

FORSYTH COUNTY BOARD OF COMMISSIONERS

MEETING DATE: JULY 25, 2019

AGENDA ITEM NUMBER: 7

SUBJECT: RESOLUTION AUTHORIZING PURCHASE OF LOT 1 OF TANGLEWOOD BUSINESS PARK FROM WMB REALTY COMPANY, LLC, AND TERMINATING INCENTIVE AGREEMENT WITH BEAUFURN, LLC (COMMUNITY AND ECONOMIC DEVELOPMENT)

COUNTY MANAGER'S RECOMMENDATION OR COMMENTS:

SUMMARY OF INFORMATION:

ATTACHMENTS: YES NO

SIGNATURE: _____ DATE: _____
COUNTY MANAGER

**RESOLUTION AUTHORIZING PURCHASE OF LOT 1 OF TANGLEWOOD
BUSINESS PARK FROM WMB REALTY COMPANY, LLC, AND
TERMINATING INCENTIVE AGREEMENT WITH BEAUFURN, LLC
(COMMUNITY AND ECONOMIC DEVELOPMENT)**

WHEREAS pursuant to the Agreement for Option to Purchase dated August 15, 2018, between Forsyth County and WMB Realty Company, LLC (“WMB”), the County transferred to WMB Lot 1 (the “Property”) in the Tanglewood Business Park, identified by the Forsyth County Tax Assessor as Parcel Identification Number (PIN) 5881-79-7650.00, as recorded by the Forsyth County Register of Deeds at Book 3420, Page 1162;

WHEREAS Section 4 of the Agreement provides WMB with the option to require Forsyth County to repurchase the Property from WMB if the County is unable to provide infrastructure to the Property by the dates listed therein;

WHEREAS due to circumstances beyond its control, Forsyth County was unable to provide such infrastructure by those dates and, on June 5, 2019, WMB exercised this option to require repurchase; and

WHEREAS, as full compensation for the Property, Forsyth County is required to pay WMB its purchase price of \$399,500.00, in addition to reimbursing WMB for all of its out of pocket costs directly associated with the Property including but not limited to attorney fees, engineering and/or general contractor fees, environmental assessment fees, and real estate commissions, which payments shall be approximately \$100,000;

NOW THEREFORE BE IT RESOLVED, that the Forsyth County Board of Commissioners hereby authorizes the County Manager, in coordination with the Clerk to the Board, to execute the necessary documents to complete the transfer of the Property, consistent with the terms outlined in the Agreement attached hereto and incorporated herein by reference, subject to a pre-audit certificate thereon by the County Chief Financial Officer, if applicable, and approval as to form and legality by the County Attorney.

Adopted this the 25th day of July 2019.

STATE OF NORTH CAROLINA

AGREEMENT

FORSYTH COUNTY

THIS AGREEMENT, made and effective this 1st day of August, 2019, by and between Forsyth County, North Carolina (the "County"), Beaufurn, LLC ("Beaufurn"), and WMB Realty Company, LLC ("WMB") (collectively Beaufurn and WMB are referred to as the "Grantor");

For the purpose and subject to the terms and conditions hereinafter set forth, the County and the Grantor hereby agree as follows:

1. Repurchase of Land. Pursuant to the Agreement for Option to Purchase dated August 15, 2018, between the County and WMB (the "Option Agreement"), the County transferred Lot 1 (the "Property") in the Tanglewood Business Park, identified by the Forsyth County Tax Assessor as PIN 5881-79-7650.00, as recorded by the Forsyth County Register of Deeds at Book 3420, Page 1162. Section 4 of the Option Agreement provides WMB with the option to require the County to repurchase the Property from WMB if the County is unable to provide infrastructure to the Property by the dates listed therein. Due to circumstances beyond its control, the County was unable to provide such infrastructure by those dates. On June 5, 2019, WMB exercised this option to require repurchase, and the County hereby repurchases the Property from WMB. Upon payment as set forth in Section 2, WMB shall execute a General Warranty Deed transferring the Property to the County and hereby authorizes the County to record such deed on its behalf with the Forsyth County Register of Deeds. The Deed shall be in substantially the same form as the General Warranty Deed attached hereto as Attachment A and incorporated herein by reference (the "Reconveyance Deed").

