

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

**CONTRACT FOR PURCHASE AND SALE OF REAL PROPERTY**

**THIS CONTRACT** to sell and purchase real property (this "Contract") is made and entered into as of the 28 day of APRIL, 2015 by and between Caroleen Trading Company, Inc. (hereafter, individually, "Trading Company") and Caroleen Enterprises, LLC, (hereafter, individually, ("Enterprises") as Sellers, (hereafter referred to collectively as "Caroleen" or "Seller"), and the Town of Huntersville, a North Carolina Municipal Corporation (hereafter "Town" or "Buyer").

**WITNESSETH**

**WHEREAS**, Trading Company and Enterprises individually own several lots or parcels of land hereafter described which they wish to sell as a group; and

**WHEREAS**, Town wishes to purchase said lots or parcels as a group; Therefore:

**AGREEMENT**

For the considerations hereafter set forth, Seller agrees to sell and Town agrees to buy the property hereinafter described on the following terms and conditions:

1. **PROPERTY.** All of those seven (7) parcels described on Exhibit A attached hereto and incorporated herein, which are listed by the individual owner of each, and in addition the Seller will convey without warranty any interest each may have, if any, in those areas shown on plat recorded in Map Book 24, Page 594, and designated as "Dedicated to NCDOT." Collectively, all of the parcels and interest to be conveyed is hereafter referred to as the "Property."
2. **PURCHASE PRICE OF PROPERTY.** The total purchase price of the Property shall be Eight Hundred Fifty Thousand (\$850,000.00) Dollars, which shall be paid as follows:
  - (a) An Earnest Money Deposit in the total amount of \$15,000.00 which shall be paid to MacNeil & Carlino as Escrow Agent within three (3) business days after approval of this contract and appropriation of funds in open session by the Town of Huntersville Board of Commissioners as provided in paragraph 12, and which shall be credited to the purchase price at closing according to the allocations between the individual Sellers as set forth on Exhibit A or disbursed as hereafter provided, Provided, that in the event the closing is extended beyond the final date for closing as specified in

Paragraph 4, the Earnest Money Deposit shall become non-refundable except where the extension was required because of a default by the Seller or where Seller was unable or unwilling to convey or transfer title to the Property meeting the requirements of Paragraph 6.

- (b) The balance shall be paid at closing to the Sellers by wire transfer of funds to each respective Seller, or other means acceptable to such Seller. The allocation of the purchase price for each respective Seller is set forth on Exhibit A. The closing for each individual Seller shall be separate closings based upon those respective purchase prices.

**3. EFFECTIVE DATE.** The Effective Date of this Contract shall be the final date of signing by the parties and approval by the Town of Huntersville Board of Commissioners in open session, as provided in Paragraph 12 hereafter.

**4. CLOSING DATE.** Closing of the transfer of the Property shall occur on or before ninety (90) days from the Effective Date at Town's offices in Huntersville, North Carolina, or such other place, or in such other manner as may be mutually acceptable to the parties.

**5. INTENDED USE.** The Town intends that the Property be used for governmental or public purposes, or for such other purposes as Town may deem appropriate ("Intended Use").

**6. TRANSFER OF TITLE TO PROPERTY.** At closing, Seller shall deliver to Buyer a General Warranty Deed conveying fee simple marketable title to the Property, subject only to covenants, rights of way and easements acceptable to Town not affecting its use of the Property for its intended purposes, short term leases approved by Town and which shall be accepted by Town, zoning and other land use laws and ordinances and the lien of the then current year's *ad valorem* taxes which shall be pro-rated as of the date of closing (the "Permitted Exceptions").

**7. EXAMINATION PERIOD.** As used in this Contract, "Examination Period" shall mean that period of time after the Effective Date to a date which is sixty (60) days after the Effective Date.

