



TO: Mayor and Town Council
FROM: Kelly Barnhardt
DATE: August 14, 2012
SUBJECT: Carolina Courts Agreement

Approximately five years ago, Carolina Courts opened their doors in Old Hickory Business Park. Since that time, they have hosted numerous national, regional and local tournaments bringing in upwards of 150,000 to 200,000 people each year to their facility. The teams, the coaches, the parents and the spectators have all made several of our local surrounding businesses successful such as local eateries and other retail establishments. In the Stallings Sportsplex Study done about 2 years ago, it concluded that for every 100 visitors, 134.72 jobs are created and that a family in town for a 2 day event typically spends \$381.97. When Carolina Courts is not hosting tournaments, they are providing a healthy and active space for the youth and adults of our local area by hosting clinics, camps and open court play.

The Town began the process of helping Carolina Courts find a relocation site about 18 months ago. They were approached by the Turnpike Authority shortly before that as being in the path of the proposed Monroe Bypass. After much dialogue they expressed interest to go into our 51 Acre town-owned park, as part of a Public-Private Partnership with the Town of Indian Trail.

Approximately 4 months ago, an agreement between the Turnpike Authority and Carolina Courts was completed and with that Carolina Courts needed to be open in a new facility by the Spring of 2013. In June 2012, Carolina Courts opened their second location in Concord, NC. With the opening of this other facility and with the promise of a relocation facility here in Indian Trail, they have successfully landed numerous larger tournaments that will make their business even more successful. The new Carolina Courts facility will be 48,000 sq ft and used for several sports and recreational events.

As part of the Public-Private Partnership with the Town of Indian Trail, Carolina Courts will not only be a destination location for sports and recreational activities, but it will also allow the Town and its residents many perks

thanks to a User Agreement that will be in place for the next 15 years. The Town will purchase dedicated time for public use for 15 years with an amount of \$150,000. Some items of this agreement include:

- 1300 hours per year for Open Court time for Indian Trail residents
- Up to 8 Town events can be held in the Carolina Courts Facility
- Carolina Courts will host a camp once a year for disabled or at-risk youth
- Indian Trail will be able to display other Town events and information in the Carolina Courts lobby
- Marketing, Town logos and branding can be done on either the interior or exterior of the Carolina Courts facility

Carolina Courts has approved this agreement. After this Agreement is signed, the Town will begin to work on related sub-agreements, as we begin to prepare the location for the future Carolina Courts.

AGREEMENT FOR PURCHASE AND SALE

THIS AGREEMENT FOR PURCHASE AND SALE (this "Agreement") is made as of the _____ day of August, 2012 (the "Contract Date") by and between THE TOWN OF INDIAN TRAIL ("Seller") and PARTNERS IN HOOPS, LLC, a North Carolina limited liability company ("Buyer").

For and in consideration of the mutual promises set forth in this Agreement 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:

(a) "Property" shall mean that certain property containing approximately 3 acres, which is a portion of Union County Tax Parcel Number 07105011 and is shown generally on the map attached hereto as **Exhibit A**, together with all easements, rights, benefits and appurtenances thereto. The exact location and description of the Property will be determined during the Examination Period as described in Section 8 of this Agreement.

(b) "Town Property" shall mean Union County Tax Parcel Number 07105011, less and except the Property.

(c) "Purchase Price" shall mean the sum of Five Thousand and 00/100 Dollars (\$5,000.00), payable as follows:

(i) "Earnest Money" shall mean Two Thousand Five Hundred and 00/100 Dollars (\$2,500.00). Within five (5) days of the Contract Date, the Earnest Money shall be deposited with Seller to be applied as part payment of the Purchase Price of the Property at Closing, or disbursed as agreed upon in Section 12 below. The earnest money may be deposited in a non-interest bearing account.

(ii) Cash at Closing in the amount of Two Thousand Five Hundred and 00/100 Dollars (\$2,500.00), as the balance of the Purchase Price.

(d) "Examination Period" shall mean the period beginning on the Contract Date and ending on the date ninety (90) days after the Contract Date.

(e) "Closing" shall occur on the earlier to occur of the following (the "Closing Date"):
(i) the date that is thirty (30) days after the end of the Examination Period and (ii) the date of completion of all of the following: the Site Work (as defined in Section 6 (e)), the Rezoning (as defined in Section 6 (f)), and the Plat Approval (as defined in Section 8)).

(f) "Intended Use" shall mean the use of the Property for the following purpose: a Sports and Recreation facility offering, among other things, camps, clinics, leagues and tournaments, comprised of an approximately 48,000 square foot building and related parking.

