has not been approved prior to Closing. Seller shall pay, in full at Closing, all confirmed governmental or association special assessments, provided that the amount thereof can be reasonably determined or estimated. The payment of such determined or estimated amount shall be the final payment between Buyer and Seller as to any confirmed special assessments. If the amount of any special assessment cannot be reasonably determined or estimated, the special assessment shall be deemed a pending special assessment. Buyer shall take title subject to all pending special assessments disclosed by Seller herein, if any.

(b) **Compliance:** To Seller's actual knowledge, (i) Seller has complied with all applicable laws, ordinances, regulations, statutes, rules and restrictions pertaining to or affecting the Property; (ii) performance of the Agreement will not result in the breach of, constitute any default under or result in the imposition of any lien or encumbrance upon the Property under any agreement or other instrument to which Seller is a party or by which Seller or the Property is bound; and (iii) there are no legal actions, suits or other legal or administrative proceedings pending or threatened against the Property, and Seller is not aware of any facts which might result in any such action, suit or other proceeding.

(c) **Owners' Association:** If the Property is subject to regulation by an owners' association, Seller shall deliver the following information to Buyer pursuant to Section 4 as if the same were listed therein (or Seller shall state that Seller does not have same in their possession or that such item is not applicable): (i) the name of the owners' association; (ii) the amount of regular assessments (dues); (iii) the name, address and telephone number of the president of the owners' association or of the association manager or management company; (iv) the owners' association website address; (v) the Seller's statement of account; (vi) the master insurance policy showing the coverage provided and the deductible amount; (vii) copies of any Declaration and/or Restrictive Covenants; (viii) the Rules and Regulations, (ix) the Articles of Incorporation and Bylaws of the owners' association; (x) the current financial statement and budget of the owners' association; (xi) the parking restrictions and information; and (xii) the architectural guidelines. Seller authorizes and directs any owners' association, any management company of the owners' association, any insurance company and any attorney who has previously represented the Seller to release to Buyer, Buyer's agents, representative, closing attorney or lender true and accurate copies of the foregoing items affecting the Property, including any amendments thereto.

Buyer Initials DS NJ Seller Initials AB Page 7 of 9

**Section 16. Survival of Representations and Warranties:** All representations, warranties, covenants and agreements made by the parties hereto shall survive the Closing and delivery of the deed. Seller shall, at or within six (6) months after the Closing, and without further consideration, execute, acknowledge and deliver to Buyer such other documents and instruments, and take such other action as Buyer may reasonably request or as may be necessary to more effectively transfer to Buyer the Property described herein in accordance with this Agreement.

**Section 17. Applicable Law:** This Agreement shall be construed under the laws of the state in which the Property is located. This form has only been approved for use in North Carolina.

**Section 18. Assignment:** This Agreement is freely assignable unless otherwise expressly provided on **Exhibit B**.

**Section 19. Tax-Deferred Exchange:** In the event Buyer or Seller desires to effect a tax-deferred exchange in connection with the conveyance of the Property, Buyer and Seller agree to cooperate in effecting such exchange; provided, however, that the exchanging party shall be responsible for all additional costs associated with such exchange, and provided further that a non-exchanging party shall not assume any additional liability with respect to such tax-deferred exchange. Seller and Buyer shall execute such additional documents, at no cost to the non-exchanging party, as shall be required to give effect to this provision.

**Section 20. Memorandum of Contract:** Upon request by either party, the parties hereto shall execute a memorandum of contract in recordable form setting forth such provisions hereof (other than the Purchase Price and other sums due) as either party may wish to incorporate. Such memorandum of contract shall contain a statement that it automatically terminates and the Property is released from any effect thereby as of a specific date to be stated in the memorandum (which specific date shall be no later than the date of Closing). The cost of recording such memorandum of contract shall be borne by the party requesting execution of same.

**Section 21. Authority:** Each signatory to this Agreement represents and warrants that he or she has full authority to sign this Agreement and such instruments as may be necessary to effectuate any transaction contemplated by this Agreement on behalf of the party for whom he or she signs and that his or her signature binds such party.

**Section 22. Brokers:** Except as expressly provided herein, Buyer and Seller agree to indemnify and hold each other harmless from any and all claims of brokers, consultants or real estate agents by, through or under the indemnifying party for fees or commissions arising out of the sale of the Property to Buyer. Buyer and Seller represent and warrant to each other that: (i) except as to the Brokers designated under Section 1(f) of this Agreement, they have not employed nor engaged any brokers, consultants or real estate agents to be involved in this transaction and (ii) that the compensation of the Brokers is established by and shall be governed by separate agreements entered into as amongst the Brokers, the Buyer and/or the Seller.

**Section 23. Attorneys Fees:** If legal proceedings are instituted to enforce any provision of this Agreement, the prevailing party in the proceeding shall be entitled to recover from the non-prevailing party reasonable attorneys fees and court costs incurred in connection with the proceeding.

**EIFS/SYNTHETIC STUCCO:** If the adjacent box is checked, Seller discloses that the Property has been clad previously (either in whole or in part) with an "exterior insulating and finishing system" commonly known as "EIFS" or "synthetic stucco". Seller makes no representations or warranties regarding such system and Buyer is advised to make its own independent determinations with respect to conditions related to or occasioned by the existence of such materials at the Property.

