

## **Exhibit C**

### **OPTION TO PURCHASE AGREEMENT**

This OPTION TO PURCHASE AGREEMENT (the “Option Agreement” or the “Option”) is entered into as of the last signature date below (“Effective Date”) by and between the City of Whitewater, a Wisconsin municipal corporation (“City”), the Community Development Authority of the City of Whitewater, a Wisconsin municipal corporation (“CDA”), Faith Tanis Properties, LLC, a Wisconsin limited liability company (“Faith Tanis”). Faith Tanis, the City, and the CDA are referred to collectively as the “Parties” and individually a “Party”.

### **RECITALS**

- A. The parties have entered into an agreement to exchange properties (“Land Swap Agreement”).
- B. One of the properties involved in the Land Swap Agreement is the Property described in Exhibit A (“Property”) that was conveyed to Faith Tanis.
- C. A condition of the Land Swap Agreement is that the Parties enter into this Option Agreement that would permit the City or CDA to repurchase the property conveyed to Faith Tanis if Faith Tanis does not commence construction of a commercial building within five years of executing the Land Swap Agreement.
- D. The Parties desire to enter into this Agreement governing the City and CDA’s ability to repurchase the Property.

### **AGREEMENT**

**NOW, THEREFORE**, in consideration of the foregoing recitals and the mutual agreements and covenants contained in this Option Agreement and the Land Swap Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

#### **1. Purchase and Sale of Real Estate.**

a. Exercise of Option. Subject to the terms and conditions of this Option Agreement, upon the occurrence of a Triggering Event as defined in the following paragraph, the City or CDA may, but are not required to, exercise the Option to accept conveyance of the Property (the party exercising the Option shall be referred to as the “Option Executor”). To exercise this Option, the Option Executor must sign and deliver written notice to Faith Tanis which states that the Option Executor exercises the Option (“Notice of Exercise of Option”).

b. Triggering Event. For purposes of this Agreement, “Triggering Event” means either of the following:

i. Faith Tanis has not obtained a building permit to construct a commercial building on the Property and has not commenced construction of a commercial building on the Property within five years of executing the Land Swap Agreement. For purposes of this section, commencing construction means pouring a foundation for a commercial building; or

ii. Faith Tanis has not, within two years of obtaining a building permit for the commercial building on the Property, completed construction and obtained an occupancy permit for the building.

Upon the occurrence of the Triggering Event, the Option Executor may, but is not required to, give Faith Tanis written notice which states that the Option Executor exercises the Option as set forth in this Option Agreement. If both the CDA and City provide a Notice of Exercise of Option, the entity that sent notice earlier shall have first priority for exercising the Option.

c. **Conveyance and Title.** At the Closing (as defined below), Faith Tanis shall convey by special warranty deed and the Option Executor shall accept good and marketable title to the Property, free and clear of all liens, claims, encumbrances and defects whatsoever in accordance with the terms of this Agreement, excepting and subject to any matters waived or accepted by the Option Executor in accordance with the terms of this Option Agreement, and any other matters expressly permitted pursuant to this Option Agreement, including any Permitted Exceptions, defined below.

2. **Purchase Price.** The monetary consideration ("Purchase Price") to be paid on the Closing Date for the Property shall be \$219,240.

3. **Examination of Title; Contingencies.**

a. **Examination of Title.** Within ten (10) days after the Option Executor giving Notice of Exercise of Option, Faith Tanis shall obtain and provide for examination an ALTA commitment for title insurance for the Property ("Title Commitment") issued by a title company that is agreeable to the Option Executor and Faith Tanis, and is licensed to write title insurance in Wisconsin ("Title Company"). Said Title Commitment shall commit the Title Company to insure title to the Property by an owners' standard form ALTA policy in the amount of the Purchase Price. The Option Executor shall have until five (5) business days prior to the expiration of the Due Diligence Period to deliver to Faith Tanis written notice of any objections to the condition of title. If the Option Executor fails to deliver such notice five (5) business days prior to the expiration of the Due Diligence Period, then the Option Executor shall be deemed to have approved of the condition of title as shown by such commitment. Exceptions to title approved by the Option Executor hereunder shall be deemed to be Permitted Exceptions. If Faith Tanis, through the exercise of commercially reasonable efforts, is unable to cure such objections to the condition of title prior to Closing, or cause the Title Company to commit to insure over such objections

