

**RESIDENTIAL REAL ESTATE OPTION CONTRACT WITH RIGHT OF FIRST  
REFUSAL**

This REAL ESTATE OPTION CONTRACT is made this 12<sup>th</sup> day of April, 2021, by and between the City of Olathe, hereinafter referred to as the "City" or "Buyer", and Bradley Zimmerman hereinafter referred to as the "Seller".

WITNESSETH:

WHEREAS, ODL LLC, a Kansas limited liability company (hereinafter "ODL") and Bradley Zimmerman entered into an agreement February 11, 2020 for Zimmerman to sell certain Land to ODL (the "Contract"); and

WHEREAS, ODL, LLC assigned the contract to purchase the land to the City, pursuant to an agreement between ODL and the City dated October 13, 2020; and

WHEREAS, the City and Zimmerman desire to convert the real estate contract into an option to purchase. The purpose of this contract is to amend and restate the Contract into an option to purchase. Capitalized terms not defined herein will have the meaning ascribed to them in the Agreement.

NOW THEREFORE, The City and Zimmerman, as evidenced by each party's consent and acknowledgement below, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by all parties, parties hereby agree as follows:

- 1) This contract supersedes, repeals, and replaces the contract Dated February 11, 2020.
- 2) The "Effective Date" of this Contract will be the date this Contract is fully executed

by the last of Buyer and Seller to sign.

3) The PROPERTY. The subject real property is the real property commonly known as:

- a. 234 N Chestnut Street, Olathe, Johnson County, Kansas 66061; Johnson County Parcel ID DP52000034 0006; as legally described on **Exhibit A**, together with all improvements of any kind thereon, and all surface, subsurface, and mineral rights, and any appurtenant easements and rights of parking and access; and
- b. 211 E Poplar Street, Olathe, Johnson County, Kansas 66061; Johnson County Parcel ID DP52000034 0004; as legally described on **Exhibit A**, together with all improvements of any kind thereon, and all surface, subsurface, and mineral rights, and any appurtenant easements and rights of parking and access; and
- c. Address N/A (234 N Chestnut Street), Olathe, Johnson County, Kansas 66061; Johnson County Parcel ID DP52000034 0009; as legally described on **Exhibit A**, together with all improvements of any kind thereon, and all surface, subsurface, and mineral rights, and any appurtenant easements and rights of parking and access;  
  
(collectively, the "Property").

4) OPTION PRICE, TERM, AND RENEWALS. The "Option Price" for the option to purchase the Property, is Ten Thousand Dollars (\$10,000) due within 30 days of the effective date. The term of the Option will expire two (2) years after the Effective Date (the "Option Term"). The Buyer may extend the Option by written notice to

Seller at any time prior to expiration of the Option Term. The Option term may be extended for two (2) additional terms of two (2) years each. The buyer will pay Ten Thousand Dollars (\$10,000) due within 30 days of the effective date for each additional term.

5) THE OPTION. Seller hereby grants Buyer an option (the "Option") to acquire the Property with a right of first refusal over other bona fide contract offers, under the following terms and conditions:

- a. If the Seller secures a bona fide offer in contract form executed by any purchaser ("Third-Party Contract"), Seller must submit the Third-Party Contract to the City in writing. The City will have thirty (30) days from receipt thereof in which to accept and meet the terms of the purchase as set forth in the Third Party Contract, which acceptance will be given in writing to the Seller ("City's Acceptance").
- b. Upon Acceptance, the Parties may enter into a purchase and sale agreement in substantially the same form as the Third-Party Contract and proceed to close under that purchase and sale agreement. Upon such closing the terms of this contract and the Parties' obligations hereunder will terminate.
- c. If City does not notify Seller of City's Acceptance within the thirty (30) day period, then thereafter Seller will have the right to sell the Premises pursuant to, or under substantially similar terms as the Third-Party Contract presented to City, for period of one hundred fifty (150) days. If the transaction is unable to close within one hundred fifty (150) days, Seller

must again comply with the terms herein and give the City a right of first refusal.

- d. Following the Effective Date, the City and the Seller will record against the Property and the Option Land a memorandum of this Agreement, which will include a general description of the Option.

6) REPRESENTATIONS AND WARRANTIES. Seller represents and warrants that:

(a) Seller has the legal capacity and authority to execute and deliver this Contract and all instruments to consummate the sale of the Property; (b) there are no causes of action, suits or judgments against Seller or the Property; (c) there are no leases, contracts, agreements or obligations of Seller for and with respect to the Property or any portion thereof (collectively, the "Agreements") which have not been disclosed to the City in writing, and which are or may become a lien against the Property; and (d) to the best of Seller's knowledge, Seller has received no written notices of any hazardous substances upon the Property. Further, Seller agrees and represents that Seller will cooperate with Buyer in connection with Buyer's due diligence activities, including, without limitation.

7) NOTICES. All notices, requests, demands or other communications hereunder must be in writing and deemed given when delivered personally or on the day said communication is deposited in the U.S. mail, by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

If to Sellers:

Bradley Zimmerman (Name)  
234 N. Chestnut St. (Street Address)  
Olathe, KS 66061 (City, State and Zip Code)

If to Buyer:

City of Olathe  
PO Box 768  
Olathe, KS 66051-0768  
ATTN: City Clerk

With a Copy to:

Ronald R. Shaver  
Olathe City Attorney  
PO Box 768  
Olathe, KS 66051-0768

or to such other address as the parties may from time to time designate by notice in writing to the other parties.

- 8) **PARTIAL INVALIDITY.** If any provision(s) of this Contract or the application thereof to any part or circumstance is, to any extent, be invalid or unenforceable, the remainder of this Contract will not be affected thereby, and each provision of this Contract will be valid and enforceable to the fullest extent permitted by law.
- 9) **MISCELLANEOUS.** The parties agree that time is of the essence of this Contract, and that this Contract: (i) will inure to the benefit of and bind the parties hereto and their respective successors and assigns; (ii) may be freely assigned by Buyer without Seller's consent; (iii) supersedes any letter of intent or prior agreement or understanding between Seller and Buyer or Seller and ODL LLC, and constitutes the entire agreement between Seller and Buyer relating to the subject matter hereof; and (iv) will not be modified or amended other than by a written instrument executed by both of the parties hereto.
- 10) **LAW, JURISDICTION, AND VENUE:** Interpretation of this Contract and disputes arising out of or related to this Contract will be subject to and governed by the laws of the State of Kansas, excluding Kansas' choice-of-law principles. Jurisdiction and

venue for any suit arising out of or related to this Agreement will be in the District Court of Johnson County, Kansas.

11)SURVIVAL. Except as otherwise herein expressly provided, all the promises, representations, warranties, and undertakings expressed in this Contract will be deemed made on the Effective Date and will survive until 1) a Real Estate agreement for Sale of the land is executed; 2) the Option expires or 3) the parties terminate this agreement by mutual assent.

12)COUNTERPARTS. This Contract may be executed in several counterparts, each of which will be deemed an original, and all of such together will constitute the same Contract. Signatures transmitted by electronic mail in portable document format (PDF) or similar format are also permitted as binding signatures to this Contract.

IN WITNESS WHEREOF, Seller and Buyer have caused this Contract to be duly executed as of the Effective Date.

**CITY OF OLATHE, KANSAS (BUYER)**

By: \_\_\_\_\_

Mayor

ATTEST:

\_\_\_\_\_

City Clerk

(Seal)

APPROVED AS TO FORM:

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City Attorney/Deputy City Attorney/  
Assistant City Attorney

**Bradley Zimmerman (SELLER)**

By: Bradley Zimmerman