



IMPORTANT NOTE: The complete application must be filed with the City of Staunton's Office of Planning & Inspections no later than the first Tuesday of the month to be heard at that month's Historic Preservation Commission Meeting. Applications received after the first Tuesday of the month will be heard at the next month's meeting.

**APPLICATION FOR CERTIFICATE OF APPROPRIATENESS
City of Staunton, Virginia**

**Historic Preservation Commission
116 W. Beverley Street
Staunton, VA 24401
Phone: (540) 332-3862 Fax: (540) 332-3807**

Location of property	1 East Johnson Street	Historic District	11 - Beverley
Business Name	Augusta County Courthouse	Tax Map No:	375
Application Fee \$50 Paid	☒ YES ☐ NO	See Attachment 5	

Applicant/Property/ Owner Name (PRINT)	Augusta County Board of Supervisors	Representative Agent(s) Name	Candy Hensley, Augusta County
Signature		Firm	Assistant to the County Administrator
Mailing Address		Mailing address	18 Government Center Lane
City/State/Zip		City/State/Zip	Verona, VA 24482
Phone/Fax Number:		Phone/Fax Number:	(540) 245-5610
Email:		Email:	chensley@co.augusta.va.us

(Check the appropriate boxes—CHECK ALL THAT APPLY)

☐	Exterior Change	☒	Addition	☐	Relocation
☐	Wall/Fence	☐	Deck/Porch	☒	Demolition
☐	Driveway/Parking Area	☐	New Structure/Building	☐	Grounds/Landscaping
☐	Signage	☐	Dumpster Screen	☐	Other _____
☐	Other _____	☐	Other _____	☐	Other _____

The above named person(s)/firm has permission to represent me regarding this request for architectural review. I understand that I or my representative agent(s) must be present at the Historic Preservation Commission Meeting on the date listed above to present my proposal and that failure to attend may result in the denial of my proposal by the Commission due to insufficient information. No material change in the appearance of my property, that is viewable from any public street, shall be performed before receiving a Certificate of Appropriateness. I further understand that approval by the Historic Preservation Commission for any modifications to homes, buildings, landscaping, or grounds including fences, driveways, and parking areas shall expire 12 months from the date of approval.

Candy J Hensley
SIGNATURE

Oct. 6, 2020
DATE

PLEASE READ: Applicants are encouraged to submit complete applications with sufficient information to enable a clear understanding of the proposal by the Historic Preservation Commission members and staff. Incomplete applications that do not clearly communicate the proposed improvements or changes will be denied.

FULL DESCRIPTION OF PROPOSAL:

See Attachment 1

REQUIRED INFORMATION TO BE SUBMITTED WITH APPLICATION:
(Each item submitted is to be INITIALED by the applicant. If you are not submitting any of the requested information, please indicate not applicable and explain in the space provided why it is not necessary for this project)

CH ^x **Sketch, drawing and/or elevations showing the proposed changes or improvements**
See Attachment 2

CH ^x **Site plan or plat of property**
See Attachment 3

CH ^x **Photographs showing property, work in question, and the area of the proposed project**
See Attachment 4

CH ^x **Other (please list)**
See Attachment 5

CH ^x **A list of materials that identifies the type and quality of materials to be used in the Proposed project**
See Attachment 6

CH ^x **Twelve sets of all information and materials for use by the Historic Preservation Commission members and staff in the review of this request (REQUIRED)**
*****COA for signs only requires two sets of information. *****

(Applicants may refer to typical submissions kept at the Planning and Inspections Department of the City of Staunton on the third floor of City Hall located at 116 W. Beverley Street for illustrations of how to present the required information)

Full Description of Proposal

Current space needs, functions, operations, and security requirements are not being met at the Augusta County Historic Courthouse and the District Courts Building for court functions and court-related functions.

A County-wide referendum to build a courts complex at the Government Center in Verona to accommodate space for all courts and court-related functions did not pass in the November 2016 election. Having failed the referendum, the County must comply with a state law that limits the County to building a courthouse on the current Historic Courthouse site or adjacent property.

Options were developed for a courts complex at the existing District Courts Building site and to the west at the Union Bank site, to maintain the courts in downtown Staunton. Options were also explored to avoid building in the floodway, made more apparent by recent flooding incidents in downtown Staunton. To meet the space needs for functionality and security of the courts, and avoid issues with the floodway, the County continued to research and explore expansion options in downtown Staunton.

The County has secured purchase options for nine (9) properties surrounding the Historic Courthouse to the north and east that will provide expansion space for a combined courts facility to accommodate needed space requirements. The project encompasses the permanent preservation through rehabilitation of the 1901 Historic Courthouse and the Echols Building, two signature buildings by noted Staunton architect T.J. Collins. By adaptively reusing these buildings, the 1901 Historic Courthouse will remain as an important focal point for downtown Staunton – the dominant jewel of the community - and the Echols Building will help anchor that street corner. Renovation and updating of both existing facilities will be done in accordance with current building codes, Virginia Courthouse Facility Guidelines, and federal accessibility requirements (ADA).

The Historic Courthouse will continue to house the Circuit Court Clerk's Office and Land Records on the first floor, and the second floor will repurpose the existing Circuit Courtroom for ceremonial and jury assembly functions. The General District Court Clerk's Office will be in part of the Historic Courthouse. The historic exterior of the courthouse will be preserved and repaired in kind. Care will be taken to confirm rehabilitation work will be completed in a manner that preserves the building's character-defining features and historic building materials. The north and east elevations of the courthouse will be partially enclosed by the proposed addition, and will remain visible within the building interior.

Court Place or Barrister's Row will be enclosed within the addition and serve as the main pedestrian access on the first floor, with main public entry and security screening off South Augusta Street. Similarly, this area will be public waiting and Courtroom access on all upper floors, and offer views of the Historic Courthouse pediment, roof, and cupola from upper floors.

The Commonwealth's Attorney Office will be accommodated on three floors in the Echols Building, with inter-connecting secure access to the addition on those floors.

The available square footage of approximately 20,000 SF in the other seven (7) adjacent buildings is insufficient to house the additional 95,000 SF needed for all the courts and court-related functions. Replacing the seven adjacent buildings with a five-story expansion that extends to the north and east, and engages both the Historic Courthouse and the Echols Building, will provide a facility that supports all the courts and court-related functions.

The addition will contain Juvenile & Domestic Relations Court Court Services Unit functions on the first floor; two General District Courtrooms with Judges' Chambers and General District Court Clerk's Office on the second floor; two Juvenile & Domestic Relations Court Courtrooms with Judges' Chambers and Juvenile & Domestic Relations Court Clerk's Office on the third floor; one Juvenile & Domestic Relations Court Courtroom with Judges' Chamber, Juvenile & Domestic Relations Court Clerk's Office, and two Circuit Court Jury Deliberation Suites on the fourth floor; and two Circuit Court Courtrooms with Judges' Chambers and Circuit Court Clerk's Office on the fifth floor. All courtrooms will be provided with the appropriate waiting areas and attorney conference/witness rooms, and have direct access to secure holding areas per floor.

The addition will connect to the Historic Courthouse to the north at only the first and second floors, then step back at the upper floors. Similarly, the expansion will connect to the Historic Courthouse to the east at only the first and second floors, then step back at the upper floors and connect with the Echols Building. These connections are necessary to provide secure, ADA-compliant access between the addition and the Historic Courthouse that is currently not available. The five-story expansion will function as a backdrop to the Historic Courthouse, with architecture that is compatible with the character of the Historic Courthouse, but differentiated so as not to copy the design elements of the existing building.

National Park Service Brief #14 notes that in a densely-built environment, "treating the addition as a separate or infill building may be the best approach when designing an addition that will have the least impact on the historic building and the district".

Similarly, The Secretary of the Interior's Standards for Rehabilitation notes that "new additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment".

Safety and security will be accomplished via separate and secure circulation for public and courts personnel, and there will be enclosed detainee transfer for all courts and secured circulation within the expanded Historic Courthouse. Internal, enclosed parking will be provided for judges, constitutional officers, and sheriff's office, and will also accommodate secure sheriff's office sallyport, transport, and holding areas. Secure access will be off South Augusta Street, north of the public access entrance.

Operations and maintenance of the courts facilities will be improved, with upgrades in equipment and technology that will provide effectiveness and consistency in service.

Augusta County is committed to working with the City of Staunton to develop an addition that not only meets the needs and standards of today's complex court systems but also takes into consideration the historical context in which downtown Staunton's development occurs, and is looking forward to continuing this dialogue with the Historic Preservation Commission.



Aerial Site Plan

Moseley Architects



Street view from East Johnson Street looking north

Moseley Architects



Corner view from East Johnson Street and South Augusta Street looking north

Moseley Architects



Corner view from East Johnson Street and South Augusta Street looking northeast

Moseley Architects



Aerial corner view from East Johnson Street and South Augusta Street looking northeast

Moseley Architects



Aerial view from South Augusta Street looking east at entry

Moseley Architects



Street view from South Augusta Street looking east at entry

Moseley Architects



Corner view from East Beverley Street and South Augusta Street looking south

Moseley Architects



Aerial view from South Augusta Street looking southeast

Moseley Architects



Aerial view from South New Street looking southwest including Courthouse Alley

Moseley Architects



Aerial view from South New Street and Courthouse Alley looking south including Memorial Garden

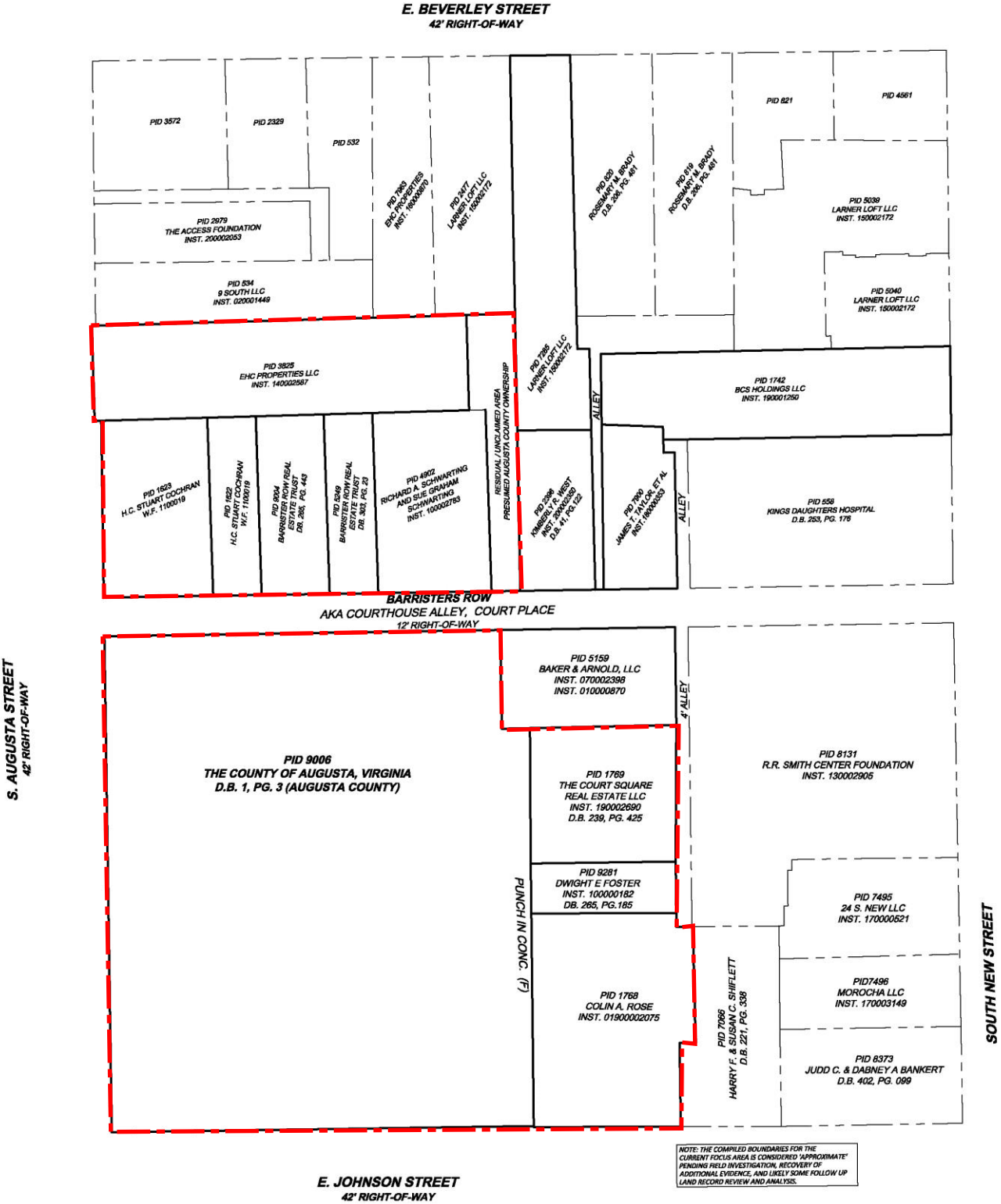
Moseley Architects



Street view from East Johnson Street looking northwest

Moseley Architects

Application for Certificate of Appropriateness
1 East Johnson Street
October 6, 2020



Plat Plan



1 East Johnson Street



11 South Augusta Street



1 Court Place



5 Court Place



7 Court Place



9 Court Place



11 Court Place



5 Lawyers Row



7 Lawyers Row



9 Lawyers Row

Application for Certificate of Appropriateness
1 East Johnson Street
October 6, 2020

Attachment 5

Tax Map Number	PID	Address	Owner
375	9006	1 East Johnson Street	Augusta County
375	3825	11 South Augusta Street	EHC Properties LLC
375	1623	1 Court Place	H.C. Stuart Cochran
375	1622	5 Court Place	H.C. Stuart Cochran
375	9004	7 Court Place	Barristers Row Real Estate LLC
375	5249	9 Court Place	Barristers Row Real Estate LLC
375	4902	11 Court Place	Sue & Richard Schwarting
375	1769	5 Lawyers Row	Court Square Real Estate
375	9281	7 Lawyers Row	Dwight E. Foster
375	1768	9 Lawyers Row (Echols Building)	Colin A Rose



Option Agreement

THIS OPTION AGREEMENT (the "Agreement") is made and entered into this 3rd day of September, 2020, by and between EHC Properties LLC (referred to herein as the "Seller"), whose address is 2974 Old Greenville Road – Staunton, Virginia 24401, and (To be identified within 72 hours after Agreement accepted by Seller), or assigns (herein referred to as the "Purchaser"), whose address is _____, (the Seller and Purchaser shall sometimes be referred to collectively as the "Parties").

WITNESSETH:

For and in consideration of the sum of the Option Payment made by Purchaser to Seller hereunder, any Option Extension Payments, and other good and valuable consideration, the receipt of all of which is hereby acknowledged by the Seller, the Seller hereby grants to Purchaser, on and subject to the terms and conditions set forth below the right and option (the "Option") to Purchaser to purchase the following described real estate, (the "Property") 11 S. Augusta Street in Staunton, Virginia, to-wit:

[Property Description as Exhibit A]

The Property includes all easements, gas, oil, mineral and mining rights, all riparian rights and rights to underground water, and any and all other rights and appurtenances of Seller that are in any way associated with the Property, including all buildings, structures, fences and other permanent improvements to the Property owned by Seller. The Property does not include any personal property of any kind, such as non-affixed equipment, household or commercial goods or furniture, which Seller shall remove before Seller is required to relinquish possession of the Property.

The Option is granted to Purchaser upon the following terms and conditions:

1. **Purchase Price.** The purchase price of the Property shall be Three hundred eighty-five thousand Dollars (\$385,000.00) (the "Purchase Price"). The Purchase Price shall be payable by wire transfer at the Closing (as hereinafter defined) as Seller shall elect. Any real estate taxes or assessments applicable to the Property, and any income or rents from the Property, for the year in which the Closing occurs shall be prorated as of the date of the Closing.

1.1 **Option Payment and Extension.** Upon execution of this Agreement by Purchaser, Purchaser shall deliver to Seller the sum of Nineteen thousand two hundred fifty Dollars (\$19,250.00) in certified or collected funds (the "Option Payment"). In the event that Purchaser closes on the purchase of the Property, the Option Payment and Option Extension Payment (if any) shall be credited to the Purchase Price.

2. **Term.** Purchaser shall have the right to exercise this Option, by giving Seller written notice of exercise at any time prior to the 31st day of January, 2021 (the "Option Period"). If the Option is not exercised before such date, this Agreement shall terminate, the Seller will retain the Option Payment and the Parties shall

have no further rights hereunder. Purchaser shall have the right to extend the Option Period for an additional ninety (90) days by the payment of \$15,000.00 (the "Option Extension Payment") by cash, check, or wire transfer to Seller on or before the expiration of the Option Period.

3. Seller's Representations and Warranties. Seller represents and warrants to Purchaser as follows:

- (a) Seller alone has (and at Closing will have) good, marketable and indefeasible fee simple title to the Property, free and clear of all liens and encumbrances (except as defined below) other than the lien for real estate taxes not yet due and payable (which shall be prorated at Closing) and any current lien securing financing which shall be satisfied from the proceeds of sale; and,
- (b) Seller has full right, power and authority to execute and deliver this Agreement and to consummate the transaction provided for herein without obtaining any further consents or approvals from, or the taking of any other action with respect to, any third parties; and,
- (c)
- (d) No other options to purchase, purchase agreements, rights of refusal, any other options or rights exist with respect to the Property other than this Agreement; and,

Permitted Encumbrances is hereby defined as the encumbrances listed in Exhibit B, a copy of which is attached hereto and made a part hereof. Regardless of such disclosure, the following items shall not be deemed to be Permitted Encumbrances: (i) any lien for taxes which are due and payable at Closing, (ii) mortgages, deeds of trust, deeds to secure debt, judgment liens, mechanic's and materialmen's liens, and other liens against the Property (all of which shall be satisfied by the Seller at Closing); and (iii) any leasehold interests represented by written leases which are not in breach by the Tenant at the time of Closing.

4. Title Examination. At any time prior to Closing, Purchaser shall have the right, but not the obligation, to obtain a title insurance commitment from one or more title insurance companies selected by Purchaser, setting forth the status of the title to the Property, and showing all liens, claims, encumbrances, reservations, restrictions and other matters, if any, relating to the Property, together with a copy of all documents referred to in the title insurance commitment. Purchaser shall advise Seller in writing of any title objection not less than forty-five (45) days prior to the Closing Date. Notwithstanding the foregoing, Purchaser shall have the continuing right to have such title examination and title insurance commitment updated from time to time and to give Seller written notice of any title objections appearing of record or otherwise created after the effective date of the title insurance commitment and being revealed by any title examination or survey of the Property, and Purchaser shall be entitled to object (in the same manner as set forth hereinabove) to matter shown by the updated title insurance commitment. Seller shall use reasonable efforts to remedy any title objections raised by Purchaser to the reasonable satisfaction of Purchaser within thirty (30) days after Purchaser's notice. If the objections are not so cured or remedied, on or before a date five (5) days prior to the Closing Date (as hereinafter defined), then the Purchaser, at its election, shall have the right to either: (a) accept title to the Property subject to the objections, and any title objection accepted by Purchaser in writing shall become part of the Permitted Encumbrances; (b) not close the purchase of the Property until the title objections raised by Purchaser are cured; or (c) terminate this Agreement by written notice to Seller, in which event neither party shall have any further liability to the other except as otherwise expressly set forth in paragraphs 6 and 10 of this Agreement. Notwithstanding the foregoing, Seller at its sole cost, shall be obligated to cure or remove at or before the Closing (and apply any portion of the Purchase Price needed to satisfy such obligations at closing) all mortgages, deeds of trust, deeds to secure debt, judgment liens, mechanic's and materialmen's liens, and other liens against the Property (unless caused by the actions or inspections of Purchaser), whether or not Purchaser objects thereto. In addition, Seller shall not allow any lease, easements or other encumbrances to be placed on or granted with respect to the Property, other than

those listed in the attached Exhibit B, without the prior written consent of Purchaser. If any such encumbrances or easements arise during the term of this Agreement, Seller shall, at its sole cost and expense, cure such objection prior to the Closing Date.

5. Risk of Loss, Eminent Domain. Risk of damage or destruction to the Property by fire or otherwise shall remain with Seller until title to the Property has been conveyed and transferred to Purchaser. If, after exercise of this Option, and prior to the Closing of the sale under the exercised Option, all or any part of the Property is damaged or destroyed, taken by eminent domain or if condemnation proceedings are commenced, Seller shall immediately provide notice of same to Purchaser and Purchaser may terminate this Agreement by delivery of written notice to Seller, and thereafter neither party shall have any further liability to the other except as otherwise expressly set forth in paragraphs 6 and 10 of this Agreement. If Purchaser does not elect to terminate this Agreement, then there should be credited to the Purchase Price all insurance and condemnation proceeds received by Seller prior to Closing, and Seller shall assign, transfer and set over to Purchaser at the Closing all of the Seller's right, title and interest in and to any insurance and proceeds thereof for such damage or destruction or condemnation awards that may be made for such taking after the Closing.

6. Inspections and Survey. During the term of this Option, Purchaser and its agents shall have, and Seller hereby grants to Purchaser and its contractors, the right of reasonable and limited ingress and egress on, over, through, across, to and from the Property for the purpose of making any inspections, explorations, tests (including Phase I and II, asbestos surveys and other environmental inspections, samplings, drilling, and tests) and examinations of the Property as Purchaser may desire, or engaging in any other property evaluation and assessment activities which Purchaser deems both reasonable and necessary. During the term of this Option, Purchaser may elect to cause a licensed surveyor or engineer prepare an accurate survey of the Property (the "Survey"), establishing the boundaries of the Property and showing the location of all easements or encroachments, if any, affecting the Property. Purchaser reserves the right to make written objections to title based upon the Survey, as provided in paragraph 4 above. The legal description of the Property set forth in this Agreement shall be used to describe the Property in the General Warranty Deed to be delivered by Seller at Closing. If the exact boundaries of the Property established by the Survey should differ from the legal description contained herein, then Seller shall also execute and deliver to Purchaser a Quit Claim Deed at Closing conveying the Property based upon a legal description of the Property taken from the Survey.

By entering the Property for this or any other purpose, Purchaser:

- (a) Accepts the risk of any damage it may cause to the Property or Seller's personal property on the Property.
- (b) Agrees to repair all damage caused to the Property, or pay the reasonable cost of repairing the Property necessary to return the property to its condition, as is reasonably practical, as it was immediately prior to any damage, which caused by Purchaser's inspections whether by Purchaser, its agents, employees, vendors, contractors, or invitees.

7. Exercise by Purchaser and Purchaser's Option to Terminate Agreement.

- (a) Purchaser may, at Purchaser's sole election, exercise the Option at any time during the Option Period, and thereby cause Seller to sell the Property to Purchaser subject to the terms of this Agreement. If Purchaser elects to exercise this Option hereunder, it shall do so by sending a written notice of exercise to Seller in accordance with paragraph 21 of this Agreement. Purchaser's notice of exercise shall specify the date and time that the Closing of the sale of the Property, (the "Closing") will take place, which date shall be a business day no later than sixty (60) days and no earlier than

fifteen (15) days after the date of Purchaser's exercise of the Option (the "Closing Date"), unless otherwise agreed in writing by the parties or extended pursuant to Paragraph 4. The Closing shall take place in the offices of Purchaser's attorney or designated settlement agent in Staunton or Augusta County, Virginia.

- (b) Notwithstanding any exercise of the Option by Purchaser, Purchaser shall, at all times during the term of this Agreement, have the right to terminate this Agreement in Purchaser's sole and absolute discretion, by giving Seller notice of termination, in which event the Seller will retain any Option Payments or Option Extension Payments made hereunder and neither party shall have any further liability to the other except as otherwise expressly set forth in paragraphs 6 and 10 of this Agreement.

8. Closing. At the Closing:

- (a) Seller shall obtain and deliver releases of liens, if any, from all lienholders holding liens affecting the Property.
- (b) Seller shall execute and deliver to the Purchaser a Special Warranty Deed covering the Property, conveying good and indefeasible fee simple title to the Property, free and clear of all liens and encumbrances, other than the Permitted Encumbrances.
- (c) Seller shall execute and deliver to Purchaser or its title insurer (1) a mechanic's lien affidavit in form satisfactory to Purchaser or its title insurance company, (2) an affidavit in the form required by Section 1445 of the Internal Revenue Code to establish that Seller is not a foreign person, (3) a statement certifying that all representations and warranties of Seller contained in this Agreement remain true and correct as of the date and time of Closing, and (4) such other affidavits or certifications required by Purchaser's title insurance company, and as set forth in the title insurance commitment.
- (d) Seller and Purchaser shall each execute such other instruments as are customarily executed in Virginia to effectuate the conveyance and acceptance of real estate similar to the Property, including any transfers of all riparian rights, rights to underground water and mineral rights associated with the Property, with the effect that, after the Closing, Purchaser will have succeeded to all of the rights, titles and interests of Seller related to the Property and Seller will no longer have any right, title or interest in and to the Property.
- (e) Any real estate taxes or assessments applicable to the Property, and any income or rents from the Property, for the year in which the Closing occurs shall be prorated as of the date of the Closing.
- (f) Purchaser shall tender to Seller the Purchase Price, subject to any credits or adjustments to the Purchase Price that are required under this Agreement.
- (g) In the event the Permitted Encumbrances include any leasehold interests that are disclosed on the attached Exhibit B, Purchaser agrees to take title to the Property subject to such written leasehold interests which are not in default (but not any amendments or modifications thereto or any extensions or renewals thereof) notwithstanding paragraphs 4 and 5 hereof, and all items of prepaid rent and expenses under such leases shall be prorated as of the date of the Closing. Seller shall provide Tenant estoppels for all leasehold interests which are Permitted Encumbrances no later than five (5) days prior to Closing.
- (h) Seller shall assign to Purchaser all Seller's rights and obligations under any contracts or leases related to the Property which are Permitted Encumbrances or which Purchaser elects to assume by written notice to Seller delivered prior to Closing.

9. **Possession.** Seller shall deliver exclusive possession of the Property to Purchaser at the Closing, in the same condition as on the date of this Option, normal wear and tear excepted, free and clear of all tenants, occupants, parties in possession, leases, licenses and permits which are not included in the Permitted Encumbrances.

10. **Brokers.** Seller and Purchaser both represent and warrant to the other that Cottonwood Commercial is the sole agent or broker involved in the transaction described in this Agreement. Seller agrees to pay Cottonwood Commercial a commission equal to three per cent (3%) of the Purchase Price paid at Closing for the Property. Seller agrees to indemnify Purchaser from and against any claims, demands, costs or expenses arising from such party's failure to pay any commission or fee payable to any brokers or agents Seller dealt with (other than Cottonwood Commercial). If needed to clear title to the Property, Seller and Purchaser shall execute at Closing such affidavits as are appropriate to confirm to the satisfaction of Purchaser's title insurance company that no choate or inchoate liens and lien rights exist in favor of any brokers other than Cottonwood Commercial. The provisions of this paragraph shall survive Closing, or the earlier termination or expiration of this Agreement.

11. **Closing Expenses.** Seller shall be responsible for the cost of preparing the Special Warranty Deed and any other standard Seller instruments required to be executed at Closing including payment of the statutory Grantor's Tax. Purchaser shall be responsible for the cost of recording the deed with the exception of the grantor's tax, the cost of the title search, the cost of title insurance, the costs of investigating the Property, and the cost of the Survey. Each party shall be responsible for its own attorney's fees.