to the condition of title at the time of Closing to the satisfaction of the Option Executor, the Option Executor shall have the option, exercisable by written notice to Faith Tanis on or before the Closing Date, either to: (i) terminate this Option Agreement, in which case this Agreement shall be null and void; or (ii) waive any uncured objections to the condition of title and perform pursuant to the terms of this Option Agreement, notwithstanding any uncured objections to the condition of title.

If the Option Executor does not give timely notice to terminate this Option Agreement, then the uncured objections to the condition of title shall become Permitted Exceptions and the Option Executor shall be deemed to have waived its right to terminate this Option Agreement pursuant to this Section 3.a. Notwithstanding anything to the contrary set forth in this Option Agreement, Faith Tanis shall have an absolute obligation to satisfy or discharge any mortgages, money judgments, or other liens disclosed in the commitment capable of discharge upon payment of an ascertainable amount. All costs of providing such title commitment (including the GAP endorsement), and of issuing the title policy pursuant to such commitment, shall be borne equally by the Parties and shall be paid at or before the Closing. After the effective date of this Option Agreement, Faith Tanis shall not (without first obtaining the written consent of the Option Executor): (i) permit any additional liens or encumbrances to be recorded against the Property, (ii) enter into or modify any agreement with respect to the Property, or (iii) initiate or consent to the change in any zoning and/or any other governmental law, permit, license, ordinance or regulation applicable to the use, occupation or operation of the Property, unless approved by the Option Executor. The Option Executor shall have the right to order a gap endorsement at Faith Tanis's expense. The Option Executor shall be responsible for the costs of any other endorsements requested by the Option Executor. Faith Tanis agrees to execute any affidavit reasonably required by the title insurer to provide gap coverage and to remove any standard exceptions to title.

b. The Option Executor's Contingencies. The Option Executor's obligation to accept conveyance of the Property is contingent upon the satisfaction by the appropriate party or waiver by the Option Executor, in the exercise of the Option Executor's sole discretion, of the following contingencies within sixty (60) days of the Notice to Exercise Option ("Due Diligence Period"). If any of these contingencies are not satisfied or waived by the Option Executor on or before the expiration of the Due Diligence Period, the Option Executor shall have the option of terminating this Option Agreement or extending the Due Diligence Period by an additional sixty (60) day period ("Due Diligence Extension Period") by delivering written notice of termination or extension to Faith Tanis on or before the expiration of the Due Diligence Period. If the Option Executor timely gives notice of termination, this Option Agreement shall be deemed terminated and of no further force and effect. In the event that the Option Executor does not elect to terminate this Option Agreement prior to the expiration of the Due Diligence Period, or Due Diligence Extension Period as may be applicable, any remaining unsatisfied contingencies shall be deemed satisfied and waived.

i. The Option Executor conducting, at the Option Executor's sole discretion and expense, a Phase I environmental assessment and/or a Phase II

environmental assessment of the Property, which has results that are satisfactory to the Option Executor in the Option Executor's sole discretion. By entering into this Option Agreement, Faith Tanis agrees to allow the Option Executor access to the Property, including but not limited to the purpose of taking physical samples and testing of site materials to conduct these environmental assessments.

ii. The Property having no unacceptable liens or encumbrances as determined by the Option Executor.

