

EXHIBIT B

Prepared by: Prosser D. Carnegie  
And Return to: Dr. Dan Morrill, 2100 Randolph Rd., Charlotte, NC 28207

STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

**HISTORIC PRESERVATION AGREEMENT  
AND RESTRICTIONS (Including Right of  
First Refusal and Option Rights)**

**THIS AGREEMENT**, made this \_\_\_\_ day of \_\_\_\_\_, 2018 by and between **CHARLOTTE-MECKLENBURG HISTORIC LANDMARKS COMMISSION**, a North Carolina Commission organized pursuant to N.C. G.S. 160A-400.7 under the laws of the State of North Carolina (hereinafter referred to as the "**Commission**"), and any and all persons, firms, corporations, or other entities hereinafter acquiring any interest in the real property described herein.

**WITNESSETH:**

**WHEREAS**, the Commission is the owner of certain property know as 302 Holbrooks Road, Huntersville, NC, 28078, more specifically described as **BEING ALL of Lot 1B as shown on the Map of WAYMER CENTER, MAP 2**, as recorded in Map Book 51 at Page 936 in the Office of the Register of Deeds of Mecklenburg County, North Carolina, together with all easement appurtenant thereto; reference to which is hereby made for a more particular description, and which property has certain permanent improvements situated thereon consisting of two (2) one story brick buildings, one of which has an attached wing on each side, and which property is commonly known as the "Waymer Center Lot 1B" (said improvements hereinafter referred to as the "Waymer Center, Lot 1B". Attached to Lot 1B is a Total Use Easement which is for the benefit of the Waymer Center, Lot1B. Said improvements, easement and real property are hereinafter referred to as the "**Property**"; and

**WHEREAS**, the Commission is a commission established pursuant to N.C. G. S. 160A-400.7 to protect historic structures to ensure that they are preserved and maintained for the benefit of future generations; and

**WHEREAS**, the North Carolina General Assembly has enacted the Conservation and Historic Preservation Agreements Act validating restrictions, easements, covenants, and conditions appropriate to the preservation of a structure or site historically significant for its architecture and historical association; and

**WHEREAS**, Grantor now desires to sell the Property and desires to place these restrictive covenants upon the Property for the purpose of preserving said property, after its conveyance to another party (which party and its assignees shall be referred to herein as "owner" or "then owner").

**NOW, THEREFORE**, the Property is hereby made subject to the following easements, covenants, and restrictions:

1. These covenants shall be administered solely by the Charlotte-Mecklenburg Historic Landmarks Commission, a historic commission established pursuant to N.C.G.S. Chapter 160A, its successors in interest or assigns; and in all subsequent conveyances of the Property, the Commission, its successor in interest or assigns,

Buyer Initials \_\_\_\_\_ Seller Initials \_\_\_\_\_

shall be the sole party entitled to administer these covenants. In the event that the Commission or its successors in interest by corporate merger cease to exist then, in such event, the Commission shall assign all of its rights and interest in these easements, covenants, and conditions subject to such duties and obligations which it assumes hereby, to a non-profit corporation or governmental agency which exists for substantially the same purposes as the Commission itself (as described hereinabove). If no such corporation be available for such assignment, then under such circumstances, such assignment shall be made to the State of North Carolina Department of Cultural Resources, Division of Archives and History, which shall be the sole party entitled to administer these covenants.

2. The exterior of the Property shall be maintained, repaired, and administered in accordance with the Secretary of the Interior's Standards for Rehabilitation (in effect as of March, 1990, and incorporated herein by express reference, and hereinafter referred to as the "Standards") so as to preserve the historical integrity of features, materials, appearances, workmanship, and environment of the Property. Maintenance shall be continuously provided using the same materials and workmanship prescribed by the Standards. A copy of the Standards is available from the Commission at its regular place of business in Charlotte, North Carolina.

3. No alteration and no physical or structural change and no changes in the material or surfacing shall be made to the exterior of the Property without the prior written approval of the Commission.

4. No addition shall be constructed to the Property and no additional structure shall be built upon the Property unless the plans and exterior designs for such structure or addition have been approved in advance in writing by the Commission. Such approval shall not be unreasonably withheld and refusal of approval shall be based solely upon adverse impact to architecturally or historically significant features of the Property. The Commission in reviewing the plans and designs for any addition or additional structure shall consider the following criteria: exterior building materials; height; fenestration; roof shapes, forms, and materials; surface textures; expression of architectural detailing; scale; relationship of any additions to the main structure; general form and proportion of structure; orientation to street; setback; spacing of buildings, defined as the distance between adjacent buildings; lot coverage; use of local or regional architectural traditions; and effect on archeological resources.

5. Neither the Property nor any part thereof or any structure currently located on the Property may be removed or demolished without the prior written approval of the Commission.

6. Removal or alteration of interior architectural features such as the floors, wallcoverings, doorways, stairways, and ceilings, and other elements which contribute to the architectural significance of the Property, cannot be made without obtaining a Certificate of Appropriateness by the Commission.

7. All owners and occupants of the Property shall abide by all federal, state, and local laws and ordinances regulating the rehabilitation and use of the Property.

8. The Property shall not be used for the dumping or storing of trash, garbage, waste, or other unsightly or offensive material.

9. No noxious, offensive, or illegal activity shall be carried on the Property, nor shall anything be done thereon which may be or become an annoyance or nuisance to community.