12. **Governmental Approvals.** . In the event that the approval of any governmental entity, including, but not limited to, subdivision approval, rezoning, special permits, environmental permits or variances, is required during the option period for the transfer of the Property to Purchaser, Purchaser's receipt of such approvals, permits and variances shall be a condition precedent to Purchaser's obligation to exercise the option to purchase the Property. Seller agrees to promptly execute any forms and applications related thereto that Purchaser reasonably requests, including written authorization from Seller in the form of a limited power of attorney, or any other document(s), that allows Purchaser to lawfully apply for, and obtain, any approvals, rezonings, and/or permits, pertaining to the Property; provided, however, that the burden of obtaining such approval shall be borne by Purchaser. Seller shall cooperate with Purchaser in pursuing the foregoing approvals, permits and variances but reserves the right to first review any special limited POA to insure it is in a form agreeable to Seller and Seller's counsel

13. **Environmental Representations and Warranties.** Seller represents and warrants that to the best of its knowledge and the knowledge of its principals, as of the date of this Agreement, and as of the time of the Closing, that:

- (a) The Property is in compliance with all federal, state and other environmental and other laws, rules and regulations;
- (b) There are no pending, and to Seller's knowledge, threatened claims, lawsuits, administrative proceedings, enforcement actions or investigations concerning the Property by any private party or governmental entity, nor has Seller received notice of any such activities, and Seller agrees to give Purchaser prompt written notice of any such actions or investigations instituted between the date hereof and the date of the Closing;
- (c) Seller has not received any notice of any judicial or administrative consent orders or other provisions calling for compliance with any legal requirement or for correction of any violation;

- (d) The Property has not been the site of any activity that would violate any past or present environmental law or regulation of any governmental body or agency having jurisdiction over the Property, and that there are not now and never have been any solid or hazardous wastes or substances, or oil or other dangerous or toxic substances, all as defined in the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601 et seq. ("CERCLA"), the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq. ("RCRA"), the Hazardous Material Transportation Act, 49 U.S.C. §§ 1801 et seq., the Clean Water Act, 33 U.S.C. §§ 1251 et seq., or the Toxic Substance Control Act, 15 U.S.C. §§ 2600 et seq., or any other applicable federal, state or local law, rule or regulation, stored, placed, treated, released or disposed of anywhere on the Property;
- (e) The Property is not identified on any current or proposed (i) National Priorities List under 40 C.F.R. Part 300, (ii) CERCLA Information Systems List, or (iii) state environmental or other regulatory agency list based on a statute similar to CERCLA or RCRA; and
- (f) The Property has not been used for any purpose other than [*here specify use*].

Seller shall give immediate oral and written notice to Purchaser of its receipt of any notice of a violation of any law, rule, regulation, ordinance or code covered herein, or of any notice of other claim relating to the environmental condition of the Property.

14. Default. If Seller defaults under this Agreement and such default continues for fifteen (15) days after receipt of notice thereof from Purchaser to Seller, the sole and exclusive remedy of Purchaser shall be to elect to either (i) prosecute an action for specific performance of this Agreement against Seller, or (ii) terminate this Agreement by notice to Seller, have the Option Payment and Option Extension Payment refunded, and be reimbursed by Seller for its expenses in investigating and surveying the Property, in which event neither party shall have any further liability to the other except as otherwise expressly set forth in paragraphs 6 and 10 of this Agreement. Except as provided in Section 6(b) herein above, if Purchaser defaults under this Agreement and such default continues for fifteen (15) days after receipt of notice thereof from Seller to Purchaser, Seller's sole and exclusive remedy shall be to retain the Option Payment, the Option Extension Payment and any other deposits made hereunder by the Purchaser as liquidated damages, as actual damages may be difficult or impossible to ascertain in a suit for damages in the event of Purchaser's breach.

15. Survival. All covenants, agreements, representations and warranties contained in this Agreement shall survive the Closing, transfer of the Property to Purchaser and the payment of the Purchaser Price for a period of six (6) months, and shall not merge into the General Warranty Deed delivered at Closing.

16. Seller's Covenants and Conditions to Closing. During the term of this Option, Seller shall not, without the prior written consent of the Purchaser:

- (a) Enter into any agreement, or amend, modify, extend or renew any existing agreement, for the use, sale or lease of the Property which would (1) survive Closing, (2) otherwise affect the use, operation or enjoyment of the Property after the Closing, or (3) materially and adversely affect the value of the Property;
- (b) Commit or permit to be committed any waste or change in the use, condition or appearance of the Property;
- (c) Perform or consent to any zoning or re-zoning of the Property.

Purchaser's obligation to close the purchase of the Property shall be conditioned upon (1) there having occurred no material adverse change in the condition or use, or other change in circumstances, with respect to any properties surrounding or in the vicinity of the Property that has a material adverse effect on the value of the Property; (2) the Property being in substantially the same condition and used for the same uses and purposes on the date of the Closing as existed on the date of this Agreement; and (3) the Property shall be subject only to the easements and encumbrances that are disclosed on the attached Exhibit B (if any).

17. **Assignment.** Purchaser shall have the right to assign this Agreement and any of its rights and obligations hereunder to any party without the consent of the Seller, by delivering prior written notice of such assignment to the Seller at any time prior to the Closing.

18. **Time is of the Essence.** Time shall be of the essence in the performance of all obligations under this Agreement. If the time period by which any right, option or election provided under this Agreement must be exercised, or by which any act required under this Agreement must be performed, or by which an event must be held, expires on a Saturday, Sunday or a holiday, then such time period shall be automatically extended to the next business day.

19. **Controlling Law.** This Agreement has been entered into under, and shall be interpreted and construed according to, the laws of the Commonwealth of Virginia and the City of Staunton.

20. **Entire Agreement; Modification.** This Agreement and all exhibits attached hereto constitutes the entire and complete agreement between the Parties hereto and supersedes any prior oral or written agreements between the Parties with respect to the Property. Seller and Purchaser expressly agree that there are no oral or written understandings or agreements between them that in any way change the terms, covenants and conditions set forth in this Agreement, and that no modification of this Agreement, and no waiver of any of its terms or conditions, shall be effective unless made in writing and duly executed by both parties.

21. **Notices.** All notices provided or permitted to be given under this Agreement must be in writing and shall be served by depositing same in United States certified Mail, return receipt requested, by guaranteed overnight delivery service (e.g. Federal Express, UPS Next Day Air), or by hand delivery, to each of the addresses set forth below. All notices shall be effective three (3) days after mailing in accordance herewith, two (2) days after consignment to a guaranteed overnight delivery service, or upon hand delivery. For purposes of notice, the addresses of the Parties shall be as follows:

Seller: Boyce Brannock, Registered Agent for EHC Properties LLC
Timberlake, Smith, Thomas, & Moses, P.C.
25 North Central Avenue
Staunton, Virginia 24401

Purchaser: County of Augusta, Virginia
18 Government Center Lane
Verona, Virginia 24482

Seller and Purchaser shall have the right to change their addresses for the receipt of notices by giving notice of such change of address in accordance herewith.

22. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the Parties and their successors and assigns.

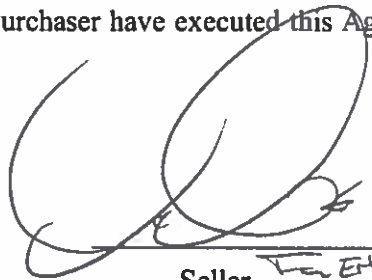
23. **Confidentiality.** The parties agree that until Closing, each party, including if applicable its directors, officers and employees and Affiliates (the "Covered Parties") shall keep all terms of this Agreement

confidential and (b) each of the Covered Parties shall hold and shall cause their consultants and advisors to hold in strict confidence, unless compelled to disclose by judicial or administrative process or, in the opinion of its counsel, by other requirements of law, all documents and information concerning or in connection with the transactions contemplated by this Agreement, except to the extent that any other information referred to in clause (a) or (b) above can be shown to have been (i) previously known by the party to which it is furnished, (ii) in the public domain through no fault of such party or (iii) later lawfully acquired from other sources by the party to which it was furnished (such as public recording or tax records). In the event that a Covered Party is compelled by judicial or administrative process or by other requirements of law to disclose such confidential information, such Covered Party shall promptly notify the Company and the other party of the request for disclosure and, if reasonably requested by the other party, and at the expense of the party so requesting shall cooperate in opposing the request for disclosure and in seeking confidential treatment for the confidential information that has been requested.

24. **Acceptance of Offer.** The signature by the Seller to this Option shall remain open for acceptance by the Purchaser for seventy-two (72) hours, beginning at 8:00pm EST on the date Seller signs this Agreement. Purchaser must countersign within said seventy-two (72) hour period, disclose its identity and return a fully signed copy of this Agreement (which may be transmitted electronically via PDF, DocuSign or similar means) to Seller. If Seller fails to receive such Purchaser signature and identity confirmation within the seventy-two (72) hour period, Seller may withdraw its offer of sale upon written notice of such withdrawal, delivered to Cottonwood Commercial.

IN WITNESS WHEREOF, the Seller and Purchaser have executed this Agreement as of the date first set forth above.

Date: 9-9-20



Seller (SEAL)

Date: _____

Seller (SEAL)

Date: 9-10-20



Purchaser (SEAL)

County Administrator

EXHIBIT A – Property Description



Location 11 S AUGUSTA ST

Account# 3825

Owner EHC PROPERTIES LLC

Assessment \$239,000

PID 3825

Building Count 1

Legal Description (LOT 34 BLK EE)

Historic District 11 BEV

Zoning B2

Map Number 375

Subdivision CENTRAL CITY

Tax Assessment		
Valuation Year	Improvements	Land
2020	\$218,820	\$20,180

Owner of Record

Owner

EHC PROPERTIES LLC

Co-Owner

Address

2974 OLD GREENVILLE RD
STAUNTON, VA 24401

EXHIBIT B – Permitted Encumbrances



Option Agreement

THIS OPTION AGREEMENT (the "Agreement") is made and entered into this 26th day of August, 2020, by and between H. C. Stuart Cochran (referred to herein as the "Seller"), whose address is 120 Church Street – Staunton, Virginia 24401, and (To Be Revealed within 72 hours after acceptance by Seller), or assigns (herein referred to as the "Purchaser"), whose address is _____, (the Seller and Purchaser shall sometimes be referred to collectively as the "Parties").

WITNESSETH:

For and in consideration of the sum of the Option Payment made by Purchaser to Seller hereunder, any Option Extension Payments, the receipt of all of which is hereby acknowledged by the Seller, the Seller hereby grants to Purchaser, on and subject to the terms and conditions set forth below the right and option (the "Option") to Purchaser to purchase the following described real estate, (the "Property") at 1 and 5 Court Place – Staunton, Virginia, to-wit:

[Property Description as Exhibit A]

The Property includes all easements, gas, oil, mineral and mining rights, all riparian rights and rights to underground water, and any and all other rights and appurtenances of Seller that are in any way associated with the Property, including all buildings, structures, fences and other permanent improvements to the Property owned by Seller. The Property does not include any personal property of any kind, such as removable (unattached) equipment, household goods or furniture, which Seller shall remove before Seller is required to relinquish possession of the Property.

The Option is granted to Purchaser upon the following terms and conditions:

1. **Purchase Price.** The purchase price of the Property shall be One hundred forty thousand and 00/100 Dollars (\$140,000.00) (the "Purchase Price"). The Purchase Price shall be payable by wire transfer at the Closing (as hereinafter defined) as Seller shall elect. Any real estate taxes or assessments applicable to the Property, and any income or rents from the Property, for the year in which the Closing occurs shall be prorated as of the date of the Closing.

1.1 **Option Payment and Extension.** Upon execution of this Agreement by Purchaser, Purchaser shall deliver to Seller the sum of Fourteen thousand and 00/100 Dollars (\$14,000.00) in cash, check, or certified funds (the "Option Payment"). In the event that Purchaser closes on the purchase of the Property, the Option Payment and Option Extension Payment shall be credited to the Purchase Price.

2. **Term.** Purchaser shall have the right to exercise this Option, by giving Seller written notice of exercise at any time prior to the 31st day of January, 2021 (the "Option Period"). If the Option is not exercised before such date, this Agreement shall terminate, the Seller will retain the Option Payment and the Parties shall have no further rights hereunder. Purchaser shall have the right to extend the Option Period for an additional

ninety (90) days by the payment of another \$7,000.00 (the "Option Extension Payment") by cash, check, or wire transfer to Seller on or before the expiration of the Option Period.

3. Seller's Representations and Warranties. Seller represents and warrants to Purchaser as follows:

- (a) Seller alone has (and at Closing will have) good, marketable and indefeasible fee simple title to the Property, free and clear of all liens and encumbrances other than the lien for real estate taxes not yet due and payable (which shall be prorated at Closing); and,
- (b) Seller has full right, power and authority to execute and deliver this Agreement and to consummate the transaction provided for herein without obtaining any further consents or approvals from, or the taking of any other action with respect to, any third parties;
- (c) At the Closing, Seller will be able to convey to the Purchaser good, marketable and indefeasible fee simple title to the Property, free and clear of all liens, leases and other encumbrances, subject only to the Permitted Encumbrances (defined below); and,
- (d) No other options to purchase, purchase agreements, rights of refusal, any other options or rights exist with respect to the Property other than this Agreement; and,

Permitted Encumbrances is hereby defined as the encumbrances listed in Exhibit B, a copy of which is attached hereto and made a part hereof. Regardless of such disclosure, the following items shall not be deemed to be Permitted Encumbrances: (i) any lien for taxes which are due and payable at Closing, (ii) mortgages, deeds of trust, deeds to secure debt, judgment liens, mechanic's and materialmen's liens, and other liens against the Property (all of which shall be satisfied by the Seller at Closing); and (iii) any leasehold interests represented by written leases which are not in breach by the Tenant at the time of Closing.

4. Title Examination. At any time prior to Closing, Purchaser shall have the right, but not the obligation, to obtain a title insurance commitment from one or more title insurance companies selected by Purchaser, setting forth the status of the title to the Property, and showing all liens, claims, encumbrances, reservations, restrictions and other matters, if any, relating to the Property, together with a copy of all documents referred to in the title insurance commitment. Purchaser shall advise Seller in writing of any title objection not less than forty-five (45) days prior to the Closing Date. Notwithstanding the foregoing, Purchaser shall have the continuing right to have such title examination and title insurance commitment updated from time to time and to give Seller written notice of any title objections appearing of record or otherwise created after the effective date of the title insurance commitment and being revealed by any title examination or survey of the Property, and Purchaser shall be entitled to object (in the same manner as set forth hereinabove) to matter shown by the updated title insurance commitment. Seller shall use reasonable efforts to remedy any title objections raised by Purchaser to the reasonable satisfaction of Purchaser within thirty (30) days after Purchaser's notice. If the objections are not so cured or remedied, on or before a date five (5) days prior to the Closing Date (as hereinafter defined), then the Purchaser, at its election, shall have the right to either: (a) accept title to the Property subject to the objections, and any title objection accepted by Purchaser in writing shall become part of the Permitted Encumbrances; (b) not close the purchase of the Property until the title objections raised by Purchaser are cured; or (c) terminate this Agreement by written notice to Seller, in which event neither party shall have any further liability to the other except as otherwise expressly set forth in paragraph 6 of this Agreement. Notwithstanding the foregoing, Seller at its sole cost, shall be obligated to cure or remove at or before the Closing (and apply any portion of the Purchase Price needed to satisfy such obligations at closing) all mortgages, deeds of trust, deeds to secure debt, judgment liens, mechanic's and materialmen's liens, and other liens against the Property (unless caused by the actions or inspections of Purchaser), whether or not Purchaser objects thereto. In addition, Seller shall not allow any lease, easements or other encumbrances to be placed on or granted with respect to the Property, other than

those listed in the attached Exhibit B, without the prior written consent of Purchaser. If any such encumbrances or easements arise during the term of this Agreement, Seller shall, at its sole cost and expense, cure such objection prior to the Closing Date.

5. Risk of Loss, Eminent Domain. Risk of damage or destruction to the Property by fire or otherwise shall remain with Seller until title to the Property has been conveyed and transferred to Purchaser. If, after exercise of this Option, and prior to the Closing of the sale under the exercised Option, all or any part of the Property is damaged or destroyed, taken by eminent domain or if condemnation proceedings are commenced, Seller shall immediately provide notice of same to Purchaser and Purchaser may terminate this Agreement by delivery of written notice to Seller, and thereafter neither party shall have any further liability to the other except as otherwise expressly set forth in paragraph 6 of this Agreement. If Purchaser does not elect to terminate this Agreement, then there should be credited to the Purchase Price all insurance and condemnation proceeds received by Seller prior to Closing, and Seller shall assign, transfer and set over to Purchaser at the Closing all of the Seller's right, title and interest in and to any insurance and proceeds thereof for such damage or destruction or condemnation awards that may be made for such taking after the Closing.

6. Inspections and Survey. During the term of this Option, Purchaser and its agents shall have, and Seller hereby grants to Purchaser and its contractors, the right of ingress and egress on, over, through, across, to and from the Property for the purpose of making any inspections, explorations, tests (including Phase I and II, asbestos surveys and other environmental inspections, samplings, drilling, and tests) and examinations of the Property as Purchaser may desire, or engaging in any other property evaluation and assessment activities which Purchaser deems appropriate. During the term of this Option, Purchaser may elect to cause a licensed surveyor or engineer prepare an accurate survey of the Property (the "Survey"), establishing the boundaries of the Property and showing the location of all easements or encroachments, if any, affecting the Property. Purchaser reserves the right to make written objections to title based upon the Survey, as provided in paragraph 4 above. The legal description of the Property set forth in this Agreement shall be used to describe the Property in the General Warranty Deed to be delivered by Seller at Closing. If the exact boundaries of the Property established by the Survey should differ from the legal description contained herein, then Seller shall also execute and deliver to Purchaser a Quit Claim Deed at Closing conveying the Property based upon a legal description of the Property taken from the Survey.

By entering the Property for this or any other purpose, Purchaser:

- (a) Agrees to provide to Seller at least 24-hour advance notice for each occasion of desire to enter premises, which may require for either a Seller representative to be present or otherwise provide a key for entry.
- (b) Accepts the risk of any damage it may cause to the Property or Seller's personal property on the Property.
- (c) Agrees to repair any damage caused by Purchaser to the Property; and,

7. Exercise by Purchaser and Purchaser's Option to Terminate Agreement.

- (a) Purchaser may, at Purchaser's sole election, exercise the Option at any time during the Option Period, and thereby cause Seller to sell the Property to Purchaser subject to the terms of this Agreement. If Purchaser elects to exercise this Option hereunder, it shall do so by sending a written notice of exercise to Seller in accordance with paragraph 21 of this Agreement. Purchaser's notice of exercise shall specify the date and time that the Closing of the sale of the Property, (the "Closing") will take place, which date shall be a business day no later than sixty (60) days and no earlier than fifteen (15) days after the date of Purchaser's exercise of the Option (the "Closing Date"), unless

otherwise agreed in writing by the parties. The Closing shall take place in the offices of Purchaser's attorney or designated settlement agent in Staunton or Augusta County, Virginia.

- (b) Notwithstanding any exercise of the Option by Purchaser, Purchaser shall, at all times during the term of this Agreement, have the right to terminate this Agreement in Purchaser's sole and absolute discretion, by giving Seller notice of termination, in which event the Seller will retain any Option Payments or Option Extension Payments made hereunder and neither party shall have any further liability to the other except as otherwise expressly set forth in paragraph 6 of this Agreement.

8. Closing. At the Closing:

- (a) Seller shall obtain and deliver releases of liens, if any, from all lienholders holding liens affecting the Property.
- (b) Seller shall execute and deliver to the Purchaser a General Warranty Deed covering the Property, conveying good and indefeasible fee simple title to the Property, free and clear of all liens and encumbrances, other than the Permitted Encumbrances.
- (c) Seller shall execute and deliver to Purchaser or its title insurer (1) a mechanic's lien affidavit in form satisfactory to Purchaser or its title insurance company, (2) an affidavit if the form required by Section 1445 of the Internal Revenue Code to establish that Seller is not a foreign person, (3) a statement certifying that all representations and warranties of Seller contained in this Agreement remain true and correct as of the date and time of Closing, and (4) such other affidavits or certifications as may be reasonably required by Purchaser's title insurance company, and as set forth in the title insurance commitment.
- (d) Seller and Purchaser shall each execute such other instruments as are customarily executed in Virginia to effectuate the conveyance and acceptance of real estate similar to the Property, including any transfers of all riparian rights, rights to underground water and mineral rights associated with the Property, with the effect that, after the Closing, Purchaser will have succeeded to all of the rights, titles and interests of Seller related to the Property and Seller will no longer have any right, title or interest in and to the Property.
- (e) Any real estate taxes or assessments applicable to the Property, and any income or rents (if any) from the Property, for the year in which the Closing occurs shall be prorated as of the date of the Closing.
- (f) Purchaser shall tender to Seller the Purchase Price, subject to any credits or adjustments to the Purchase Price that are required under this Agreement.
- (g) In the event the Permitted Encumbrances include any leasehold interests that are disclosed on the attached Exhibit B, Purchaser agrees to take title to the Property subject to such written leasehold interests which are not in default (but not any amendments or modifications thereto or any extensions or renewals thereof) notwithstanding paragraphs 4 and 5 hereof, and all items of prepaid rent and expenses under such leases shall be prorated as of the date of the Closing. Seller shall provide Tenant estoppels for all leasehold interests which are Permitted Encumbrances no later than five (5) days prior to Closing.
- (h) Seller shall assign to Purchaser all Seller's rights and obligations under any contracts or leases related to the Property which are Permitted Encumbrances or which Purchaser elects to assume by written notice to Seller delivered prior to Closing.

9. Possession. Seller shall deliver exclusive possession of the Property to Purchaser at the Closing, in the same condition as on the date of this Option, normal wear and tear excepted, free and clear of all tenants,

occupants, parties in possession, leases, licenses and permits which are not included in the Permitted Encumbrances.

10. **Brokers.** Seller and Purchaser both represent and warrant to the other that Cottonwood Commercial is the sole agent or broker involved in the transaction described in this Agreement. Seller agrees to pay Cottonwood Commercial a commission equal to three per cent (3%) of the Purchase Price paid at Closing for the Property. If needed to clear title to the Property, Seller and Purchaser shall execute at Closing such affidavits as are appropriate to confirm to the satisfaction of Purchaser's title insurance company that no choate or inchoate liens and lien rights exist in favor of any brokers other than Cottonwood Commercial. The provisions of this paragraph shall survive Closing, or the earlier termination or expiration of this Agreement.

11. **Closing Expenses.** Seller shall be responsible for the cost of preparing the General Warranty deed and any other standard Seller instruments required to be executed at Closing and payment of the statutory Grantor's Tax. Purchaser shall be responsible for the cost of recording the deed (with exception of the grantor's tax paid by Seller), the cost of the title search, the cost of title insurance, the costs of investigating the Property, and the cost of the Survey. Each party shall be responsible for its own attorney's fees.

12. **Governmental Approvals.** In the event that the approval of any governmental entity, including, but not limited to, subdivision approval, rezoning, special permits, environmental permits or variances, is required during the option period for the transfer of the Property to Purchaser, Purchaser's receipt of such approvals, permits and variances shall be a condition precedent to Purchaser's obligation to close the purchase of the Property. Seller agrees to promptly execute any forms and applications related thereto that Purchaser reasonably requests, provided, however, that the burden of obtaining such approval shall be borne by Purchaser. Seller shall cooperate with Purchaser in pursuing the foregoing approvals, permits and variances. Purchaser may file appropriate applications to the city of Staunton for demolition of some historical buildings but the property owners will only need to grant permission for Purchaser to make such applications, and therefore Seller will not be directly associated with said applications.

13. **Environmental Representations and Warranties.** The property is being purchased "As Is". Seller represents and warrants that, as of the date of this Agreement, and as of the time of the Closing, that:

- (a) No knowledge exists that the Property is not in compliance with all federal, state and other environmental and other laws, rules and regulations;
- (b) There are no pending, and to Seller's knowledge, threatened claims, lawsuits, administrative proceedings, enforcement actions or investigations concerning the Property by any private party or governmental entity, nor has Seller received notice of any such activities, and Seller agrees to give Purchaser prompt written notice of any such actions or investigations instituted between the date hereof and the date of the Closing;
- (c) Seller has not received any notice of any judicial or administrative consent orders or other provisions calling for compliance with any legal requirement or for correction of any violation;
- (d) No knowledge exists that the Property has been the site of any activity that would violate any past or present environmental law or regulation of any governmental body or agency having jurisdiction over the Property, and that there is no knowledge that there have been any solid or hazardous wastes or substances, or oil or other dangerous or toxic substances, all as defined in the Comprehensive Environmental Response, Compensation and Liability Act, [42 U.S.C. §§ 9601 et seq.](#) ("CERCLA"), the Resource Conservation and Recovery Act, [42 U.S.C. §§ 6901 et seq.](#) ("RCRA"), the Hazardous Material Transportation Act, [49 U.S.C. §§ 1801 et seq.](#), the Clean Water Act, [33 U.S.C. §§ 1251 et](#)

seq., or the Toxic Substance Control Act, 15 U.S.C. §§ 2600 et seq., or any other applicable federal, state or local law, rule or regulation, stored, placed, treated, released or disposed of anywhere on the Property;

- (e) No knowledge exists that the Property is identified on any current or proposed (i) National Priorities List under 40 C.F.R. Part 300, (ii) CERCLA Information Systems List, or (iii) state environmental or other regulatory agency list based on a statute similar to CERCLA or RCRA; and
- (f) The Property has not been used for any purpose other than Law Offices and other related activities.

Seller shall give immediate oral and written notice to Purchaser of its receipt of any notice of a violation of any law, rule, regulation, ordinance or code covered herein, or of any notice of other claim relating to the environmental condition of the Property.

14. **Default.** If Seller defaults under this Agreement and such default continues for fifteen (15) days after receipt of notice thereof from Purchaser to Seller, the sole and exclusive remedy of Purchaser shall be to elect to either (i) prosecute an action for specific performance of this Agreement against Seller, or (ii) terminate this Agreement by notice to Seller and have the Option Payment and Option Extension Payment refunded, in which event neither party shall have any further liability to the other except as otherwise expressly set forth in paragraph 6 of this Agreement. If Purchaser defaults under this Agreement and such default continues for fifteen (15) days after receipt of notice thereof from Seller to Purchaser, Seller's sole and exclusive remedy shall be to retain the Option Payment, the Option Extension Payment and any other deposits made hereunder by the Purchaser as liquidated damages, as actual damages may be difficult or impossible to ascertain in a suit for damages in the event of Purchaser's breach.

15. **Survival.** All covenants, agreements, representations and warranties contained in this Agreement shall not survive the Closing, transfer of the Property to Purchaser and payment of the Purchase Price, and shall merge into the General Warranty Deed delivered at Closing.

16. **Seller's Covenants and Conditions to Closing.** During the term of this Option, Seller shall not, without the prior written consent of the Purchaser:

- (a) Enter into any agreement, or amend, modify, extend or renew any existing agreement, for the use, sale or lease of the Property which would (1) survive Closing, (2) otherwise affect the use, operation or enjoyment of the Property after the Closing, or (3) materially and adversely affect the value of the Property;
- (b) Commit or permit to be committed any waste or change in the use, condition or appearance of the Property;
- (c) Perform or consent to any zoning or re-zoning of the Property.

Purchaser's obligation to close the purchase of the Property shall be conditioned upon (1) there having occurred no material adverse change in the condition or use, or other change in circumstances, with respect to any properties surrounding or in the vicinity of the Property that has a material adverse effect on the value of the Property; (2) the Property being in substantially the same condition and used for the same uses and purposes on the date of the Closing as existed on the date of this Agreement; and (3) the Property shall be subject only to the easements and encumbrances that are disclosed on the attached Exhibit B (if any).

17. **Assignment.** Purchaser shall have the right to assign this Agreement and any of its rights and obligations hereunder to any party without the consent of the Seller, by delivering prior written notice of such assignment to the Seller at any time prior to the Closing.

18. **Time is of the Essence.** Time shall be of the essence in the performance of all obligations under this Agreement. If the time period by which any right, option or election provided under this Agreement must be exercised, or by which any act required under this Agreement must be performed, or by which an event must be held, expires on a Saturday, Sunday or a holiday, then such time period shall be automatically extended to the next business day.

19. **Controlling Law.** This Agreement has been entered into under, and shall be interpreted and construed according to, the laws of the Commonwealth of Virginia.

20. **Entire Agreement; Modification.** This Agreement and all exhibits attached hereto constitutes the entire and complete agreement between the Parties hereto and supersedes any prior oral or written agreements between the Parties with respect to the Property. Seller and Purchaser expressly agree that there are no oral or written understandings or agreements between them that in any way change the terms, covenants and conditions set forth in this Agreement, and that no modification of this Agreement, and no waiver of any of its terms or conditions, shall be effective unless made in writing and duly executed by both parties.

