

whatever reason, Buyer may cancel this Agreement. Buyer waives any objection to any issue not objected to within 60 days of the Effective Date, except for subsequent encumbrances which arise after the expiration of the Due Diligence Period as provided for below.

- IV. Right of First Refusal – Seller shall provide the Buyer with a right of first refusal to purchase the remainder of 104 Main Street. Upon receiving written notice of intent to sell from Seller, Buyer shall have 50 days to utilize the right of first refusal.
- V. Effective Date - With regard to this Agreement, all time periods and deadlines stated herein shall be measured from the Effective Date shown above, regardless of the actual date of execution.
 - A. Authorizing Resolution – Seller understands that Buyer is a South Carolina municipality and is required by law to enact a Resolution in order to purchase any land, thus closing shall take place as soon as possible after a Resolution is enacted. This Purchase Contract is not final and binding until such Resolution is enacted by the Hardeeville City Council.
- VI. Provision of Due Diligence Materials. If this Agreement is cancelled or Buyer fails to close, for any reason, the Buyer shall provide all documents, studies, surveys, plans, and any other materials generated, pursuant to Buyer’s due diligence review, to the Seller. Upon Seller’s request, Buyer shall authorize any independent contractors, consultants and/or other third parties which have performed due diligence services for the Buyer to release any and all information to Seller.
- VII. Confidentiality of Information. The Buyer agrees to keep any information provided to the Buyer by the Seller pursuant to the Property or this Agreement confidential. The Buyer may provide such materials to the Buyer’s third party advisors, but the Buyer is responsible that such third parties keep such information confidential and the Buyer is responsible for any disclosure of such information by such third party advisors. Seller understands the Buyer is a South Carolina Municipality and bound by the South Carolina Freedom of Information Act (“FOIA”) and this Contract upon final execution is subject to disclosure pursuant to FOIA.
- VIII. Subsequent Encumbrances - Subsequent encumbrances are those encumbrances which substantially affect the title or marketability of the Property which arise after the Effective Date of this Agreement by the Seller. The Seller shall not encumber title to the Property from and after the date of execution of this Agreement. In the event subsequent encumbrances arise, through no fault of the Buyer, between the termination of the Due Diligence Period and closing, the Buyer shall have the option to cancel this Agreement and be entitled to a full refund of the earnest money deposit.

- IX. Sale "As Is". Except as otherwise provided herein, Buyer is purchasing the Property "as is, where is" without any warranty or representation by the Seller. This provision shall expressly survive closing and shall not be merged with the Deed or other document, unless the Seller agrees to waive this provision by express, unequivocal, written waiver which is signed by Seller.
- X. No Financing Contingency. The Buyer's obligations under this Agreement are not subject to the Buyer obtaining financing from any party.
- XI. Condemnation - In the event the Property or any portion thereof is or becomes the subject of a condemnation proceeding, the Seller shall immediately notify the Buyer thereof and the Buyer shall have Thirty (30) days from the receipt of such notice to either (1) cancel this Agreement and receive a full refund of the earnest money deposit or (2) consummating the transaction contemplated by this Agreement without reduction of the purchase price, in which event the Seller shall assign, transfer and set over to the Buyer all of the Seller's right, title and interest in any proceeds of condemnation.
- XII. Closing Documents and Deliveries - The closing shall be handled as is customary in South Carolina. Specific items for attention are as follows:
- A. The Seller shall execute and deliver a general warranty deed to the Buyer.
 - B. The Seller shall execute and deliver to the Buyer such documents as may be reasonably required by the Buyer, the Buyer's lender or any title insurance company providing coverage to the Buyer or the Buyer's lender.
 - C. The Seller shall deliver to the Buyer such evidence reasonably satisfactory to the Buyer of Seller's authority to consummate the transaction.
 - D. The Seller shall execute and deliver to the Buyer a seller's affidavit in form customary for Jasper County.
 - E. The Seller and proposed signatory to closing documents shall execute and deliver to the Buyer an affidavit pursuant to Section 1445 of the Internal Revenue Code, as amended, in form customary for Jasper County.
 - F. The Buyer shall prepare a HUD 1 Settlement Statement to be executed by the parties.
 - G. The Buyer shall be responsible for the preparation, execution and delivery of all other documents associated with this closing, including owner financing documents.
 - H. Closing costs and prorations shall be divided among the parties as is customary for closing in South Carolina. Each side shall bear their own

attorney's fees, except as provided herein. Buyer shall bear the cost of recording the mortgage for owner financing.