#### 4. **Closing.**

a. Closing Date. Except as otherwise set forth in this Option Agreement, the closing of the conveyance and acceptance of the Property ("**Closing Date**" or "**Closing**") shall take place on or about a date selected by the Option Executor that is on or before thirty (30) days after the expiration of the Due Diligence Period (or Due Diligence Extension Period, if applicable), at the office of the Title Company, or at a mutually agreed location and by means mutually agreed to by the Parties. The Closing Date may be amended by mutual agreement of the Parties.

b. Closing Documents. On or prior to the Closing Date, the Parties shall execute the following Documents:

i. Faith Tanis will execute and deliver to the Option Executor a Special Warranty Deed conveying the Property to the Option Executor subject only to the Permitted Exceptions (the "**Deed**");

ii. Both Parties will execute any real estate transfer forms that may be required by state law in order to record the Deed;

iii. Both Parties will execute and deliver a closing statement setting forth the Purchase Price and any adjustments thereto as provided for in this Agreement;

iv. Faith Tanis will execute and deliver standard closing affidavits including but not limited to a standard Seller's Affidavit with respect to known judgments, bankruptcies, tax liens, mechanics liens, parties in possession, unrecorded interests, encroachment or boundary line questions, and related matters, properly executed on behalf of Faith Tanis, and a gap endorsement affidavit.

v. If applicable, Faith Tanis will execute and deliver to the Option Executor a Non-Foreign Person Affidavit confirming that Faith Tanis is not a foreign person subject to federal withholding requirements; and

vi. Both Parties will execute and deliver any other documents that are necessary to consummate the transaction contemplated by this Option Agreement,

including such documents as are necessary to cause title to be conveyed to the Option Executor in the form approved by the Option Executor pursuant to the terms of this Agreement.

c. Property Taxes. Faith Tanis shall pay all real estate taxes for all years prior to the year of the Closing Date. Real estate taxes assessed for the year of the Closing Date shall be prorated on a daily basis to the Closing Date based on the real estate taxes assessed on the Property for the year of the Closing Date, or if not available, for the year prior to the year of the Closing Date. The proration shall be calculated on the basis of the number days of the calendar year of the Closing Date that have elapsed up to and including the Closing Date.

d. Costs and Expenses. Faith Tanis shall be responsible for paying the real estate transfer tax or similar fee, if any, required to transfer the Property and any recording fees related to satisfying any existing mortgages or other liens against the Property. The Option Executor will pay any fees to record the Deed, and any endorsements specifically requested by the Option Executor. The parties shall evenly share any cost of the Title Company to act as the closing agent. Each party will be solely responsible for paying its respective attorney's fees.

e. Special Assessments. Faith Tanis shall pay all special and area assessments, if any, for work actually commenced, completed, or levied prior to the date of the Closing relating to the Property.

f. Possession. Faith Tanis shall deliver occupancy and possession of the Property to the Option Executor on the Closing Date. At the time of the Option Executor's occupancy, the Property shall be free of debris and personal property, except for personal property required to remain with the property under the Land Swap Agreement or that is left with the Option Executor's consent.

g. Prior to closing Faith Tanis shall remove any and all equipment, fixtures, and any other personal property that may be present on the Property, including any and all Hazardous Substances.

h. Faith Tanis must warrant that there is no litigation, threat, investigation, or other proceeding challenging or affecting the legality of the transactions contemplated under this Option Agreement, or seeking any restraint, prohibition, or other relief in connection with the Property.

## **5. Representations and Warranties of Faith Tanis.**

In order to induce the Option Executor to enter into this Option Agreement, Faith Tanis makes the following representations and warranties to the Option Executor, each of which shall be deemed to be independently material with the intention that the Option Executor shall rely

upon the same and acknowledge that the same shall be true on the date of this Option Agreement and shall survive the Closing of this transaction.

a. Power and Authority. The person(s) signing this Option Agreement have all necessary power and authority to enter into and perform the transactions contemplated in this Option Agreement in accordance with the terms and conditions contained herein.

b. Enforceability. This Option Agreement and all other agreements contemplated by this Option Agreement are, or upon the execution and delivery thereof will be, the valid and binding obligations and enforceable.