21. **Notices.** All notices provided or permitted to be given under this Agreement must be in writing and shall be served by depositing same in United States certified or registered Mail, return receipt requested, by guaranteed overnight delivery service (e.g. Federal Express, UPS Next Day Air), or by hand delivery, to each of the addresses set forth below. All notices shall be effective three (3) days after mailing in accordance herewith, two (2) days after consignment to a guaranteed overnight delivery service, or upon hand delivery. For purposes of notice, the addresses of the Parties shall be as follows:

Seller: H. C. Stuart Cochran
 120 Church Street
 Staunton, Virginia 24401

Purchaser: County of Augusta, Virginia
 18 Government Center Lane
 Verona, Virginia 24482

Seller and Purchaser shall have the right to change their addresses for the receipt of notices by giving notice of such change of address in accordance herewith.

22. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the Parties and their successors and assigns.

23. **Confidentiality.** The parties agree that until after Closing each party, including if applicable its directors, officers and employees and Affiliates (the "Covered Parties") shall keep all terms of this Agreement confidential and (b) each of the Covered Parties shall hold and shall cause their consultants and advisors to hold in strict confidence, unless compelled to disclose by judicial or administrative process or, in the opinion of its counsel, by other requirements of law, all documents and information concerning or in connection with the transactions contemplated by this Agreement, except to the extent that any other information referred to in clause (a) or (b) above can be shown to have been (i) previously known by the party to which it is furnished, (ii) in the public domain through no fault of such party or (iii) later lawfully acquired from other sources by the party to which it was furnished (such as public recording or tax records). In the event that a Covered Party is compelled by judicial or administrative process or by other requirements of law to disclose such confidential information, such Covered Party shall promptly notify the other party of the request for disclosure and, if reasonably requested by the other party, and at the expense of the party so

requesting shall cooperate in opposing the request for disclosure and in seeking confidential treatment for the confidential information that has been requested.

24. *Acceptance of Offer.* The signature by the Seller to this Option shall remain open for acceptance by the Purchaser for seventy-two (72) hours, beginning at 8:00pm EST on the date Seller signs this Agreement. Purchaser must countersign within said seventy-two (72) hour period, disclose its identity and return a fully signed copy of this Agreement (which may be transmitted electronically via PDF, DocuSign or similar means) to Seller. If Seller fails to receive such Purchaser signature and identity confirmation within the seventy-two (72) hour period, Seller may withdraw its offer of sale upon written notice of such withdrawal, delivered to Cottonwood Commercial.

IN WITNESS WHEREOF, the Seller and Purchaser have executed this Agreement as of the date first set forth above.

Date: Aug. 26, 2020

H.C. Stuart Cochran (SEAL)
Seller

Date: _____

Seller

Date: 8-27-2020

M. Hazzard (SEAL)
Purchaser

County Administrator
Augusta County

EXHIBIT A – Property Description

Location	1 COURT PLACE	Account#	1623
Owner	COCHRAN, H.C. STUART	Assessment	\$56,950
PID	1623	Building Count	1
Legal Description	(LOT 33 BLK EE)	Historic District	11 BEV
Zoning	B2	Map Number	375
Subdivision CENTRAL CITY			

Tax Assessment

Valuation Year	Improvements	Land
2020	\$50,200	\$6,750

Location	5 COURT PLACE	Account#	1622
Owner	COCHRAN, H.C. STUART	Assessment	\$41,450
PID	1622	Building Count	1
Legal Description	(LOT 32 BLK EE)	Historic District	11 BEV
Zoning	B2	Map Number	375
Subdivision CENTRAL CITY			

Tax Assessment

Valuation Year	Improvements	Land
2020	\$37,400	\$4,050

EXHIBIT B – Permitted Encumbrances

- 1) Party wall between 5 Court Place and 7 Court Place



Option Agreement

THIS OPTION AGREEMENT (the "Agreement") is made and entered into this 21st day of August, 2020, by and between Barristers Row Real Estate LLC (referred to herein as the "Seller"), a Virginia limited liability company with sole members being Benham M. Black and N. Douglas Noland, Jr., whose address is P.O. Box 1206 – Staunton, Virginia 24402, and (To Be Revealed within 72 hours after acceptance by Seller), or assigns (herein referred to as the "Purchaser"), whose address is _____, (the Seller and Purchaser shall sometimes be referred to collectively as the "Parties").

WITNESSETH:

BMB
8/27/2020
page 1 of 14
N.D.N.
8/28/2020

For and in consideration of the sum of the Option Payment made by Purchaser to Seller hereunder, any Option Extension Payments, the receipt of all of which is hereby acknowledged by the Seller, the Seller hereby grants to Purchaser, on and subject to the terms and conditions set forth below the right and option (the "Option") to Purchaser to purchase the following described real estate, (the "Property") at 7 and 9 Court Place – Staunton, Virginia, to-wit:

[Property Description as Exhibit A]

The Property includes all easements, gas, oil, mineral and mining rights, all riparian rights and rights to underground water, and any and all other rights and appurtenances of Seller that are in any way associated with the Property, including all buildings, structures, fences and other permanent improvements to the Property owned by Seller. The Property does not include any personal property of any kind, such as removable (unattached) equipment, household goods or furniture, which Seller shall remove before Seller is required to relinquish possession of the Property.

The Option is granted to Purchaser upon the following terms and conditions:

1. **Purchase Price.** The purchase price of the Property shall be Seventy-seven thousand and 00/100 Dollars (\$77,000.00) (the "Purchase Price"). The Purchase Price shall be payable by wire transfer at the Closing (as hereinafter defined) as Seller shall elect. Any real estate taxes or assessments applicable to the Property, and any income or rents from the Property, for the year in which the Closing occurs shall be prorated as of the date of the Closing.

1.1 **Option Payment and Extension.** Upon execution of this Agreement by Purchaser, Purchaser shall deliver to Seller the sum of Seven thousand seven hundred and 00/100 Dollars (\$7,700.00) in cash, check, or certified funds (the "Option Payment"). In the event that Purchaser closes on the purchase of the Property, the Option Payment and Option Extension Payment shall be credited to the Purchase Price.

2. **Term.** Purchaser shall have the right to exercise this Option, by giving Seller written notice of exercise at any time prior to the 31st day of January, 2021 (the "Option Period"). If the Option is not exercised before

such date, this Agreement shall terminate, the Seller will retain the Option Payment and the Parties shall have no further rights hereunder. Purchaser shall have the right to extend the Option Period for an additional ninety (90) days by the payment of another \$3,850.00 (the "Option Extension Payment") by cash, check, or wire transfer to Seller on or before the expiration of the Option Period.

8/28/2020 BMB 8/27/2020
8/28/2020 page 2 of 14

3. Seller's Representations and Warranties. Seller represents and warrants to Purchaser as follows:

- (a) Seller alone has (and at Closing will have) good, marketable and indefeasible fee simple title to the Property, free and clear of all liens and encumbrances other than the lien for real estate taxes not yet due and payable (which shall be prorated at Closing); and,
- (b) Seller has full right, power and authority to execute and deliver this Agreement and to consummate the transaction provided for herein without obtaining any further consents or approvals from, or the taking of any other action with respect to, any third parties;
- (c) At the Closing, Seller will be able to convey to the Purchaser good, marketable and indefeasible fee simple title to the Property, free and clear of all liens, leases and other encumbrances, subject only to the Permitted Encumbrances (defined below); and,
- (d) No other options to purchase, purchase agreements, rights of refusal, any other options or rights exist with respect to the Property other than this Agreement; and,

Permitted Encumbrances is hereby defined as the encumbrances listed in Exhibit B, a copy of which is attached hereto and made a part hereof. Regardless of such disclosure, the following items shall not be deemed to be Permitted Encumbrances: (i) any lien for taxes which are due and payable at Closing, (ii) mortgages, deeds of trust, deeds to secure debt, judgment liens, mechanic's and materialmen's liens, and other liens against the Property (all of which shall be satisfied by the Seller at Closing); and (iii) any leasehold interests represented by written leases which are not in breach by the Tenant at the time of Closing.

4. Title Examination. At any time prior to Closing, Purchaser shall have the right, but not the obligation, to obtain a title insurance commitment from one or more title insurance companies selected by Purchaser, setting forth the status of the title to the Property, and showing all liens, claims, encumbrances, reservations, restrictions and other matters, if any, relating to the Property, together with a copy of all documents referred to in the title insurance commitment. Purchaser shall advise Seller in writing of any title objection not less than forty-five (45) days prior to the Closing Date. Notwithstanding the foregoing, Purchaser shall have the continuing right to have such title examination and title insurance commitment updated from time to time and to give Seller written notice of any title objections appearing of record or otherwise created after the effective date of the title insurance commitment and being revealed by any title examination or survey of the Property, and Purchaser shall be entitled to object (in the same manner as set forth hereinabove) to matter shown by the updated title insurance commitment. Seller shall use reasonable efforts to remedy any title objections raised by Purchaser to the reasonable satisfaction of Purchaser within thirty (30) days after Purchaser's notice. If the objections are not so cured or remedied, on or before a date five (5) days prior to the Closing Date (as hereinafter defined), then the Purchaser, at its election, shall have the right to either: (a) accept title to the Property subject to the objections, and any title objection accepted by Purchaser in writing shall become part of the Permitted Encumbrances; (b) not close the purchase of the Property until the title objections raised by Purchaser are cured; or (c) terminate this Agreement by written notice to Seller, in which event neither party shall have any further liability to the other except as otherwise expressly set forth in paragraph 6 of this Agreement. Notwithstanding the foregoing, Seller at its sole cost, shall be obligated to cure or remove at or before the Closing (and apply any portion of the Purchase Price needed to satisfy such obligations at closing) all mortgages, deeds of trust, deeds to secure debt, judgment liens, mechanic's and materialmen's liens, and other liens against the Property (unless caused by the actions or

inspections of Purchaser), whether or not Purchaser objects thereto. In addition, Seller shall not allow any lease, easements or other encumbrances to be placed on or granted with respect to the Property, other than those listed in the attached Exhibit B, without the prior written consent of Purchaser. If any such encumbrances or easements arise during the term of this Agreement, Seller shall, at its sole cost and expense, cure such objection prior to the Closing Date.

YOR BMB 8/27/2020
8/28/2020 page 30/14

5. Risk of Loss, Eminent Domain. Risk of damage or destruction to the Property by fire or otherwise shall remain with Seller until title to the Property has been conveyed and transferred to Purchaser. If, after exercise of this Option, and prior to the Closing of the sale under the exercised Option, all or any part of the Property is damaged or destroyed, taken by eminent domain or if condemnation proceedings are commenced, Seller shall immediately provide notice of same to Purchaser and Purchaser may terminate this Agreement by delivery of written notice to Seller, and thereafter neither party shall have any further liability to the other except as otherwise expressly set forth in paragraph 6 of this Agreement. If Purchaser does not elect to terminate this Agreement, then there should be credited to the Purchase Price all insurance and condemnation proceeds received by Seller prior to Closing, and Seller shall assign, transfer and set over to Purchaser at the Closing all of the Seller's right, title and interest in and to any insurance and proceeds thereof for such damage or destruction or condemnation awards that may be made for such taking after the Closing.

6. Inspections and Survey. During the term of this Option, Purchaser and its agents shall have, and Seller hereby grants to Purchaser and its contractors, the right of ingress and egress on, over, through, across, to and from the Property for the purpose of making any inspections, explorations, tests (including Phase I and II, asbestos surveys and other environmental inspections, samplings, drilling, and tests) and examinations of the Property as Purchaser may desire, or engaging in any other property evaluation and assessment activities which Purchaser deems appropriate. During the term of this Option, Purchaser may elect to cause a licensed surveyor or engineer prepare an accurate survey of the Property (the "Survey"), establishing the boundaries of the Property and showing the location of all easements or encroachments, if any, affecting the Property. Purchaser reserves the right to make written objections to title based upon the Survey, as provided in paragraph 4 above. The legal description of the Property set forth in this Agreement shall be used to describe the Property in the General Warranty Deed to be delivered by Seller at Closing. If the exact boundaries of the Property established by the Survey should differ from the legal description contained herein, then Seller shall also execute and deliver to Purchaser a Quit Claim Deed at Closing conveying the Property based upon a legal description of the Property taken from the Survey.

By entering the Property for this or any other purpose, Purchaser:

- (a) Agrees to provide to Seller at least 24-hour advance notice for each occasion of desire to enter premises, which may require for either a Seller representative to be present or otherwise provide a key for entry.
- (b) Accepts the risk of any damage it may cause to the Property or Seller's personal property on the Property.
- (c) Agrees to repair any damage caused by Purchaser to the Property; and,

7. Exercise by Purchaser and Purchaser's Option to Terminate Agreement.

- (a) Purchaser may, at Purchaser's sole election, exercise the Option at any time during the Option Period, and thereby cause Seller to sell the Property to Purchaser subject to the terms of this Agreement. If Purchaser elects to exercise this Option hereunder, it shall do so by sending a written notice of exercise to Seller in accordance with paragraph 21 of this Agreement. Purchaser's notice of exercise shall specify the date and time that the Closing of the sale of the Property, (the "Closing")

will take place, which date shall be a business day no later than sixty (60) days and no earlier than fifteen (15) days after the date of Purchaser's exercise of the Option (the "Closing Date"), unless otherwise agreed in writing by the parties. The Closing shall take place in the offices of Purchaser's attorney or designated settlement agent in Staunton or Augusta County, Virginia.

- (b) Notwithstanding any exercise of the Option by Purchaser, Purchaser shall, at all times during the term of this Agreement, have the right to terminate this Agreement in Purchaser's sole and absolute discretion, by giving Seller notice of termination, in which event the Seller will retain any Option Payments or Option Extension Payments made hereunder and neither party shall have any further liability to the other except as otherwise expressly set forth in paragraph 6 of this Agreement.

8. **Closing.** At the Closing:

*7/20/20
8/28/2020* *BMB 8/27/2020
page 4 of 14*

- (a) Seller shall obtain and deliver releases of liens, if any, from all lienholders holding liens affecting the Property.
- (b) Seller shall execute and deliver to the Purchaser a General Warranty Deed covering the Property, conveying good and indefeasible fee simple title to the Property, free and clear of all liens and encumbrances, other than the Permitted Encumbrances.
- (c) Seller shall execute and deliver to Purchaser or its title insurer (1) a mechanic's lien affidavit in form satisfactory to Purchaser or its title insurance company, (2) an affidavit if the form required by Section 1445 of the Internal Revenue Code to establish that Seller is not a foreign person, (3) a statement certifying that all representations and warranties of Seller contained in this Agreement remain true and correct as of the date and time of Closing, and (4) such other affidavits or certifications as may be reasonably required by Purchaser's title insurance company, and as set forth in the title insurance commitment.
- (d) Seller and Purchaser shall each execute such other instruments as are customarily executed in Virginia to effectuate the conveyance and acceptance of real estate similar to the Property, including any transfers of all riparian rights, rights to underground water and mineral rights associated with the Property, with the effect that, after the Closing, Purchaser will have succeeded to all of the rights, titles and interests of Seller related to the Property and Seller will no longer have any right, title or interest in and to the Property.
- (e) Any real estate taxes or assessments applicable to the Property, and any income or rents (if any) from the Property, for the year in which the Closing occurs shall be prorated as of the date of the Closing.
- (f) Purchaser shall tender to Seller the Purchase Price, subject to any credits or adjustments to the Purchase Price that are required under this Agreement.
- (g) In the event the Permitted Encumbrances include any leasehold interests that are disclosed on the attached Exhibit B, Purchaser agrees to take title to the Property subject to such written leasehold interests which are not in default (but not any amendments or modifications thereto or any extensions or renewals thereof) notwithstanding paragraphs 4 and 5 hereof, and all items of prepaid rent and expenses under such leases shall be prorated as of the date of the Closing. Seller shall provide Tenant estoppels for all leasehold interests which are Permitted Encumbrances no later than five (5) days prior to Closing.
- (h) Seller shall assign to Purchaser all Seller's rights and obligations under any contracts or leases related to the Property which are Permitted Encumbrances or which Purchaser elects to assume by written notice to Seller delivered prior to Closing.

9. **Possession.** Seller shall deliver exclusive possession of the Property to Purchaser at the Closing, in the same condition as on the date of this Option, normal wear and tear excepted, free and clear of all tenants, occupants, parties in possession, leases, licenses and permits which are not included in the Permitted Encumbrances.

YDA BMB 8/27/2020
8/28/2020 Page 5 of 14

10. **Brokers.** Seller and Purchaser both represent and warrant to the other that Cottonwood Commercial is the sole agent or broker involved in the transaction described in this Agreement. Seller agrees to pay Cottonwood Commercial a commission equal to three per cent (3%) of the Purchase Price paid at Closing for the Property. If needed to clear title to the Property, Seller and Purchaser shall execute at Closing such affidavits as are appropriate to confirm to the satisfaction of Purchaser's title insurance company that no choate or inchoate liens and lien rights exist in favor of any brokers other than Cottonwood Commercial. The provisions of this paragraph shall survive Closing, or the earlier termination or expiration of this Agreement.

11. **Closing Expenses.** Seller shall be responsible for the cost of preparing the General Warranty deed and any other standard Seller instruments required to be executed at Closing and payment of the statutory Grantor's Tax. Purchaser shall be responsible for the cost of recording the deed (with exception of the grantor's tax paid by Seller), the cost of the title search, the cost of title insurance, the costs of investigating the Property, and the cost of the Survey. Each party shall be responsible for its own attorney's fees.

12. **Governmental Approvals.** In the event that the approval of any governmental entity, including, but not limited to, subdivision approval, rezoning, special permits, environmental permits or variances, is required during the option period for the transfer of the Property to Purchaser, Purchaser's receipt of such approvals, permits and variances shall be a condition precedent to Purchaser's obligation to close the purchase of the Property. Seller agrees to promptly execute any forms and applications related thereto that Purchaser reasonably requests, provided, however, that the burden of obtaining such approval shall be borne by Purchaser. Seller shall cooperate with Purchaser in pursuing the foregoing approvals, permits and variances. Purchaser may file appropriate applications to the city of Staunton for demolition of some historical buildings but the property owners will only need to grant permission for Purchaser to make such applications, and therefore Seller will not be directly associated with said applications.

13. **Environmental Representations and Warranties.** The property is being purchased "As Is". Seller represents and warrants that, as of the date of this Agreement, and as of the time of the Closing, that:

- (a) No knowledge exists that the Property is not in compliance with all federal, state and other environmental and other laws, rules and regulations;
- (b) There are no pending, and to Seller's knowledge, threatened claims, lawsuits, administrative proceedings, enforcement actions or investigations concerning the Property by any private party or governmental entity, nor has Seller received notice of any such activities, and Seller agrees to give Purchaser prompt written notice of any such actions or investigations instituted between the date hereof and the date of the Closing;
- (c) Seller has not received any notice of any judicial or administrative consent orders or other provisions calling for compliance with any legal requirement or for correction of any violation;
- (d) No knowledge exists that the Property has been the site of any activity that would violate any past or present environmental law or regulation of any governmental body or agency having jurisdiction over the Property, and that there is no knowledge that there have been any solid or hazardous wastes or substances, or oil or other dangerous or toxic substances, all as defined in the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601 et seq. ("CERCLA"),

the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq. ("RCRA"), the Hazardous Material Transportation Act, 49 U.S.C. §§ 1801 et seq., the Clean Water Act, 33 U.S.C. §§ 1251 et seq., or the Toxic Substance Control Act, 15 U.S.C. §§ 2600 et seq., or any other applicable federal, state or local law, rule or regulation, stored, placed, treated, released or disposed of anywhere on the Property;

- (e) No knowledge exists that the Property is identified on any current or proposed (i) National Priorities List under 40 C.F.R. Part 300, (ii) CERCLA Information Systems List, or (iii) state environmental or other regulatory agency list based on a statute similar to CERCLA or RCRA; and
- (f) The Property has not been used for any purpose other than Law Offices and other related activities.

Seller shall give immediate oral and written notice to Purchaser of its receipt of any notice of a violation of any law, rule, regulation, ordinance or code covered herein, or of any notice of other claim relating to the environmental condition of the Property.

*YDA BMB 8/27/2020
8/28/2020 page 6 of 14*

14. **Default.** If Seller defaults under this Agreement and such default continues for fifteen (15) days after receipt of notice thereof from Purchaser to Seller, the sole and exclusive remedy of Purchaser shall be to elect to either (i) prosecute an action for specific performance of this Agreement against Seller, or (ii) terminate this Agreement by notice to Seller and have the Option Payment and Option Extension Payment refunded, in which event neither party shall have any further liability to the other except as otherwise expressly set forth in paragraph 6 of this Agreement. If Purchaser defaults under this Agreement and such default continues for fifteen (15) days after receipt of notice thereof from Seller to Purchaser, Seller's sole and exclusive remedy shall be to retain the Option Payment, the Option Extension Payment and any other deposits made hereunder by the Purchaser as liquidated damages, as actual damages may be difficult or impossible to ascertain in a suit for damages in the event of Purchaser's breach.

15. **Survival.** All covenants, agreements, representations and warranties contained in this Agreement shall not survive the Closing, transfer of the Property to Purchaser and payment of the Purchase Price, and shall merge into the General Warranty Deed delivered at Closing.

16. **Seller's Covenants and Conditions to Closing.** During the term of this Option, Seller shall not, without the prior written consent of the Purchaser:

- (a) Enter into any agreement, or amend, modify, extend or renew any existing agreement, for the use, sale or lease of the Property which would (1) survive Closing, (2) otherwise affect the use, operation or enjoyment of the Property after the Closing, or (3) materially and adversely affect the value of the Property;
- (b) Commit or permit to be committed any waste or change in the use, condition or appearance of the Property;
- (c) Perform or consent to any zoning or re-zoning of the Property.

Purchaser's obligation to close the purchase of the Property shall be conditioned upon (1) there having occurred no material adverse change in the condition or use, or other change in circumstances, with respect to any properties surrounding or in the vicinity of the Property that has a material adverse effect on the value of the Property; (2) the Property being in substantially the same condition and used for the same uses and purposes on the date of the Closing as existed on the date of this Agreement; and (3) the Property shall be subject only to the easements and encumbrances that are disclosed on the attached Exhibit B (if any).

17. **Assignment.** Purchaser shall have the right to assign this Agreement and any of its rights and obligations hereunder to any party without the consent of the Seller, by delivering prior written notice of such assignment to the Seller at any time prior to the Closing.

18. **Time is of the Essence.** Time shall be of the essence in the performance of all obligations under this Agreement. If the time period by which any right, option or election provided under this Agreement must be exercised, or by which any act required under this Agreement must be performed, or by which an event must be held, expires on a Saturday, Sunday or a holiday, then such time period shall be automatically extended to the next business day.

19. **Controlling Law.** This Agreement has been entered into under, and shall be interpreted and construed according to, the laws of the Commonwealth of Virginia.

20. **Entire Agreement; Modification.** This Agreement and all exhibits attached hereto constitutes the entire and complete agreement between the Parties hereto and supersedes any prior oral or written agreements between the Parties with respect to the Property. Seller and Purchaser expressly agree that there are no oral or written understandings or agreements between them that in any way change the terms, covenants and conditions set forth in this Agreement, and that no modification of this Agreement, and no waiver of any of its terms or conditions, shall be effective unless made in writing and duly executed by both parties.

21. **Notices.** All notices provided or permitted to be given under this Agreement must be in writing and shall be served by depositing same in United States certified or registered Mail, return receipt requested, by guaranteed overnight delivery service (e.g. Federal Express, UPS Next Day Air), or by hand delivery, to each of the addresses set forth below. All notices shall be effective three (3) days after mailing in accordance herewith, two (2) days after consignment to a guaranteed overnight delivery service, or upon hand delivery. For purposes of notice, the addresses of the Parties shall be as follows:

Seller: Barristers Row Real Estate LLC
P.O. Box 1206
Staunton, Virginia 24402-1206

YBN *BM B 8/27/2020*
8/28/2020 *page 7 of 14*

Copies To: Benham M. Black N. Douglas Noland, Jr.
212 Fraser Lane 91 Confederate Street
Staunton, Virginia 24401-2329 Verona, Virginia 24482

Purchaser: *County of Augusta Virginia*
18 Government center lane
Verona, Virginia 24482

Seller and Purchaser shall have the right to change their addresses for the receipt of notices by giving notice of such change of address in accordance herewith.

22. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the Parties and their successors and assigns.

23. **Confidentiality.** The parties agree that until after Closing each party, including if applicable its directors, officers and employees and Affiliates (the "Covered Parties") shall keep all terms of this Agreement confidential and (b) each of the Covered Parties shall hold and shall cause their consultants and advisors to hold in strict confidence, unless compelled to disclose by judicial or administrative process or, in the opinion of its counsel, by other requirements of law, all documents and information concerning or in connection with the transactions contemplated by this Agreement, except to the extent that any other information

referred to in clause (a) or (b) above can be shown to have been (i) previously known by the party to which it is furnished, (ii) in the public domain through no fault of such party or (iii) later lawfully acquired from other sources by the party to which it was furnished (such as public recording or tax records). In the event that a Covered Party is compelled by judicial or administrative process or by other requirements of law to disclose such confidential information, such Covered Party shall promptly notify the other party of the request for disclosure and, if reasonably requested by the other party, and at the expense of the party so requesting shall cooperate in opposing the request for disclosure and in seeking confidential treatment for the confidential information that has been requested.

24. *Acceptance of Offer.* The signature by the Seller to this Option shall remain open for acceptance by the Purchaser for seventy-two (72) hours, beginning at 8:00pm EST on the date Seller signs this Agreement. Purchaser must countersign within said seventy-two (72) hour period, disclose its identity and return a fully signed copy of this Agreement (which may be transmitted electronically via PDF, DocuSign or similar means) to Seller. If Seller fails to receive such Purchaser signature and identity confirmation within the seventy-two (72) hour period, Seller may withdraw its offer of sale upon written notice of such withdrawal, delivered to Cottonwood Commercial.

IN WITNESS WHEREOF, the Seller and Purchaser have executed this Agreement as of the date first set forth above.

Seller: Barristers Row Real Estate LLC

Date: 8/27/2020

by Benham M. Black (SEAL)

Benham M. Black, Member

Date: 8/28/2020

By: N. Douglas Noland, Jr. (SEAL)

N. Douglas Noland, Jr., Member

Date: 8/31/2020

M. Fitzgerald (SEAL)

Purchaser

County Administrator
Augusta County

page 8 of 14

EXHIBIT A – Property Description

ADN
8/28/2020

BMB 8/28/2020
Page 9 of 14

Location 7 COURT PLACE Account# 9004
 Owner BARRISTERS ROW REAL ESTATE LLC Assessment \$48,880
 PID 9004 Building Count 1
 Legal Description (LOT 31 BLK EE) Historic District 11 BEV
 Zoning B2 Map Number 375
 Subdivision CENTRAL CITY

Tax Assessment

Valuation Year	Improvements	Land
2020	\$43,600	\$5,280

Location 9 COURT PLACE Account# 5249
 Owner BARRISTERS ROW REAL ESTATE LLC Assessment \$41,450
 PID 5249 Building Count 1
 Legal Description (LOT 30 BLK EE) Historic District 11 BEV
 Zoning B2 Map Number 375
 Subdivision CENTRAL CITY

Tax Assessment

Valuation Year	Improvements	Land
2020	\$37,400	\$4,050

THIS INSTRUMENT IS EXEMPT FROM RECORDATION TAXES PURSUANT TO SECTION 58.1-811A10 and 11 and C1 OF THE CODE OF VIRGINIA, 1950, AS AMENDED.

After recordation, please return to:
Black & Noland, PLC
PO BOX 1206
Staunton, VA 24402-1206

Instrument prepared by: N. Douglas Noland, Jr., (VSB#18673)

Pins: 5249 and 9004

THIS DEED made and entered into this 4th day of October, 2019, by and between **BENHAM M. BLACK** and **N. DOUGLAS NOLAND, JR.**, Trustees of the Barristers Row Real Estate Trust, a real estate investment trust treated as a partnership, Grantor and **BARRISTERS ROW REAL ESTATE, LLC**, a Virginia limited liability company, Grantee, whose address is P.O. Box 1206, Staunton, VA 24402-1206.