**8. TITLE EXAMINATION.** After the Effective Date, Town shall, at its expense, cause a title examination to be made of the Property before the end of the Examination Period. In the event such title examination shall reveal that Seller's title is not fee simple marketable and insurable at regular rates, subject only to the Permitted Exceptions, then Town shall promptly notify Seller in writing of such title defects and exceptions. Seller shall then have thirty (30) days to cure the defect (provided that if such objection or defect is of an established monetary amount, then it may be cured by withholding and disbursing the necessary amounts at closing). If Seller has to cure the defect, the closing shall be extended for the time reasonably necessary to cure the defect. If Seller is unable or unwilling to cure the defect, the Town shall have the option of terminating



this Contract, or take title in its then condition without reduction of the purchase price (except those defects that can be cured by withholding an established or determinable monetary amount). Within fourteen (14) days after the Effective Date, Seller shall deliver to Town copies of any title insurance policies it has in its possession affecting the Property or any portion thereof as well as any leases of the Property or any portion thereof.

**9. INSPECTIONS.** During the Examination Period, Town, its agents or representatives, and at Town's expense, shall have the right to enter upon the Property for the purpose of inspecting, examining, performing soil borings, environmental and other testing and conducting any surveys it deems appropriate (collectively, "Inspections"). Buyer shall conduct all such Inspections in a good and workmanlike manner, and shall repair any damage to the Property caused by Town's entry. Inspections shall occur during reasonable hours so as to not interfere with Seller's use of the Property or the use of the Property by any tenant of the Seller. **Seller and Town will coordinate any such inspections and Seller or its Agent shall be responsible for notifying and assuring that any tenant grants Town such access as is needed.** It is understood that Town does not intend to maintain the structures located on the Property, which will be either demolished or removed, and that therefore will not do any inspection of the structures except to the extent necessary to determine if any such conditions would affect such demolition (for example, asbestos content or fuel oil storage), or to determine the condition of the Property as of closing if Town is assuming any leases on the Property. Seller shall deliver to Town any studies, reports, inspections, or surveys that Seller has in its possession affecting, or relating to the Property, including without limitation any environmental studies. Seller represents that it has no actual knowledge of any adverse environmental conditions or contamination of the Property. Town shall keep as confidential any such matters furnished to it by Seller, or the result of any Inspection performed by Town, to the extent permitted under Public Records laws of North Carolina. All inspections shall be completed during the Examination Period (subject to any extension granted by Seller), and if any conditions are not objected to within that time (which may be extended) shall be deemed accepted, except for matters occurring after that time.

**10. POSSESSION.** Seller can and will deliver unencumbered possession of the Property to Town as of the Closing Date, except for such leases or rental agreements which the Town has agreed to accept, provided that Seller has provided copies of such agreements to Town as part of the inspection process. Town will accept such leases as are current and not in default, and which are of such term, including any renewal options, that they will terminate prior to the time that Town reasonably needs possession in order to utilize the Property for its Intended Use. There shall be nothing in any such lease that would preclude Town to doing preliminary construction on portions of the Property so long as such construction would not unreasonably interfere with the tenant's customary occupancy of the Property.

**11. PROPERTY CONVEYED "AS IS."** Except as otherwise provided herein, the Property and improvements, if any, are conveyed and accepted "as is" with all faults. Seller makes no



representations or warranties as to the condition of the Property, or suitability for any purpose, including for its Intended Use.

**12. BOARD APPROVAL.** IF THIS CONTRACT IS EXECUTED BY BOTH PARTIES PRIOR TO APPROVAL BY THE BOARD OF COMMISSIONERS IN A PUBLIC OPEN MEETING OF THE BOARD, THIS CONTRACT IS SUBJECT TO SUCH FINAL APPROVAL IN OPEN SESSION AS REQUIRED BY NORTH CAROLINA LAW, AND IS NOT BINDING UNTIL SUCH APPROVAL IS GIVEN. TOWN AGREES THAT IT SHALL SCHEDULE THIS CONTRACT FOR APPROVAL NO LATER THAT THE SECOND REGULAR MEETING OF THE BOARD OF COMMISSIONERS FOLLOWING RECEIPT OF THE SIGNED CONTRACT FROM SELLER.

**13. RISK OF LOSS.** Prior to closing, risk of loss with respect to the property shall be upon the Seller.

**14. CLOSING COSTS.** Seller shall pay for the preparation of the Deed and any other documents necessary to perform Seller's obligations under this Contract, for excise tax or other conveyance tax, any deferred tax, and all costs necessary to convey clear title. Buyer shall pay for recording costs, costs of title search, title insurance, survey, and any inspection costs. Each party shall pay its own attorney's and consultant's fees.