XIII. Seller's Representations and Warranties - As a material inducement to Buyer to execute this Agreement and consummate the real estate closing contemplated herein, Seller hereby makes the following representations and warranties:

- A. Seller is seized with fee simple title to the Property and has the authority to convey the same. Seller is the sole owner of the Property and Seller is not aware of any other person or entity that claims or may claim any legal or equitable interest in the Property.
- B. There are no liens, leases, encumbrances or security interests affecting the Property which are not recorded in the public records of Jasper County, South Carolina.
- C. At the time of Seller's execution of this Agreement and at the time of closing, there is not and shall not be any pending litigation relating to the Property, except as disclosed above.
- D. Seller's execution of this Agreement does not breach any other agreement under which Seller is bound and, at closing, Seller shall not be in breach of any state, local or federal ordinance, permit, license, regulation or other law.
- E. All documents and representations provided by Seller to Buyer pursuant to this Agreement and the real estate closing contemplated herein shall be true, accurate and unaltered by Seller, to the best of Seller's information and belief, except as expressly disclosed by Seller in writing.
- F. At the time of the real estate closing contemplated herein, Seller is aware of no other condition which adversely affects title to or marketability of the property which Seller has not been disclosed to Buyer in writing.

XIV. Default and Remedies -

- a. Default by Seller - Upon the failure of the Seller to comply with any term or provision of this Agreement 10 days after written notice to cure by the Buyer, the Buyer may (1) elect to cancel this Agreement or (2) sue for specific performance.
- b. Default by Buyer - Upon the failure of the Buyer to comply with any term or provision of this Agreement 10 days after written notice to cure by the Seller, the Seller may elect to cancel this Agreement.
- c. Attorney's Fees and Costs Upon Default - Upon the default of either party, the defaulting party shall be responsible for any real estate commission

which may be due, notwithstanding any election, and the defaulting party shall indemnify and hold the non-defaulting party harmless for any real estate commission. In the event litigation arises with regard to this Agreement or the transaction contemplated thereby, the prevailing party shall be entitled to recover its reasonable attorneys' fees and expenses incurred in the prosecution or defense of such litigation.

- d. Real Estate Commission - The parties represent and warrant to each other no real estate commission is due to any party. Buyer shall indemnify and defend Seller against any real estate commission incurred by reasons of the acts or omissions of the Buyer and the Seller shall indemnify and defend the Buyer against any real estate commission incurred by reasons of the acts or omissions of the Seller.

- XV. Entire Agreement - This Agreement constitutes the entire agreement and understanding of the parties with regard to the subject matter herein and all prior and contemporaneous agreements and understandings between the parties, whether written or oral, are merged and superseded by this Agreement.

- XVI. Modification - This Agreement shall not be modified, except by express, written agreement, signed by the party to be bound.

- XVII. Severability - In the event any term or provision of this Agreement shall be deemed invalid or unenforceable by a Court of competent jurisdiction, such invalidity or unenforceability shall not affect the remaining terms and conditions of this Agreement and such remaining terms and conditions shall continue in full force and effect. Further, such invalid or unenforceable term shall be interpreted to be enforceable to the extent allowed by South Carolina law.

- XVIII. Legal Representation - With regard to this Agreement, Seller has been represented by the Law Offices of Darrell Thomas Johnson, Jr., LLC, and Buyer has been represented by the City Attorney, Prina C. Maines.

- XIX. No Waiver - The waiver of any breach of any term or provision of this Agreement shall not constitute the waiver of any other or subsequent breach.

- XX. Time of the Essence - Time is of the essence with regard to all matters contained herein.