2. Compensation. As full compensation for the Property, at the time of recording of the Reconveyance Deed, the County agrees to pay WMB the sum of \$399,500.00, payable at the closing of the transfer of the Property to the County. In addition, the County agrees to pay WMB all out of pocket costs directly associated with the Property incurred by WMB including but not limited to attorney fees, engineering and/or general contractor fees, environmental assessment fees, and real estate commissions. WMB shall provide the County with invoices for all such out of pocket costs.

3. Termination. The County and Beaufurn hereby terminate the Agreement for the Use of Forsyth County Economic Development Incentive Grant Funds dated August 14, 2018 (the "Incentive Agreement"). Neither party shall have any obligation to the other with regard to the Incentive Agreement. The County and WMB also terminate the Option Agreement.

4. Property Tax. Upon transfer of the Property to the County, neither WMB nor Beaufurn shall be responsible for any property taxes associated with the Property. The County shall pay any such property tax associated with the Property.

5. Liens. WMB and Beaufurn warrant that there are no mortgages or liens on the Property other than those preexisting as of August 9, 2018, and agree to defend and hold the County harmless from any claims to the Property based upon any action taken by WMB or Beaufurn.

6. Notice. All notices permitted or required to be given by one party to the other party shall be addressed and delivered in writing as follows:

For the County:

J. Dudley Watts, Jr.
Forsyth County Manager
201 N. Chestnut Street
Winston-Salem, NC 27101

For the Grantor:

Bill Bongaerts
WMB Realty Company, LLC
5269 US Highway 158
Advance, NC 27006

Thomas Bongaerts
Beaufurn, LLC
5269 US Highway 158
Advance, NC 27006

7. Assignment. The Grantor may not assign its obligations under this Agreement unless it has received prior written approval from the County, which may be withheld at the sole discretion of the County.

8. Waiver. No action or failure to act by the County shall constitute a waiver of any of its rights or remedies or as approval or acquiescence in a breach thereunder, except as may be specifically agreed in writing.

9. Governing Law. This Agreement shall be governed by North Carolina law, except that provisions regarding conflicts of laws shall not apply. The venue for any legal proceeding shall be in Forsyth County, North Carolina.

10. Survival of Provisions. All obligations arising prior to termination of this Agreement and all provisions of this Agreement allocating responsibility or liability between the parties shall survive the completion of services and termination of this Agreement.

11. Modification. This Agreement may only be modified in writing and signed by both the Grantor and by the County Manager or other authorized County official.

12. Conflict with Attachments. In the event of any conflict between the provisions in this Agreement and any provisions in an attachment thereto, the provisions in this Agreement shall take precedence over any provision in an Attachment.

IN WITNESS WHEREOF, the authorized officials of the County and the Grantor have set their hands and seals as of the day and year first above written.

FORSYTH COUNTY, NORTH CAROLINA

(SEAL)

By: _____
J. Dudley Watts, Jr, County Manager

Date: _____

ATTEST:

Ashleigh M. Sloop, Clerk to the Board

Date: _____

(SEAL)

WMB REALTY COMPANY, LLC

By: _____

Printed Name: _____

Title: _____

Date: _____

(SEAL)

BEAUFURN, LLC

By: _____

Printed Name: _____

Title: _____

Date: _____

Attachment A

DRAFTED BY: B. Gordon Watkins III, Forsyth County Attorney	Tax Block:4203; Lot 107A, PIN# 5881-79-7650.00
Mail after recording to:	Mail future tax bills to:
County of Forsyth attn. J. Dudley Watts, Jr., County Manager	County of Forsyth attn. J. Dudley Watts, Jr., County Manager
201 N. Chestnut Street	201 N. Chestnut Street
Winston-Salem, North Carolina 27101	Winston-Salem, North Carolina 27101

NORTH CAROLINA GENERAL WARRANTY DEED

THIS DEED made this ____ day of August, 2019, by and between

GRANTOR	GRANTEE
WMB REALTY COMPANY, LLC, 5269 US Highway 158 Advance, North Carolina, 27006	COUNTY OF FORSYTH a political subdivision of the State of North Carolina 201 N. Chestnut Street Winston-Salem, NC 27101

The designation Grantor and Grantee, as used herein, shall include said parties, their heirs, successors, and assigns, and shall include the singular, plural, masculine, feminine, or neuter, as required by context.