THE NORTH CAROLINA ASSOCIATION OF REALTORS®, INC. AND THE NORTH CAROLINA BAR ASSOCIATION MAKE NO REPRESENTATION AS TO THE LEGAL VALIDITY OR ADEQUACY OF ANY PROVISION OF THIS FORM IN ANY SPECIFIC TRANSACTION. IF YOU DO NOT UNDERSTAND THIS FORM OR FEEL THAT IT DOES NOT PROVIDE FOR YOUR LEGAL NEEDS, YOU SHOULD CONSULT A NORTH CAROLINA REAL ESTATE ATTORNEY BEFORE YOU SIGN IT.

Buyer Initials DS NJ Seller Initials Page 8 of 9

**STANDARD FORM 580-T**  
Revised 7/2020  
© 7/2020

**BUYER:**

**Individual** DocuSigned by:

*Nick Jordan*

Nick Jordan and/or assigns

Date: 6/28/2021

**Business Entity**

(Name of Entity)

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**SELLER:**

**Individual**

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**Business Entity**

Original Investors, LLC

(Name of Entity)

By: *Van R Groves Sr*

Name: Van R Groves Sr

Title: President

Date: 6/29/2021

**WIRE FRAUD WARNING**

**To Buyers:** Before sending any wire, you should call the closing agent's office to verify the instructions. If you receive wiring instructions for a different bank, branch location, account name or account number, they should be presumed fraudulent. Do not send any funds and contact the closing agent's office immediately.

**To Sellers:** If your proceeds will be wired, it is recommended that you provide wiring instructions at closing in writing in the presence of the closing agent. If you are unable to attend closing, you may be required to send an original notarized directive to the closing agent's office containing the wiring instructions. This directive may be sent with the deed, lien waiver and tax forms if those documents are being prepared for you by the closing agent. At a minimum, you should call the closing agent's office to provide the wire instructions. The wire instructions should be verified over the telephone via a call to you initiated by the closing agent's office to ensure that they are not from a fraudulent source.

Whether you are a buyer or a seller, you should call the closing agent's office at a number that is independently obtained. To ensure that your contact is legitimate, you should not rely on a phone number in an email from the closing agent's office, your real estate agent or anyone else.

**The undersigned hereby acknowledges receipt of the Earnest Money set forth herein and agrees to hold said Earnest Money in accordance with the terms hereof.**

Forrest Firm

(Name of Escrow Agent)

Date: \_\_\_\_\_

By: \_\_\_\_\_

Escrow Agent's contact/notice information is as follows:

\_\_\_\_\_

e-mail address: \_\_\_\_\_ fax number: \_\_\_\_\_

except as same may be changed pursuant to Section 12.

**EXHIBIT A**

PARID: 964370493800  
ORIGINAL INVESTORS, INC

117 -251 N FIRST ST COMM BLDG

To print a property record card or export search results into a CSV format that can be used with Excel please follow these steps:  
- Select the desired report option from the right menu (e.g. CSV Export, Residential PRC) and hit GO  
- Click Open when prompted for an export. Property record cards will open as a PDF.

Parcel

ParID / PIN: 964370493800 /  
Tax Year: 2021  
Tax Jurisdiction: CSF : CITY OF SANFORD  
Neighborhood: 780 : Hawkins Avenue South

Valuation

Appraised Land: 242,000  
Appraised Building: 367,600  
Appraised Total: 609,600  
Deferred: 0  
Exempts/Excluded: 0  
Assessed Real: 609,600  
Total Assessed: 609,600

Owner

Account Number: 50465  
Name: ORIGINAL INVESTORS, INC  
Name 2:  
Own % 100  
Mailing Address: PO BOX 2825  
SANFORD NC 27330

Linked Sale 431/708

Legal

Physical Address: 117 -251 N FIRST ST  
Legal Description 1: 117, 119, 133 & 251 N FIRST ST  
Plat Cabinet/Slide: L

Description

NBHD Code / Name: 780 : HAWKINS AVE S./WEATHERSPOON  
Class: C1 : COMMERCIAL  
Land Use: COM : COMMERCIAL-GENERAL  
Zoning: LI  
Living Units:

Deeded Acres: 4.84  
Calculated Acres: 4.84

Field Notes

---

Note:	Number:
SPLIT FROM 9643704913	1

Recorded Transaction

---

Date	Book	Page	Instrument	Sale Price	Validity Code
19-MAY-89	<u>431</u>	<u>708</u>	GW - GENERAL WARRANTY	400,000	S

**EXHIBIT B**

**AVISON  
YOUNG**

5440 Wade Park Boulevard  
Suite 200  
Raleigh, NC 27607  
USA

T +1 919 785 3434  
F +1 919 785 0802

avisonyoung.com

**LETTER OF INTENT**

March 19, 2021

Mr. Van Gross  
The Gross Companies  
1504 S Horner Blvd  
Sanford, NC 27330

Re: 117-251 N. First Street, Sanford, NC 27703

Dear Mr. Gross:

This letter shall serve as a Non-Binding Letter of Intent to purchase the Singer Factory on 4.84 acres in downtown Sanford, North Carolina.

**Buyer:** Nick Jordan and/or assigns under an entity to be formed.

**Seller:** Original Investors, LLC

**Property:** 117-251 N. First Street, Sanford, NC 27703; Approximately 4.84 gross acres. Including the Singer Factory of about 165,000 sf. Further shown as Lee County Tax Card for the property as **Exhibit A**.