WITNESSETH:

WHEREAS, the below described property was conveyed to the Barristers Row Real Estate Trust by two deeds which are described below.

The Trustees and beneficiaries of the Barristers Row Real Estate Trust are Benham M. Black and N. Douglas Noland, Jr., who have been treating the entity as a partnership since its inception.

WHEREAS, Benham M. Black and N. Douglas Noland, Jr. are the sole members of the Barristers Row Real Estate LLC.

BMB 8/27/202
Page 10 of 14
YDN
8/28/2020

WHEREAS, the Trustees of the Barristers Row Real Estate Trust desire to convey the property to the partners who in turn have directed that the property be conveyed to the Grantee.

BMB 8/27/202
page 11 of 14
Nolan
8/28/202

NOW THEREFORE, for and in consideration of the premises, the said Benham M. Black and N. Douglas Noland, Jr., Trustees of the Barristers Row Real Estate Trust do hereby grant, bargain, sell and convey with GENERAL WARRANTY and ENGLISH COVENANTS OF TITLE unto the Barristers Row Real Estate, LLC, Grantee, the following three (3) parcels of real estate:

Parcel One: All that certain lot or parcel of land, together with all improvements thereon and appurtenances thereunto belonging, situate in the City of Staunton, Virginia, on the north side of Court House Alley or Barristers Row, designated and described as containing 1,055 square feet on a plat entitled, "MAP OF THE COUNTY OF AUGUSTA PROPERTY STAUNTON, VIRGINIA" dated May 20, 1986, prepared by R.E. Funk- Land Surveyor, which is recorded in the Clerk's Office of the Circuit Court of the City of Staunton in Deed Book 265, Page 445, and being the same identical property acquired by the County of Augusta by Deed of Alex. H.H. Stuart and Frances C. Stuart dated December 21, 1877, and of record in the Clerk's Office of the Circuit Court of the City of Staunton, Virginia, in Deed Book 7, Page 516.

Parcel Two: All of the rights, title and interest of Augusta County, Virginia, in that certain parcel or tract of land lying to the north side of Court House Alley or Barristers Row, to the east of South Augusta Street, south of the property line now or formerly belonging to Hogshead, and west of the property formerly belonging to Curry Carter, now Echols, and being all of the rights, title and interest held by or reserved by Augusta County, Virginia, in a certain Indenture dated June 28, 1843, between John B. Breckenridge, Benjamin Crawford and George M. Cochran, Commissioners, for and on behalf of the County of Augusta, of the one part, and Alexander H.H. Stuart, David Fultz, William Frazier, William B. Kaysier, and John B. Baldwin, attorneys-at-law, of the Town of Staunton,

LAW OFFICES
BLACK, NOLAND,
P.L.C.
STAUNTON, VIRGINIA
24402-1206

of the other part, which Indenture is of record in the Clerk's Office of the Circuit Court of Augusta County, Virginia, in Deed Book 64, Page 87.

This property is conveyed in gross and not by the acre, LESS HOWEVER, a conveyance to John Charles Lotz, Deborah Ridgely Walker and Sue Graham Schwarting by Quit Claim Deed dated November 8, 2010, which deed is recorded in the aforesaid Clerk's Office as Instrument No. _____.

Parcels One and Two are the same property acquired by Barristers Row Real Estate Trust by deed dated May 20, 1986 from the County of Augusta, Virginia, which deed is recorded in the aforesaid Clerk's Office in Deed Book 265, Page 443.

Parcel Three: All that certain tract or parcel of land with all appurtenances thereto belonging situate in the City of Staunton, Virginia, and being more particularly described in a certain Deed dated July 14, 1939, by and between Joseph A. Glasgow and Maria W. Glasgow, his wife, to Eleanor B. Glasgow and Charlotte A. Glasgow, recorded in the Clerk's Office of the Circuit Court of the City of Staunton, Virginia, in Deed Book 47, Page 300, as follows:

"All of the brick tenements and the land on which the same are built formerly occupied by the said Glasgow as law offices and situated in the City of Staunton, Virginia, on the north side of Court House alley, being that part of "Barristers Row" situated between the offices on the west now owned by the County of Augusta on the east by the offices now owned by L.W.H. Peyton" (now Philip Lee Lotz).

The property hereby conveyed is the same property acquired by the Barristers Row Real Estate Trust by deed dated March 21, 1990, from Eleanor M. Robideau and Philip N. Robideau, her husband, which deed is of record in the aforesaid Clerk's Office in Deed Book 303, Page 23.

Reference is hereby made to the aforesaid deeds and the references therein contained for further description and derivation of title.

BMB
8/27/2020
page 12 of
14
NBN
5/28/2020

This conveyance is made expressly subject to any easements, covenants, conditions, restrictions, or reservations contained in any duly recorded instruments or plats in the chain of title to the property hereby conveyed which have not expired by limitation of time contained therein or otherwise have become ineffective.

WITNESS the following signatures and seals.

Benham M. Black, Trustee (SEAL)
Benham M. Black, Trustee of the Barristers
Row Real Estate Trust

N. Douglas Noland, Jr., Trustee (SEAL)
N. Douglas Noland, Jr., Trustee of the
Barristers Row Real Estate Trust

COMMONWEALTH OF VIRGINIA
CITY OF STAUNTON, to-wit:

The foregoing instrument was acknowledged before me this 4th day of October, 2019, by Benham M. Black and N. Douglas Noland, Jr., Trustees of the Barristers Row Real Estate Trust.

My Commission expires: April 30, 2021

NLN
8/28/2020
13

BMB 8/27/2020
page 13 of 14

EXHIBIT B – Permitted Encumbrances

- 1) Party wall between 5 Court Place and 7 Court Place
- 2) Party wall between 9 Court Place and 11 Court Place

BMB 8/27/2020
page 14 of 14

WLN 8/28/2020



Option Agreement

THIS OPTION AGREEMENT (the "Agreement") is made and entered into this 21st day of August, 2020, by and between Sue Graham and Richard A. Schwarting (referred to herein as the "Seller"), whose address is 20560 Captains Walk – Smithfield, Virginia 23430, and (To Be Revealed within 72 hours after acceptance by Seller), or assigns (herein referred to as the "Purchaser"), whose address is _____, (the Seller and Purchaser shall sometimes be referred to collectively as the "Parties").

WITNESSETH:

For and in consideration of the sum of the Option Payment made by Purchaser to Seller hereunder, any Option Extension Payments, the receipt of all of which is hereby acknowledged by the Seller, the Seller hereby grants to Purchaser, on and subject to the terms and conditions set forth below the right and option (the "Option") to Purchaser to purchase the following described real estate, (the "Property") at 11 Court Place – Staunton, Virginia, to-wit:

[Property Description as Exhibit A]

The Property includes all easements, gas, oil, mineral and mining rights, all riparian rights and rights to underground water, and any and all other rights and appurtenances of Seller that are in any way associated with the Property, including all buildings, structures, fences and other permanent improvements to the Property owned by Seller. The Property does not include any personal property of any kind, such as removable (unattached) equipment, household goods or furniture, which Seller shall remove before Seller is required to relinquish possession of the Property.

The Option is granted to Purchaser upon the following terms and conditions: payable

1. **Purchase Price.** The purchase price of the Property shall be Seventy-one thousand five hundred and 00/100 Dollars (\$71,500.00) (the "Purchase Price"). The Purchase Price shall be by wire transfer at the Closing (as hereinafter defined) as Seller shall elect. Any real estate taxes or assessments applicable to the Property, and any income or rents from the Property, for the year in which the Closing occurs shall be prorated as of the date of the Closing.

1.1 **Option Payment and Extension.** Upon execution of this Agreement by Purchaser, Purchaser shall deliver to Seller the sum of Seven thousand one hundred fifty and 00/100 Dollars (\$7,150.00) in cash, check, or certified funds (the "Option Payment"). In the event that Purchaser closes on the purchase of the Property, the Option Payment and Option Extension Payment shall be credited to the Purchase Price.

2. **Term.** Purchaser shall have the right to exercise this Option, by giving Seller written notice of exercise at any time prior to the 31st day of January, 2021 (the "Option Period"). If the Option is not exercised before such date, this Agreement shall terminate, the Seller will retain the Option Payment and the Parties shall

have no further rights hereunder. Purchaser shall have the right to extend the Option Period for an additional ninety (90) days by the payment of another \$3,575.00 (the "Option Extension Payment") by cash, check, or wire transfer to Seller on or before the expiration of the Option Period.

3. Seller's Representations and Warranties. Seller represents and warrants to Purchaser as follows:

- (a) Seller alone has (and at Closing will have) good, marketable and indefeasible fee simple title to the Property, free and clear of all liens and encumbrances other than the lien for real estate taxes not yet due and payable (which shall be prorated at Closing); and,
- (b) Seller has full right, power and authority to execute and deliver this Agreement and to consummate the transaction provided for herein without obtaining any further consents or approvals from, or the taking of any other action with respect to, any third parties;
- (c) At the Closing, Seller will be able to convey to the Purchaser good, marketable and indefeasible fee simple title to the Property, free and clear of all liens, leases and other encumbrances, subject only to the Permitted Encumbrances (defined below); and,
- (d) No other options to purchase, purchase agreements, rights of refusal, any other options or rights exist with respect to the Property other than this Agreement; and,

Permitted Encumbrances is hereby defined as the encumbrances listed in Exhibit B, a copy of which is attached hereto and made a part hereof. Regardless of such disclosure, the following items shall not be deemed to be Permitted Encumbrances: (i) any lien for taxes which are due and payable at Closing, (ii) mortgages, deeds of trust, deeds to secure debt, judgment liens, mechanic's and materialmen's liens, and other liens against the Property (all of which shall be satisfied by the Seller at Closing); and (iii) any leasehold interests represented by written leases which are not in breach by the Tenant at the time of Closing.

4. Title Examination. At any time prior to Closing, Purchaser shall have the right, but not the obligation, to obtain a title insurance commitment from one or more title insurance companies selected by Purchaser, setting forth the status of the title to the Property, and showing all liens, claims, encumbrances, reservations, restrictions and other matters, if any, relating to the Property, together with a copy of all documents referred to in the title insurance commitment. Purchaser shall advise Seller in writing of any title objection not less than forty-five (45) days prior to the Closing Date. Notwithstanding the foregoing, Purchaser shall have the continuing right to have such title examination and title insurance commitment updated from time to time and to give Seller written notice of any title objections appearing of record or otherwise created after the effective date of the title insurance commitment and being revealed by any title examination or survey of the Property, and Purchaser shall be entitled to object (in the same manner as set forth hereinabove) to matter shown by the updated title insurance commitment. Seller shall use reasonable efforts to remedy any title objections raised by Purchaser to the reasonable satisfaction of Purchaser within thirty (30) days after Purchaser's notice. If the objections are not so cured or remedied, on or before a date five (5) days prior to the Closing Date (as hereinafter defined), then the Purchaser, at its election, shall have the right to either: (a) accept title to the Property subject to the objections, and any title objection accepted by Purchaser in writing shall become part of the Permitted Encumbrances; (b) not close the purchase of the Property until the title objections raised by Purchaser are cured; or (c) terminate this Agreement by written notice to Seller, in which event neither party shall have any further liability to the other except as otherwise expressly set forth in paragraph 6 of this Agreement. Notwithstanding the foregoing, Seller at its sole cost, shall be obligated to cure or remove at or before the Closing (and apply any portion of the Purchase Price needed to satisfy such obligations at closing) all mortgages, deeds of trust, deeds to secure debt, judgment liens, mechanic's and materialmen's liens, and other liens against the Property (unless caused by the actions or inspections of Purchaser), whether or not Purchaser objects thereto. In addition, Seller shall not allow any

lease, easements or other encumbrances to be placed on or granted with respect to the Property, other than those listed in the attached Exhibit B, without the prior written consent of Purchaser. If any such encumbrances or easements arise during the term of this Agreement, Seller shall, at its sole cost and expense, cure such objection prior to the Closing Date.

5. Risk of Loss, Eminent Domain. Risk of damage or destruction to the Property by fire or otherwise shall remain with Seller until title to the Property has been conveyed and transferred to Purchaser. If, after exercise of this Option, and prior to the Closing of the sale under the exercised Option, all or any part of the Property is damaged or destroyed, taken by eminent domain or if condemnation proceedings are commenced, Seller shall immediately provide notice of same to Purchaser and Purchaser may terminate this Agreement by delivery of written notice to Seller, and thereafter neither party shall have any further liability to the other except as otherwise expressly set forth in paragraph 6 of this Agreement. If Purchaser does not elect to terminate this Agreement, then there should be credited to the Purchase Price all insurance and condemnation proceeds received by Seller prior to Closing, and Seller shall assign, transfer and set over to Purchaser at the Closing all of the Seller's right, title and interest in and to any insurance and proceeds thereof for such damage or destruction or condemnation awards that may be made for such taking after the Closing.

6. Inspections and Survey. During the term of this Option, Purchaser and its agents shall have, and Seller hereby grants to Purchaser and its contractors, the right of ingress and egress on, over, through, across, to and from the Property for the purpose of making any inspections, explorations, tests (including Phase I and II, asbestos surveys and other environmental inspections, samplings, drilling, and tests) and examinations of the Property as Purchaser may desire, or engaging in any other property evaluation and assessment activities which Purchaser deems appropriate. During the term of this Option, Purchaser may elect to cause a licensed surveyor or engineer prepare an accurate survey of the Property (the "Survey"), establishing the boundaries of the Property and showing the location of all easements or encroachments, if any, affecting the Property. Purchaser reserves the right to make written objections to title based upon the Survey, as provided in paragraph 4 above. The legal description of the Property set forth in this Agreement shall be used to describe the Property in the General Warranty Deed to be delivered by Seller at Closing. If the exact boundaries of the Property established by the Survey should differ from the legal description contained herein, then Seller shall also execute and deliver to Purchaser a Quit Claim Deed at Closing conveying the Property based upon a legal description of the Property taken from the Survey.

By entering the Property for this or any other purpose, Purchaser:

- (a) Agrees to provide to Seller at least 24-hour advance notice for each occasion of desire to enter premises, which may require for either a Seller representative to be present or otherwise provide a key for entry.
- (b) Accepts the risk of any damage it may cause to the Property or Seller's personal property on the Property.
- (c) Agrees to repair any damage caused by Purchaser to the Property; and,

7. Exercise by Purchaser and Purchaser's Option to Terminate Agreement.

- (a) Purchaser may, at Purchaser's sole election, exercise the Option at any time during the Option Period, and thereby cause Seller to sell the Property to Purchaser subject to the terms of this Agreement. If Purchaser elects to exercise this Option hereunder, it shall do so by sending a written notice of exercise to Seller in accordance with paragraph 21 of this Agreement. Purchaser's notice of exercise shall specify the date and time that the Closing of the sale of the Property, (the "Closing") will take place, which date shall be a business day no later than sixty (60) days and no earlier than

fifteen (15) days after the date of Purchaser's exercise of the Option (the "Closing Date"), unless otherwise agreed in writing by the parties. The Closing shall take place in the offices of Purchaser's attorney or designated settlement agent in Staunton or Augusta County, Virginia.

- (b) Notwithstanding any exercise of the Option by Purchaser, Purchaser shall, at all times during the term of this Agreement, have the right to terminate this Agreement in Purchaser's sole and absolute discretion, by giving Seller notice of termination, in which event the Seller will retain any Option Payments or Option Extension Payments made hereunder and neither party shall have any further liability to the other except as otherwise expressly set forth in paragraph 6 of this Agreement.

8. Closing. At the Closing:

- (a) Seller shall obtain and deliver releases of liens, if any, from all lienholders holding liens affecting the Property.
- (b) Seller shall execute and deliver to the Purchaser a General Warranty Deed covering the Property, conveying good and indefeasible fee simple title to the Property, free and clear of all liens and encumbrances, other than the Permitted Encumbrances.
- (c) Seller shall execute and deliver to Purchaser or its title insurer (1) a mechanic's lien affidavit in form satisfactory to Purchaser or its title insurance company, (2) an affidavit if the form required by Section 1445 of the Internal Revenue Code to establish that Seller is not a foreign person, (3) a statement certifying that all representations and warranties of Seller contained in this Agreement remain true and correct as of the date and time of Closing, and (4) such other affidavits or certifications as may be reasonably required by Purchaser's title insurance company, and as set forth in the title insurance commitment.
- (d) Seller and Purchaser shall each execute such other instruments as are customarily executed in Virginia to effectuate the conveyance and acceptance of real estate similar to the Property, including any transfers of all riparian rights, rights to underground water and mineral rights associated with the Property, with the effect that, after the Closing, Purchaser will have succeeded to all of the rights, titles and interests of Seller related to the Property and Seller will no longer have any right, title or interest in and to the Property.
- (e) Any real estate taxes or assessments applicable to the Property, and any income or rents (if any) from the Property, for the year in which the Closing occurs shall be prorated as of the date of the Closing.
- (f) Purchaser shall tender to Seller the Purchase Price, subject to any credits or adjustments to the Purchase Price that are required under this Agreement.
- (g) In the event the Permitted Encumbrances include any leasehold interests that are disclosed on the attached Exhibit B, Purchaser agrees to take title to the Property subject to such written leasehold interests which are not in default (but not any amendments or modifications thereto or any extensions or renewals thereof) notwithstanding paragraphs 4 and 5 hereof, and all items of prepaid rent and expenses under such leases shall be prorated as of the date of the Closing. Seller shall provide Tenant estoppels for all leasehold interests which are Permitted Encumbrances no later than five (5) days prior to Closing.
- (h) Seller shall assign to Purchaser all Seller's rights and obligations under any contracts or leases related to the Property which are Permitted Encumbrances or which Purchaser elects to assume by written notice to Seller delivered prior to Closing.

9. **Possession.** Seller shall deliver exclusive possession of the Property to Purchaser at the Closing, in the same condition as on the date of this Option, normal wear and tear excepted, free and clear of all tenants, occupants, parties in possession, leases, licenses and permits which are not included in the Permitted Encumbrances.

10. **Brokers.** Seller and Purchaser both represent and warrant to the other that Cottonwood Commercial is the sole agent or broker involved in the transaction described in this Agreement. Seller agrees to pay Cottonwood Commercial a commission equal to three per cent (3%) of the Purchase Price paid at Closing for the Property. If needed to clear title to the Property, Seller and Purchaser shall execute at Closing such affidavits as are appropriate to confirm to the satisfaction of Purchaser's title insurance company that no choate or inchoate liens and lien rights exist in favor of any brokers other than Cottonwood Commercial. The provisions of this paragraph shall survive Closing, or the earlier termination or expiration of this Agreement.

11. **Closing Expenses.** Seller shall be responsible for the cost of preparing the General Warranty deed and any other standard Seller instruments required to be executed at Closing and payment of the statutory Grantor's Tax. Purchaser shall be responsible for the cost of recording the deed (with exception of the grantor's tax paid by Seller), the cost of the title search, the cost of title insurance, the costs of investigating the Property, and the cost of the Survey. Each party shall be responsible for its own attorney's fees.

12. **Governmental Approvals.** In the event that the approval of any governmental entity, including, but not limited to, subdivision approval, rezoning, special permits, environmental permits or variances, is required during the option period for the transfer of the Property to Purchaser, Purchaser's receipt of such approvals, permits and variances shall be a condition precedent to Purchaser's obligation to close the purchase of the Property. Seller agrees to promptly execute any forms and applications related thereto that Purchaser reasonably requests, provided, however, that the burden of obtaining such approval shall be borne by Purchaser. Seller shall cooperate with Purchaser in pursuing the foregoing approvals, permits and variances. Purchaser may file appropriate applications to the city of Staunton for demolition of some historical buildings but the property owners will only need to grant permission for Purchaser to make such applications, and therefore Seller will not be directly associated with said applications.

13. **Environmental Representations and Warranties.** The property is being purchased "As Is". Seller represents and warrants that, as of the date of this Agreement, and as of the time of the Closing, that:

- (a) No knowledge exists that the Property is not in compliance with all federal, state and other environmental and other laws, rules and regulations;
- (b) There are no pending, and to Seller's knowledge, threatened claims, lawsuits, administrative proceedings, enforcement actions or investigations concerning the Property by any private party or governmental entity, nor has Seller received notice of any such activities, and Seller agrees to give Purchaser prompt written notice of any such actions or investigations instituted between the date hereof and the date of the Closing;
- (c) Seller has not received any notice of any judicial or administrative consent orders or other provisions calling for compliance with any legal requirement or for correction of any violation;
- (d) No knowledge exists that the Property has been the site of any activity that would violate any past or present environmental law or regulation of any governmental body or agency having jurisdiction over the Property, and that there is no knowledge that there have been any solid or hazardous wastes or substances, or oil or other dangerous or toxic substances, all as defined in the Comprehensive Environmental Response, Compensation and Liability Act, [42 U.S.C. §§ 9601 et seq.](#) ("CERCLA"),

the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq. ("RCRA"), the Hazardous Material Transportation Act, 49 U.S.C. §§ 1801 et seq., the Clean Water Act, 33 U.S.C. §§ 1251 et seq., or the Toxic Substance Control Act, 15 U.S.C. §§ 2600 et seq., or any other applicable federal, state or local law, rule or regulation, stored, placed, treated, released or disposed of anywhere on the Property;

- (e) No knowledge exists that the Property is identified on any current or proposed (i) National Priorities List under 40 C.F.R. Part 300, (ii) CERCLA Information Systems List, or (iii) state environmental or other regulatory agency list based on a statute similar to CERCLA or RCRA; and
- (f) The Property has not been used for any purpose other than Law Offices and other related activities.

Seller shall give immediate oral and written notice to Purchaser of its receipt of any notice of a violation of any law, rule, regulation, ordinance or code covered herein, or of any notice of other claim relating to the environmental condition of the Property.

14. Default. If Seller defaults under this Agreement and such default continues for fifteen (15) days after receipt of notice thereof from Purchaser to Seller, the sole and exclusive remedy of Purchaser shall be to elect to either (i) prosecute an action for specific performance of this Agreement against Seller, or (ii) terminate this Agreement by notice to Seller and have the Option Payment and Option Extension Payment refunded, in which event neither party shall have any further liability to the other except as otherwise expressly set forth in paragraph 6 of this Agreement. If Purchaser defaults under this Agreement and such default continues for fifteen (15) days after receipt of notice thereof from Seller to Purchaser, Seller's sole and exclusive remedy shall be to retain the Option Payment, the Option Extension Payment and any other deposits made hereunder by the Purchaser as liquidated damages, as actual damages may be difficult or impossible to ascertain in a suit for damages in the event of Purchaser's breach.

15. Survival. All covenants, agreements, representations and warranties contained in this Agreement shall not survive the Closing, transfer of the Property to Purchaser and payment of the Purchase Price, and shall merge into the General Warranty Deed delivered at Closing.

16. Seller's Covenants and Conditions to Closing. During the term of this Option, Seller shall not, without the prior written consent of the Purchaser:

- (a) Enter into any agreement, or amend, modify, extend or renew any existing agreement, for the use, sale or lease of the Property which would (1) survive Closing, (2) otherwise affect the use, operation or enjoyment of the Property after the Closing, or (3) materially and adversely affect the value of the Property;
- (b) Commit or permit to be committed any waste or change in the use, condition or appearance of the Property;
- (c) Perform or consent to any zoning or re-zoning of the Property.

Purchaser's obligation to close the purchase of the Property shall be conditioned upon (1) there having occurred no material adverse change in the condition or use, or other change in circumstances, with respect to any properties surrounding or in the vicinity of the Property that has a material adverse effect on the value of the Property; (2) the Property being in substantially the same condition and used for the same uses and purposes on the date of the Closing as existed on the date of this Agreement; and (3) the Property shall be subject only to the easements and encumbrances that are disclosed on the attached Exhibit B (if any).

17. **Assignment.** Purchaser shall have the right to assign this Agreement and any of its rights and obligations hereunder to any party without the consent of the Seller, by delivering prior written notice of such assignment to the Seller at any time prior to the Closing.

18. **Time is of the Essence.** Time shall be of the essence in the performance of all obligations under this Agreement. If the time period by which any right, option or election provided under this Agreement must be exercised, or by which any act required under this Agreement must be performed, or by which an event must be held, expires on a Saturday, Sunday or a holiday, then such time period shall be automatically extended to the next business day.

19. **Controlling Law.** This Agreement has been entered into under, and shall be interpreted and construed according to, the laws of the Commonwealth of Virginia.

20. **Entire Agreement; Modification.** This Agreement and all exhibits attached hereto constitutes the entire and complete agreement between the Parties hereto and supersedes any prior oral or written agreements between the Parties with respect to the Property. Seller and Purchaser expressly agree that there are no oral or written understandings or agreements between them that in any way change the terms, covenants and conditions set forth in this Agreement, and that no modification of this Agreement, and no waiver of any of its terms or conditions, shall be effective unless made in writing and duly executed by both parties.

21. **Notices.** All notices provided or permitted to be given under this Agreement must be in writing and shall be served by depositing same in United States certified or registered Mail, return receipt requested, by guaranteed overnight delivery service (e.g. Federal Express, UPS Next Day Air), or by hand delivery, to each of the addresses set forth below. All notices shall be effective three (3) days after mailing in accordance herewith, two (2) days after consignment to a guaranteed overnight delivery service, or upon hand delivery. For purposes of notice, the addresses of the Parties shall be as follows:

Seller: Sue Graham and Richard A. Schwarting
20560 Captains Walk
Smithfield, Virginia 23430

Purchaser: County of Augusta, Virginia
18 Government Center Lane
Verona, Virginia 24482

Seller and Purchaser shall have the right to change their addresses for the receipt of notices by giving notice of such change of address in accordance herewith.

22. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the Parties and their successors and assigns.

23. **Confidentiality.** The parties agree that until after Closing each party, including if applicable its directors, officers and employees and Affiliates (the "Covered Parties") shall keep all terms of this Agreement confidential and (b) each of the Covered Parties shall hold and shall cause their consultants and advisors to hold in strict confidence, unless compelled to disclose by judicial or administrative process or, in the opinion of its counsel, by other requirements of law, all documents and information concerning or in connection with the transactions contemplated by this Agreement, except to the extent that any other information referred to in clause (a) or (b) above can be shown to have been (i) previously known by the party to which it is furnished, (ii) in the public domain through no fault of such party or (iii) later lawfully acquired from other sources by the party to which it was furnished (such as public recording or tax records). In the event that a Covered Party is compelled by judicial or administrative process or by other requirements of law to

disclose such confidential information, such Covered Party shall promptly notify the other party of the request for disclosure and, if reasonably requested by the other party, and at the expense of the party so requesting shall cooperate in opposing the request for disclosure and in seeking confidential treatment for the confidential information that has been requested.

24. **Acceptance of Offer.** The signature by the Seller to this Option shall remain open for acceptance by the Purchaser for seventy-two (72) hours, beginning at 8:00pm EST on the date Seller signs this Agreement. Purchaser must countersign within said seventy-two (72) hour period, disclose its identity and return a fully signed copy of this Agreement (which may be transmitted electronically via PDF, DocuSign or similar means) to Seller. If Seller fails to receive such Purchaser signature and identity confirmation within the seventy-two (72) hour period, Seller may withdraw its offer of sale upon written notice of such withdrawal, delivered to Cottonwood Commercial.

IN WITNESS WHEREOF, the Seller and Purchaser have executed this Agreement as of the date first set forth above.

Date: 8/28/20

Sue M. Schwartz (SEAL)
Seller

Date: 8/28/20

Richard G. Street (SEAL)
Seller

Date: 9-1-2020

[Signature] (SEAL)
Purchaser
County Administrator

EXHIBIT A – Property Description

Location	11 COURT PLACE	Account#	4902
Owner	SUE GRAHAM and RICHARD A. SCHWARTING	Assessment	\$70,800
PID	4902	Building Count	1
Legal Description	(LOT 29 BLK EE)	Historic District	11 BEV
Zoning	B2	Map Number	375
Subdivision	CENTRAL CITY		

Tax Assessment

Valuation Year	Improvements	Land
2020	\$65,200	\$5,600

100002783

PG 0023 DEC-3 10

PIN NO. 4902

The existence of title insurance is unknown to the preparer.