(g) Seller's notice address shall be as follows:

Town of Indian Trail
Attention: Joe Fivas, Town Manager

PO Box 2430
130 Blythe Drive
Indian Trail, NC 28079

except as the same may be changed pursuant to Section 11.

With a required copy to:

George W. Sistrunk III
Hamilton Stephens Steele & Martin, PLLC
201 South College Street, Suite 2020
Charlotte, North Carolina 28244

except as same may be changed pursuant to Section 11.

(h) Buyer's notice address shall be as follows:

except as same may be changed pursuant to Section 11.

With a required copy to:

except as same may be changed pursuant to Section 11.

Section 2. Purchase and Sale of the Property; Use Agreement: Seller agrees to sell to Buyer, and Buyer agrees to purchase from Seller, upon the terms and conditions set forth in this Agreement, the Property.

In addition, at Closing, Seller and Buyer shall enter into a Use Agreement (the "Use Agreement") that provides for the following:

- (a) A one-time payment from Seller to Buyer at Closing of \$150,000 (the "Use Fee").
- (b) A term of 15 years.
- (c) All Indian Trail residents, at no cost, shall have open court time (the "Open Court Hours") at the Facility (as defined in Section 9(b) below) for at least 10 hours every week during normal business hours and for a total of at least 1,300 hours each calendar year.
- (d) Buyer shall identify and post on the Facility website the Open Court Hours at least 15 days in advance.
- (e) Seller may use the Facility for up to 8, one-day Town events per calendar year (such events shall not count toward the Open Court Hours), which events may be held on either week or weekend days, as reasonably determined by Buyer and Seller.

(f) Buyer shall host at least one 5 day camp for disabled or at-risk youths who are residents of the Town of Indian Trail.

(g) Seller, at its cost, may place a flat screen television or other similar device for displaying information about the Town of Indian Trail and its events in a location in the lobby of the Facility that is visible to visitors to the Facility.

(h) Seller, at its cost, may place the Town of Indian Trail logo/seal and/or marketing material related to the Town of Indian Trail on the interior and/or exterior of the Facility in locations to be agreed upon in a reasonable manner by Seller and Buyer.

Seller and Buyer shall attempt to agree on the specific terms of the Use Agreement prior to the end of the Examination Period. If Seller and Buyer fail to agree on all of those terms prior to the end of the Examination Period, either Seller or Buyer may terminate this Agreement by written notice to the other on or before the end of the Examination Period, in which case Buyer shall receive a return of the entire Earnest Money.

Section 3. Payment by Buyer of the Purchase Price: At Closing, Buyer shall pay the Purchase Price in accordance with the terms of this Agreement.

Section 4. Proration and Payment of Costs and Expenses: All real estate taxes, charges, and assessments assessed against the Property shall be prorated on a calendar year basis as of the date of Closing. Any other items which are customarily prorated in connection with the purchase and sale of properties similar to the Property shall be prorated on a calendar year basis by the parties as of the date of Closing. Seller shall pay the excise tax on the deed and any other conveyance fees or taxes and for the cost of preparing the deed, and Buyer shall pay the deed recording costs and Buyer's own due diligence costs. Seller and Buyer shall pay for their own legal fees.

Section 5. Title and Permitted Exceptions: Seller shall convey to Buyer fee simple marketable title to the Property by special warranty deed, subject only to the Permitted Exceptions (as defined below). Seller represents and warrants to Buyer that Seller is the fee simple, record owner of the Property, and at Closing, Seller shall deliver to Buyer good and marketable fee simple title to the Property, free and clear of all liens, encumbrances, restrictions, covenants, conditions and defects of title, other than (i) matters of record affecting the Property as of the Contract Date that Buyer does not object to in accordance with Section 6(a) below or which Seller is otherwise not required to cure or discharge pursuant to Section 6 below, (ii) taxes not yet due and payable, (iii) zoning and other governmental ordinances, regulations, and rules applicable to the Property, (iv) matters that would be revealed by a current and accurate survey of the Property, and (v) the matters described in Sections 9 and 10 ("Permitted Exceptions").