**Purchase Price:** \$475,000 *\$490,000.00 VJG 3/23/2021*

**Earnest Money:** \$5,000 Initial earnest money deposit - applicable to the Purchase Price, to be deposited within five (5) business days after the fully executed contract. At the commencement of the Approvals Period, the initial earnest money deposit shall become non-refundable, subject to Conditions of Closing, but applicable to the Purchase Price. Buyer will deposit an additional \$10,000 for a total deposit of \$20,000.

*\$15,000.00  
VJG  
3/23/2021*

**Inspection Period:** Buyer shall have one hundred and twenty days (120) after the Effective Date

*NJ VJG*



to inspect the property. During the Inspection Period, Buyer shall investigate the Property, advance the scope of the project in conjunction with the City of Sanford and otherwise determine the feasibility of the Property for the Buyer's Use. If Buyer is not satisfied with the results of its investigations, or if the buyer determines in its sole discretion (for any reason or no reason) that the property is not suitable, Buyer may terminate this Agreement by delivery of written notice to Seller during the Inspection Period, and the Earnest Money shall be returned to Buyer.

**Approvals Period:** Buyer shall have the right to an approvals period of ninety (90) days to seek approvals for the allowable use on the Property. Seller agrees to co-operate with Purchaser during any approvals process with the City of Sanford and all governmental or quasi-governmental entities. Seller acknowledges that Buyer will need to secure a number of financing sources to enable this project to become feasible and of utmost importance the structuring and approval of a Public-Private Partnership with the City of Sanford to fund certain Infrastructure improvements. Other potential sources could be historic tax credits, opportunity zone funding, new market tax credits among other possible sources.

**Closing:** Closing shall occur within forty-five (45) days. At the commencement of the Closing Period, the second earnest money deposit of \$10,000 becomes non-refundable, but applicable to the purchase price.

- Conditions:**
- (1) Development of and signing of a memorandum of understanding for a P3 (public-private partnership) with the City of Sanford and a subsequent contractual commitment with the City;
  - (2) Development of and signing of a memorandum of understanding for a P3 (public-private partnership) with other governmental entities, as applicable, to fund the project Infrastructure and a subsequent contractual commitment with the subject entity;
  - (3) Award of other grants needed to fund Infrastructure;
  - (4) Any zoning and site plan approval needed.



- Buyer's Use:** Sophisticated logistics, distribution and co-manufacturing space with limited retail and office.
- Seller Deliverables:** Seller shall deliver all Seller deliverables, to the extent available, within ten (10) days of an Executed Contract, including but not limited to – Title Policy, Survey, Soil Studies, Geotechnical studies, CAD files, site plans, deed restrictions and any other information on the Property.
- Contract Delivery:** Draft Purchase and Sale Agreement to be delivered to Seller by the Buyer within twenty (20) calendar days of agreed upon Letter of Intent.
- Confidentiality:** All parties involved must keep the proposed terms confidential.
- Attachments:** Exhibit A (Recorded Plat Map)

Seller and Buyer both expressly acknowledge and agree that this offer is an informal offer and should not be relied upon, and no contract or agreement shall exist between Seller and Buyer with respect to the Property unless and until a formal Purchase and Sale Agreement containing all of the terms of this transaction is approved and executed by authorized representatives of both parties.

If the foregoing is satisfactory, indicate your acceptance thereof by signing and returning this Letter of Intent prior to **5:00pm on Tuesday, March 30, 2021.**

We appreciate your time and review.

Kind regards,

A handwritten signature in black ink that appears to read "Nick Jordan".

Nick Jordan

*This counter offer is conditioned on the city's approval of the development agreement. VAG 3/23/2013*

A handwritten signature in black ink that appears to read "V. B. Snow" with a checkmark at the end.



AGREEMENT FOR PURCHASE AND SALE OF



THIS AGREEMENT, including any and all addenda attached hereto ("Agreement"), is by and between City of Sanford

a(n) NC Municipal Corporation ("Buyer"), and  
(individual or State of formation and type of entity)  
Original Investors, Inc.

a (n) NC Corporation ("Seller").  
(individual or State of formation and type of entity)

FOR AND IN CONSIDERATION OF THE MUTUAL PROMISES SET FORTH HEREIN AND OTHER GOOD AND VALUABLE CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH ARE HEREBY ACKNOWLEDGED, THE PARTIES HERETO AGREE AS FOLLOWS:

**Section 1. Terms and Definitions:** The terms listed below shall have the respective meaning given them as set forth adjacent to each term.

(a) "**Property**": (Address) 117, 119, 133 & 251 N. First Street, Sanford, NC

Plat Reference: Lot(s) \_\_\_\_\_, Block or Section \_\_\_\_\_, as shown on Plat Book or Slide 10 at Page(s) 22A, Lee County, consisting of 4.624 acres.

If this box is checked, "Property" shall mean that property described on **Exhibit A** attached hereto and incorporated herewith by reference,

(For information purposes: (i) the tax parcel number of the Property is: 9643-70-4938-00; and, (ii) some or all of the Property, consisting of approximately 4.64 acres, is described in Deed Book 431, Page No. 708, Lee County.)

together with all buildings and improvements thereon and all fixtures and appurtenances thereto and all personal property, if any, itemized on **Exhibit A**.

\$ 490,000.00 (b) "**Purchase Price**" shall mean the sum of Four hundred ninety thousand and no/100ths Dollars,

*payable on the following terms:*

\$ \_\_\_\_\_ (i) "**Earnest Money**" shall mean \_\_\_\_\_ Dollars or terms as follows: \_\_\_\_\_

Upon this Agreement becoming a contract in accordance with Section 14, the Earnest Money shall be promptly deposited in escrow with \_\_\_\_\_ (name of person/entity with whom deposited), to be applied as part payment of the Purchase Price of the Property at Closing, or disbursed as agreed upon under the provisions of Section 10 herein.