10. No hazardous or toxic substances, materials, or waste shall be used, generated, stored, or disposed of in, on, or under, or transported to or from the Property, unless written permission is obtained from the Commission. For purposes of this section, hazardous materials shall include all solid, liquid, or gaseous materials defined or regulated as wastes under any federal statute or regulation and any state or local law, regulation, or ordinance applicable to the Property and shall further include all other substances defined or regulated as pollutants or as hazardous, toxic, infectious, or radioactive substances under any federal statute or regulation and any state or local law, regulation, or ordinance applicable to the Property, all as amended from time to time. Without limitation

on the foregoing, the term hazardous materials shall include used or waste oils regulated under any federal, state, or local law, regulation, or ordinance. Notwithstanding the above, the owners and occupants shall be allowed to keep and store lawn, building and household maintenance supplies.

11. The Property shall be insured against damage by fire or other catastrophe. If the Property is damaged by fire or other catastrophe to an extent not exceeding fifty percent (50%) of the insurable value of those portions of the building, then the owner shall rebuild those portions of the Property in accordance with the Standards as referenced in Paragraph 2 hereinabove.

12. Representatives of the Commission shall have the right to enter the Property at reasonable times, after giving reasonable notice during the hours of 8:00 am to 7:00 pm, for the purpose of inspecting the Property and any other building and grounds to determine if there is compliance with the terms of these covenants. The Commission shall also have the right to place a commemorative plaque on the Property to indicate its historic significance and once placed on the Property, Owner shall maintain said plaque in its original placement.

13. In case of any contemplated sale of the Property or any portion thereof by any owner of the Property, first refusal as to any bona fide offer of purchase must be given to the Commission, its successors or assigns. Any owner of the Property must give notice to the Commission of its intention to sell the property and specifically must give notice of the listing of the Property with any realtor, multiple listing service, or public advertisement for sale. If the Commission so decides to purchase, it shall notify the then owner of its willingness to but upon the same terms within seventy-two (72) hours of receipt of written notice of such bona fide offer. Failure of the Commission to notify the then owner of its intention to exercise this right of first refusal within such seventy-two (72) hour period shall free the owner to sell pursuant to the bona fide offer. This right of refusal shall be a covenant that will run with the land and be binding on all persons, partnerships, corporations, or other entities owning any interest in the Property and their heirs, and successors and assigns for a period of twenty-one (21) years in addition to the lifetime of the following individuals: Jeffrey Rae Sterritt, Michael Morrill Sterritt, Dan Morrill Paradis, all lives in being at the time of the execution of this document, and being the grandchildren of Dan Morrill, executive director of Charlotte-Mecklenburg Historic Landmarks Commission.

14. In the event of a violation of these covenants and restrictions, all legal and equitable remedies, including injunctive relief, specific performance, and damages, shall be available to the Commission. No failure on the part of the Commission to enforce any covenant or restriction herein nor the waiver of any right hereunder by the Commission shall discharge or invalidate such covenant or restriction or any other covenant, condition, or restriction hereof, or affect the right of the Commission to enforce the same in event of a subsequent breach or default.

**15. In the event of a violation of covenants contained in Paragraphs 2, 3, 4, 5, and 6 hereof, the Commission shall give the then owner written notice of the nature of the violation and the then owner shall correct the same within ninety (90) days next following the giving of said notice. If said violation is not corrected within the said ninety (90) day period, the Commission shall have the following rights and remedies in addition to all other remedies contained herein:**

**a. The Commission shall have the right and easement to go upon such portion of the Property to repair, maintain, and correct the violation of these restrictions. Owner shall promptly reimburse the Commission for all sums expended by the Commission to correct any restriction violations. The Commission shall also have a lien enforceable in accordance with the provisions of North Carolina General Statute §44A against the Property for all sums expended to correct the violation of these restrictions pursuant to this paragraph. Such lien shall be subordinate to the interest of any mortgagee, irrespective of when its interest attached, and may be enforced and foreclosed in a suit or action brought in any court of competent jurisdiction; and**

b. **The Commission shall also have an option to purchase the Property, under the terms contained in this paragraph. The purchase of the Property shall be at a price equal to the then market value of the Property, subject to restrictive covenants, as determined by agreement of the then owner and the commission, or in the absence of such agreement, by a committee of three appraisers, one to be selected by the Commission, one to be selected by the then owner, and the other to be designated by the two appraisers selected by the Commission and the then owner respectively. Provided, however, that if there are any outstanding deeds of trust or other encumbrances against the Property, any right to repurchase shall be subject to said deeds of trust or encumbrances, and they shall either be satisfied or assumed as part of the purchase price.**

16. The covenants specified herein and these restrictions shall be covenants and restrictions running with the land, which shall be binding on all persons, partnerships, corporations, or other entities owning any interest in the Property, and their heirs, successors, and assigns. Unless otherwise provided, the covenants and restrictions set forth above shall run in perpetuity and shall terminate and be of no further force or effect only in the event that the Property is damaged beyond restoration as a result of fire or other catastrophe. Damage beyond restoration is defined as damage to an extent exceeding fifty percent (50%) of the insurable value of the building. Should any covenant or restriction be declared unenforceable, it shall not affect the enforceability of the other covenants and restrictions contained herein.

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

**CHARLOTTE-MECKLENBURG HISTORIC LANDMARKS COMMISSION**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

I, \_\_\_\_\_, Notary Public for said County and State, certify that \_\_\_\_\_, either being personally known to me or proven by satisfactory evidence, personally came before me this day and acknowledged that he/she is \_\_\_\_\_ Chairman of **CHARLOTTE-MECKLENBURG HISTORIC LANDMARKS COMMISSION**, a North Carolina Commission organized pursuant to N.C. G.S. 160A-400.7, and that by authority duly given and as the act of the Commission, he/she, as \_\_\_\_\_ Chairman of said Commission, executed the foregoing on behalf of the Commission.

Witness my hand and official seal, this the \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Notary Public

(Notary Seal)

My Commission Expires: \_\_\_\_\_

Buyer Initials \_\_\_\_\_ Seller Initials \_\_\_\_\_