- XXI. Document as Offer - This document shall not be binding on either party until this document is fully and properly executed by both parties. Notwithstanding the foregoing, once fully executed, this Agreement shall be treated as if it were actually executed on the Effective Date for the purposes of computing times relevant herein, regardless of the actual date of execution.

- XXII. Tolling of Deadlines - Notwithstanding any provision in this Agreement to the contrary, the deadlines herein may be tolled in the event of any natural, political

or other disaster or occurrence which reasonably renders any party's performance of its obligations under this Agreement at or within a certain time unreasonably difficult or impossible. Such disaster or occurrence shall include but not be limited to nuclear war, hurricanes, tornadoes, terrorist attack, earthquake, government shutdown, Court order. Such disaster or occurrence shall not be one within either party's reasonable control. Any such deadline tolled pursuant to this provision shall be tolled for such period as is reasonably necessary for the party or parties to deal with such disaster or occurrence.

XXIII. Notices - Any notice given with regard to this Agreement shall be in writing and addressed as shown below. If a party is represented by an attorney, notice to that party shall be through said attorney. Notice may also be given by personal hand delivery.

A. If to Seller:

Argent Construction and Development, LLC
c/o Mills L. Morrison, Jr.
Law Offices of Darrell Thomas Johnson, Jr., LLC
Post Office Box 1125
Hardeeville, South Carolina 29927
(843) 784-2142
Millsmorrison@yahoo.com

B. If to Buyer:

The City of Hardeeville
c/o Michael J Czymbor, City Manager
205 Main Street
P.O. Box 609
Hardeeville SC 29927
(843) 784-2231
mczymbor@hardeevillesc.gov

With Copy to:
Prina C Maines, City Attorney
205 Main Street
PO Box 609
Hardeeville SC 29927
(843) 784-2231
pmaines@hardeevillesc.gov

If either party wishes to change its address for notice, it shall give written notice to the other party addressed to the other party's latest designated address for notice.

XXIV. Counterparts - This Agreement may be executed in counterparts or as a single instrument.

XXV. Gender / Number - With regard all terms and provisions of this Agreement, the masculine shall include the feminine and the singular shall include the plural and vice versa wherever to do so is necessary to give full effect to the terms of this Agreement.

XXVI. Binding Effect - This Agreement and the terms and conditions thereof, shall be binding upon and shall inure to the benefit of the parties and their successors and assigns.

XXVII. Survival - This Agreement and all of the terms and provisions of this Agreement shall survive the closing contemplated hereby.

XXVIII. Governing Law / Forum Selection - This Agreement shall be governed and enforced by the laws of the State of South Carolina, excluding South Carolina's laws regarding conflict of laws. The parties hereby submit themselves to the jurisdiction of the Courts of South Carolina for any dispute(s) arising out of this Agreement or out of the transaction contemplated by this Agreement, unless the Courts of South Carolina, lack subject matter jurisdiction, in which case the parties may litigate the matter in any Court which has subject matter jurisdiction.

XXIX. Assignment - This Agreement shall not be assigned except with the express, written consent of the non-assigning party. However, an assignment shall be permitted if such assignment is necessary to effectuate a 1031 Exchange. Further, either party may assign their rights and obligations under this Agreement to an entity wholly controlled by such assigning party, provided that reasonable notice is given to the non-assigning party.

XXX. 1031 Exchange - In the event either party wishes to transfer or acquire property, in connection with the transaction contemplated by this Agreement, pursuant to an Internal Revenue Code Section 1031 Tax Deferred Exchange, then the other party agrees to cooperate with such party in effecting such exchange. If a party wishes to effect a 1031 Exchange, it shall give reasonable notice to the other party of its intent to do so.

XXXI. Termination - This Agreement may be terminated by mutual written agreement of the parties or as otherwise provided in this Agreement.

In Witness Whereof, the parties have set their Hands and Seals on the date first written above.

Seller:

By: _____
Print: _____
Its: _____

Buyer:

By: _____
Print: _____
Its: _____