THIS DEED, made and entered into this 29th day of November, 2010 by and between JOHN CHARLES LOTZ, DEBORAH RIDGELY WALKER, and SUE GRAHAM SCHWARTING, Grantors, and RICHARD A. SCHWARTING and SUE GRAHAM SCHWARTING, husband and wife, Grantees, whose address is 20560 Captain's Walk, Smithfield, Virginia 23430.

-:- WITNESSETH -:-

THAT FOR AND IN CONSIDERATION of the sum of Ten Dollars (\$10.00) and other valuable consideration not herein mentioned, the receipt of all of which is hereby acknowledged, the said Grantors do hereby GRANT, BARGAIN, SELL AND CONVEY with SPECIAL WARRANTY OF TITLE unto Richard A. Schwarting and Sue Graham Schwarting, husband and wife, as tenants by the entireties with the right of survivorship as at common law, the following described real estate:

FIRST: All those two certain brick offices and the land upon which they are located, together with all rights, privileges and appurtenances thereto belonging, situated in the City of Staunton, Virginia, lying on the north side of Court House Alley, being that part of Barristers Row lying between the lands of Echols (formerly Carter) on the east, and Barristers Row Real Estate Trust (formerly the Glasgow Estate) on the west, said property fronting approximately 35 feet on the north side of Court House Alley and running back between lines parallel or nearly parallel a distance of 32 feet.

The above described real estate is the same real estate conveyed to Philip Lee Lotz by Deed from Richard C. Peyton, Executor under the Will of Margaret E. C. Peyton, dated May 25, 1962, and recorded in the aforesaid Clerk's Office for the City of Staunton in Deed Book 127, Page 526. Philip Lee Lotz died testate on August 15, 1986 and under the terms of his will dated May 3, 1983, recorded in the aforesaid Clerk's Office in Will Book 34, Page 415, he devised his real estate to his wife, Josephine G. Lotz. Josephine

NELSON, McPHERSON,
SUMMERS & SANTOS, L.C.
ATTORNEYS AT LAW
STAUNTON, VIRGINIA
36403-1257

PG0024 DEC-3 10

G. Lotz died testate on July 18, 2008 and under the terms of her will dated October 17, 1994, of record in the aforesaid Clerk's Office in File WF0800123, she devised her real estate to her three children, John Charles Lotz, Deborah Ridgely Walker, and Sue Graham Schwarting, the Grantors herein.

SECOND: That certain strip of land lying to the north and rear of the two brick offices acquired by Philip Lee Lotz as described in Paragraph FIRST above, being the strip of land located between an extension of the lines running back parallel or nearly parallel from the north side of Court House Alley to a line in the former Hogshead Building, currently owned by Brian Douglas Smith, as extended, and being the strip of land conveyed to the Grantors herein by quitclaim deed dated November 8, 2010 from Benham M. Black and N. Douglas Noland, Jr., Trustees of the Barristers Row Real Estate Trust, to the Grantors herein, recorded in the aforesaid Clerk's Office on November 16, 2010, Instrument No. 100002609.

A reference to the aforementioned wills and deeds and the references therein contained is here made for a more particular description of the real estate hereby conveyed as well as for derivation of title.

Real estate taxes for the year 2010 are prorated as of the date of delivery of this deed.

This conveyance is expressly subject to the easements, conditions, restrictions and reservations contained in duly recorded deeds, plats and other instruments constituting constructive notice in the chain of title to the property hereby conveyed which have not expired by limitation of time contained therein or otherwise have become ineffective.

WITNESS the following signatures and seals.

 (SEAL)
JOHN CHARLES LOTZ

 (SEAL)
DEBORAH RIDGELY WALKER
11/29/10

 (SEAL)
SUE GRAHAM SCHWARTING

P60025 DEC-3 10

STATE OF VIRGINIA AT LARGE,

CITY OF STAUNTON, to-wit:

The foregoing instrument was acknowledged before me this 3RD day of ^{December}~~November~~, 2010 by John Charles Lotz.

My Commission Expires: 10-31-2012

Shelia
Notary Public, ID No.



STATE OF North Carolina,

CITY\COUNTY OF Forsyth County, to-wit:

The foregoing instrument was acknowledged before me this 29th day of November, 2010 by Deborah Ridgely Walker.

My Commission Expires: 10-7-2015



Sonya Casskware Jones
Notary Public, ID No.

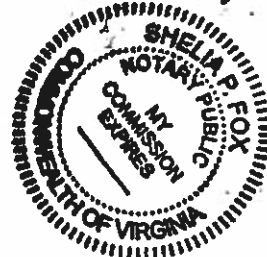
STATE OF VIRGINIA AT LARGE,

CITY\COUNTY OF Staunton to-wit:

The foregoing instrument was acknowledged before me this 3rd day of ^{December}~~November~~, 2010 by Sue Graham Schwarting.

My Commission Expires: 10-31-2012

Shelia P. Fox
Notary Public, ID No. 189157



INSTRUMENT #100002783
RECORDED IN THE CLERK'S OFFICE OF
STAUNTON ON

McPHERSON,
I & SANTOS, L
ATTY'S AT LAW
1700
1400-000

DECEMBER 3, 2010 AT 03:40PM
\$50.00 GRANTOR TAX WAS PAID AS
REQUIRED BY SEC 58.1-802 OF THE VA. CODE
STATE: \$25.00 LOCAL: \$25.00

THOMAS E. ROBERTS, CLERK
RECORDED BY: CGN

EXHIBIT B – Permitted Encumbrances

- 1) **Party wall between 9 Court Place and 11 Court Place**



Option Agreement

THIS OPTION AGREEMENT (the "Agreement") is made and entered into this 21st day of August, 2020, by and between Court Square Real Estate LLC (referred to herein as the "Seller"), a Virginia limited liability company with sole members being Benham M. Black and N. Douglas Noland, Jr., whose address is P.O. Box 1206 – Staunton, Virginia 24402, and (To Be Revealed within 72 hours after acceptance by Seller), or assigns (herein referred to as the "Purchaser"), whose address is _____, (the Seller and Purchaser shall sometimes be referred to collectively as the "Parties").

WITNESSETH:

BMB
8/27/2020
page 1 of 13
8/28/2020

For and in consideration of the sum of the Option Payment made by Purchaser to Seller hereunder, any Option Extension Payments, the receipt of all of which is hereby acknowledged by the Seller, the Seller hereby grants to Purchaser, on and subject to the terms and conditions set forth below the right and option (the "Option") to Purchaser to purchase the following described real estate, (the "Property") at 5 Lawyers Row – Staunton, Virginia, to-wit:

[Property Description as Exhibit A]

The Property includes all easements, gas, oil, mineral and mining rights, all riparian rights and rights to underground water, and any and all other rights and appurtenances of Seller that are in any way associated with the Property, including all buildings, structures, fences and other permanent improvements to the Property owned by Seller. The Property does not include any personal property of any kind, such as removable (unattached) equipment, household goods or furniture, which Seller shall remove before Seller is required to relinquish possession of the Property.

The Option is granted to Purchaser upon the following terms and conditions:

1. **Purchase Price.** The purchase price of the Property shall be One hundred fifty-two thousand five hundred and 00/100 Dollars (\$152,500.00) (the "Purchase Price"). The Purchase Price shall be payable by wire transfer at the Closing (as hereinafter defined) as Seller shall elect. Any real estate taxes or assessments applicable to the Property, and any income or rents from the Property, for the year in which the Closing occurs shall be prorated as of the date of the Closing.

1.1 **Option Payment and Extension.** Upon execution of this Agreement by Purchaser, Purchaser shall deliver to Seller the sum of Fifteen thousand two hundred fifty and 00/100 Dollars (\$15,250.00) in cash, check, or certified funds (the "Option Payment"). In the event that Purchaser closes on the purchase of the Property, the Option Payment and Option Extension Payment shall be credited to the Purchase Price.

2. **Term.** Purchaser shall have the right to exercise this Option, by giving Seller written notice of exercise at any time prior to the 31st day of January, 2021 (the "Option Period"). If the Option is not exercised before

such date, this Agreement shall terminate, the Seller will retain the Option Payment and the Parties shall have no further rights hereunder. Purchaser shall have the right to extend the Option Period for an additional ninety (90) days by the payment of another \$7,625.00 (the "Option Extension Payment") by cash, check, or wire transfer to Seller on or before the expiration of the Option Period.

BMA 8/27/2020 MJA
page 2 of 13 8/28/2020

3. **Seller's Representations and Warranties.** Seller represents and warrants to Purchaser as follows:

- (a) Seller alone has (and at Closing will have) good, marketable and indefeasible fee simple title to the Property, free and clear of all liens and encumbrances other than the lien for real estate taxes not yet due and payable (which shall be prorated at Closing); and,
- (b) Seller has full right, power and authority to execute and deliver this Agreement and to consummate the transaction provided for herein without obtaining any further consents or approvals from, or the taking of any other action with respect to, any third parties;
- (c) At the Closing, Seller will be able to convey to the Purchaser good, marketable and indefeasible fee simple title to the Property, free and clear of all liens, leases and other encumbrances, subject only to the Permitted Encumbrances (defined below); and,
- (d) No other options to purchase, purchase agreements, rights of refusal, any other options or rights exist with respect to the Property other than this Agreement; and,

Permitted Encumbrances is hereby defined as the encumbrances listed in Exhibit B, a copy of which is attached hereto and made a part hereof. Regardless of such disclosure, the following items shall not be deemed to be Permitted Encumbrances: (i) any lien for taxes which are due and payable at Closing, (ii) mortgages, deeds of trust, deeds to secure debt, judgment liens, mechanic's and materialmen's liens, and other liens against the Property (all of which shall be satisfied by the Seller at Closing); and (iii) any leasehold interests represented by written leases which are not in breach by the Tenant at the time of Closing.

4. **Title Examination.** At any time prior to Closing, Purchaser shall have the right, but not the obligation, to obtain a title insurance commitment from one or more title insurance companies selected by Purchaser, setting forth the status of the title to the Property, and showing all liens, claims, encumbrances, reservations, restrictions and other matters, if any, relating to the Property, together with a copy of all documents referred to in the title insurance commitment. Purchaser shall advise Seller in writing of any title objection not less than forty-five (45) days prior to the Closing Date. Notwithstanding the foregoing, Purchaser shall have the continuing right to have such title examination and title insurance commitment updated from time to time and to give Seller written notice of any title objections appearing of record or otherwise created after the effective date of the title insurance commitment and being revealed by any title examination or survey of the Property, and Purchaser shall be entitled to object (in the same manner as set forth hereinabove) to matter shown by the updated title insurance commitment. Seller shall use reasonable efforts to remedy any title objections raised by Purchaser to the reasonable satisfaction of Purchaser within thirty (30) days after Purchaser's notice. If the objections are not so cured or remedied, on or before a date five (5) days prior to the Closing Date (as hereinafter defined), then the Purchaser, at its election, shall have the right to either: (a) accept title to the Property subject to the objections, and any title objection accepted by Purchaser in writing shall become part of the Permitted Encumbrances; (b) not close the purchase of the Property until the title objections raised by Purchaser are cured; or (c) terminate this Agreement by written notice to Seller, in which event neither party shall have any further liability to the other except as otherwise expressly set forth in paragraph 6 of this Agreement. Notwithstanding the foregoing, Seller at its sole cost, shall be obligated to cure or remove at or before the Closing (and apply any portion of the Purchase Price needed to satisfy such obligations at closing) all mortgages, deeds of trust, deeds to secure debt, judgment liens, mechanic's and materialmen's liens, and other liens against the Property (unless caused by the actions or

inspections of Purchaser), whether or not Purchaser objects thereto. In addition, Seller shall not allow any lease, easements or other encumbrances to be placed on or granted with respect to the Property, other than those listed in the attached Exhibit B, without the prior written consent of Purchaser. If any such encumbrances or easements arise during the term of this Agreement, Seller shall, at its sole cost and expense, cure such objection prior to the Closing Date.

BMB 8/27/2020
Page 3 of 13
8/28/2020

5. Risk of Loss, Eminent Domain. Risk of damage or destruction to the Property by fire or otherwise shall remain with Seller until title to the Property has been conveyed and transferred to Purchaser. If, after exercise of this Option, and prior to the Closing of the sale under the exercised Option, all or any part of the Property is damaged or destroyed, taken by eminent domain or if condemnation proceedings are commenced, Seller shall immediately provide notice of same to Purchaser and Purchaser may terminate this Agreement by delivery of written notice to Seller, and thereafter neither party shall have any further liability to the other except as otherwise expressly set forth in paragraph 6 of this Agreement. If Purchaser does not elect to terminate this Agreement, then there should be credited to the Purchase Price all insurance and condemnation proceeds received by Seller prior to Closing, and Seller shall assign, transfer and set over to Purchaser at the Closing all of the Seller's right, title and interest in and to any insurance and proceeds thereof for such damage or destruction or condemnation awards that may be made for such taking after the Closing.

6. Inspections and Survey. During the term of this Option, Purchaser and its agents shall have, and Seller hereby grants to Purchaser and its contractors, the right of ingress and egress on, over, through, across, to and from the Property for the purpose of making any inspections, explorations, tests (including Phase I and II, asbestos surveys and other environmental inspections, samplings, drilling, and tests) and examinations of the Property as Purchaser may desire, or engaging in any other property evaluation and assessment activities which Purchaser deems appropriate. During the term of this Option, Purchaser may elect to cause a licensed surveyor or engineer prepare an accurate survey of the Property (the "Survey"), establishing the boundaries of the Property and showing the location of all easements or encroachments, if any, affecting the Property. Purchaser reserves the right to make written objections to title based upon the Survey, as provided in paragraph 4 above. The legal description of the Property set forth in this Agreement shall be used to describe the Property in the General Warranty Deed to be delivered by Seller at Closing. If the exact boundaries of the Property established by the Survey should differ from the legal description contained herein, then Seller shall also execute and deliver to Purchaser a Quit Claim Deed at Closing conveying the Property based upon a legal description of the Property taken from the Survey.

By entering the Property for this or any other purpose, Purchaser:

- (a) Agrees to provide to Seller at least 24-hour advance notice for each occasion of desire to enter premises, which may require for either a Seller representative to be present or otherwise provide a key for entry.
- (b) Accepts the risk of any damage it may cause to the Property or Seller's personal property on the Property.
- (c) Agrees to repair any damage caused by Purchaser to the Property; and,

7. Exercise by Purchaser and Purchaser's Option to Terminate Agreement.

- (a) Purchaser may, at Purchaser's sole election, exercise the Option at any time during the Option Period, and thereby cause Seller to sell the Property to Purchaser subject to the terms of this Agreement. If Purchaser elects to exercise this Option hereunder, it shall do so by sending a written notice of exercise to Seller in accordance with paragraph 21 of this Agreement. Purchaser's notice of exercise shall specify the date and time that the Closing of the sale of the Property, (the "Closing")

will take place, which date shall be a business day no later than sixty (60) days and no earlier than fifteen (15) days after the date of Purchaser's exercise of the Option (the "Closing Date"), unless otherwise agreed in writing by the parties. The Closing shall take place in the offices of Purchaser's attorney or designated settlement agent in Staunton or Augusta County, Virginia.

- (b) Notwithstanding any exercise of the Option by Purchaser, Purchaser shall, at all times during the term of this Agreement, have the right to terminate this Agreement in Purchaser's sole and absolute discretion, by giving Seller notice of termination, in which event the Seller will retain any Option Payments or Option Extension Payments made hereunder and neither party shall have any further liability to the other except as otherwise expressly set forth in paragraph 6 of this Agreement.

8. **Closing.** At the Closing:

*7/28/20
8/28/2020* *Bm B 8/27/2020
page 4 of 13*

- (a) Seller shall obtain and deliver releases of liens, if any, from all lienholders holding liens affecting the Property.
- (b) Seller shall execute and deliver to the Purchaser a General Warranty Deed covering the Property, conveying good and indefeasible fee simple title to the Property, free and clear of all liens and encumbrances, other than the Permitted Encumbrances.
- (c) Seller shall execute and deliver to Purchaser or its title insurer (1) a mechanic's lien affidavit in form satisfactory to Purchaser or its title insurance company, (2) an affidavit if the form required by Section 1445 of the Internal Revenue Code to establish that Seller is not a foreign person, (3) a statement certifying that all representations and warranties of Seller contained in this Agreement remain true and correct as of the date and time of Closing, and (4) such other affidavits or certifications as may be reasonably required by Purchaser's title insurance company, and as set forth in the title insurance commitment.
- (d) Seller and Purchaser shall each execute such other instruments as are customarily executed in Virginia to effectuate the conveyance and acceptance of real estate similar to the Property, including any transfers of all riparian rights, rights to underground water and mineral rights associated with the Property, with the effect that, after the Closing, Purchaser will have succeeded to all of the rights, titles and interests of Seller related to the Property and Seller will no longer have any right, title or interest in and to the Property.
- (e) Any real estate taxes or assessments applicable to the Property, and any income or rents (if any) from the Property, for the year in which the Closing occurs shall be prorated as of the date of the Closing.
- (f) Purchaser shall tender to Seller the Purchase Price, subject to any credits or adjustments to the Purchase Price that are required under this Agreement.
- (g) In the event the Permitted Encumbrances include any leasehold interests that are disclosed on the attached Exhibit B, Purchaser agrees to take title to the Property subject to such written leasehold interests which are not in default (but not any amendments or modifications thereto or any extensions or renewals thereof) notwithstanding paragraphs 4 and 5 hereof, and all items of prepaid rent and expenses under such leases shall be prorated as of the date of the Closing. Seller shall provide Tenant estoppels for all leasehold interests which are Permitted Encumbrances no later than five (5) days prior to Closing.
- (h) Seller shall assign to Purchaser all Seller's rights and obligations under any contracts or leases related to the Property which are Permitted Encumbrances or which Purchaser elects to assume by written notice to Seller delivered prior to Closing.

9. **Possession.** Seller shall deliver exclusive possession of the Property to Purchaser at the Closing, in the same condition as on the date of this Option, normal wear and tear excepted, free and clear of all tenants, occupants, parties in possession, leases, licenses and permits which are not included in the Permitted Encumbrances.

7/11/20
8/28/2020
DmB 8/27/2020
Page 5 of 13

10. **Brokers.** Seller and Purchaser both represent and warrant to the other that Cottonwood Commercial is the sole agent or broker involved in the transaction described in this Agreement. Seller agrees to pay Cottonwood Commercial a commission equal to three per cent (3%) of the Purchase Price paid at Closing for the Property. If needed to clear title to the Property, Seller and Purchaser shall execute at Closing such affidavits as are appropriate to confirm to the satisfaction of Purchaser's title insurance company that no choate or inchoate liens and lien rights exist in favor of any brokers other than Cottonwood Commercial. The provisions of this paragraph shall survive Closing, or the earlier termination or expiration of this Agreement.

11. **Closing Expenses.** Seller shall be responsible for the cost of preparing the General Warranty deed and any other standard Seller instruments required to be executed at Closing and payment of the statutory Grantor's Tax. Purchaser shall be responsible for the cost of recording the deed (with exception of the grantor's tax paid by Seller), the cost of the title search, the cost of title insurance, the costs of investigating the Property, and the cost of the Survey. Each party shall be responsible for its own attorney's fees.

12. **Governmental Approvals.** In the event that the approval of any governmental entity, including, but not limited to, subdivision approval, rezoning, special permits, environmental permits or variances, is required during the option period for the transfer of the Property to Purchaser, Purchaser's receipt of such approvals, permits and variances shall be a condition precedent to Purchaser's obligation to close the purchase of the Property. Seller agrees to promptly execute any forms and applications related thereto that Purchaser reasonably requests, provided, however, that the burden of obtaining such approval shall be borne by Purchaser. Seller shall cooperate with Purchaser in pursuing the foregoing approvals, permits and variances. Purchaser may file appropriate applications to the city of Staunton for demolition of some historical buildings but the property owners will only need to grant permission for Purchaser to make such applications, and therefore Seller will not be directly associated with said applications.

13. **Environmental Representations and Warranties.** The property is being purchased "As Is". Seller represents and warrants that, as of the date of this Agreement, and as of the time of the Closing, that:

- (a) No knowledge exists that the Property is not in compliance with all federal, state and other environmental and other laws, rules and regulations;
- (b) There are no pending, and to Seller's knowledge, threatened claims, lawsuits, administrative proceedings, enforcement actions or investigations concerning the Property by any private party or governmental entity, nor has Seller received notice of any such activities, and Seller agrees to give Purchaser prompt written notice of any such actions or investigations instituted between the date hereof and the date of the Closing;
- (c) Seller has not received any notice of any judicial or administrative consent orders or other provisions calling for compliance with any legal requirement or for correction of any violation;
- (d) No knowledge exists that the Property has been the site of any activity that would violate any past or present environmental law or regulation of any governmental body or agency having jurisdiction over the Property, and that there is no knowledge that there have been any solid or hazardous wastes or substances, or oil or other dangerous or toxic substances, all as defined in the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601 et seq. ("CERCLA"),

the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq. ("RCRA"), the Hazardous Material Transportation Act, 49 U.S.C. §§ 1801 et seq., the Clean Water Act, 33 U.S.C. §§ 1251 et seq., or the Toxic Substance Control Act, 15 U.S.C. §§ 2600 et seq., or any other applicable federal, state or local law, rule or regulation, stored, placed, treated, released or disposed of anywhere on the Property;

- (e) No knowledge exists that the Property is identified on any current or proposed (i) National Priorities List under 40 C.F.R. Part 300, (ii) CERCLA Information Systems List, or (iii) state environmental or other regulatory agency list based on a statute similar to CERCLA or RCRA; and
- (f) The Property has not been used for any purpose other than Law Offices and other related activities.

Seller shall give immediate oral and written notice to Purchaser of its receipt of any notice of a violation of any law, rule, regulation, ordinance or code covered herein, or of any notice of other claim relating to the environmental condition of the Property.

*2/19/20
8/28/2020* *BMB 8/27/2020
Page 6 of 13*

14. **Default.** If Seller defaults under this Agreement and such default continues for fifteen (15) days after receipt of notice thereof from Purchaser to Seller, the sole and exclusive remedy of Purchaser shall be to elect to either (i) prosecute an action for specific performance of this Agreement against Seller, or (ii) terminate this Agreement by notice to Seller and have the Option Payment and Option Extension Payment refunded, in which event neither party shall have any further liability to the other except as otherwise expressly set forth in paragraph 6 of this Agreement. If Purchaser defaults under this Agreement and such default continues for fifteen (15) days after receipt of notice thereof from Seller to Purchaser, Seller's sole and exclusive remedy shall be to retain the Option Payment, the Option Extension Payment and any other deposits made hereunder by the Purchaser as liquidated damages, as actual damages may be difficult or impossible to ascertain in a suit for damages in the event of Purchaser's breach.

15. **Survival.** All covenants, agreements, representations and warranties contained in this Agreement shall not survive the Closing, transfer of the Property to Purchaser and payment of the Purchase Price, and shall merge into the General Warranty Deed delivered at Closing.

16. **Seller's Covenants and Conditions to Closing.** During the term of this Option, Seller shall not, without the prior written consent of the Purchaser:

- (a) Enter into any agreement, or amend, modify, extend or renew any existing agreement, for the use, sale or lease of the Property which would (1) survive Closing, (2) otherwise affect the use, operation or enjoyment of the Property after the Closing, or (3) materially and adversely affect the value of the Property;
- (b) Commit or permit to be committed any waste or change in the use, condition or appearance of the Property;
- (c) Perform or consent to any zoning or re-zoning of the Property.

Purchaser's obligation to close the purchase of the Property shall be conditioned upon (1) there having occurred no material adverse change in the condition or use, or other change in circumstances, with respect to any properties surrounding or in the vicinity of the Property that has a material adverse effect on the value of the Property; (2) the Property being in substantially the same condition and used for the same uses and purposes on the date of the Closing as existed on the date of this Agreement; and (3) the Property shall be subject only to the easements and encumbrances that are disclosed on the attached Exhibit B (if any).

17. **Assignment.** Purchaser shall have the right to assign this Agreement and any of its rights and obligations hereunder to any party without the consent of the Seller, by delivering prior written notice of such assignment to the Seller at any time prior to the Closing.

18. **Time is of the Essence.** Time shall be of the essence in the performance of all obligations under this Agreement. If the time period by which any right, option or election provided under this Agreement must be exercised, or by which any act required under this Agreement must be performed, or by which an event must be held, expires on a Saturday, Sunday or a holiday, then such time period shall be automatically extended to the next business day.

19. **Controlling Law.** This Agreement has been entered into under, and shall be interpreted and construed according to, the laws of the Commonwealth of Virginia.

20. **Entire Agreement; Modification.** This Agreement and all exhibits attached hereto constitutes the entire and complete agreement between the Parties hereto and supersedes any prior oral or written agreements between the Parties with respect to the Property. Seller and Purchaser expressly agree that there are no oral or written understandings or agreements between them that in any way change the terms, covenants and conditions set forth in this Agreement, and that no modification of this Agreement, and no waiver of any of its terms or conditions, shall be effective unless made in writing and duly executed by both parties.

21. **Notices.** All notices provided or permitted to be given under this Agreement must be in writing and shall be served by depositing same in United States certified or registered Mail, return receipt requested, by guaranteed overnight delivery service (e.g. Federal Express, UPS Next Day Air), or by hand delivery, to each of the addresses set forth below. All notices shall be effective three (3) days after mailing in accordance herewith, two (2) days after consignment to a guaranteed overnight delivery service, or upon hand delivery. For purposes of notice, the addresses of the Parties shall be as follows:

Seller: Court Square Real Estate LLC
P.O. Box 1206
Staunton, Virginia 24402-1206

Y. Noland BMB 8/27/2020
8/28/2020 page 7 of 13

Copies To: Benham M. Black N. Douglas Noland, Jr.
212 Fraser Lane 91 Confederate Street
Staunton, Virginia 24401-2329 Verona, Virginia 24482

Purchaser: *County of Augusta, Virginia*
18 Government Center Lane
Verona, Virginia 24482

Seller and Purchaser shall have the right to change their addresses for the receipt of notices by giving notice of such change of address in accordance herewith.

22. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the Parties and their successors and assigns.

23. **Confidentiality.** The parties agree that until after Closing each party, including if applicable its directors, officers and employees and Affiliates (the "Covered Parties") shall keep all terms of this Agreement confidential and (b) each of the Covered Parties shall hold and shall cause their consultants and advisors to hold in strict confidence, unless compelled to disclose by judicial or administrative process or, in the opinion of its counsel, by other requirements of law, all documents and information concerning or in connection with the transactions contemplated by this Agreement, except to the extent that any other information

referred to in clause (a) or (b) above can be shown to have been (i) previously known by the party to which it is furnished, (ii) in the public domain through no fault of such party or (iii) later lawfully acquired from other sources by the party to which it was furnished (such as public recording or tax records). In the event that a Covered Party is compelled by judicial or administrative process or by other requirements of law to disclose such confidential information, such Covered Party shall promptly notify the other party of the request for disclosure and, if reasonably requested by the other party, and at the expense of the party so requesting shall cooperate in opposing the request for disclosure and in seeking confidential treatment for the confidential information that has been requested.

24. **Acceptance of Offer.** The signature by the Seller to this Option shall remain open for acceptance by the Purchaser for seventy-two (72) hours, beginning at 8:00pm EST on the date Seller signs this Agreement. Purchaser must countersign within said seventy-two (72) hour period, disclose its identity and return a fully signed copy of this Agreement (which may be transmitted electronically via PDF, DocuSign or similar means) to Seller. If Seller fails to receive such Purchaser signature and identity confirmation within the seventy-two (72) hour period, Seller may withdraw its offer of sale upon written notice of such withdrawal, delivered to Cottonwood Commercial.

IN WITNESS WHEREOF, the Seller and Purchaser have executed this Agreement as of the date first set forth above.