Buyer Initials HL Seller Initials SLP

ANY EARNEST MONEY DEPOSITED BY BUYER IN A TRUST ACCOUNT MAY BE PLACED IN AN INTEREST BEARING TRUST ACCOUNT, AND: (check only ONE box)

ANY INTEREST EARNED THEREON SHALL BE APPLIED AS PART PAYMENT OF THE PURCHASE PRICE OF THE PROPERTY AT CLOSING, OR DISBURSED AS AGREED UPON UNDER THE PROVISIONS OF SECTION 10 HEREIN. (Buyer's Taxpayer Identification Number is: \_\_\_\_\_)

ANY INTEREST EARNED THEREON SHALL BELONG TO THE ACCOUNT HOLDER IN CONSIDERATION OF THE EXPENSES INCURRED BY MAINTAINING SUCH ACCOUNT AND RECORDS ASSOCIATED THEREWITH.

\$ \_\_\_\_\_ (ii) **Proceeds of a new loan** in the amount of \_\_\_\_\_ Dollars for a term of \_\_\_\_\_ years, with an amortization period not to exceed \_\_\_\_\_ years, at an interest rate not to exceed \_\_\_\_\_% per annum with mortgage loan discount points not to exceed \_\_\_\_\_% of the loan amount, or such other terms as may be set forth on **Exhibit B**. Buyer shall pay all costs associated with any such loan.

\$ \_\_\_\_\_ (iii) **Delivery of a promissory note** secured by a deed of trust, said promissory note in the amount of \_\_\_\_\_ Dollars being payable over a term of \_\_\_\_\_ years, with an amortization period of \_\_\_\_\_ years, payable in monthly installments of principal, together with accrued interest on the outstanding principal balance at the rate of \_\_\_\_\_ percent (\_\_\_\_\_%) per annum in the amount of \$ \_\_\_\_\_, with the first principal payment beginning on the first day of the month next succeeding the date of Closing, or such other terms as may be set forth on **Exhibit B**. At any time, the promissory note may be prepaid in whole or in part without penalty and without further interest on the amounts prepaid from the date of such prepayment. (NOTE: In the event of Buyer's subsequent default upon a promissory note and deed of trust given hereunder, Seller's remedies may be limited to foreclosure of the Property. If the deed of trust given hereunder is subordinated to senior financing, the material terms of such financing must be set forth on Exhibit B. If such senior financing is subsequently foreclosed, the Seller may have no remedy to recover under the note.)

\$ \_\_\_\_\_ (iv) **Assumption** of that unpaid obligation of Seller secured by a deed of trust on the Property, such obligation having an outstanding principal balance of \$ \_\_\_\_\_ and evidenced by a note bearing interest at the rate of \_\_\_\_\_ percent (\_\_\_\_\_%) per annum, and a current payment amount of \$ \_\_\_\_\_. The obligations of Buyer under this Agreement are conditioned upon Buyer being able to assume the existing loan described above. If such assumption requires the lender's approval, Buyer agrees to use its best efforts to secure such approval and to advise Seller immediately upon receipt of the lender's decision. Approval must be granted on or before \_\_\_\_\_. On or before this date, Buyer has the right to terminate this Agreement for failure to be able to assume the loan described above by delivering to Seller written notice of termination by the above date, *time being of the essence*. If Buyer delivers such notice, this Agreement shall be null and void and Earnest Money shall be refunded to Buyer. If Buyer fails to deliver such notice, then Buyer will be deemed to have waived the loan condition. Unless provided otherwise in Section 3 hereof, Buyer shall pay all fees and costs associated with any such assumption, including any assumption fee charged by the lender. At or before Closing, Seller shall assign to Buyer all interest of Seller in any current reserves or escrows held by the lender, any property management company and/or Seller, including but not limited to any tenant improvement reserves, leasing commission reserves, security deposits and operating or capital reserves for which Seller shall be credited said amounts at Closing

\$ 454,000.00\* (v) **Cash, balance of Purchase Price**, at Closing in the amount of Four hundred fifty-four thousand and no/100ths Dollars.  
\*\$490,000 less option payments of \$36,000

Buyer Initials W.H Seller Initials lep

(c) "**Closing**" shall mean the date and time of recording of the deed. Closing shall occur on or before 12/15/2023 or \_\_\_\_\_

(d) "**Contract Date**" means the date this Agreement has been fully executed by both Buyer and Seller.

(e) "**Examination Period**" shall mean the period beginning on the first day after the Contract Date and extending through 11:59pm (based upon time at the locale of the Property) on 12/14/2023

***TIME IS OF THE ESSENCE AS TO THE EXAMINATION PERIOD.***

(f) "**Broker(s)**" shall mean:

\_\_\_\_\_  
("Listing Agency"),

\_\_\_\_\_  
("Listing Agent" - License # \_\_\_\_\_)

Acting as:  Seller's Agent;  Dual Agent

and \_\_\_\_\_  
("Selling Agency"),

\_\_\_\_\_  
("Selling Agent" - License # \_\_\_\_\_)

Acting as:  Buyer's Agent;  Seller's (Sub)Agent;  Dual Agent

(g) "**Seller's Notice Address**" shall be as follows:

P.O. Box 2825, Sanford, NC 27331-2825

except as same may be changed pursuant to Section 12.