**15. PRO-RATIONS.** Ad Valorem taxes for the Property shall be pro-rated between the parties on a calendar year basis as of the Closing Date. If the Seller's share for that year has not been paid, the Seller's share will be withheld from the Purchase Price and paid by the Buyer. If the taxes have been paid, Buyer shall reimburse Seller for Buyer's share at closing. If the then current year's taxes have not been determined, pro-rations shall be estimated based on the prior year's taxes (or other best available information as to value), withheld from Seller and paid by Buyer. Leases, if any, shall be pro-rated and pre-paid rents shall be withheld from Seller as a credit against the Purchase Price. Security deposits shall either be withheld from Seller as a credit against purchase price or shall be assigned to Town if held by Seller's rental agent. All utility charges, if any, with respect to the Property for the month of Closing shall be pro-rated post-Closing upon Seller's receipt of all applicable bills for such utilities.

**16. BROKERAGE COMMISSION.** Seller represents that it has only had dealings with Tim Coey and/or Bayard Realty as Broker or agent but that it does not have a written agreement with such Broker/agent to represent it, and such Broker/agent introduced the Property to the Town. Town agrees to pay such Broker/agent, ~~on behalf of Seller,~~ a brokerage commission in the total amount of Twenty-Five Thousand (\$25,000.00) Dollars. Such commission shall be deemed earned, due and payable only upon closing and conveyance of the Property to Town. In the event that Town does not pay the commission when it becomes earned, due and payable as set forth above, Seller shall have no obligations to such Broker/agent. Bayard Realty/Tim Coey execute this agreement for the sole purpose of agreeing to the provisions of this paragraph.

Other than as set forth above, Seller represents that it has not been represented by a Broker or agent.

Town represents that it has not been represented by a Broker or agent. Seller and Buyer each agree to indemnify and hold the other harmless from and against any and all claims, demands, and costs arising out of alleged brokerage or agent's commissions or fees, if any.

**17. DEFAULT, CROSS-DEFAULT.** It is understood and agreed that this Agreement is for all of the Parcels listed and does not represent separately enforceable agreements. Accordingly, a default by one of the Sellers constitutes a default by both of the Sellers. Conversely, a default by Town as to one of the Sellers constitutes a default as to both Sellers. If Town shall default in the performance of any of its obligations hereunder, Seller shall be entitled to cancel this Contract and receive the Earnest Money Deposit (allocated to each of them according to the provisions of Exhibit A) as sole liquidated damages. If Seller (or either of them) should default Town may pursue any remedies it has in law or equity, including specific performance.

**18. NOTICES.** Unless otherwise provided herein, all notices and communications required to be given shall be in writing and be deemed given by (i) personally delivered with written acknowledgment of receipt, (ii) deposit in the United States mail, postage prepaid, certified or register mail, return receipt requested, or (iii) sent by a nationally recognized overnight courier, to the following address (provided that either party may change its notice address by notice to the other):

IF TO BUYER:      Town of Huntersville  
                         Attn: Greg Ferguson, Town Manager  
                         Post Office Box 664  
                         101 Huntersville-Concord Road  
                         Huntersville, North Carolina 28078

IF TO SELLER:      Caroleen Trading Co., Inc.  
                         % Vernon Parrish  
                         4940 Broad Hollow Dr.  
                         Charlotte, NC 28226

**19. APPLICABLE LAW.** This Contract shall be governed by and construed in accordance with the laws of the State of North Carolina. The sole venue for any litigation hereunder shall be a State or Federal court in Mecklenburg County, North Carolina.

**20. ENTIRE AGREEMENT.** This Contract contains the entire understanding and agreement between the parties, and supersedes all prior oral or written agreements between the parties. No



amendment to this Contract shall be effective unless the same is in writing and signed by the parties hereto.

**21. BINDING EFFECT.** This Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and assigns.

**22. TIME OF THE ESSENCE.** Time is of the essence with respect to all time periods and dates for performance of this Contract.

**23. COUNTERPARTS.** This contract may be executed in one or more counterparts. Signed facsimiles shall constitute originals.