Section 6. Buyer's Conditions: This Agreement and the obligations of Buyer under this Agreement are hereby made expressly conditioned upon fulfillment (or waiver by Buyer) of the following conditions:

(a) **Title Review and Examination.** 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 good, marketable, fee simple and insurable or shall contain any other defects of title not acceptable to Buyer, in Buyer's sole discretion, then Buyer may notify Seller of all or any such title defects prior to the end of the Examination Period,

and Seller, at Seller's option, may elect to cure such defects within thirty (30) days. If Seller notifies Buyer that it is not electing to cure such defects or does not cure such defects within thirty (30) days of notice thereof, then Buyer may terminate this Agreement and receive a return of the entire Earnest Money (notwithstanding that the Examination Period may have expired). Title to the Property must be insurable at regular rates, subject only to standard exceptions and Permitted Exceptions.

(b) **Intended Use.** If Buyer determines, prior to the expiration of the Examination Period, that use of the Property for the Intended Use will (or may) violate any private restrictions, zoning ordinances, or other governmental regulations, then Buyer may terminate the Agreement by written notice to Seller prior to the end of the Examination Period and receive a return of the entire Earnest Money (notwithstanding that the Examination Period may have expired).

(c) **Same Condition of the Property.** If, at any time after the Contract Date and until the date of Closing, the Property is not in substantially the same condition as on the Contract Date (excluding any damage caused by Buyer's inspections), then Buyer may terminate this Agreement and receive a return of the entire Earnest Money (notwithstanding that the Examination Period may have expired).

(d) **Buyer's Inspections.** Buyer and Buyer's agents or representatives shall have the right to enter upon and access the Property for the purpose of inspecting, examining, performing soil boring, environmental and other testing, and surveying the Property. Buyer agrees to indemnify and hold Seller harmless from any third party claims filed against Seller directly and solely as a result of any negligent acts of Buyer in connection with such access on the Property by Buyer pursuant to this Section 6(d) and, prior to entering the Property, shall provide Seller with evidence of liability insurance in form and an amount satisfactory to Seller, in its reasonable discretion. If, prior to the expiration of the Examination Period, Buyer determines that the Property is unsuitable (in Buyer's sole discretion), then Buyer may terminate this Agreement by written notice to Seller before the end of the Examination Period, in which case Buyer shall receive a return of the entire Earnest Money. Seller shall deliver to Buyer, within five (5) days of the Contract Date, complete copies of any Seller's title insurance policy and any surveys and environmental reports regarding the Property in Seller's possession.

(e) **Preparation of Building Site.** Before the end of the Examination Period, Seller and Buyer shall attempt to agree upon any necessary grading and/or fill work that needs to be performed in order to prepare the Property for the Intended Use (the "Site Work"). The Site Work shall be performed at Seller's sole cost after the end of the Examination Period and prior to Closing. If Seller and Buyer fail to agree on the Site Work prior to the end of the Examination Period, either Seller or Buyer may terminate this Agreement by written notice to the other before the end of the Examination Period, in which case Buyer shall receive a return of the entire Earnest Money. If Seller and Buyer agree on the Site Work and Seller fails to complete the Site Work prior to the Closing Date, Buyer may terminate this Agreement by written notice to Seller on or before the Closing Date, in which case Buyer shall receive a return of the entire Earnest Money.

(f) **Zoning.** Before the Closing Date, Seller, at its sole cost, shall rezone the Property so that the Intended Use is authorized under the zoning classification for the Property (the "Rezoning"). If Seller fails to complete the Rezoning prior to the Closing Date, Buyer may terminate this Agreement by written notice to Seller on or before the Closing Date, in which case Buyer shall

receive a return of the entire Earnest Money. Buyer acknowledges and agrees that Seller may choose not to begin work on any rezoning until the expiration of the Examination Period.

(g) **Seller's Performance under this Agreement.** Seller has performed and observed all of the terms, conditions, covenants and obligations under this Agreement on Seller's part to be performed or observed (including, without limitation, executing and delivering to Buyer all of the Closing documents required from Seller pursuant to this Agreement and conveying to Buyer good and marketable fee simple title to the Property in accordance with Section 5 above).

Section 7. Seller's Conditions: This Agreement and the obligations of Seller under this Agreement are hereby made expressly conditioned upon fulfillment of the following conditions prior to Closing:

- (a) The approval of the Town Council of Seller.
- (b) Compliance with the requirements of N.C.G.S. § 158-7.1 and/or § 160A-269.
- (c) Seller's approval, which shall not be unreasonably withheld, of the plans and specifications for the building to be constructed on the Property by Buyer.