Seller: Court Square Real Estate LLC

Date: 8/27/2020

by Benham M. Black (SEAL)
Benham M. Black, Member

Date: 8/28/2020

By: N. Douglas Noland, Jr. (SEAL)
N. Douglas Noland, Jr., Member

Date: 8/31/2020

[Signature] (SEAL)
Purchaser
County Administrator
Augusta County

page 8 of 23

EXHIBIT A – Property Description

7/2/20 *BMB 8/27/2020*
8/28/2020 *Page 9 of 13*

Location	5 LAWYERS ROW	Account#	1769
Owner	COURT SQUARE REAL ESTATE LLC	Assessment	\$146,300
PID	1769	Building Count	1
Legal Description	(LOT 25 BLK EE)	Historic District	11 BEV
Zoning	B2	Map Number	375
Subdivision CENTRAL CITY			

Tax Assessment

Valuation Year	Improvements	Land
2020	\$138,740	\$7,560

THIS INSTRUMENT IS EXEMPT FROM RECORDATION TAXES PURSUANT TO SECTION 58.1-811A10 and 11 and C1 OF THE CODE OF VIRGINIA, 1950, AS AMENDED.

After recordation, please return to:
Black & Noland, PLC
PO BOX 1206
Staunton, VA 24402-1206

Instrument prepared by: N. Douglas Noland, Jr., (VSB#18673)

Pin: 1769

THIS DEED made and entered into this 4th day of October, 2019, by and between **BENHAM M. BLACK** and **N. DOUGLAS NOLAND, JR.**, Trustees of the Court Square Real Estate Trust, a real estate investment trust treated as a partnership, Grantor and **COURT SQUARE REAL ESTATE LLC**, a Virginia limited liability company, Grantee, whose address is P.O. Box 1206, Staunton, VA 24402-1206.

WITNESSETH:

WHEREAS, the below described property was conveyed to the Court Square Real Estate Trust, a real estate investment trust by deed dated February 26, 1982 from Harrison May and Patricia F. May, his wife, which deed is recorded in the Clerk's Office of the Circuit Court of the City of Staunton, Virginia in Deed Book 239, Page 425.

The Trustees and beneficiaries of the Court Square Real Estate Trust are Benham M. Black and N. Douglas Noland, Jr., who have been treating the entity as a partnership since its inception.

BMB 8/27/2020
page 10 of 13

DN 8/28/2020

WHEREAS, Benham M. Black and N. Douglas Noland, Jr. are the sole members of the Court Square Real Estate LLC.

BMB 8/27/2020
page 11 of 13

WHEREAS, the Trustees of the Court Square Real Estate Trust desire to convey the property to the partners who in turn have directed that the property be conveyed to the Grantee.

DN 8/28/2020

NOW THEREFORE, for and in consideration of the premises, the said Benham M. Black and N. Douglas Noland, Jr., Trustees of the Court Square Real Estate Trust do hereby grant, bargain, sell and convey with GENERAL WARRANTY and ENGLISH COVENANTS OF TITLE unto Court Square Real Estate, LLC, Grantee, the following described real estate, to wit:

All that certain lot or parcel of land, together with all improvements thereon and appurtenances thereto belonging, situate in the City of Staunton, Virginia, formerly known as The Patrick Law Building, now known as Law Building, 5 Lawyers Row, Staunton, Virginia, fronting on the Court House lot, subject to and including all easements and rights of way conveyed and reserved by deeds of record.

The property hereby conveyed is the same property acquired by the Court Square Real Estate Trust by deed dated February 26, 1982 as aforesaid.

Reference is hereby made to the aforesaid deed and the references therein contained for further description and derivation of title.

This conveyance is made expressly subject to any easements, covenants, conditions, restrictions, or reservations contained in any duly recorded instruments or

plats in the chain of title to the property hereby conveyed which have not expired by limitation of time contained therein or otherwise have become ineffective.

WITNESS the following signatures.

Benham M. Black, Trustee
Benham M. Black, Trustee of the Court
Square Real Estate Trust

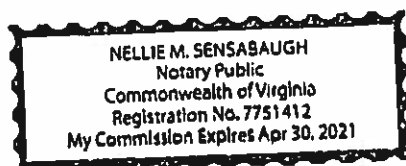
N. Douglas Noland, Jr., Trustee
N. Douglas Noland, Jr., Trustee of the Court
Square Real Estate Trust

COMMONWEALTH OF VIRGINIA
CITY OF STAUNTON, to-wit:

The foregoing instrument was acknowledged before me this 4th day of October, 2019, by Benham M. Black and N. Douglas Noland, Jr., Trustees of the Court Square Real Estate Trust.

My Commission expires: April 30, 2021

Nellie M. Sensabaugh
Notary Public
Registration No. 7751412



INSTRUMENT 190002690
RECORDED IN THE CLERK'S OFFICE OF
BMB 8/27/2020
page 12 of 13

8/28/2020

EXHIBIT B - Permitted Encumbrances

BMB 8/27/2020 WDN
page 13 of 13 8/28/2020

- 1) Asbestos pipes in Basement
- 2) Cast iron boiler in Basement which requires periodic recertification to the Virginia Department of Labor
- 3) Possible party wall with building adjoining on the north side of the 5 Lawyers Row building
- 4) Possible party wall with building adjoining on the south side of the 5 Lawyers Row building



Option Agreement

THIS OPTION AGREEMENT (the "Agreement") is made and entered into this 30th day of July, 2020, by and between Dwight E. Foster (referred to herein as the "Seller"), whose address is 443 Coleytown Road - Waynesboro, Virginia 22980, and (To Be Revealed within 72 hours after acceptance by Seller), or assigns (herein referred to as the "Purchaser"), whose address is _____, (the Seller and Purchaser shall sometimes be referred to collectively as the "Parties").

WITNESSETH:

For and in consideration of the sum of the Option Payment made by Purchaser to Seller hereunder, any Option Extension Payments, and other good and valuable consideration, the receipt of all of which is hereby acknowledged by the Seller, the Seller hereby grants to Purchaser, on and subject to the terms and conditions set forth below the right and option (the "Option") for Purchaser to purchase the following described real estate, (the "Property") at 7 Lawyers Row – Staunton, Virginia, to-wit:

[Property Description as Exhibit A]

The Property includes all easements, gas, oil, mineral and mining rights, all riparian rights and rights to underground water, and any and all other rights and appurtenances of Seller that are in any way associated with the Property, including all buildings, structures, fences and other permanent improvements to the Property owned by Seller. The Property does not include any personal property of any kind, such as removable (unattached) equipment, household goods or furniture, which Seller shall remove before Seller is required to relinquish possession of the Property.

The Option is granted to Purchaser upon the following terms and conditions:

1. **Purchase Price.** The purchase price of the Property shall be One hundred thousand and 00/100 Dollars (\$100,000.00) (the "Purchase Price"). The Purchase Price shall be payable by wire transfer at the Closing (as hereinafter defined) as Seller shall elect. Any real estate taxes or assessments applicable to the Property, and any income or rents from the Property, for the year in which the Closing occurs shall be prorated as of the date of the Closing.

1.1 **Option Payment and Extension.** Upon execution of this Agreement by Purchaser, Purchaser shall deliver to Seller the sum of Five thousand and 00/100 Dollars (\$5,000.00) in cash, check, or certified funds (the "Option Payment"). In the event that Purchaser closes on the purchase of the Property, the Option Payment and Option Extension Payment shall be credited to the Purchase Price.

2. **Term.** Purchaser shall have the right to exercise this Option, by giving Seller written notice of exercise at any time prior to the 31st day of January, 2021 (the "Option Period"). If the Option is not exercised before such date, this Agreement shall terminate, the Seller will retain the Option Payment and the Parties shall have no further rights hereunder. Purchaser shall have the right to extend the Option Period for an additional

ninety (90) days by the payment of another \$5,000.00 (the "Option Extension Payment") by cash, check, or wire transfer to Seller on or before the expiration of the Option Period.

3. Seller's Representations and Warranties. Seller represents and warrants to Purchaser as follows:

- (a) Seller alone has (and at Closing will have) good, marketable and indefeasible fee simple title to the Property, free and clear of all liens and encumbrances other than the lien for real estate taxes not yet due and payable (which shall be prorated at Closing); and,
- (b) Seller has full right, power and authority to execute and deliver this Agreement and to consummate the transaction provided for herein without obtaining any further consents or approvals from, or the taking of any other action with respect to, any third parties;
- (c) At the Closing, Seller will be able to convey to the Purchaser good, marketable and indefeasible fee simple title to the Property, free and clear of all liens, leases and other encumbrances, subject only to the Permitted Encumbrances (defined below); and,
- (d) No other options to purchase, purchase agreements, rights of refusal, any other options or rights exist with respect to the Property other than this Agreement; and,

Permitted Encumbrances is hereby defined as the encumbrances listed in Exhibit B, a copy of which is attached hereto and made a part hereof. Regardless of such disclosure, the following items shall not be deemed to be Permitted Encumbrances: (i) any lien for taxes which are due and payable at Closing, (ii) mortgages, deeds of trust, deeds to secure debt, judgment liens, mechanic's and materialmen's liens, and other liens against the Property (all of which shall be satisfied by the Seller at Closing); and (iii) any leasehold interests represented by written leases which are not in breach by the Tenant at the time of Closing.

4. Title Examination. At any time prior to Closing, Purchaser shall have the right, but not the obligation, to obtain a title insurance commitment from one or more title insurance companies selected by Purchaser, setting forth the status of the title to the Property, and showing all liens, claims, encumbrances, reservations, restrictions and other matters, if any, relating to the Property, together with a copy of all documents referred to in the title insurance commitment. Purchaser shall advise Seller in writing of any title objection not less than ten (10) days prior to the Closing Date. Notwithstanding the foregoing, Purchaser shall have the continuing right to have such title examination and title insurance commitment updated from time to time and to give Seller written notice of any title objections appearing of record or otherwise created after the effective date of the title insurance commitment and being revealed by any title examination or survey of the Property, and Purchaser shall be entitled to object (in the same manner as set forth hereinabove) to matter shown by the updated title insurance commitment. Seller shall use reasonable efforts to remedy any title objections raised by Purchaser to the reasonable satisfaction of Purchaser within thirty (30) days after Purchaser's notice. If the objections are not so cured or remedied, on or before a date five (5) days prior to the Closing Date (as hereinafter defined), then the Purchaser, at its election, shall have the right to either: (a) accept title to the Property subject to the objections, and any title objection accepted by Purchaser in writing shall become part of the Permitted Encumbrances; (b) not close the purchase of the Property until the title objections raised by Purchaser are cured; or (c) terminate this Agreement by written notice to Seller, in which event neither party shall have any further liability to the other except as otherwise expressly set forth in paragraphs 6 and 10 of this Agreement. Notwithstanding the foregoing, Seller at its sole cost, shall be obligated to cure or remove at or before the Closing (and apply any portion of the Purchase Price needed to satisfy such obligations at closing) all mortgages, deeds of trust, deeds to secure debt, judgment liens, mechanic's and materialmen's liens, and other liens against the Property (unless caused by the actions or inspections of Purchaser), whether or not Purchaser objects thereto. In addition, Seller shall not allow any lease, easements or other encumbrances to be placed on or granted with respect to the Property, other than

those listed in the attached Exhibit B, without the prior written consent of Purchaser. If any such encumbrances or easements arise during the term of this Agreement, Seller shall, at its sole cost and expense, cure such objection prior to the Closing Date.

5. Risk of Loss, Eminent Domain. Risk of damage or destruction to the Property by fire or otherwise shall remain with Seller until title to the Property has been conveyed and transferred to Purchaser. If, after exercise of this Option, and prior to the Closing of the sale under the exercised Option, all or any part of the Property is damaged or destroyed, taken by eminent domain or if condemnation proceedings are commenced, Seller shall immediately provide notice of same to Purchaser and Purchaser may terminate this Agreement by delivery of written notice to Seller, and thereafter neither party shall have any further liability to the other except as otherwise expressly set forth in paragraphs 6 and 10 of this Agreement. If Purchaser does not elect to terminate this Agreement, then there should be credited to the Purchase Price all insurance and condemnation proceeds received by Seller prior to Closing, and Seller shall assign, transfer and set over to Purchaser at the Closing all of the Seller's right, title and interest in and to any insurance and proceeds thereof for such damage or destruction or condemnation awards that may be made for such taking after the Closing.

6. Inspections and Survey. During the term of this Option, Purchaser and its agents shall have, and Seller hereby grants to Purchaser and its contractors, the right of ingress and egress on, over, through, across, to and from the Property for the purpose of making any inspections, explorations, tests (including Phase I and II, asbestos surveys and other environmental inspections, samplings, drilling, and tests) and examinations of the Property as Purchaser may desire, or engaging in any other property evaluation and assessment activities which Purchaser deems appropriate. During the term of this Option, Purchaser may elect to cause a licensed surveyor or engineer prepare an accurate survey of the Property (the "Survey"), establishing the boundaries of the Property and showing the location of all easements or encroachments, if any, affecting the Property. Purchaser reserves the right to make written objections to title based upon the Survey, as provided in paragraph 4 above. The legal description of the Property set forth in this Agreement shall be used to describe the Property in the General Warranty Deed to be delivered by Seller at Closing. If the exact boundaries of the Property established by the Survey should differ from the legal description contained herein, then Seller shall also execute and deliver to Purchaser a Quit Claim Deed at Closing conveying the Property based upon a legal description of the Property taken from the Survey.

By entering the Property for this or any other purpose, Purchaser:

- (a) Accepts the risk of any damage it may cause to the Property or Seller's personal property on the Property.
- (b) Agrees to repair any damage caused by Purchaser to the Property; and,

7. Exercise by Purchaser and Purchaser's Option to Terminate Agreement.

- (a) Purchaser may, at Purchaser's sole election, exercise the Option at any time during the Option Period, and thereby cause Seller to sell the Property to Purchaser subject to the terms of this Agreement. If Purchaser elects to exercise this Option hereunder, it shall do so by sending a written notice of exercise to Seller in accordance with paragraph 21 of this Agreement. Purchaser's notice of exercise shall specify the date and time that the Closing of the sale of the Property, (the "Closing") will take place, which date shall be a business day no later than sixty (60) days and no earlier than fifteen (15) days after the date of Purchaser's exercise of the Option (the "Closing Date"), unless otherwise agreed in writing by the parties. The Closing shall take place in the offices of Purchaser's attorney or designated settlement agent in Staunton or Harrisonburg, Virginia.

- (b) Notwithstanding any exercise of the Option by Purchaser, Purchaser shall, at all times during the term of this Agreement, have the right to terminate this Agreement in Purchaser's sole and absolute discretion, by giving Seller notice of termination, in which event the Seller will retain any Option Payments or Option Extension Payments made hereunder and neither party shall have any further liability to the other except as otherwise expressly set forth in paragraphs 6 and 10 of this Agreement.

8. Closing. At the Closing:

- (a) Seller shall obtain and deliver releases of liens, if any, from all lienholders holding liens affecting the Property.
- (b) Seller shall execute and deliver to the Purchaser a General Warranty Deed covering the Property, conveying good and indefeasible fee simple title to the Property, free and clear of all liens and encumbrances, other than the Permitted Encumbrances.
- (c) Seller shall execute and deliver to Purchaser or its title insurer (1) a mechanic's lien affidavit in form satisfactory to Purchaser or its title insurance company, (2) an affidavit in the form required by Section 1445 of the Internal Revenue Code to establish that Seller is not a foreign person, (3) a statement certifying that all representations and warranties of Seller contained in this Agreement remain true and correct as of the date and time of Closing, and (4) such other affidavits or certifications required by Purchaser's title insurance company, and as set forth in the title insurance commitment.
- (d) Seller and Purchaser shall each execute such other instruments as are customarily executed in Virginia to effectuate the conveyance and acceptance of real estate similar to the Property, including any transfers of all riparian rights, rights to underground water and mineral rights associated with the Property, with the effect that, after the Closing, Purchaser will have succeeded to all of the rights, titles and interests of Seller related to the Property and Seller will no longer have any right, title or interest in and to the Property.
- (e) Any real estate taxes or assessments applicable to the Property, and any income or rents from the Property, for the year in which the Closing occurs shall be prorated as of the date of the Closing.
- (f) Purchaser shall tender to Seller the Purchase Price, subject to any credits or adjustments to the Purchase Price that are required under this Agreement.
- (g) In the event the Permitted Encumbrances include any leasehold interests that are disclosed on the attached Exhibit B, Purchaser agrees to take title to the Property subject to such written leasehold interests which are not in default (but not any amendments or modifications thereto or any extensions or renewals thereof) notwithstanding paragraphs 4 and 5 hereof, and all items of prepaid rent and expenses under such leases shall be prorated as of the date of the Closing. Seller shall provide Tenant estoppels for all leasehold interests which are Permitted Encumbrances no later than five (5) days prior to Closing.
- (h) Seller shall assign to Purchaser all Seller's rights and obligations under any contracts or leases related to the Property which are Permitted Encumbrances or which Purchaser elects to assume by written notice to Seller delivered prior to Closing.

9. Possession. Seller shall deliver exclusive possession of the Property to Purchaser at the Closing, in the same condition as on the date of this Option, normal wear and tear excepted, free and clear of all tenants, occupants, parties in possession, leases, licenses and permits which are not included in the Permitted Encumbrances.

10. **Brokers.** Seller and Purchaser both represent and warrant to the other that Cottonwood Commercial is the sole agent or broker involved in the transaction described in this Agreement. Seller agrees to pay Cottonwood Commercial a commission equal to three per cent (3%) of the Purchase Price paid at Closing for the Property. Seller agrees to indemnify Purchaser from and against any claims, demands, costs or expenses arising from such party's failure to pay any commission or fee payable to any brokers or agents Seller dealt with (other than Cottonwood Commercial). If needed to clear title to the Property, Seller and Purchaser shall execute at Closing such affidavits as are appropriate to confirm to the satisfaction of Purchaser's title insurance company that no choate or inchoate liens and lien rights exist in favor of any brokers other than Cottonwood Commercial. The provisions of this paragraph shall survive Closing, or the earlier termination or expiration of this Agreement.

11. **Closing Expenses.** Seller shall be responsible for the cost of preparing the General Warranty deed and any other standard Seller instruments required to be executed at Closing and payment of the statutory Grantor's Tax. Purchaser shall be responsible for the cost of recording the deed with the exception of the grantor's tax, the cost of the title search, the cost of title insurance, the costs of investigating the Property, and the cost of the Survey. Each party shall be responsible for its own attorney's fees.

12. **Governmental Approvals.** In the event that the approval of any governmental entity, including, but not limited to, subdivision approval, rezoning, special permits, environmental permits or variances, is required during the option period for the transfer of the Property to Purchaser, Purchaser's receipt of such approvals, permits and variances shall be a condition precedent to Purchaser's obligation to close the purchase of the Property. Seller agrees to promptly execute any forms and applications related thereto that Purchaser reasonably requests, provided, however, that the burden of obtaining such approval shall be borne by Purchaser. Seller shall cooperate with Purchaser in pursuing the foregoing approvals, permits and variances.

13. **Environmental Representations and Warranties.** Seller represents and warrants that, as of the date of this Agreement, and as of the time of the Closing, that:

- (a) The Property is in compliance with all federal, state and other environmental and other laws, rules and regulations;
- (b) There are no pending, and to Seller's knowledge, threatened claims, lawsuits, administrative proceedings, enforcement actions or investigations concerning the Property by any private party or governmental entity, nor has Seller received notice of any such activities, and Seller agrees to give Purchaser prompt written notice of any such actions or investigations instituted between the date hereof and the date of the Closing;
- (c) Seller has not received any notice of any judicial or administrative consent orders or other provisions calling for compliance with any legal requirement or for correction of any violation;
- (d) The Property has not been the site of any activity that would violate any past or present environmental law or regulation of any governmental body or agency having jurisdiction over the Property, and that there are not now and never have been any solid or hazardous wastes or substances, or oil or other dangerous or toxic substances, all as defined in the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601 et seq. ("CERCLA"), the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq. ("RCRA"), the Hazardous Material Transportation Act, 49 U.S.C. §§ 1801 et seq., the Clean Water Act, 33 U.S.C. §§ 1251 et seq., or the Toxic Substance Control Act, 15 U.S.C. §§ 2600 et seq., or any other applicable federal, state or local law, rule or regulation, stored, placed, treated, released or disposed of anywhere on the Property;

- (e) The Property is not identified on any current or proposed (i) National Priorities List under 40 C.F.R. Part 300, (ii) CERCLA Information Systems List, or (iii) state environmental or other regulatory agency list based on a statute similar to CERCLA or RCRA; and
- (f) The Property has not been used for any purpose other than [*here specify use*].

Seller shall give immediate oral and written notice to Purchaser of its receipt of any notice of a violation of any law, rule, regulation, ordinance or code covered herein, or of any notice of other claim relating to the environmental condition of the Property.

14. Default. If Seller defaults under this Agreement and such default continues for fifteen (15) days after receipt of notice thereof from Purchaser to Seller, the sole and exclusive remedy of Purchaser shall be to elect to either (i) prosecute an action for specific performance of this Agreement against Seller, or (ii) terminate this Agreement by notice to Seller, have the Option Payment and Option Extension Payment refunded, and be reimbursed by Seller for its expenses in investigating and surveying the Property, in which event neither party shall have any further liability to the other except as otherwise expressly set forth in paragraphs 6 and 10 of this Agreement. If Purchaser defaults under this Agreement and such default continues for fifteen (15) days after receipt of notice thereof from Seller to Purchaser, Seller's sole and exclusive remedy shall be to retain the Option Payment, the Option Extension Payment and any other deposits made hereunder by the Purchaser as liquidated damages, as actual damages may be difficult or impossible to ascertain in a suit for damages in the event of Purchaser's breach.

15. Survival. All covenants, agreements, representations and warranties contained in this Agreement shall survive the Closing, transfer of the Property to Purchaser and the payment of the Purchase Price for a period of six (6) months, and shall not merge into the General Warranty Deed delivered at Closing.

16. Seller's Covenants and Conditions to Closing. During the term of this Option, Seller shall not, without the prior written consent of the Purchaser:

- (a) Enter into any agreement, or amend, modify, extend or renew any existing agreement, for the use, sale or lease of the Property which would (1) survive Closing, (2) otherwise affect the use, operation or enjoyment of the Property after the Closing, or (3) materially and adversely affect the value of the Property;
- (b) Commit or permit to be committed any waste or change in the use, condition or appearance of the Property;
- (c) Perform or consent to any zoning or re-zoning of the Property.

Purchaser's obligation to close the purchase of the Property shall be conditioned upon (1) there having occurred no material adverse change in the condition or use, or other change in circumstances, with respect to any properties surrounding or in the vicinity of the Property that has a material adverse effect on the value of the Property; (2) the Property being in substantially the same condition and used for the same uses and purposes on the date of the Closing as existed on the date of this Agreement; and (3) the Property shall be subject only to the easements and encumbrances that are disclosed on the attached Exhibit B (if any).

17. Assignment. Purchaser shall have the right to assign this Agreement and any of its rights and obligations hereunder to any party without the consent of the Seller, by delivering prior written notice of such assignment to the Seller at any time prior to the Closing.

18. Time is of the Essence. Time shall be of the essence in the performance of all obligations under this Agreement. If the time period by which any right, option or election provided under this Agreement must

be exercised, or by which any act required under this Agreement must be performed, or by which an event must be held, expires on a Saturday, Sunday or a holiday, then such time period shall be automatically extended to the next business day.

19. Controlling Law. This Agreement has been entered into under, and shall be interpreted and construed according to, the laws of the Commonwealth of Virginia.

20. Entire Agreement; Modification. This Agreement and all exhibits attached hereto constitutes the entire and complete agreement between the Parties hereto and supersedes any prior oral or written agreements between the Parties with respect to the Property. Seller and Purchaser expressly agree that there are no oral or written understandings or agreements between them that in any way change the terms, covenants and conditions set forth in this Agreement, and that no modification of this Agreement, and no waiver of any of its terms or conditions, shall be effective unless made in writing and duly executed by both parties.

21. Notices. All notices provided or permitted to be given under this Agreement must be in writing and shall be served by depositing same in United States certified or registered Mail, return receipt requested, by guaranteed overnight delivery service (e.g. Federal Express, UPS Next Day Air), or by hand delivery, to each of the addresses set forth below. All notices shall be effective three (3) days after mailing in accordance herewith, two (2) days after consignment to a guaranteed overnight delivery service, or upon hand delivery. For purposes of notice, the addresses of the Parties shall be as follows:

Seller: James. T. Taylor ET AL
 21 Court Place
 Staunton, Virginia 24401

Purchaser: County of Augusta, Virginia
 18 Government Center Lane
 Verona, Virginia 24482

Seller and Purchaser shall have the right to change their addresses for the receipt of notices by giving notice of such change of address in accordance herewith.

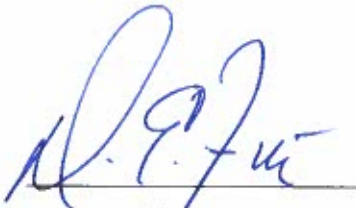
22. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the Parties and their successors and assigns.

23. Confidentiality. The parties agree that until a period which is three (3) months after Closing, each party, including if applicable its directors, officers and employees and Affiliates (the "Covered Parties") shall keep all terms of this Agreement confidential and (b) each of the Covered Parties shall hold and shall cause their consultants and advisors to hold in strict confidence, unless compelled to disclose by judicial or administrative process or, in the opinion of its counsel, by other requirements of law, all documents and information concerning or in connection with the transactions contemplated by this Agreement, except to the extent that any other information referred to in clause (a) or (b) above can be shown to have been (i) previously known by the party to which it is furnished, (ii) in the public domain through no fault of such party or (iii) later lawfully acquired from other sources by the party to which it was furnished (such as public recording or tax records). In the event that a Covered Party is compelled by judicial or administrative process or by other requirements of law to disclose such confidential information, such Covered Party shall promptly notify the Company and the other party of the request for disclosure and, if reasonably requested by the other party, and at the expense of the party so requesting shall cooperate in opposing the request for disclosure and in seeking confidential treatment for the confidential information that has been requested.

24. **Acceptance of Offer.** The signature by the Seller to this Option shall remain open for acceptance by the Purchaser for seventy-two (72) hours, beginning at 8:00pm EST on the date Seller signs this Agreement. Purchaser must countersign within said seventy-two (72) hour period, disclose its identity and return a fully signed copy of this Agreement (which may be transmitted electronically via PDF, DocuSign or similar means) to Seller. If Seller fails to receive such Purchaser signature and identity confirmation within the seventy-two (72) hour period, Seller may withdraw its offer of sale upon written notice of such withdrawal, delivered to Cottonwood Commercial.

IN WITNESS WHEREOF, the Seller and Purchaser have executed this Agreement as of the date first set forth above.

Date: 8-3-20

 (SEAL)
Seller

Date: 8-3-2020

 (SEAL)
Purchaser *County Administrator*
Augusta County

EXHIBIT A – Property Description

Location	7 LAWYERS ROW	Account#	9281
Owner	FOSTER, DWIGHT E	Assessment	\$77,800
PID	9281	Building Count	1
Legal Description	(LOT B REV 23 BLK EE)	Historic District	11 BEV
Zoning	B2	Map Number	375
Subdivision	CENTRAL CITY		

Tax Assessment

Valuation Year	Improvements	Land
2020	\$73,610	\$4,190

EXHIBIT B – Permitted Encumbrances

COTTONWOOD
COMMERCIAL
A COMMERCIAL REAL ESTATE BROKERAGE

Option Agreement

THIS OPTION AGREEMENT (the "Agreement") is made and entered into this 1st day of September, 2020, by and between Colin A. Rose (referred to herein as the "Seller"), whose address is 730 Jefferson Street South – Lewisburg, West Virginia 24901, and (To be identified within 72 hours of acceptance by Seller), or assigns (herein referred to as the "Purchaser"), whose address is _____, (the Seller and Purchaser shall sometimes be referred to collectively as the "Parties").

WITNESSETH:

For and in consideration of the sum of the Option Payment made by Purchaser to Seller hereunder, any Option Extension Payments, and other good and valuable consideration, the receipt of all of which is hereby acknowledged by the Seller, the Seller hereby grants to Purchaser, on and subject to the terms and conditions set forth below the right and option (the "Option") to Purchaser to purchase the following described real estate, (the "Property") at 9 Lawyers Row in Staunton, Virginia, to-wit:

[Property Description as Exhibit A]

The Property includes all easements, gas, oil, mineral and mining rights, all riparian rights and rights to underground water, and any and all other rights and appurtenances of Seller that are in any way associated with the Property, including all buildings, structures, fences and other permanent improvements to the Property owned by Seller. The Property does not include any personal property of any kind, such as removable (unattached) equipment, household goods or furniture, which Seller shall remove before Seller is required to relinquish possession of the Property.

