

**NORTH CAROLINA
ORANGE COUNTY**

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

THIS AGREEMENT, including any and all exhibits or addenda attached hereto (“Agreement”), is made this _____ day of _____, 2016 by and between Town of Chapel Hill, (a North Carolina municipal corporation) (“Buyer”), and Chapel Hill Post 6, American Legion, Inc. (a North Carolina non-profit corporation) (“Seller”). The Effective Date of this Agreement shall be the date this Agreement has been fully executed by both Buyer and Seller.

IN CONSIDERATION OF the purchase price and the other mutual promises set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

Section 1. Sale of Property and Payment of Purchase Price:

A. Seller agrees to sell and Buyer agrees to purchase all that Property of Seller located at 1714 Legion Road, Chapel Hill, Orange County, North Carolina and described in Exhibit A attached hereto and incorporated herein by reference, including all rights, privileges, hereditaments, and easements appurtenant thereto, including without limitation, all water rights, rights of way, roadways and roadbeds, and utilities used or to be used in connection with the Property, together with all buildings and improvements thereon and all fixtures used or to be used in connection with the Property.

B. Buyer shall pay Seller as the Purchase Price the total sum of Seven Million Nine Hundred Thousand and 00/100 Dollars (\$7,900,000.00) payable as follows:

(i) Within three (3) business days after the Effective Date, Buyer shall deposit Earnest Money in the amount of Forty Thousand and 00/100 Dollars (\$40,000.00) cash in escrow with Mr. Eric Hinson, Attorney at Law, Chapel Hill, North Carolina 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 6 hereinbelow. The Earnest Money held in Mr. Hinson’s attorney trust account shall not bear interest for the benefit of any of the parties hereto.

(ii) Buyer’s Promissory Note in the amount of Four Million Three Hundred Thousand Dollars and 00/100 (\$4,300,000.00) and bearing simple interest at the rate of one percent (1%) per annum secured by a deed of trust on the property transferred and payable in two consecutive annual installments, the first installment consisting of \$2.15 million plus accumulated interest to the date of payment due on the first anniversary of Closing Date and the second installment consisting of the entire remaining principal balance due plus accumulated interest to the date of payment on the second anniversary

of Closing Date. The Closing Date of this Agreement shall mean the date and time of recording of the deed. The promissory note may be prepaid at any time in whole or in part without penalty and without further interest on the amounts prepaid from the date of such prepayment.

(iii) The balance of the Purchase Price at Closing in the amount of Three Million Five Hundred Sixty Thousand and 00/100 Dollars (\$3,560,000.00) payable in cash or immediately available funds.

Section 2. Closing:

A. Closing shall occur on or before March 31, 2017. At Closing, Seller shall deliver to Buyer a general warranty deed and other documents customarily executed or delivered by a seller in similar transactions, including without limitation, a bill of sale for any personalty, an owner's affidavit, lien waiver forms 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 held at the office of Buyer's attorney or such other place as the parties hereto may mutually agree. Possession shall be delivered at Closing, unless otherwise agreed herein.

B. Seller and Buyer agree that all property taxes (on a calendar year basis), leases, rents, mortgage payments and utilities or any other assumed liabilities, if any, shall be prorated as of the date of Closing with the following exceptions: first, Buyer agrees to maintain its current property tax exemption, if any, including timely reapplying for such status for the tax year 2017, if required; and second, Buyer shall assume and pay the Storm Water Fee for the entire year 2017.

C. Seller shall pay for preparation of the deed and all other documents necessary to perform Seller's obligations under this Agreement, excise tax (revenue stamps), any deferred or rollback real property taxes, and other conveyance fees or taxes required by law. Buyer shall pay recording costs, costs of any title search, title insurance, survey, and the cost of any examinations or inspections undertaken by Buyer under this Agreement. Each party shall pay its own attorney's fees.

D. Seller agrees to convey fee simple marketable and insurable title to the Property free and clear of all liens, encumbrances and defects of title other than: (a) zoning ordinances affecting the Property, (b) leases, 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 after the Contract Date without the prior written consent of Buyer, which consent shall not be unreasonably withheld, conditioned or delayed.

E. Buyer agrees, in the event the Buyer designates any of the Property as a park and any naming opportunity for the Property so designated arises, Buyer will use its best efforts to name the Property so designated as Legion Park. Buyer further agrees, in the event the access road into the Property shall become a formal street, to use its best efforts to name the street Robert Bauman Road or Way or Bauman Road or Way.

Section 3. Adverse Information and Compliance with Laws:

A. 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. 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 time of Closing, if any, and Buyer shall take title subject to all pending assessments disclosed by Seller herein, if any.

B. 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. 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. §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.

D. Upon Closing, Buyer agrees to lease to Seller for Three (3) Years from the Closing Date that portion of the Property and upon all those terms and conditions shown in the Lease Agreement attached hereto as Exhibit B and made a part hereof. Seller discloses to Buyer that at the time of making this Agreement (1) a portion of the property to be leased to Seller is currently subject to an oral, month-to-month lease to a tenant who operates a business on the leasehold and (2) Seller from time to time licenses the use of the main building which it occupies for its own activities to others on a temporary basis. Seller expects to continue these uses during the term of its Lease Agreement, and Buyer consents to these continued uses by Seller, its tenant and licensees.