(h) "**Buyer's Notice Address**" shall be as follows:

P.O. Box 3729, Sanford, NC 27331-3729

except as same may be changed pursuant to Section 12.

- (i) If this block is marked, additional terms of this Agreement are set forth on **Exhibit B** attached hereto and incorporated herein by reference. (Note: Under North Carolina law, real estate agents are not permitted to draft conditions or contingencies to this Agreement.)

**Section 2. Sale of Property and Payment of Purchase Price:** Seller agrees to sell and Buyer agrees to buy the Property for the Purchase Price.

**Section 3. Proration of Expenses and Payment of Costs:** Seller and Buyer agree that all property taxes (on a calendar year basis), leases, rents, mortgage payments and utilities or any other assumed liabilities as detailed on attached **Exhibit B**, if any, shall be ~~prorated~~ \* prorated as of the date of Closing. Seller shall pay for preparation of a deed and all other documents necessary to perform Seller's obligations under this Agreement, excise tax (revenue stamps), any deferred or rollback taxes, and other conveyance fees or taxes required by law, and the following:

\*taxes shall be paid by Seller for the whole year, 2023

Buyer Initials H.H.

Seller Initials slp

Buyer shall pay recording costs, costs of any title search, title insurance, survey, the cost of any inspections or investigations undertaken by Buyer under this Agreement and the following:

Each party shall pay its own attorney's fees.

**Section 4. Deliveries:** Seller agrees to use best efforts to deliver to Buyer as soon as reasonably possible after the Contract Date copies of all information relating to the Property in possession of or available to Seller, including but not limited to: title insurance policies (and copies of any documents referenced therein), surveys, soil test reports, environmental surveys or reports, site plans, civil drawings, building plans, maintenance records and copies of all presently effective warranties or service contracts related to the Property. Seller authorizes (1) any attorney presently or previously representing Seller to release and disclose any title insurance policy in such attorney's file to Buyer and both Buyer's and Seller's agents and attorneys; and (2) the Property's title insurer or its agent to release and disclose all materials in the Property's title insurer's (or title insurer's agent's) file to Buyer and both Buyer's and Seller's agents and attorneys. If Buyer does not consummate the Closing for any reason other than Seller default, then Buyer shall return to Seller all materials delivered by Seller to Buyer pursuant to this Section 4 (or Section 7, if applicable), if any, and shall, upon Seller's request, provide to Seller copies of (subject to the ownership and copyright interests of the preparer thereof) any and all studies, reports, surveys and other information relating directly to the Property prepared by or at the request of Buyer, its employees and agents, and shall deliver to Seller, upon the release of the Earnest Money, copies of all of the foregoing without any warranty or representation by Buyer as to the contents, accuracy or correctness thereof.

**Section 5. Evidence of Title:** Seller agrees to convey fee simple marketable and insurable title to the Property without exception for mechanics' liens, free and clear of all liens, encumbrances and defects of title other than: (a) zoning ordinances affecting the Property, (b) Leases (if applicable) and (c) matters of record existing at the Contract Date that are not objected to by Buyer prior to the end of the Examination Period ("Permitted Exceptions"); provided that Seller shall be required to satisfy, at or prior to Closing, any encumbrances that may be satisfied by the payment of a fixed sum of money, such as deeds of trust, mortgages or statutory liens. Seller shall not enter into or record any instrument that affects the Property (or any personal property listed on **Exhibit A**) after the Contract Date without the prior written consent of Buyer, which consent shall not be unreasonably withheld, conditioned or delayed.

**Section 6. Conditions:** This Agreement and the rights and obligations of the parties under this Agreement are hereby made expressly conditioned upon fulfillment (or waiver by Buyer, whether explicit or implied) of the following conditions:

(a) **New Loan:** The Buyer must be able to obtain the loan, if any, referenced in Section 1(b)(ii). Buyer must be able to obtain a firm commitment for this loan on or before n/a, effective through the date of Closing. Buyer agrees to use its best efforts to secure such commitment and to advise Seller immediately upon receipt of lender's decision. On or before the above date, Buyer has the right to terminate this Agreement for failure to obtain the loan referenced in Section 1(b)(ii) by delivering to Seller written notice of termination by the above date, *time being of the essence*. If Buyer delivers such notice, this Agreement shall be null and void and Earnest Money shall be refunded to Buyer. If Buyer fails to deliver such notice, then Buyer will be deemed to have waived the loan condition. Notwithstanding the foregoing, after the above date, Seller may request in writing from Buyer a copy of the commitment letter. If Buyer fails to provide Seller a copy of the commitment letter within five (5) days of receipt of Seller's request, then Seller may terminate this Agreement by written notice to Buyer at any time thereafter, provided Seller has not then received a copy of the commitment letter, and Buyer shall receive a return of Earnest Money.

(b) **Qualification for Financing:** If Buyer is to assume any indebtedness in connection with payment of the Purchase Price, Buyer agrees to use its best efforts to qualify for the assumption. Should Buyer fail to qualify, Buyer shall notify Seller in writing immediately upon lender's decision, whereupon this Agreement shall terminate, and Buyer shall receive a return of Earnest Money.