c. Good Title. Faith Tanis will have, as of the Closing Date, good and marketable title to the Property. The Property is, and shall be, on the Closing Date, subject to no easements, security interests, defects of title, mortgages, pledges, leases, rights of way, liens or other encumbrances of any nature whatsoever excepting municipal and zoning ordinances approved by the Option Executor, utility easements, and general taxes for the year of Closing, and excepting those specific matters accepted by the Option Executor as Permitted Exceptions.

d. Litigation; Orders. There are no legal actions, condemnation proceedings, suits or other legal administrative proceedings, pending, or to the best of Faith Tanis's knowledge, threatened, against the Property, and there are no governmental agency or court orders requiring repairs, alterations or corrections of any existing conditions on the Property, except as may be specifically provided in the Land Swap Agreement.

e. Change of Representations and Warranties. Faith Tanis shall, until the earlier of the termination of this Option Agreement or the Closing Date, promptly notify the Option Executor in writing if it acquires any knowledge which changes any representation or warranty set forth above or elsewhere in this Option Agreement. The notice shall describe in detail the nature of the change and the basis of the change. If there is a material adverse change in any of the foregoing representations prior to Closing, Faith Tanis shall use all reasonable efforts to cure the material adverse change. The Option Executor will have the right to terminate this Option Agreement by giving written notice to Faith Tanis if such material adverse change is not cured. If the Option Executor so terminates this Option Agreement, neither Party shall have further rights or obligations under this Option Agreement.

## **6. Representations and Warranties of the City and CDA.**

In order to induce Faith Tanis to enter into this Option Agreement, City and CDA make the following representations and warranties to Faith Tanis, each of which shall be deemed to be independently material with the intention that Faith Tanis shall rely upon the same and acknowledge that the same shall be true on the date hereof and shall survive the Closing of this transaction.

a. Organization; Authorization. The City and CDA are municipal corporations duly organized and validly existing under the laws of the State of Wisconsin. The City and CDA have all necessary power and authority to enter into and perform the transactions contemplated in this Option Agreement in accordance with the terms and conditions hereof. The execution and delivery of this Agreement, and the performance by the City and CDA of their obligations contained in this Option Agreement, have been duly authorized.

b. Enforceability. This Option Agreement and all other agreements of the City and CDA contemplated by this Option Agreement are or, upon the execution of this Option Agreement, will be the valid and binding obligations of the City and CDA enforceable against them in accordance with their terms.

## **7. Miscellaneous.**

a. Brokers. The parties represent and warrant that they have not retained the services of any real estate broker or agent in connection with the purchase and sale under this Option Agreement, and each agrees to indemnify and hold the other harmless from and against any and all liability or damages, including costs and attorney's fees, resulting from any claim brought by any real estate broker or agent for any real estate commission or finder's fee due, or alleged to be due, as the result of the actions of such person.

b. Casualty Loss and Condemnation. Prior to the Closing Date, the risk of loss shall remain with Faith Tanis. If, prior to the Closing Date, the Property or any part thereof shall be condemned, or destroyed or damaged, Faith Tanis shall promptly so notify the City and CDA. If the Property or any part thereof shall be condemned or if the Property or any part thereof shall be damaged in a way that would prevent the City or CDA's use of the Property, and the repair thereof would cost in excess of Fifty Thousand Dollars (\$50,000.00) (as reasonably determined by the insurance adjuster designated by Faith Tanis's insurance company), then, at the option of the City and CDA, this Option Agreement may be terminated, which option shall be exercisable, if at all, by written notice thereof to Faith Tanis within ten (10) business days after the City and CDA receives written notice of such condemnation or damage and written notice of the insurance adjuster's determination of resulting damages. At the Option Executor's sole option, the Closing Date shall be extended to permit the foregoing periods to run. If the City and CDA elects to terminate this Option Agreement, this Option Agreement shall, without further action of the Parties, become null and void, and neither party shall have any rights or obligations under this Agreement, except those which expressly survive termination. In the event that neither the City or CDA does not exercise its option to terminate this Agreement set forth above, or if the casualty is below the Fifty Thousand Dollars (\$50,000.00) threshold described above, then the Closing shall proceed and the Option Executor shall be entitled to receive: (a) with respect to a condemnation, an assignment of all of Faith Tanis's right, title, and interest in and to the condemnation proceeds to be awarded to Faith Tanis as a result of such condemnation, or (b) with respect to a casualty, an amount equal to all insurance proceeds received by Faith Tanis with respect to the damage to the Property