WITNESSETH, that the Grantor, for valuable consideration paid by the Grantee, the sufficiency and receipt of which is hereby acknowledged, has and by these presents does, hereby, grant, bargain, sell, and convey unto the Grantee, in fee simple, land located in Forsyth County, North Carolina, more particularly described in **Exhibit A**, attached hereto and incorporated herein by reference, which is the same property described in the General Warranty Deed recorded at Book 3420, Page 1162, subject to the following restrictions running with the land, which are expressly agreed to by Grantee as stated below. It being the intent of the Grantor to convey to Grantee all of the Grantor's interest in the land.

TO HAVE AND TO HOLD unto Grantee, the aforesaid land together with all privileges and appurtenances thereunto belonging, in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever with the exceptions hereinafter stated.

This conveyance is made subject to all recorded easements and restrictions of record, including a 60' Access and 80' Utility Easement recorded at Book 3413, Page 3206, and that certain Easement Agreement for utility access between Grantor and Southwest Athletics, Inc., recorded at Book 3413, Page 3205, Forsyth County Registry, governmental regulations, and ad valorem taxes for the current year. This conveyance is also made subject to all covenants, conditions, and option rights of record, including that Declaration of Protective Covenants for Tanglewood Business Park recorded at Book 3419, Page 2365, Forsyth County Registry.

IN WITNESS WHEREOF, the Grantor has caused this instrument to be signed, in its corporate name, by its authorized officers, and its seal to be hereunto affixed, the day and year first above written.

WMB REALTY COMPANY, LLC

By: _____

ATTEST:

STATE OF NORTH CAROLINA)
COUNTY OF FORSYTH)

I, _____, a Notary Public of Forsyth County, NC, do hereby certify that _____ personally came before me this day, and acknowledged that he is the _____, and that by authority duly given and as the act of WMB Realty Company, LLC, the foregoing instrument was signed in its name, sealed with its corporate seal, and attested by _____.

WITNESS my hand and official seal, this the ____ day of _____, 2019.

Notary Public: _____

My commission expires: _____

Exhibit A

LOT 1

BEGINNING at an existing 1 1/4" iron, said iron being the northwest corner of PIN 5882-80-7241, Southwest Little League, Inc., as recorded in Deed Book 3059, Page 3284 and the northeast corner of Lot 1 Plat Book 67, Page 76 as recorded in the Forsyth County Register of Deeds and being the herein described tract; thence with the said Southwest Forsyth Little League, Inc property the following three (3) courses and distances: 1) S. 03°13'22" E. 337.87' to a stone found; thence 2) S. 25° 16' 05" E. 193.49' to a stone found; thence 3) N. 88° 28'31" E. 599.59' to a new 7/8" iron set in the southern line of said Southwest Forsyth Little League, Inc. said new iron being further located S. 88° 28' 31" W. 132.52' from an existing stone also being a common corner with PIN 5881-88-1273, County of Forsyth, recorded in Deed Book 2143, Page 2515; thence with said County of Forsyth the following three (3) new courses and distances: 1) S. 75° 40' 26" W. 473.76' to a 7/8" iron set; thence 2) a curve to the left (having a radius of 1530.00') a chord bearing and distance of S. 54° 50' 20" W. 1088.37' to a new 7/8" iron set; thence 3) N. 56° 02' 16" W. 472.99' to a new 7/8" iron set in the southern right-of-way of Southern Railroad; thence with Southern Railroad right-of-way the twelve (12) following courses and distances:
1) N. 32° 47' 26" E. 20.96' to a 7/8" iron set; thence
2) N. 35° 28' 40" E. 100.00' to a 7/8" iron set; thence
3) N. 41° 16' 34" E. 100.00' to a 7/8" iron set; thence
4) N. 42° 29' 59" E. 100.00' to a 7/8" iron set; thence
5) N. 45° 09' 33" E. 100.00' to a 7/8" iron set; thence
6) N. 46° 35' 44" E. 100.00' to a 7/8" iron set; thence
7) N. 46° 33' 17" E. 413.01' to a 7/8" iron set; thence
8) N. 46° 53' 10" E. 100.00' to a 7/8" iron set; thence
9) N. 47° 37' 41" E. 100.00' to a 7/8" iron set; thence
10) N. 51° 09' 02" E. 100.00' to a 7/8" iron set; thence
11) N. 55° 11' 46" E. 100.00' to a 7/8" iron set; thence
12) N. 60° 23' 35" E. 100.00' to the place of BEGINNING and containing approximately 14.8498 Acres more or less, more particularly shown as Lot 1 at Plat Book 67, Page 76, Forsyth County Registry.