(c) **Title Examination:** After the Contract Date, Buyer shall, at Buyer's expense, cause a title examination to be made of the Property before the end of the Examination Period. In the event that such title examination shall show that Seller's title is not fee simple marketable and insurable, subject only to Permitted Exceptions, then Buyer shall promptly notify Seller in writing of all such title defects and exceptions, in no case later than the end of the Examination Period, and Seller shall have thirty (30) days to cure said noticed defects. If Seller does not cure the defects or objections within thirty (30) days of notice thereof, then Buyer may terminate this Agreement and receive a return of Earnest Money (notwithstanding that the Examination Period may have expired). If Buyer is to purchase title insurance, the insuring company must be licensed to do business in the state in which the Property is located. Title to the Property must be insurable at regular rates, subject only to standard exceptions and Permitted Exceptions.

(d) **Same Condition:** If the Property is not in substantially the same condition at Closing as of the date of the offer, reasonable wear and tear excepted, then the Buyer may (i) terminate this Agreement and receive a return of the Earnest Money or (ii) Buyer Initials   H   Seller Initials   JLP

proceed to Closing whereupon Buyer shall be entitled to receive, in addition to the Property, any of the Seller's insurance proceeds payable on account of the damage or destruction applicable to the Property.

(e) **Inspections:** Buyer, its agents or representatives, at Buyer's expense and at reasonable times during normal business hours, shall have the right to enter upon the Property for the purpose of inspecting, examining, performing soil boring and other testing, conducting timber cruises, and surveying the Property. Buyer shall conduct all such on-site inspections, examinations, soil boring and other testing, timber cruises and surveying of the Property in a good and workmanlike manner, shall repair any damage to the Property caused by Buyer's entry and on-site inspections and shall conduct same in a manner that does not unreasonably interfere with Seller's or any tenant's use and enjoyment of the Property. In that respect, Buyer shall make reasonable efforts to undertake on-site inspections outside of the hours any tenant's business is open to the public and shall give prior notice to any tenants of any entry onto any tenant's portion of the Property for the purpose of conducting inspections. Upon Seller's request, Buyer shall provide to Seller evidence of general liability insurance. Buyer shall also have a right to review and inspect all contracts or other agreements affecting or related directly to the Property and shall be entitled to review such books and records of Seller that relate directly to the operation and maintenance of the Property, provided, however, that Buyer shall not disclose any information regarding this Property (or any tenant therein) unless required by law and the same shall be regarded as confidential, to any person, except to its attorneys, accountants, lenders and other professional advisors, in which case Buyer shall obtain their agreement to maintain such confidentiality. Buyer assumes all responsibility for the acts of itself, its agents or representatives in exercising its rights under this Section 6(e) and agrees to indemnify and hold Seller harmless from any damages resulting therefrom. This indemnification obligation of Buyer shall survive the Closing or earlier termination of this Agreement. Buyer shall, at Buyer's expense, promptly repair any damage to the Property caused by Buyer's entry and on-site inspections. Except as provided in Section 6(c) above, Buyer shall have from the Contract Date through the end of the Examination Period to perform the above inspections, examinations and testing. **IF BUYER CHOOSES NOT TO PURCHASE THE PROPERTY, FOR ANY REASON OR NO REASON, AND PROVIDES WRITTEN NOTICE TO SELLER THEREOF PRIOR TO THE EXPIRATION OF THE EXAMINATION PERIOD, THEN THIS AGREEMENT SHALL TERMINATE, AND BUYER SHALL RECEIVE A RETURN OF THE EARNEST MONEY.**

**Section 7. Leases (Check one of the following, as applicable):**

If this box is checked, Seller affirmatively represents and warrants that there are no Leases (as hereinafter defined) affecting the Property.

If this box is checked, Seller discloses that there are one or more leases affecting the Property (oral or written, recorded or not -"Leases") and the following provisions are hereby made a part of this Agreement.

(a) A list of all Leases shall be set forth on **Exhibit B**;

(b) Seller shall deliver copies of any Leases to Buyer pursuant to Section 4 as if the Leases were listed therein;

(c) Seller represents and warrants that as of the Contract Date there are no current defaults (or any existing situation which, with the passage of time, or the giving of notice, or both, or at the election of either landlord or tenant could constitute a default) either by Seller, as landlord, or by any tenant under any Lease ("Lease Default"). In the event there is any Lease Default as of the Contract Date, Seller agrees to provide Buyer with a detailed description of the situation in accordance with Section 4. Seller agrees not to commit a Lease Default as Landlord after the Contract Date, and agrees further to notify Buyer immediately in the event a Lease Default arises or is claimed, asserted or threatened to be asserted by either Seller or a tenant under the Lease.

(d) In addition to the conditions provided in Section 6 of this Agreement, this Agreement and the rights and obligations of the parties under this Agreement are hereby made expressly conditioned upon the assignment of Seller's interest in any Lease to Buyer in form and content acceptable to Buyer (with tenant's written consent and acknowledgement, if required under the Lease), and Seller agrees to use its best efforts to effect such assignment. Any assignment required under this Section 7 shall be required to be delivered at or before Closing by Seller in addition to those deliveries required under Section 11 of this Agreement.

(e) Seller agrees to deliver an assignment of any Lease at or before Closing, with any security deposits held by Seller under any Leases to be transferred or credited to Buyer at or before Closing. Seller also agrees to execute and deliver (and work diligently to obtain any tenant signatures necessary for same) any estoppel certificates and subordination, nondisturbance and attornment agreements in such form as Buyer may reasonably request.