Section 4. Examination Period and Inspections:

Beginning on the Effective Date of the Agreement and continuing through and until March 15, 2017, Buyer shall have the rights described hereinbelow to examine and inspect the property and title thereto to determine whether the Property is suitable and acceptable for Buyer's purposes in Buyer's sole judgment and discretion. If Buyer chooses at any time during the Examination Period 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.

A. Seller agrees to use its best efforts to deliver to Buyer as soon as reasonably possible after the Effective Date copies of all information relating to the Property in possession of or available to Seller, including but not limited to: title insurance policies, surveys 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, 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.

B. Title Examination: After the Effective 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 fifteen (15) days to cure said noticed defects. If Seller does not cure the defects or objections within fifteen (15) 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 North Carolina. Title to the Property must be insurable at regular rates, subject only to standard exceptions and Permitted Exceptions.

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, and performing such surveying, environmental, engineering, topographical, geological, soil and other tests, borings, studies, and measurements as Buyer deems necessary or desirable to thoroughly review and examine the Property. Buyer shall conduct all such on-site inspections, examinations, tests and measurements 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 4 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. Buyer shall have from the Effective Date through the end of the Examination Period to perform the above inspections, examinations and testing. If Buyer chooses at any time during the Examination Period 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 5. 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. If the Property is not in substantially the same condition at Closing as of the date of the Agreement, 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, if any, payable on account of the damage or destruction applicable to the Property.

Section 6. 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 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. In the event of any dispute between the Parties concerning the disbursement of the Earnest Money, the agent holding the Earnest Money may deposit the disputed monies with the appropriate clerk of court in accordance with North Carolina General Statutes.

Section 7. 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, tendered to a nationally recognized overnight courier service, deposited in the United States mail, certified, return receipt requested, or sent via electronic mail or facsimile, using the addresses set out below, or at such other addresses as specified by written notice delivered in accordance herewith.

Seller's Notice Address shall be Mr. Roger L. Stancil, Town Manager, Town of Chapel Hill, 405 Martin Luther King Jr. Blvd., Chapel Hill, NC 27514, telephone 919-969-5000, facsimile 919-969-2063, email rstancil@townofchapelhill.org; with a copy to Mr. Ralph D. Karpinos, Town Attorney, at the same mailing address, telephone 919-968-2746, facsimile same, email rkarpinos@townofchapelhill.org.

Buyer's Notice Address shall be Mr. William Munsee, Post Commander, Chapel Hill Post 6, American Legion, Inc., 109 Fawn Ridge Road, Chapel Hill, NC 27516, telephone 919-201-0167, facsimile none, email wmunsee@aol.com; with a copy to Mr. Richard J. Snider, Jr., Attorney, Snider & Rawlins, 105 S. 4th Street, Mebane, NC 27302, telephone 919-619-3184, facsimile 919-928-5511, email rick@snider-rawlins.com.

Section 8. Assignment:

This Agreement may not be assigned by either party without the express written consent of the non-assigning party, which consent shall be entirely in the discretion of the party. All attempted assignments without the consent of the non-assigning party shall be void.

Section 9. Authority:

The Closing of this Agreement for the Seller is contingent upon the approval of the sale by the general membership of Chapel Hill Post 6, American Legion, Inc. in accordance with the provisions of its Articles of Incorporation, Constitution, and Bylaws including those provisions which reference the participation of the American Legion Department of North Carolina. Seller promises to use its best efforts promptly to seek and obtain the approval of its members as provided herein. In the event the general memberships does not approve the sale on or before December 15, 2016, then, and in that event, this Agreement shall terminate and the Earnest Money shall be returned to the Buyer.

Except as provided hereinabove, 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 10. Brokers:

Buyer discloses that William Munsee, who has acted as a principal on behalf of Buyer, is the holder of a North Carolina Real Estate Brokers license, although he has not acted in that capacity in this transaction and is not being compensated for his work in this transaction.

Buyer and Seller represent and warrant to each other that they have not employed nor engaged any broker, real estate agent or salesman, finder, dealer, or consultant to be involved in this transaction. Buyer and Seller agree to indemnify and hold each other harmless from any and all claims of any broker, real estate agent or salesman, finder, dealer, or consultant claiming by, through or under the indemnifying party for fees or commissions arising out of the sale of the Property to Buyer.

Section 11. Miscellaneous:

A. Time is of the Essence. Time shall be strictly of the essence with respect to the performance of all of the obligations of the Parties to this Agreement.

B. Counterparts. This Agreement may be executed in one or more counterparts, each of which will be considered to be an original and all of which together will constitute

the same instrument. Scanned, faxed, or other electronic copies of the executed Agreement shall be effective as originals.

C. Entire Agreement and Amendment. This Agreement constitutes the sole and entire agreement among the parties hereto and supersedes all prior negotiations, representations, or agreements, written or oral, as to the matters contained herein, and all such prior negotiations, representations or agreements are merged herein. No modification or amendment of this Agreement shall be binding unless in writing and signed by all parties hereto.

D. Parties Bound. This Agreement shall be binding upon and inure to the benefit of the parties, their respective personal representatives, successors and assigns.

E. 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.

F. Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of North Carolina.

IN WITNESS WHEREOF, and by authority duly given, the parties hereto have caused this Agreement to be executed as of the dates indicated.

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

Finance Officer for Buyer
Date: _____

BUYER:
Town of Chapel Hill

SELLER:
American Legion Post 6, Chapel Hill, Inc.

By: _____
Roger L. Stancil, Town Manager
Date: _____

By: _____
William E. Munsee, Post Commander
Date: _____

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.

Eric Hinson, Attorney at Law
Date: _____