caused by such casualty, plus a credit in the amount of Faith Tanis's deductible relating thereto, less any and all reasonable sums expended by Faith Tanis in connection with any repairs or replacements to the Property. In addition, in the event of the foregoing, the Option Executor and Faith Tanis shall mutually execute and deliver at Closing an agreement and release in mutually reasonably satisfactory form whereby Faith Tanis agrees to cooperate with the Option Executor after Closing (at the Option Executor's sole cost) in connection therewith.

c. The City/CDA Remedies. If Faith Tanis fails to perform in accordance with the terms of this Option Agreement, and such failure continues for ten (10) days following the City or CDA's written notice thereof to Faith Tanis, the City or CDA may, in addition to all remedies contained elsewhere in this Option Agreement: (i) terminate this Option Agreement, without further liability; or (ii) enforce specific performance of this Option Agreement to obtain a deed to the Property; and/or (iii) demand damages incurred due to Faith Tanis's default.

d. Faith Tanis's Remedies. If the City or CDA fails to perform in accordance with the terms of this Option Agreement, and such failure continues for ten (10) days following Faith Tanis's written notice thereof to the Option Executor, Faith Tanis may, in addition to all remedies contained elsewhere in this Option Agreement: (i) terminate this Option Agreement without further liability on Faith Tanis's part; or (ii) demand damages incurred due to the default.

e. Benefit and Assumption. This Option Agreement shall be binding upon and inure to the benefit of the Parties hereto, their heirs, successors, assignees, and beneficiaries in interest. Faith Tanis shall have the right to assign this Option Agreement to a third party directly or indirectly controlled by Faith Tanis upon receiving the written consent of the City and CDA, which written consent shall not be unreasonably withheld.

f. Governing Law. This Option Agreement shall be governed by and construed in accordance with the internal laws of the State of Wisconsin (regardless of such State's conflict of laws principles) and without reference to any rules of construction regarding the party responsible for the drafting hereof.

g. Expenses. Except as otherwise herein provided or in the Land Swap Agreement, all expenses incurred in connection with this Option Agreement or the transactions herein provided for shall be paid by the Party incurring such expenses and costs.

h. Notices. Any and all notices, demands, and communications provided for in, or made under this Option Agreement shall be given in writing and shall be deemed given to a Party at the earlier of: (i) when actually delivered to such Party, or (ii) when mailed to such Party by registered or certified U.S. Mail (return receipt requested) or sent by overnight courier, confirmed by receipt, and addressed to such Party at the address designated below for such Party (or to such other address for such Party as such party may have substituted by notice pursuant to this Section).



- i. If to the City: City Clerk  
312 W. Whitewater Street  
Whitewater, WI 53190
- ii. If to the CDA: Executive Director  
Community Development Authority  
312 W. Whitewater Street  
Whitewater, WI 53190
- iii. If to Faith Tanis: Jonathan Tanis  
Faith Tanis Properties LLC  
P.O. Box 538  
Whitewater, WI 53190

i. Counterparts. This Option Agreement may be executed simultaneously in two or more counterparts, including by scanned image (e.g., .pdf) or by facsimile, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, provided that all such counterparts, in the aggregate, shall contain the signatures of all parties hereto.

j. Headings. All section headings herein are inserted for convenience only and shall not modify or affect the construction or interpretation of any provision of this Agreement.

k. Amendment, Modification and Waiver. This Option Agreement may not be modified, amended or supplemented except by mutual written agreement of all the Parties. Any Party may waive in writing any term or condition contained in this Option Agreement and intended to be for its benefit; provided, however, that no waiver by any Party, whether by conduct or otherwise, in any one or more instances, shall be deemed or construed as a further or continuing waiver of any such term or condition, unless otherwise specified herein. Each amendment, modification, supplement or waiver shall be in writing signed by the Party or the Parties to be charged.