If the conditions set forth in subsections (a) and (b) above have not been satisfied prior to the expiration of the Examination Period, either Seller or Buyer may terminate this Agreement by written notice to the other before the end of the Examination Period, in which case Buyer shall receive a return of the entire Earnest Money. If the condition set forth in subsection (c) has not been satisfied prior to Closing, either Seller or Buyer may terminate this Agreement by written notice to the other at or prior to Closing, in which case Buyer shall receive a return of the entire Earnest Money.

Section 8. Property Description and Subdivision Plat: As soon as reasonably possible after the Contract Date, Seller and Buyer shall attempt to agree upon the exact location and boundaries of the Property, so that Buyer, at its sole cost, may complete a survey and, if necessary, a subdivision plat of the Property. If Seller and Buyer fail to agree on the exact location and boundaries of the Property within thirty (30) days after the Contract Date (the "Boundary Determination Period"), either Seller or Buyer may terminate this Agreement by written notice to the other before the end of the Boundary Determination Period, in which case Buyer shall receive a return of the entire Earnest Money. Seller, at its sole cost, shall be responsible for obtaining any required subdivision approvals and for the cost of recording any subdivision plat (the "Plat"). If the Plat is not approved and recorded (the "Plat Approval") at or prior to the Closing Date, either Seller or Buyer may terminate this Agreement by written notice to the other on or before the Closing Date, in which case Buyer shall receive a return of the entire Earnest Money. Buyer acknowledges and agrees that Seller may choose not to begin the subdivision process until the expiration of the Examination Period.

Section 9. Deed Restrictions: In addition to the other matters described in this Agreement, Seller shall convey the Property to Buyer subject to the following matters, which shall be set forth in the deed delivered to Buyer at Closing:

- (a) The Property shall only be used for the Intended Use.

(b) Buyer shall construct, at its sole cost and expense, a building of approximately 48,000 square feet containing at least the following amenities: 8 basketball courts and 8 volleyball courts (the “Facility”). Construction shall begin on the Facility within 30 days after Closing and be substantially completed within 150 days after Closing. The Facility shall open to the public on or before December 31, 2013.

(c) Seller has the right to approve any improvements constructed on the Property, which approval shall not be unreasonably withheld.

(d) If for reasons other than those beyond the control of Buyer, such as fire, acts of God, or other similar force majeure events, (i) the Facility is not open to the public on or before December 31, 2013, (ii) the Facility is not operated for the Intended Use for more than 30 consecutive days or for more than 120 total days in any one calendar year, or (iii) the Property is put to any use other than the Intended Use, the Property, including the Facility and any other improvements located on the Property, shall automatically revert to the Seller.

Section 10. Declaration of Covenants: Buyer acknowledges that the Town Property will be part of a public park complex to be constructed and operated by Seller (the “Park”) and that the Property will be governed by certain covenants, conditions, and restrictions related to the Park. In addition to the other matters described in this Agreement, Seller shall convey the Property to Buyer subject to the following matters, which shall be set forth in a Declaration of Covenants and Easements to be recorded by Seller at or prior to Closing:

(a) Reasonable covenants, conditions, and restrictions on the Town Property and the Property, provided that such covenants, conditions, and restrictions do not unreasonably interfere with the Intended Use.

(b) Seller, at its sole cost, shall construct at least a two-lane public road between Matthews-Indian Trail Road and the northwest property line of the Town Property in the area generally shown on Exhibit B attached hereto and incorporated herein (the “Road”). The Road shall be substantially completed on or before July 1, 2013.

(c) Easements across the Town Parcel for access to the Property in locations to be determined by Seller in its reasonable discretion.

(d) Easements for parking for visitors to the Property in locations to be determined by Seller in its reasonable discretion.

(e) Easements on the Property for parking for visitors to the Town Parcel.

(f) Buyer shall be responsible for all repairs and maintenance on the Property, including the Facility.

(g) Seller shall be responsible for all repairs and maintenance on the Town Property.

(h) Exclusive rights for Buyer to provide food and beverage services during certain events at the Property and restrictions on non-Buyer provided food and beverage services.

Seller and Buyer shall attempt to agree on the specific terms of items (c), (d), (e), and (h) prior to the end of the Examination Period. If Seller and Buyer fail to agree on all of those terms prior to the end of the Examination Period, either Seller or Buyer may terminate this Agreement by written notice to the other on or before the end of the Examination Period, in which case Buyer shall receive a return of the entire Earnest Money.