**Section 8. Environmental:** Seller represents and warrants that it has no actual knowledge of the presence or disposal, except as in Buyer Initials   H.H.   Seller Initials   JLP

accordance with applicable law, within the buildings or on the Property of hazardous or toxic waste or substances, which are defined as those substances, materials, and wastes, including, but not limited to, those substances, materials and wastes listed in the United States Department of Transportation Hazardous Materials Table (49 CFR Part 172.101) or by the Environmental Protection Agency as hazardous substances (40 CFR Part 302.4) and amendments thereto, or such substances, materials and wastes, which are or become regulated under any applicable local, state or federal law, including, without limitation, any material, waste or substance which is (i) petroleum, (ii) asbestos, (iii) polychlorinated biphenyls, (iv) designated as a Hazardous Substance pursuant to Section 311 of the Clean Water Act of 1977 (33 U.S.C. §1321) or listed pursuant to Section 307 of the Clean Water Act of 1977 (33 U.S.C. §1317), (v) defined as a hazardous waste pursuant to Section 1004 of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. §6903) or (vi) defined as a hazardous substance pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. §9601). Seller has no actual knowledge of any contamination of the Property from such substances as may have been disposed of or stored on neighboring tracts.

**Section 9. Risk of Loss/Damage/Repair:** Until Closing, the risk of loss or damage to the Property, except as otherwise provided herein, shall be borne by Seller. Except as to maintaining the Property in its same condition, Seller shall have no responsibility for the repair of the Property, including any improvements, unless the parties hereto agree in writing.

**Section 10. Earnest Money Disbursement:** In the event that any of the conditions hereto are not satisfied, or in the event of a breach of this Agreement by Seller, then the Earnest Money shall be returned to Buyer, but such return shall not affect any other remedies available to Buyer for such breach. In the event this offer is accepted and Buyer breaches this Agreement, then the Earnest Money shall be forfeited, but such forfeiture shall not affect any other remedies available to Seller for such breach. NOTE: In the event of a dispute between Seller and Buyer over the return or forfeiture of Earnest Money held in escrow by a licensed real estate broker, the broker is required by state law to retain said Earnest Money in its trust or escrow account until it has obtained a written release from the parties consenting to its disposition or until disbursement is ordered by a court of competent jurisdiction, or alternatively, the party holding the Earnest Money may deposit the disputed monies with the appropriate clerk of court in accordance with the provisions of N.C.G.S. §93A-12.

**Section 11. Closing:** At or before Closing, Seller shall deliver to Buyer a general warranty deed unless otherwise specified on Exhibit B and other documents customarily executed or delivered by a seller in similar transactions, including without limitation, a bill of sale for any personalty listed on Exhibit A, an owner's affidavit, lien waiver forms (and such other lien related documentation as shall permit the Property to be conveyed free and clear of any claim for mechanics' liens) and a non-foreign status affidavit (pursuant to the Foreign Investment in Real Property Tax Act), and Buyer shall pay to Seller the Purchase Price. At Closing, the Earnest Money shall be applied as part of the Purchase Price. The Closing shall be conducted by Buyer's attorney or handled in such other manner as the parties hereto may mutually agree in writing. Possession shall be delivered at Closing, unless otherwise agreed herein. The Purchase Price and other funds to be disbursed pursuant to this Agreement shall not be disbursed until Closing has taken place.

**Section 12. Notices:** Unless otherwise provided herein, all notices and other communications which may be or are required to be given or made by any party to the other in connection herewith shall be in writing and shall be deemed to have been properly given and received on the date delivered in person or deposited in the United States mail, registered or certified, return receipt requested, to the addresses set out in Section 1(g) as to Seller and in Section 1(h) as to Buyer, or at such other addresses as specified by written notice delivered in accordance herewith.

**Section 13. Entire Agreement:** This Agreement constitutes the sole and entire agreement among the parties hereto and no modification of this Agreement shall be binding unless in writing and signed by all parties hereto. The invalidity of one or more provisions of this Agreement shall not affect the validity of any other provisions hereof and this Agreement shall be construed and enforced as if such invalid provisions were not included.

**Section 14. Enforceability:** This Agreement shall become a contract when signed by both Buyer and Seller and such signing is communicated to both parties; it being expressly agreed that the notice described in Section 12 is not required for effective communication for the purposes of this Section 14. The parties acknowledge and agree that: (i) the initials lines at the bottom of each page of this Agreement are merely evidence of their having reviewed the terms of each page, and (ii) the complete execution of such initials lines shall not be a condition of the effectiveness of this Agreement. This Agreement shall be binding upon and inure to the benefit of the parties, their heirs, successors and assigns and their personal representatives.

**Section 15. Adverse Information and Compliance with Laws:**

(a) **Seller Knowledge:** Seller has no actual knowledge of (i) condemnation(s) affecting or contemplated with respect to the Property; (ii) actions, suits or proceedings pending or threatened against the Property; (iii) changes contemplated in any applicable law. Buyer Initials U. H. Seller Initials slp

laws, ordinances or restrictions affecting the Property; or (iv) governmental special assessments, either pending or confirmed, for sidewalk, paving, water, sewer, or other improvements on or adjoining the Property, and no pending or confirmed owners' association special assessments, except as follows (Insert "None" or the identification of any matters relating to (i) through (iv) above, if any):  
none

**Note:** For purposes of this Agreement, a "confirmed" special assessment is defined as an assessment that has been approved by a governmental agency or an owners' association for the purpose(s) stated, whether or not it is fully payable at time of closing. A "pending" special assessment is defined as an assessment that is under formal consideration by a governing body. Seller shall pay all owners' association assessments and all governmental assessments confirmed as of the date of Closing, if any, and Buyer shall take title subject to all pending assessments disclosed by Seller herein, if any.  
Seller represents that the regular owners' association dues, if any, are \$ n/a per n/a.