The Option is granted to Purchaser upon the following terms and conditions:

1. **Purchase Price.** The gross purchase price of the Property shall be Six hundred thousand and 00/100 Dollars (\$600,000.00) (the "Purchase Price"). The Purchase Price shall be payable by wire transfer at the Closing (as hereinafter defined) as Seller shall elect. Any real estate taxes or assessments applicable to the Property, and any income or rents from the Property, for the year in which the Closing occurs shall be prorated as of the date of the Closing.

1.1 **Option Payment and Extension.** Upon execution of this Agreement by Purchaser, Purchaser shall deliver to Seller the sum of Thirty thousand and 00/100 Dollars (\$30,000.00) in cash, check, or certified funds (the "Option Payment"). In the event that Purchaser closes on the purchase of the Property, the Option Payment and Option Extension Payment shall be credited to the Purchase Price.

2. **Term.** Purchaser shall have the right to exercise this Option, by giving Seller written notice of exercise at any time prior to the 31st day of January, 2021 (the "Option Period"). If the Option is not exercised before such date, this Agreement shall terminate, the Seller will retain the Option Payment and the Parties shall



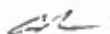
have no further rights hereunder. Purchaser shall have the right to extend the Option Period for an additional ninety (90) days by the NON-REFUNDABLE payment of \$15,000.00 (the "Option Extension Payment") by cash, check, or wire transfer to Seller on or before the expiration of the Option Period.

3. Seller's Representations and Warranties. Seller represents and warrants to Purchaser as follows:

- (a) Seller alone has (and at Closing will have) good, marketable and indefeasible fee simple title to the Property, free and clear of all liens and encumbrances other than the lien for real estate taxes not yet due and payable (which shall be prorated at Closing); and,
- (b) Seller has full right, power and authority to execute and deliver this Agreement and to consummate the transaction provided for herein without obtaining any further consents or approvals from, or the taking of any other action with respect to, any third parties;
- (c) At the Closing, Seller will be able to convey to the Purchaser good, marketable and indefeasible fee simple title to the Property, free and clear of all liens, leases and other encumbrances, subject only to the Permitted Encumbrances (defined below); and,
- (d) No other options to purchase, purchase agreements, rights of refusal, any other options or rights exist with respect to the Property other than this Agreement; and,

Permitted Encumbrances is hereby defined as the encumbrances listed in Exhibit B, a copy of which is attached hereto and made a part hereof. Regardless of such disclosure, the following items shall not be deemed to be Permitted Encumbrances: (i) any lien for taxes which are due and payable at Closing, (ii) mortgages, deeds of trust, deeds to secure debt, judgment liens, mechanic's and materialmen's liens, and other liens against the Property (all of which shall be satisfied by the Seller at Closing); and (iii) any leasehold interests represented by written leases which are not in breach by the Tenant at the time of Closing.

4. Title Examination. At any time prior to Closing, Purchaser shall have the right, but not the obligation, to obtain a title insurance commitment from one or more title insurance companies selected by Purchaser, setting forth the status of the title to the Property, and showing all liens, claims, encumbrances, reservations, restrictions and other matters, if any, relating to the Property, together with a copy of all documents referred to in the title insurance commitment. Purchaser shall advise Seller in writing of any title objection not less than ten (10) days prior to the Closing Date. Notwithstanding the foregoing, Purchaser shall have the continuing right to have such title examination and title insurance commitment updated from time to time and to give Seller written notice of any title objections appearing of record or otherwise created after the effective date of the title insurance commitment and being revealed by any title examination or survey of the Property, and Purchaser shall be entitled to object (in the same manner as set forth hereinabove) to matter shown by the updated title insurance commitment. Seller shall use reasonable efforts to remedy any title objections raised by Purchaser to the reasonable satisfaction of Purchaser within thirty (30) days after Purchaser's notice. If the objections are not so cured or remedied, on or before a date five (5) days prior to the Closing Date (as hereinafter defined), then the Purchaser, at its election, shall have the right to either: (a) accept title to the Property subject to the objections, and any title objection accepted by Purchaser in writing shall become part of the Permitted Encumbrances; (b) not close the purchase of the Property until the title objections raised by Purchaser are cured; or (c) terminate this Agreement by written notice to Seller, in which event neither party shall have any further liability to the other except as otherwise expressly set forth in paragraphs 6 and 10 of this Agreement. Notwithstanding the foregoing, Seller at its sole cost, shall be obligated to cure or remove at or before the Closing (and apply any portion of the Purchase Price needed to satisfy such obligations at closing) all mortgages, deeds of trust, deeds to secure debt, judgment liens, mechanic's and materialmen's liens, and other liens against the Property (unless caused by the actions or inspections of Purchaser), whether or not Purchaser objects thereto. In addition, Seller shall not allow any



lease, easements or other encumbrances to be placed on or granted with respect to the Property, other than those listed in the attached Exhibit B, without the prior written consent of Purchaser. If any such encumbrances or easements arise during the term of this Agreement, Seller shall, at its sole cost and expense, cure such objection prior to the Closing Date.

5. Risk of Loss, Eminent Domain. Risk of damage or destruction to the Property by fire or otherwise shall remain with Seller until title to the Property has been conveyed and transferred to Purchaser. If, after exercise of this Option, and prior to the Closing of the sale under the exercised Option, all or any part of the Property is damaged or destroyed, taken by eminent domain or if condemnation proceedings are commenced, Seller shall immediately provide notice of same to Purchaser and Purchaser may terminate this Agreement by delivery of written notice to Seller, and thereafter neither party shall have any further liability to the other except as otherwise expressly set forth in paragraphs 6 and 10 of this Agreement. If Purchaser does not elect to terminate this Agreement, then there should be credited to the Purchase Price all insurance and condemnation proceeds received by Seller prior to Closing, and Seller shall assign, transfer and set over to Purchaser at the Closing all of the Seller's right, title and interest in and to any insurance and proceeds thereof for such damage or destruction or condemnation awards that may be made for such taking after the Closing.

6. Inspections and Survey. During the term of this Option, Purchaser and its agents shall have, and Seller hereby grants to Purchaser and its contractors, the right of ingress and egress on, over, through, across, to and from the Property for the purpose of making any inspections, explorations, tests (including Phase I and II, asbestos surveys and other environmental inspections, samplings, drilling, and tests) and examinations of the Property as Purchaser may desire, or engaging in any other property evaluation and assessment activities which Purchaser deems appropriate. During the term of this Option, Purchaser may elect to cause a licensed surveyor or engineer prepare an accurate survey of the Property (the "Survey"), establishing the boundaries of the Property and showing the location of all easements or encroachments, if any, affecting the Property. Purchaser reserves the right to make written objections to title based upon the Survey, as provided in paragraph 4 above. The legal description of the Property set forth in this Agreement shall be used to describe the Property in the General Warranty Deed to be delivered by Seller at Closing. If the exact boundaries of the Property established by the Survey should differ from the legal description contained herein, then Seller shall also execute and deliver to Purchaser a Quit Claim Deed at Closing conveying the Property based upon a legal description of the Property taken from the Survey.

By entering the Property for this or any other purpose, Purchaser:

- (a) Accepts the risk of any damage it may cause to the Property or Seller's personal property on the Property.
- (b) Agrees to repair any damage caused by Purchaser to the Property; and,

7. Exercise by Purchaser and Purchaser's Option to Terminate Agreement.

- (a) Purchaser may, at Purchaser's sole election, exercise the Option at any time during the Option Period, and thereby cause Seller to sell the Property to Purchaser subject to the terms of this Agreement. If Purchaser elects to exercise this Option hereunder, it shall do so by sending a written notice of exercise to Seller in accordance with paragraph 21 of this Agreement. Purchaser's notice of exercise shall specify the date and time that the Closing of the sale of the Property, (the "Closing") will take place, which date shall be a business day no later than sixty (60) days and no earlier than fifteen (15) days after the date of Purchaser's exercise of the Option (the "Closing Date"), unless otherwise agreed in writing by the parties. The Closing shall take place in the offices of Purchaser's attorney or designated settlement agent in Staunton or Augusta County, Virginia.



- (b) Notwithstanding any exercise of the Option by Purchaser, Purchaser shall, at all times during the term of this Agreement, have the right to terminate this Agreement in Purchaser's sole and absolute discretion, by giving Seller notice of termination, in which event the Seller will retain any Option Payments or Option Extension Payments made hereunder and neither party shall have any further liability to the other except as otherwise expressly set forth in paragraphs 6 and 10 of this Agreement.

8. Closing. At the Closing:

- (a) Seller shall obtain and deliver releases of liens, if any, from all lienholders holding liens affecting the Property.
- (b) Seller shall execute and deliver to the Purchaser a General Warranty Deed covering the Property, conveying good and indefeasible fee simple title to the Property, free and clear of all liens and encumbrances, other than the Permitted Encumbrances.
- (c) Seller shall execute and deliver to Purchaser or its title insurer (1) a mechanic's lien affidavit in form satisfactory to Purchaser or its title insurance company, (2) an affidavit if the form required by Section 1445 of the Internal Revenue Code to establish that Seller is not a foreign person, (3) a statement certifying that all representations and warranties of Seller contained in this Agreement remain true and correct as of the date and time of Closing, and (4) such other affidavits or certifications required by Purchaser's title insurance company, and as set forth in the title insurance commitment.
- (d) Seller and Purchaser shall each execute such other instruments as are customarily executed in Virginia to effectuate the conveyance and acceptance of real estate similar to the Property, including any transfers of all riparian rights, rights to underground water and mineral rights associated with the Property, with the effect that, after the Closing, Purchaser will have succeeded to all of the rights, titles and interests of Seller related to the Property and Seller will no longer have any right, title or interest in and to the Property.
- (e) Any real estate taxes or assessments applicable to the Property, and any income or rents from the Property, for the year in which the Closing occurs shall be prorated as of the date of the Closing.
- (f) Purchaser shall tender to Seller the Purchase Price, subject to any credits or adjustments to the Purchase Price that are required under this Agreement.
- (g) In the event the Permitted Encumbrances include any leasehold interests that are disclosed on the attached Exhibit B, Purchaser agrees to take title to the Property subject to such written leasehold interests which are not in default (but not any amendments or modifications thereto or any extensions or renewals thereof) notwithstanding paragraphs 4 and 5 hereof, and all items of prepaid rent and expenses under such leases shall be prorated as of the date of the Closing. Seller shall provide Tenant estoppels for all leasehold interests which are Permitted Encumbrances no later than five (5) days prior to Closing.
- (h) Seller shall assign to Purchaser all Seller's rights and obligations under any contracts or leases related to the Property which are Permitted Encumbrances or which Purchaser elects to assume by written notice to Seller delivered prior to Closing.

9. Possession. Seller shall deliver exclusive possession of the Property to Purchaser at the Closing, in the same condition as on the date of this Option, normal wear and tear excepted, free and clear of all tenants, occupants, parties in possession, leases, licenses and permits which are not included in the Permitted Encumbrances.

10. **Brokers.** Seller and Purchaser both represent and warrant to the other that they are each represented by a different real estate agent or broker involved in the transaction described in this Agreement. Purchaser agrees to pay a total commission equal to \$36,000.00 at Closing, which will be disbursed as \$18,000.00 to Premier Properties (representing Seller) and \$18,000.00 to Cottonwood Commercial (representing Purchaser). If needed to clear title to the Property, Seller and Purchaser shall execute at Closing such affidavits as are appropriate to confirm to the satisfaction of Purchaser's title insurance company that no choate or inchoate liens and lien rights exist in favor of any brokers other than Cottonwood Commercial. The provisions of this paragraph shall survive Closing, or the earlier termination or expiration of this Agreement.

11. **Closing Expenses.** Seller shall be responsible for the cost of preparing the General Warranty deed and payment of the statutory Grantor's Tax. Purchaser shall be responsible for the cost of recording the deed, the cost of the title search, the cost of title insurance, the costs of investigating the Property, and the cost of the Survey. Each party shall be responsible for its own attorney's fees.

12. **Governmental Approvals.** In the event that the approval of any governmental entity, including, but not limited to, subdivision approval, rezoning, special permits, environmental permits or variances, is required during the option period for the transfer of the Property to Purchaser, Purchaser's receipt of such approvals, permits and variances shall be a condition precedent to Purchaser's obligation to close the purchase of the Property. Seller agrees to promptly execute any forms and applications related thereto that Purchaser reasonably requests, provided, however, that the burden of obtaining such approval shall be borne by Purchaser. Seller shall cooperate with Purchaser in pursuing the foregoing approvals, permits and variances.

13. **Environmental Representations and Warranties.** Seller represents and warrants that, as of the date of this Agreement, and as of the time of the Closing, that:

- (a) The Property is in compliance with all federal, state and other environmental and other laws, rules and regulations;
- (b) There are no pending, and to Seller's knowledge, threatened claims, lawsuits, administrative proceedings, enforcement actions or investigations concerning the Property by any private party or governmental entity, nor has Seller received notice of any such activities, and Seller agrees to give Purchaser prompt written notice of any such actions or investigations instituted between the date hereof and the date of the Closing;
- (c) Seller has not received any notice of any judicial or administrative consent orders or other provisions calling for compliance with any legal requirement or for correction of any violation;
- (d) The Property has not been the site of any activity that would violate any past or present environmental law or regulation of any governmental body or agency having jurisdiction over the Property, and that there are not now and never have been any solid or hazardous wastes or substances, or oil or other dangerous or toxic substances, all as defined in the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601 et seq. ("CERCLA"), the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq. ("RCRA"), the Hazardous Material Transportation Act, 49 U.S.C. §§ 1801 et seq., the Clean Water Act, 33 U.S.C. §§ 1251 et seq., or the Toxic Substance Control Act, 15 U.S.C. §§ 2600 et seq., or any other applicable federal, state or local law, rule or regulation, stored, placed, treated, released or disposed of anywhere on the Property;
- (e) The Property is not identified on any current or proposed (i) National Priorities List under 40 C.F.R. Part 300, (ii) CERCLA Information Systems List, or (iii) state environmental or other regulatory agency list based on a statute similar to CERCLA or RCRA; and

al

(f) The Property has not been used for any purpose other than [here specify use].

Seller shall give immediate oral and written notice to Purchaser of its receipt of any notice of a violation of any law, rule, regulation, ordinance or code covered herein, or of any notice of other claim relating to the environmental condition of the Property.

14. **Default.** If Seller defaults under this Agreement and such default continues for fifteen (15) days after receipt of notice thereof from Purchaser to Seller, the sole and exclusive remedy of Purchaser shall be to elect to either (i) prosecute an action for specific performance of this Agreement against Seller, or (ii) terminate this Agreement by notice to Seller, have the Option Payment and Option Extension Payment refunded, and be reimbursed by Seller for its expenses in investigating and surveying the Property, in which event neither party shall have any further liability to the other except as otherwise expressly set forth in paragraphs 6 and 10 of this Agreement. If Purchaser defaults under this Agreement and such default continues for fifteen (15) days after receipt of notice thereof from Seller to Purchaser, Seller's sole and exclusive remedy shall be to retain the Option Payment, the Option Extension Payment and any other deposits made hereunder by the Purchaser as liquidated damages, as actual damages may be difficult or impossible to ascertain in a suit for damages in the event of Purchaser's breach.

15. **Survival.** All covenants, agreements, representations and warranties contained in this Agreement shall survive the Closing, transfer of the Property to Purchaser and the payment of the Purchaser Price for a period of six (6) months, and shall not merge into the General Warranty Deed delivered at Closing.

16. **Seller's Covenants and Conditions to Closing.** During the term of this Option, Seller shall not, without the prior written consent of the Purchaser:

- (a) Enter into any agreement, or amend, modify, extend or renew any existing agreement, for the use, sale or lease of the Property which would (1) survive Closing, (2) otherwise affect the use, operation or enjoyment of the Property after the Closing, or (3) materially and adversely affect the value of the Property;
- (b) Commit or permit to be committed any waste or change in the use, condition or appearance of the Property;
- (c) Perform or consent to any zoning or re-zoning of the Property.

Purchaser's obligation to close the purchase of the Property shall be conditioned upon (1) there having occurred no material adverse change in the condition or use, or other change in circumstances, with respect to any properties surrounding or in the vicinity of the Property that has a material adverse effect on the value of the Property; (2) the Property being in substantially the same condition and used for the same uses and purposes on the date of the Closing as existed on the date of this Agreement; and (3) the Property shall be subject only to the easements and encumbrances that are disclosed on the attached Exhibit B (if any).

17. **Assignment.** Purchaser shall have the right to assign this Agreement and any of its rights and obligations hereunder to any party without the consent of the Seller, by delivering prior written notice of such assignment to the Seller at any time prior to the Closing.

18. **Time is of the Essence.** Time shall be of the essence in the performance of all obligations under this Agreement. If the time period by which any right, option or election provided under this Agreement must be exercised, or by which any act required under this Agreement must be performed, or by which an event must be held, expires on a Saturday, Sunday or a holiday, then such time period shall be automatically extended to the next business day.

al

19. **Controlling Law.** This Agreement has been entered into under, and shall be interpreted and construed according to, the laws of the Commonwealth of Virginia.

20. **Entire Agreement; Modification.** This Agreement and all exhibits attached hereto constitutes the entire and complete agreement between the Parties hereto and supersedes any prior oral or written agreements between the Parties with respect to the Property. Seller and Purchaser expressly agree that there are no oral or written understandings or agreements between them that in any way change the terms, covenants and conditions set forth in this Agreement, and that no modification of this Agreement, and no waiver of any of its terms or conditions, shall be effective unless made in writing and duly executed by both parties.

21. **Notices.** All notices provided or permitted to be given under this Agreement must be in writing and shall be served by depositing same in United States certified or registered Mail, return receipt requested, by guaranteed overnight delivery service (e.g. Federal Express, UPS Next Day Air), or by hand delivery, to each of the addresses set forth below. All notices shall be effective three (3) days after mailing in accordance herewith, two (2) days after consignment to a guaranteed overnight delivery service, or upon hand delivery. For purposes of notice, the addresses of the Parties shall be as follows:

Seller: Colin A. Rose
730 Jefferson Street South
Lewisburg, West Virginia 24901

Purchaser: County of Augusta, Virginia
18 Government Center Lane
Verona, Virginia 24482

Seller and Purchaser shall have the right to change their addresses for the receipt of notices by giving notice of such change of address in accordance herewith.

22. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the Parties and their successors and assigns.

23. **Confidentiality.** The parties agree that until after Closing, each party, including if applicable its directors, officers and employees and Affiliates (the "Covered Parties") shall keep all terms of this Agreement confidential and (b) each of the Covered Parties shall hold and shall cause their consultants and advisors to hold in strict confidence, unless compelled to disclose by judicial or administrative process or, in the opinion of its counsel, by other requirements of law, all documents and information concerning or in connection with the transactions contemplated by this Agreement, except to the extent that any other information referred to in clause (a) or (b) above can be shown to have been (i) previously known by the party to which it is furnished, (ii) in the public domain through no fault of such party or (iii) later lawfully acquired from other sources by the party to which it was furnished (such as public recording or tax records). In the event that a Covered Party is compelled by judicial or administrative process or by other requirements of law to disclose such confidential information, such Covered Party shall promptly notify the Company and the other party of the request for disclosure and, if reasonably requested by the other party, and at the expense of the party so requesting shall cooperate in opposing the request for disclosure and in seeking confidential treatment for the confidential information that has been requested.

24. **Acceptance of Offer.** The signature by the Seller to this Option shall remain open for acceptance by the Purchaser for seventy-two (72) hours, beginning at 8:00pm EST on the date Seller signs this Agreement. Purchaser must countersign within said seventy-two (72) hour period, disclose its identity and return a fully signed copy of this Agreement (which may be transmitted electronically via PDF, DocuSign or similar



means) to Seller. If Seller fails to receive such Purchaser signature and identity confirmation within the seventy-two (72) hour period, Seller may withdraw its offer of sale upon written notice of such withdrawal, delivered to Cottonwood Commercial.

IN WITNESS WHEREOF, the Seller and Purchaser have executed this Agreement as of the date first set forth above.

Date: 9/2/2020

[Signature] (SEAL)
Seller

Date: 9/2/2020

[Signature] (SEAL)
Purchaser

County Administrator
Angusta County

EXHIBIT A – Property Description

Location

9 LAWYERS ROW

Acct#	1768
Owner	ROSE, COLIN A.
Assessment	\$433,300
PID	1768
Building Count	1
Legal Description	LOT A (REV 23 BLK EE)
Historic District	11 BEV
Zoning	B2
Map Number	375
Subdivision	CENTRAL CITY

Assessment		
Valuation Year	Improvements	Land
2020	\$417,390	\$15,910

Owner of Record
 Owner ROSE, COLIN A.
 Co-Owner
 Address 730 JEFFERSON ST
 SOUTH LEWISBURG, WV 24901
 Sale Price \$375,000
 Certificate
 Book & Page 190002075/0
 Sale Date 08/29/2019
 Instrument 01

EXHIBIT B – Permitted Encumbrances

Materials – Building Exterior

The design of a courthouse should convey the dignity and authority of the rule of law, along with a sense of history and tradition, particularly in a historic setting. Consequently, the proposed design references to the heritage of historic buildings, particularly historic courthouses within Virginia. The present 1901 Historic Courthouse housing the circuit court and clerk is the fifth courthouse constructed on the site. The original facility was designed by T.J. Collins.

County Courthouses of Virginia Old and New (c. 1988) by Mary Kegley Bucklen and Larrie L. Bucklen states the following:

“The present building is Neo-classical Revival and Beaux-Arts in design and is of redbrick with a central pedimented portico supported by yellow brick columns. The Beaux-Arts presence is most apparent in the decorative terra cotta panels and cartouches in the various tympanums. There are flanking wings with pilasters and the entablature is heavily decorated”.

The expansion’s exterior materials will include the following:

- red brick are color and size to complement the existing 1901 Historic Courthouse and the existing Echols Building,
- stone at base indicative of the same base material of both the 1901 Historic Courthouse and the existing Echols Building,
- architectural precast concrete as accent material at openings at head and sill of windows openings,
- glass fiber reinforced concrete for the free-standing columns at the entry,
- exterior synthetic wood trim appropriate to complement the Neo-classical Revival and Beaux-Arts style,
- windows will be traditional in detailing and design, and will be inoperable aluminum clad wood units that fill punched openings of the addition on the west, north and east elevation that are comparable size and proportion of the 1901 Historic Courthouse and Echols Building,
- insulated roof will be a EPDM membrane roof, and
- if needed, visible mansard mechanical screens will be clad in standing-seam metal panels.

COUNTY OF AUGUSTA, VA.

BOARD OF SUPERVISORS

JEFF SLAVEN
North River

GERALD W. GARBER
Middle River

PAM L. CARTER
Pastures

BUTCH WELLS
Beverley Manor

SCOTT SEATON
Wayne

MICHAEL L. SHULL
Riverheads

STEVE MORELLI
South River



TIMOTHY K. FITZGERALD – COUNTY ADMINISTRATOR

AUGUSTA COUNTY GOVERNMENT CENTER

P.O. BOX 590, VERONA, VA 24482-0590

(540) 245-5610 FAX (540) 245-5621

coadmin@co.augusta.va.us

2020-104

October 21, 2020

Mr. Rodney Rhodes
Senior Planner
City of Staunton
116 W Beverley Street
Staunton, VA 24401

RE: Certificate of Appropriateness Application – Supplemental Information

Dear Mr. Rhodes:

Per our meeting on October 14, 2020, we are pleased to submit to staff and the Historical Preservation Commission the following supplemental information:

- Exhibit A – Information indicating what portions of Section 18.85.050 of the City of Staunton's Code the County of Augusta is requesting approval of the Certificate of Appropriateness.
- Exhibit B – A site plan showing the locations studied for placement of a new courts facility.
- Exhibit C – The relationship of parcels and the FEMA designated floodway and floodplain.
- Exhibit D – Staunton Historical District map showing the locations of various four and five story buildings, including context photographs of the various buildings.

We look forward to reviewing our application with you and the Commission on October 27, 2020. If additional information is needed, please do not hesitate to contact me directly.

Sincerely,

Candy J. Hensley

Assistant to the County Administrator

Application for Certificate of Appropriateness
1 East Johnson Street
Supplemental Information – October 21, 2020

Exhibit A - Staunton City Code 18.85.050

Section 18.85.050 (7f) – Undue Hardship:

The requested demolition of the eight historic properties (4 buildings) is critical to the success of the courthouse expansion. Staunton City Code Section 18.85.050 (7f) notes that “[t]he Commission shall have the power to reduce or suspend any of the requirements of this chapter, if the property presents special circumstances whereby the strict compliance of this chapter will produce an undue hardship...” Denying the demolition of the buildings would be an undue hardship for the following reasons:

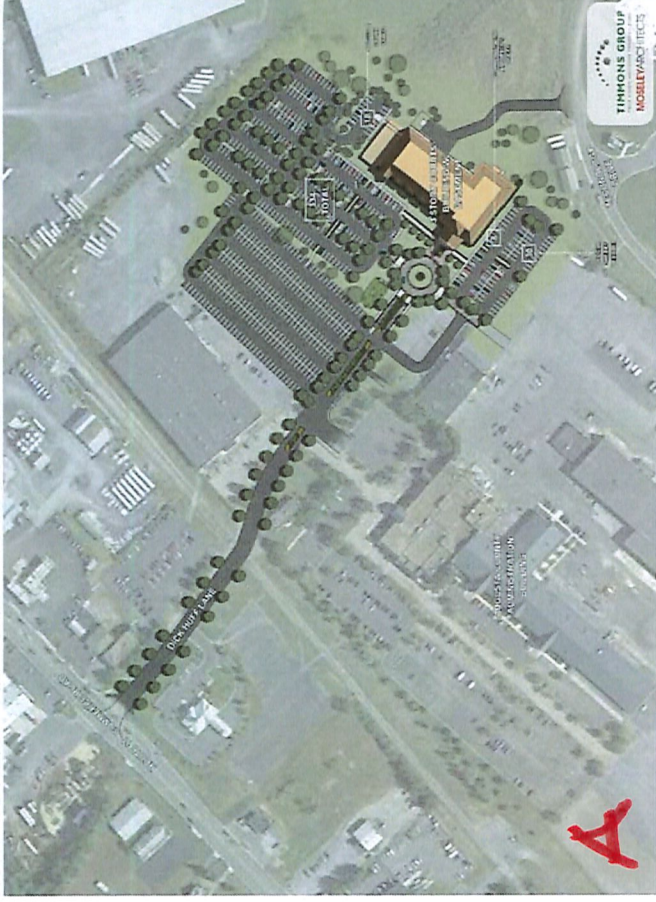
1. The Code of Virginia requires the expansion to occur on or adjacent to the site.
2. Many placement options have been explored in Staunton, on property owned by the County and adjacent allowable under law. Per Exhibit B three locations were studied and the fourth is being pursued.
 - A. The referendum for a new Courts Complex in Verona and moving the County Seat failed at the 2016 referendum.
 - B. The new Courts Complex located at the current District Courts Building site is not the best option. Per Exhibit C, the entire facility is located in a FEMA designated floodway; the project will cost taxpayers an additional \$10 million dollars for renovation for a temporary facility.
 - C. Union Bank owners are not interested in selling the property.
 - D. The 1901 Historic Courthouse site is currently being pursued.
3. County would not be able to accommodate full program for courts and courts-related functions into the eight (8) existing structures - approximately 20, 000 square feet available, need 95,000 square feet of expansion space:
 - 11 South Augusta Street
 - 1 Court Place
 - 5 Court Place
 - 7 Court Place
 - 9 Court Place
 - 11 Court Place
 - 5 Lawyers Row
 - 7 Lawyers Row
4. Courts and courts-related functions would be fragmented and operations would be inefficient, requiring users to circulate through various buildings
5. Safety and security of public and courts staff would be difficult and expensive to enforce
6. Sheriff’s Office would require additional staff and multiple areas for security and personnel
7. Detainee transport, holding, and circulation would be co-mingled with other circulations
8. Operational expenses would be higher for multiple buildings versus one
9. Meeting ADA requirements at existing buildings would be of concern

Advantages of Courthouse Expansion and New Construction:

1. All courts and courts-related functions would be in a unified, connected facility.
2. There will be one entry for public and a secure/separate entry for elected officials and detainee traffic.
3. Safety and security of all occupants will be possible, and Sheriff’s Office operations will be efficient.
4. 1901 Historic Courthouse (1 East Johnson Street) and Echols Building (9 Lawyers Row) are permanently

preserved through rehabilitation.