l. Entire Agreement. This Option Agreement and the Land Swap Agreement represent the full and complete agreement of the Parties with respect to the subject matter hereof and supersedes and replaces any prior understandings and agreements among the Parties with respect to the subject matter hereof and no provision or document of any kind shall be included in or form a part of such agreement unless signed and delivered to the other Party by the Parties to be charged.

m. Severability. A determination that any provision of this Option Agreement is unenforceable or invalid shall not affect the enforceability or validity of any other provision hereof and any determination that the application of any provision of this Option

Agreement to any person or circumstance is illegal or unenforceable shall not affect the enforceability or validity of such provision as it may apply to any other persons or circumstances.

n. Third-Party Beneficiaries. No third-party beneficiary rights shall be implied from anything contained in this Option Agreement.

o. Time of the Essence. Time is of the essence with respect to all dates and deadlines contemplated by this Option Agreement.

p. Legal Representation. Each Party hereto and its counsel has had an opportunity to review and suggest revisions to the language of this Option Agreement. Accordingly, no provision of this Option Agreement shall be construed for or against or interpreted to the benefit or disadvantage of any party by reason of any party having or being deemed to have structured or drafted such provision.

q. Recording. Following the Effective Date of this Option Agreement, the City or CDA, at their expense, shall cause this Option Agreement or a separate instrument evidencing this Option Agreement to be recorded with the Walworth County Register of Deeds Office and this Option Agreement shall be an encumbrance on the Property until this Option Agreement is exercised or terminated.

[Signatures on following page.]

IN WITNESS WHEREOF, the Parties have duly executed this Option Agreement, as of their own free will and act and deed, on the dates indicated below.

**CITY OF WHITEWATER**

By \_\_\_\_\_  
Patrick Singer, Council President

ATTEST:

By \_\_\_\_\_  
Heather Boehm, City Clerk

STATE OF WISCONSIN

COUNTY OF WALWORTH

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 2024 the above named Patrick Singer, Council President, and Heather Boehm, City Clerk, of the City of Whitewater, to me known to be the person who executed the foregoing instrument and acknowledged the same.

Subscribed and sworn to before me  
This \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Notary Public, State of Wisconsin

Print Name: \_\_\_\_\_

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

**CITY OF WHITEWATER COMMUNITY  
DEVELOPMENT AUTHORITY**

By \_\_\_\_\_

STATE OF WISCONSIN

COUNTY OF WALWORTH

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 2024 the  
above named \_\_\_\_\_, of the City of Whitewater Community Development  
Authority, to me known to be the person who executed the foregoing instrument and acknowledged  
the same.

Subscribed and sworn to before me

This \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Notary Public, State of Wisconsin

Print Name: \_\_\_\_\_

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

**FAITH TANIS PROPERTIES, LLC**

By \_\_\_\_\_  
Jonathan Tanis

By \_\_\_\_\_  
Lori Tanis

STATE OF WISCONSIN

COUNTY OF WALWORTH

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 2024 the  
above named Jonathan Tanis, of Faith Tanis Properties, LLC, to me known to be the person who  
executed the foregoing instrument and acknowledged the same.

Subscribed and sworn to before me

This \_\_\_\_\_ day of \_\_\_\_\_, 2025.

\_\_\_\_\_  
Notary Public, State of Wisconsin

Print Name: \_\_\_\_\_

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

**EXHIBIT A**  
**PROPERTY LEGAL DESCRIPTION**

Lot 3, Certified Survey Map No. 4442, recorded in the office of the Register of Deeds for Walworth County, Wisconsin on October 5, 2012, in Volume 29 of Certified Survey Maps, Pages 30-33, as Document Number 848249, in the City of Whitewater, Walworth County, Wisconsin.  
Parcel Number: A444200003