(b) **Compliance:** To Seller's actual knowledge, (i) Seller has complied with all applicable laws, ordinances, regulations, statutes, rules and restrictions pertaining to or affecting the Property; (ii) performance of the Agreement will not result in the breach of, constitute any default under or result in the imposition of any lien or encumbrance upon the Property under any agreement or other instrument to which Seller is a party or by which Seller or the Property is bound; and (iii) there are no legal actions, suits or other legal or administrative proceedings pending or threatened against the Property, and Seller is not aware of any facts which might result in any such action, suit or other proceeding.

**Section 16. Survival of Representations and Warranties:** All representations, warranties, covenants and agreements made by the parties hereto shall survive the Closing and delivery of the deed. Seller shall, at or within six (6) months after the Closing, and without further consideration, execute, acknowledge and deliver to Buyer such other documents and instruments, and take such other action as Buyer may reasonably request or as may be necessary to more effectively transfer to Buyer the Property described herein in accordance with this Agreement.

**Section 17. Applicable Law:** This Agreement shall be construed under the laws of the state in which the Property is located. This form has only been approved for use in North Carolina.

**Section 18. Assignment:** This Agreement is freely assignable unless otherwise expressly provided on Exhibit B.

**Section 19. Tax-Deferred Exchange:** In the event Buyer or Seller desires to effect a tax-deferred exchange in connection with the conveyance of the Property, Buyer and Seller agree to cooperate in effecting such exchange; provided, however, that the exchanging party shall be responsible for all additional costs associated with such exchange, and provided further, that a non-exchanging party shall not assume any additional liability with respect to such tax-deferred exchange. Seller and Buyer shall execute such additional documents, at no cost to the non-exchanging party, as shall be required to give effect to this provision.

**Section 20. Memorandum of Contract:** Upon request by either party, the parties hereto shall execute a memorandum of contract in recordable form setting forth such provisions hereof (other than the Purchase Price and other sums due) as either party may wish to incorporate. Such memorandum of contract shall contain a statement that it automatically terminates and the Property is released from any effect thereby as of a specific date to be stated in the memorandum (which specific date shall be no later than the date of Closing). The cost of recording such memorandum of contract shall be borne by the party requesting execution of same.

**Section 21. Authority:** Each signatory to this Agreement represents and warrants that he or she has full authority to sign this Agreement and such instruments as may be necessary to effectuate any transaction contemplated by this Agreement on behalf of the party for whom he or she signs and that his or her signature binds such party.

**Section 22. Brokers:** Except as expressly provided herein, Buyer and Seller agree to indemnify and hold each other harmless from any and all claims of brokers, consultants or real estate agents by, through or under the indemnifying party for fees or commissions arising out of the sale of the Property to Buyer. Buyer and Seller represent and warrant to each other that: (i) except as to the Brokers designated under Section 1(f) of this Agreement, they have not employed nor engaged any brokers, consultants or real estate agents to be involved in this transaction and (ii) that the compensation of the Brokers is established by and shall be governed by separate agreements entered into as amongst the Brokers, the Buyer and/or the Seller.

**Section 23. Attorneys Fees:** If legal proceedings are instituted to enforce any provision of this Agreement, the prevailing party in the proceeding shall be entitled to recover from the non-prevailing party reasonable attorneys fees and court costs incurred in connection with the proceeding.

Buyer Initials H-H Seller Initials SLP

**EIFS/SYNTHETIC STUCCO:** If the adjacent box is checked, Seller discloses that the Property has been clad previously (either in whole or in part) with an "exterior insulating and finishing system" commonly known as "EIFS" or "synthetic stucco". Seller makes no representations or warranties regarding such system and Buyer is advised to make its own independent determinations with respect to conditions related to or occasioned by the existence of such materials at the Property.

THE NORTH CAROLINA ASSOCIATION OF REALTORS®, INC. AND THE NORTH CAROLINA BAR ASSOCIATION MAKE NO REPRESENTATION AS TO THE LEGAL VALIDITY OR ADEQUACY OF ANY PROVISION OF THIS FORM IN ANY SPECIFIC TRANSACTION. IF YOU DO NOT UNDERSTAND THIS FORM OR FEEL THAT IT DOES NOT PROVIDE FOR YOUR LEGAL NEEDS, YOU SHOULD CONSULT A NORTH CAROLINA REAL ESTATE ATTORNEY BEFORE YOU SIGN IT.

**BUYER:**

**SELLER:**

**Individual**

**Individual**

\_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**Business Entity**

**Business Entity**

City of Sanford, a NC Municipal Corporation  
(Name of Entity)

Original Investors, Inc., a NC corporation  
(Name of Entity)

By: 

By: 

Name: Hal Hegwer

Name: SANDRA L. PERRY

Title: City Manager

Title: President

Date: 11 / 3 / 2023

Date: 11/6/2023

The undersigned hereby acknowledges receipt of the Earnest Money set forth herein and agrees to hold said Earnest Money in accordance with the terms hereof.

\_\_\_\_\_  
(Name of Firm)

Date: \_\_\_\_\_

By: \_\_\_\_\_