5. The inside of the expansion will celebrate the 1901 Historic Courthouse and will enable visitors to learn about its history, including the surrounding area.
6. Second floor Courtroom and spaces in the 1901 Historic Courthouse will be fully ADA accessible.
7. Memorial Garden will remain in place.
8. The expansion will be set back from all property lines a minimum of five (5) feet, and in some cases more per Staunton City Code.

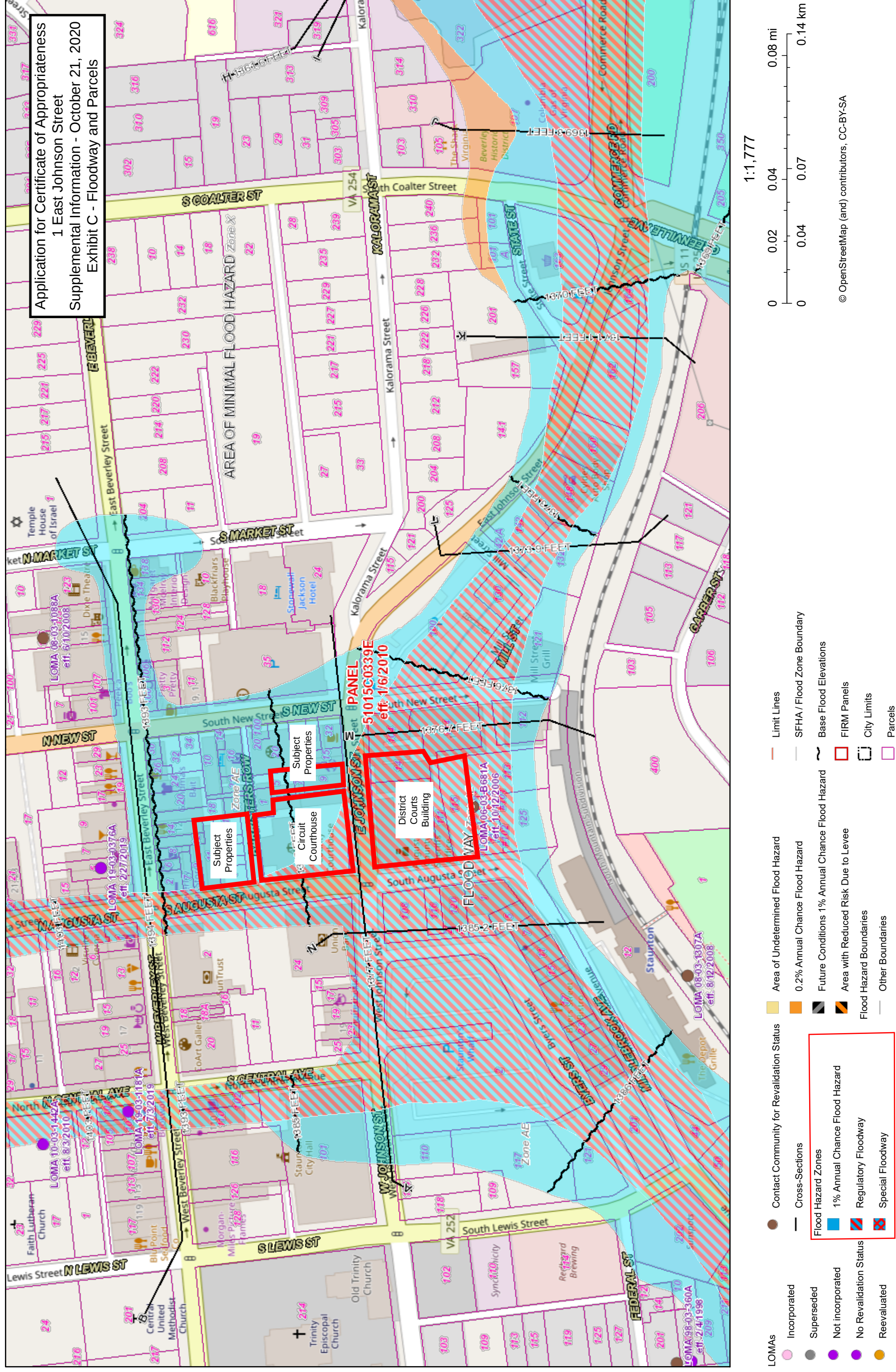


KEY:

- A New Courts Complex in Verona
- B New Courts Complex at existing District Courts location
- C New Courts Complex at Union Bank location
- D New Courts Expansion at Circuit Courthouse and Echols Building



Additional Map Layers - Floodway and Parcels



Staunton's Historic Districts

Application for Certificate of Appropriateness
1 East Johnson Street
Supplemental Information - October 21, 2020
Exhibit D - Context Photographs Map

The map displays the following districts and landmarks:

- Newtown** (Blue): Located in the lower-left portion of the map, featuring a circular icon with a blue and white striped shield.
- Stuart Addition** (Green): Located in the upper-left portion, featuring a circular icon with a green house icon.
- Beverley** (Purple): Located in the center, featuring a circular icon with a purple house icon. A red rectangle highlights a specific area within this district.
- Gospel Hill** (Yellow): Located in the upper-right portion, featuring a circular icon with a yellow house icon.
- The Wharf** (Orange): Located on the right side, featuring a circular icon with an orange house icon.

Other visible features include the VA Power Substation, Staunton Correctional Institution, and various streets such as N Augusta St, N Lewis St, and N Beverley St.

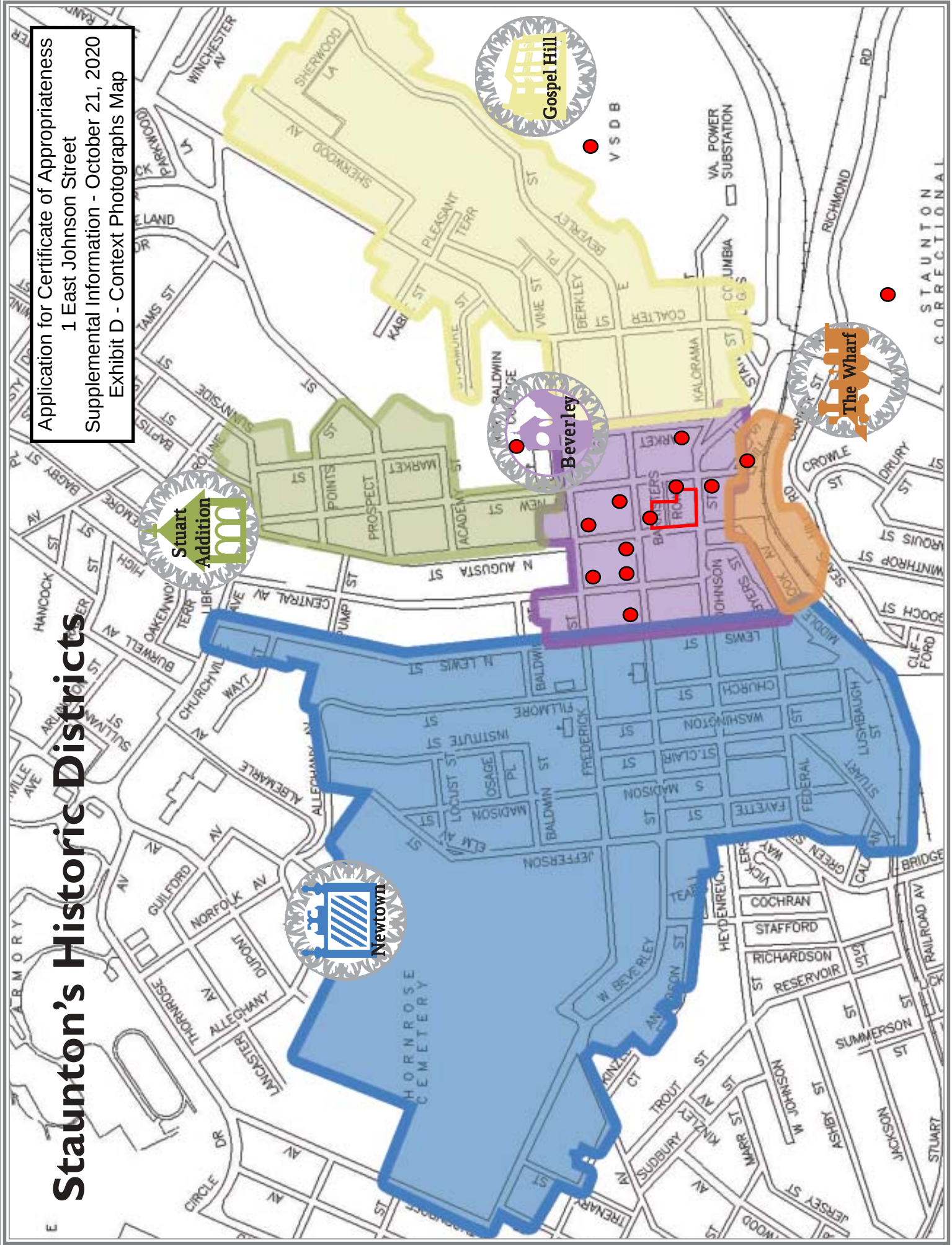
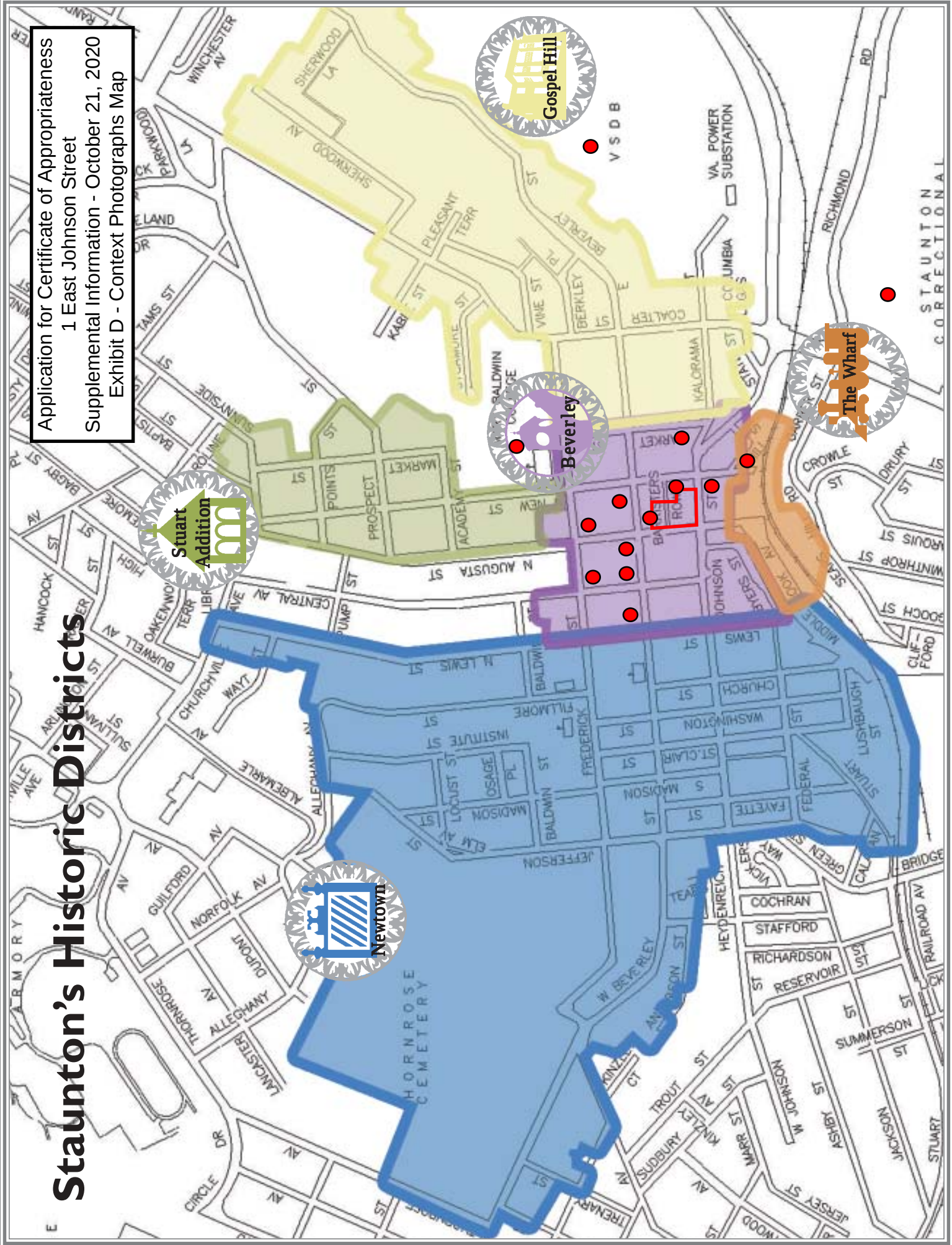
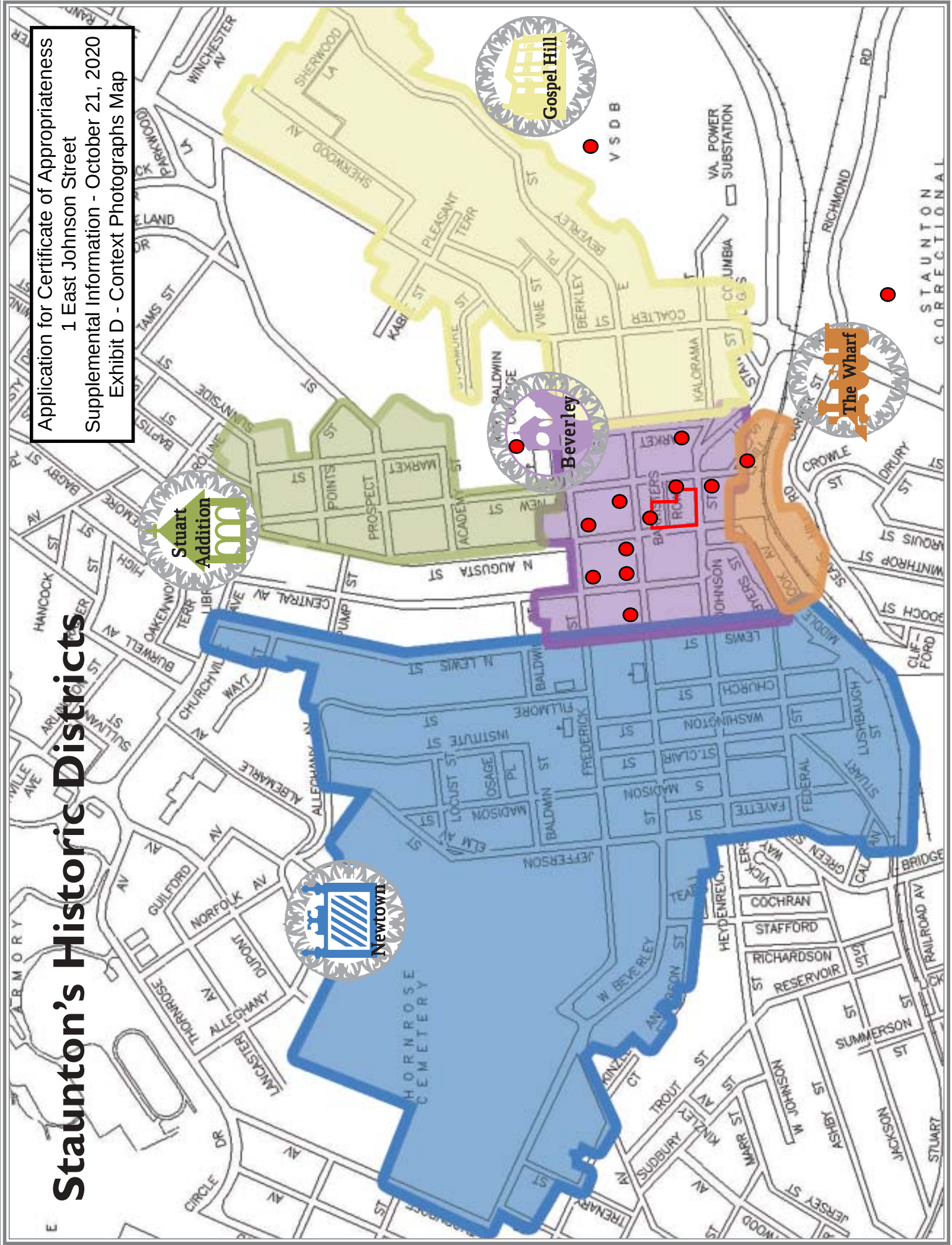
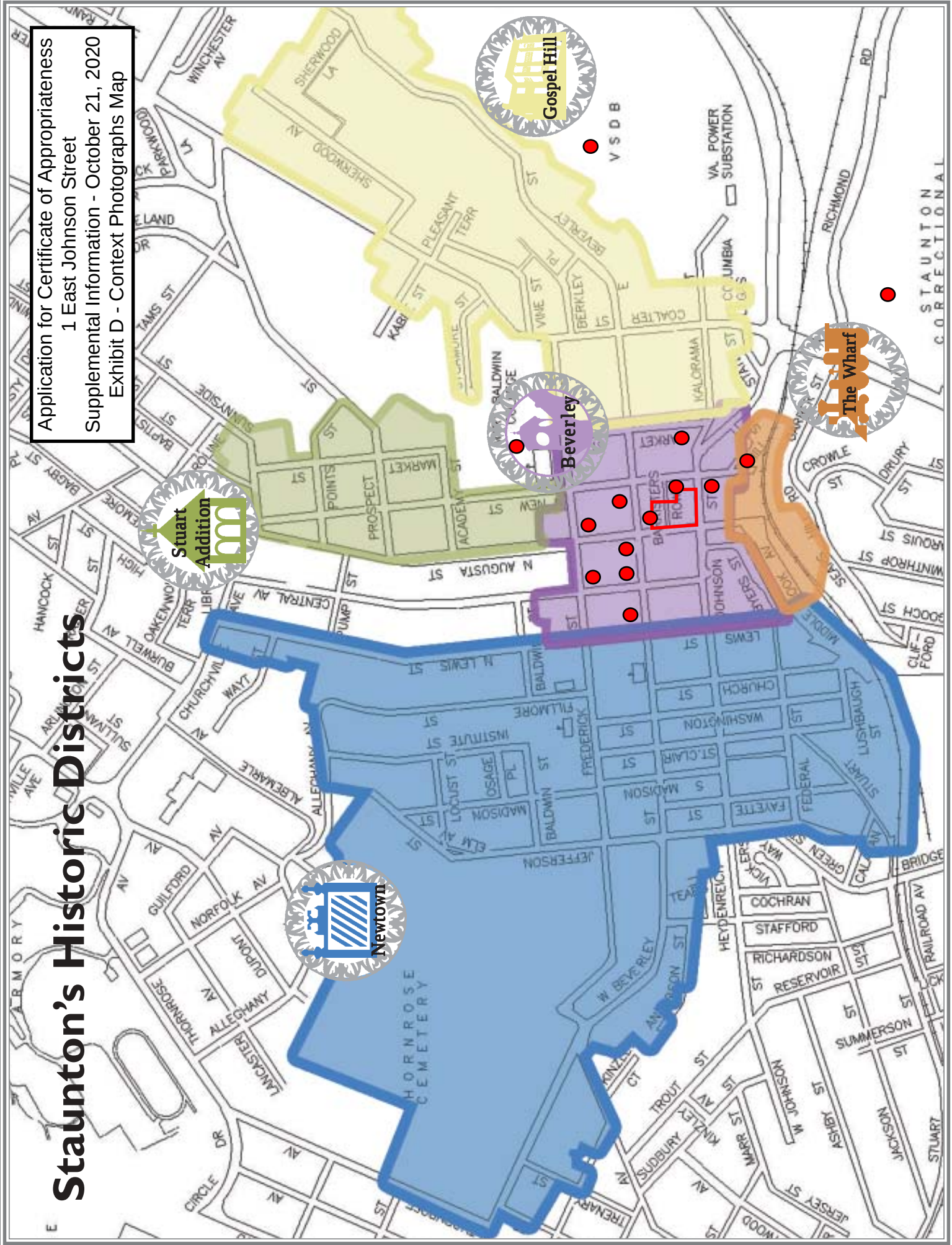
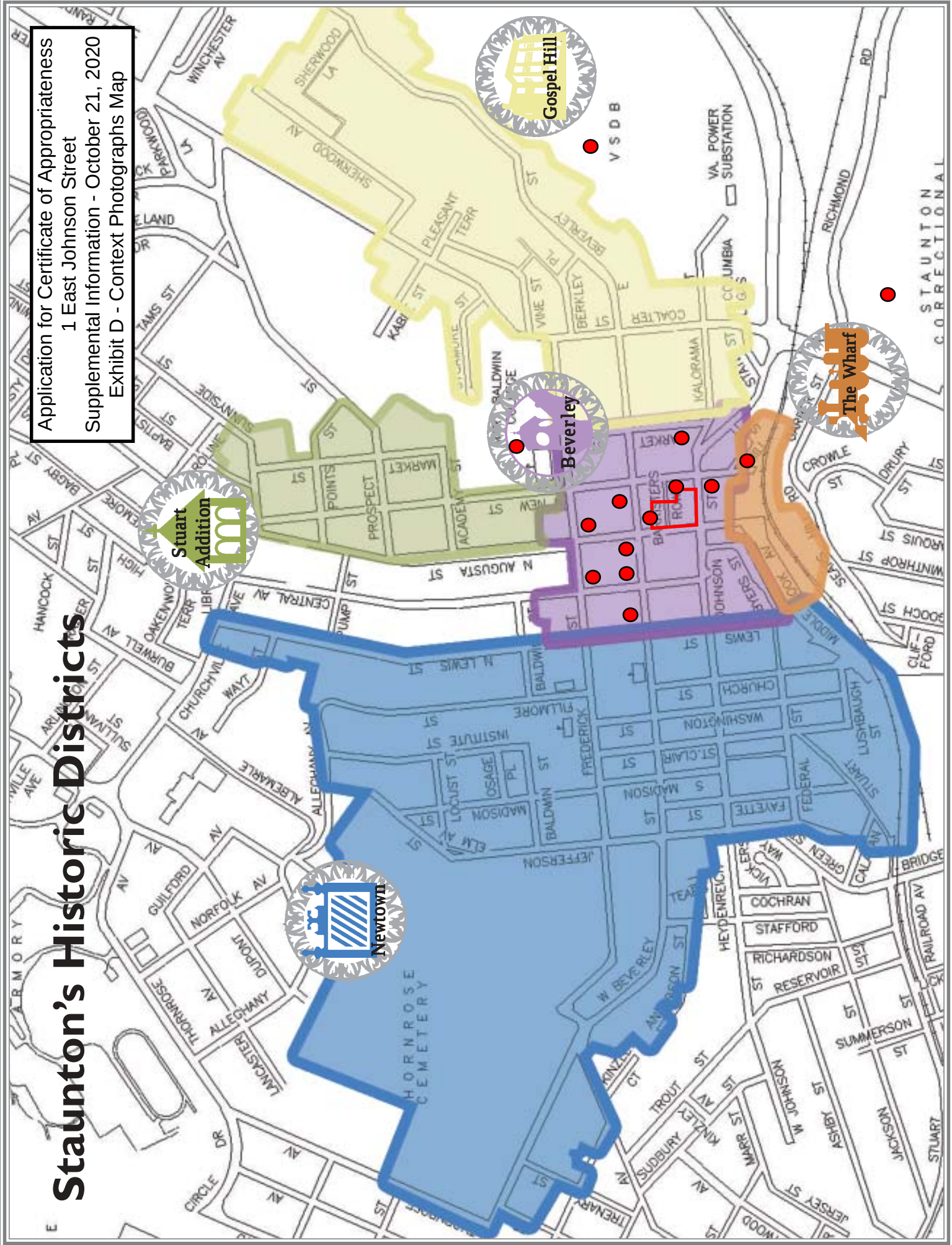
Staunton's Historic Districts

Application for Certificate of Appropriateness
1 East Johnson Street
Supplemental Information - October 21, 2020
Exhibit D - Context Photographs Map

The map displays the following districts and landmarks:

- Newtown** (Blue): Located in the lower-left, featuring the Hornerose Cemetery.
- Stuart Addition** (Green): Located in the upper-left, featuring a school icon.
- Beverley** (Purple): Located in the center, featuring a house icon. A red rectangle highlights a specific area within this district.
- Gospel Hill** (Yellow): Located in the upper-right, featuring a church icon.
- The Wharf** (Orange): Located on the right side, featuring a wharf icon.

Other landmarks include the VA Power Substation, Staunton Correctional Institution, and the Richmond River.



Application for Certificate of Appropriateness
1 East Johnson Street
Supplemental Information - October 21, 2020
Exhibit D - Context Photographs



107 West Beverley Street – 4 stories

Application for Certificate of Appropriateness
1 East Johnson Street
Supplemental Information - October 21, 2020
Exhibit D - Context Photographs



27 West Beverley Street – 4 stories with clock tower

Application for Certificate of Appropriateness
1 East Johnson Street
Supplemental Information - October 21, 2020
Exhibit D - Context Photographs



27 West Beverley Street – 4 stories with clock tower

Application for Certificate of Appropriateness
1 East Johnson Street
Supplemental Information - October 21, 2020
Exhibit D - Context Photographs



13 West Beverley Street – 5½ stories with roof belvedere

Application for Certificate of Appropriateness
1 East Johnson Street
Supplemental Information - October 21, 2020
Exhibit D - Context Photographs



13 West Beverley Street – 5½ stories with roof belvedere

Application for Certificate of Appropriateness
1 East Johnson Street
Supplemental Information - October 21, 2020
Exhibit D - Context Photographs



119 East Beverley Street – 4 stories

Application for Certificate of Appropriateness
1 East Johnson Street
Supplemental Information - October 21, 2020
Exhibit D - Context Photographs



2 East Beverley Street – 3 stories with corner turret

Application for Certificate of Appropriateness
1 East Johnson Street
Supplemental Information - October 21, 2020
Exhibit D - Context Photographs



29 North Central Avenue – 4 stories

Application for Certificate of Appropriateness
1 East Johnson Street
Supplemental Information - October 21, 2020
Exhibit D - Context Photographs



41 North Augusta Avenue – 4 stories with lower level

Application for Certificate of Appropriateness
1 East Johnson Street
Supplemental Information - October 21, 2020
Exhibit D - Context Photographs



104 South New Street – 5 stories

Application for Certificate of Appropriateness
1 East Johnson Street
Supplemental Information - October 21, 2020
Exhibit D - Context Photographs



20 South New Street – 4 stories

Application for Certificate of Appropriateness
1 East Johnson Street
Supplemental Information - October 21, 2020
Exhibit D - Context Photographs



24 South Market Street – 5 stories, 7 stories at Greenville Avenue

Application for Certificate of Appropriateness
1 East Johnson Street
Supplemental Information - October 21, 2020
Exhibit D - Context Photographs



121 South New Street – 4 stories with lower level

Application for Certificate of Appropriateness
1 East Johnson Street
Supplemental Information - October 21, 2020
Exhibit D - Context Photographs



Mary Baldwin University – 3 and 4 stories

Application for Certificate of Appropriateness
1 East Johnson Street
Supplemental Information - October 21, 2020
Exhibit D - Context Photographs



Virginia School for the Deaf and the Blind – 3 and 4 stories

Application for Certificate of Appropriateness
1 East Johnson Street
Supplemental Information - October 21, 2020
Exhibit D - Context Photographs



The Blackburn Inn – 3 stories with tower, 3 and 4 stories