Section 11. Risk of Loss and Damage/Repairs: Until the Closing, the risk of loss or damage to the Property shall be borne by Seller. If, prior to Closing, either (i) any part of the Property is (or may be) taken by eminent domain or deed in lieu thereof, (ii) any condemnation proceedings are commenced or threatened, or (iii) any portion of the Property is damaged by fire or other casualty, then, in any such event, Buyer shall have the option, by written notice to Seller, to terminate this Agreement and receive an immediate refund of the entire Earnest Money. If Buyer does not terminate this Agreement, then this Agreement shall remain in full force and effect, and Seller shall assign, transfer and set over to Buyer at Closing all of Seller's right, title and interest in and to any condemnation awards or insurance proceeds (as applicable) that may be paid for any such taking or casualty (as applicable), or, if such award or proceeds (as applicable) have already been paid to Seller, then the amount of such paid award or proceeds (as applicable) shall be deducted from the Purchase Price (i.e., Buyer shall receive at Closing a credit against the Purchase Price for the amount of such award or proceeds). Except as to maintaining the Property in its same condition and the Site Work described in Section 6(e) above, Seller shall have no responsibility for making any improvements to the Property.

Section 12. Default and Earnest Money Disbursement: In the event of a breach of this Agreement by Seller and Seller fails to cure such breach within ten (10) days of Seller's receipt of written notice of such breach from Buyer (a "Seller Default"), and provided that Buyer is not then in default hereunder beyond the expiration of the applicable notice and cure period, then Buyer may elect, as its sole and exclusive remedy, to (i) terminate this Agreement, in which case the entire Earnest Money shall be returned to Buyer or (ii) sue Seller for specific performance. If Buyer breaches this Agreement and fails to cure such breach within ten (10) days of Buyer's receipt of written notice of such breach from Seller, and provided that Seller is not then in default hereunder beyond the expiration of the applicable notice and cure period, then Seller may elect, as its sole and exclusive remedy, to (i) terminate this Agreement, in which case the entire Earnest Money shall be paid to Seller or (ii) sue Buyer for specific performance. If either Buyer or Seller elect to terminate this Agreement and receive the Earnest Money as described above, then Buyer or Seller, as applicable, shall retain the Earnest Money as liquidated damages arising from and not as a penalty for Buyer's or Seller's default and Buyer and Seller acknowledge that because of the difficulty, uncertainty, and inconvenience of ascertaining actual damages, the retention of the Earnest Money as liquidated damages does not constitute a penalty, but represents fair, adequate, and reasonable compensation for the other party's breach.

Section 13. Closing: The Closing shall consist of the execution and delivery by Seller to Buyer of a Special Warranty Deed, the Use Agreement, and other documents customarily executed by a seller in similar transactions, including, without limitation, a closing statement, an owner's affidavit (in form and substance acceptable to Buyer and Buyer's title insurance company), lien waiver forms (in form and substance acceptable to Buyer and Buyer's title insurance company), Seller resolution authorizing the sale of the Property to Buyer (in form and substance acceptable to Buyer), and a non-foreign affidavit, together with the payment of the Use Fee; and the execution and delivery by Buyer to Seller of the Use Agreement and other documents customarily executed by a buyer in similar

transactions, including, without limitation, a closing statement, and a Buyer resolution authorizing the purchase of the Property, together with the payment by Buyer to Seller of the Purchase Price in accordance with the terms of this Agreement. At Closing, the Earnest Money shall be applied as part of the Purchase Price or as otherwise provided in this Agreement. The Closing shall be held at the office of Buyer's attorney or at such other place as the parties hereto may mutually agree. Possession shall be delivered to Buyer by Seller at Closing.

Section 14. Notices: All notices and other communications which may be or are required to be given or made by any party to the other in connection with this Agreement shall be in writing and shall be delivered in person or deposited in the United States mail, registered or certified, return receipt requested, or delivered by national overnight deliver service (such as Fed Ex), to the address(es) set forth 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 to the other in accordance with this Agreement. Any notice or other communication shall be deemed delivered upon the earlier of actual delivery or refusal of delivery. Any notice or other communication given by a party may be executed and sent by such party's legal counsel.