**24. AUTHORITY.** Seller and Buyer represent to each other that each is authorized to enter into and perform its obligations under this Contract, subject only to approval of this Contract, and appropriating the necessary funds by the Board of Commissioners in open session.

**25. 1031 EXCHANGE.** Buyer agrees to reasonably co-operate with Seller so that Seller (or either of them) may consummate the sale of the Property as part of a so-called like kind exchange pursuant to 1031 of the Internal Revenue Code of 1986, as amended ("Code"), provided that (a) the Closing shall not be unreasonably delayed or adversely affected by the Exchange nor shall the consummation or accomplishment of the Exchange be a condition precedent or condition subsequent to Seller's obligations under this Contract, (b) the Seller shall effect the Exchange through an assignment of this Contract, or its rights under this Contract, to a qualified intermediary and Buyer shall not be required to accept title to the exchange property, and (c) the Buyer shall not be required to incur any additional costs or obligations that it would not otherwise have incurred had the Seller not performed the Exchange.

**IN WITNESS WHEREOF,** the parties have caused this Contract to be executed effective as of the Effective Date.

**CAROLEEN TRADING COMPANY, INC.**

By: Vernon R. Lammie Jr.  
Its: President

CAROLEEN ENTERPRISES, LLC

By: Vernon R. Parrell

Its: Manager

TOWN OF HUNTERSVILLE

ATTEST:

Janet Pierson  
Janet Pierson, Town Clerk  
(SEAL)

By: Greg Ferguson  
Greg Ferguson, Town Manager

THIS INSTRUMENT HAS BEEN PREAUDITED IN THE  
MANNER REQUIRED BY THE LOCAL GOVERNMENT  
BUDGET AND FISCAL CONTROL ACT:

Janet Stoner, Finance Director

APPROVED AS TO FORM:

Robert B. Blythe  
Robert B. Blythe, Town Attorney

Joinder of Broker Agent as to Paragraph 16

---

---

Acknowledgement of Escrow Agent

The undersigned \_\_\_\_\_, as Escrow Agent, agrees to hold the Earnest Money Deposit and to disburse the same according to the terms of the Agreement.

This \_\_\_\_\_ day of \_\_\_\_\_, 2015.

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



EXHIBIT A  
PROPERTY DESCRIPTION AND ALLOCATION

**Caroleen Enterprises, LLC**

1. Tax Parcel # 019-012-12; Lot 9, Map Book 24, Page 594; 101 Church St. Apportioned price for this Parcel: \$143,280.00.
2. Tax Parcel # 019-012-13; Lot 8, Map Book 24, Page 594; 103 Church St. Apportioned price for this Parcel: \$88,160.00

Together with any interest in those areas designated "Dedicated to NCDOT" on Map Book 24, Page 594.

Purchase Price for above tracts: \$231,440.00

Earnest Money Deposit for above tracts: \$4,000.00

**Caroleen Trading Company, Inc.**

1. Tax Parcel # 019-012-01, Pt. L 5, Map Book 255, Old Statesville Road. Apportioned price for this Parcel: \$334,022.

2. Tax Parcel # 019-912-08, L 2, Map Book 24, Page 834, 309 N. Main St. Apportioned Price for this Parcel: \$86,599.

3. Tax Parcel # 019-012-09, L 1, Map Book 24, Page 834, 311 N. Main St. Apportioned Price for this Parcel: \$86,599

4. Tax Parcel # 019-012-10, L 12, Map Book 24, Page 594, 315 N. Main St. Apportioned Price for this Parcel: \$61,856

5. Tax Parcel # 019-012-11, L 11, Map Book 24, Page 594, 319 N. Main St. Apportioned Price for this Parcel: \$49,484

Together with any interest in those areas designated "Dedicated to NCDOT" on Map Book 24, Page 594.

Purchase Price for above tracts: \$618,560.00

Earnest Money Deposit for above tracts: \$11,000.00

AP

Joinder of Broker Agent as to Paragraph 16

KH

4-29-15

KENNETH HOLBROOKS, BAYARD REALTY

Acknowledgement of Escrow Agent

The undersigned \_\_\_\_\_, as Escrow Agent, agrees to hold the Earnest Money Deposit and to disburse the same according to the terms of the Agreement.

This \_\_\_\_\_ day of \_\_\_\_\_, 2015.

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