Section 15. Seller's Representations and Warranties: Seller represents and warrants to Buyer that (a) there are no condemnation(s) affecting, contemplated or threatened with respect to the Property; (b) there are no actions, suits or proceedings pending or threatened against the Property; (c) there are no changes pending or contemplated in any applicable laws, ordinances or restrictions affecting the Property; (d) there are no governmental or private assessments, either pending or confirmed, affecting the Property; (e) Seller has complied with all applicable laws, ordinances, regulations, statutes, rules and restrictions pertaining to or affecting the Property; (f) performance of this Agreement by Seller will not result in a breach of, or constitute a default under, any agreement or instrument to which Seller is a party or by which Seller or the Property is bound or result in the imposition of any lien or encumbrance upon the Property; and (g) there are no legal actions, suits or other legal or administrative proceedings pending or threatened against the Property or Seller, and Seller is not aware of any facts which might result in any such action, suit or other proceeding. Seller shall indemnify, defend and hold harmless Buyer and Buyer's affiliates, agents, employees, officers, members, managers and representatives from and against all losses, costs, expenses (including, without limitation, attorney's fees and court costs), claims, damages and liabilities in connection with (or arising out of) any of the foregoing representations or warranties or other representations or warranties contained in this Agreement being false or incorrect.

Section 16. As Is Sale: BUYER ACKNOWLEDGES AND AGREES THAT, EXCEPT AS SPECIFICALLY PROVIDED IN THIS AGREEMENT OR IN ANY DOCUMENT DELIVERED BY SELLER AT CLOSING, SELLER HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, CONCERNING OR WITH RESPECT TO THE PROPERTY OR ANY MATTER RELATED THERETO, INCLUDING, WITHOUT LIMITATION, THE MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR DEVELOPMENT OF THE PROPERTY, AND COMPLIANCE WITH ANY ENVIRONMENTAL PROTECTION, POLLUTION OR LAND USE LAWS, RULES, REGULATION, ORDERS OR REQUIREMENTS. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT OR IN ANY OF THE DOCUMENTS DELIVERED BY

SELLER TO BUYER AT CLOSING, BUYER ACKNOWLEDGES AND AGREES THAT TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE SALE OF THE PROPERTY AS PROVIDED FOR HEREIN IS MADE ON AN “AS-IS, WHERE IS” CONDITION AND BASIS WITH ALL FAULTS.

Section 17. Applicable Law: This Agreement shall be construed and interpreted in accordance with the laws of the State of North Carolina.

Section 18. Headings: The paragraph headings are inserted for convenience only and are in no way intended to describe, interpret, define or limit the scope or content of this Agreement or any provision hereof.

Section 19. Severability: The provisions of this Agreement are intended to be independent. If any provision hereof should be declared by a court of competent jurisdiction to be illegal or invalid for any reason whatsoever, then such illegality or invalidity shall not affect the remainder of this Agreement.

Section 20. Counterparts; Facsimiles: This Agreement may be executed in multiple counterparts which, when assembled, shall constitute one original. A counterpart executed and delivered by facsimile transmission or electronic mail shall be deemed an original.

Section 21. Business Days: If the final day of any period or any date of performance under this Agreement falls on a Saturday, Sunday or legal holiday, then the final day of the period or the date of performance shall be extended to the next day which is not a Saturday, Sunday or legal holiday.

Section 22. Time of the Essence: Time is of the essence as to all provisions of this Agreement.

Section 23. Successors and Assigns: This Agreement shall be binding upon and inure to the benefit of Seller and Buyer, and their respective heirs, successors and assigns.

Section 24. Entire Agreement: This Agreement constitutes the entire agreement of the parties and may not be amended except by written instrument executed by Seller and Buyer.

Section 25. 1031 Exchange: Either party may consummate the purchase or sale of the Property as part of a so-called like kind exchange (“Exchange”) pursuant to 1031 of the Internal Revenue Code of 1986, as amended (“Code”), and the other party shall diligently and promptly cooperate with the party performing the Exchange, including, without limitation, promptly executing and delivering to the other party any commercially reasonable Exchange documents.

Section 26. Assignment by Buyer: Buyer may not assign this Agreement without the prior written consent of Seller, which consent may be withheld in Seller’s sole discretion.

Section 27. Broker: Seller represents to Buyer that Seller has not dealt with any real estate broker or agent in connection with this transaction. Buyer represents to Seller that Buyer has not dealt with any real estate broker or agent in connection with this transaction and Buyer shall indemnify and hold the other harmless from any other claim or demand made by any broker or agent with respect to this transaction because of acts or omissions of Buyer.

[Signature Page Follows]

BUYER:

PARTNERS IN HOOPS, LLC,
a North Carolina limited liability company

By: _____

Name: _____

Title: _____

Date: _____

SELLER:

TOWN OF INDIAN TRAIL

By: _____

Name: _____

Title: _____

Date: _____

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

(Signature of finance officer)

EXHIBIT A

Depiction of the Property

See attached.

EXHIBIT B

Depiction of the Road

See attached.