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OUR FILE NUMBER:
005168.00151
11972929.1

March 6, 2014

VIA FIRST CLASS MAIL

RE: Sale of Approximately 1.70 acres of Orange Unified School District land located at 541 North Lemon Street, Orange, California 92867

Dear Sir/Madam:

Please note that the Orange Unified School District proposes to sell approximately 1.70 acres of land located at 541 North Lemon Street, Orange, California 92867, known generally as the District's former Killefer Elementary School Property ("Property"). The Orange Unified School District will offer to sell the Property to the general public at a minimum price of Two Million Four Hundred Thousand Dollars (\$2,400,000), at a public bid to be held on April 16, 2014 beginning at 1:00 p.m. at the District Office, located at 1401 North Handy Street, Orange, California 92867.

The initial Bid Package consists of the following documents related to the Property and its sale:

- 1) Notice of Public Meeting and Bid
- 2) Bid Proposal Form
- 3) Purchase and Sale Agreement
- 4) Preliminary Title Report

The Bid Package is available at the Orange Unified School District's website www.orangeusd.org and click on surplus properties or at the Orange Unified School District's Business Services Office, located at 1401 North Handy Street, Orange, California 92867 during normal business hours. Please note that any revisions to the Draft Purchase and Sale Agreement, and any other additional information or updates concerning the Property, if any, will be added to the Orange Unified School District's website so all interested parties should periodically check the website for updates.

Bid Hearing Information.

The District will hold the Bid Hearing on April 16, 2014 beginning at 1:00 p.m. in the District Office, located at 1401 North Handy Street, Orange, California 92867. Interested bidders for the purchase of the Property shall submit a bid proposal on the applicable Bid Form supplied by the District to the Orange Unified School District's Business Services Office, located at 1401 North Handy Street, Orange, California 92867 before 12:00 p.m., by the clock in the Business Services

March 6, 2014

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Department, on April 16, 2014. Failure by any proposed bidder to submit a bid proposal to the District's Business Services Office before 12:00 p.m., by the clock in the Business Services Department, on April 16, 2014 will preclude the District from receiving such bid proposal. However, failure to submit a written bid proposal by this deadline will not preclude any bidder from making an oral bid at the Bid Hearing at 1:00 p.m. later that day.

The procedures involved in the Bid Hearing include opening and review of all written sealed bids that have been received before 12:00 p.m., by the clock in the Business Services Department, on April 16, 2014. Prior to accepting any written proposal, the District must call for oral bids. Upon calling for any oral bids, any interested bidder that has provided the \$10,000 Bid Security (including bidders which have not provided a written bid) may offer to purchase the Property pursuant to terms and conditions specified in the Bid Package for a price exceeding, **by at least five percent (5%),** the highest written proposal. After this initial five percent (5%) increased price is met, other oral bids may be accepted as directed at auction. Final acceptance of any oral bid must be made only after said oral bid is reduced to writing and signed by the offeror. Oral Bid Forms shall be provided to any interested bidder at the Bid Hearing.

Therefore, of the written proposals submitted to the District which conform to all terms of the Bid Package, the proposal which is the highest will be accepted unless a higher oral bid is accepted as set forth above. In the event that there are no written or oral bids made at or greater than the purchase price terms and conditions set forth in the Purchase Agreement that comply with all material terms set forth therein and in the Bid Package, the District may accept any one of such counteroffers as the successful bid. Finally, the District's Governing Board may, if it deems such action to be for the best public interest, reject any and all bids, either written or oral, and withdraw the Property from sale.

Please note that although a bidder may propose changes to the Purchase Agreement, unless otherwise agreed to by the District, the bidder shall agree that the existing terms and conditions of the applicable Purchase Agreement will be binding upon the successful bidder. Any proposed changes to the applicable Purchase Agreement must be submitted with the written or oral bid proposal. Any proposed material changes to the existing terms and conditions of the applicable Purchase Agreement shall render such bid a counteroffer, which counteroffer may not be accepted by the District should any written or oral offer be made at or greater than the purchase price terms and conditions set forth in the applicable Purchase Agreement which comply with all material terms set forth therein and in the Bid Package. However, this will confirm that in the event that there are no written or oral bids made at or greater than the purchase price set forth in the Purchase Agreement that comply with all material terms set forth therein and in the Bid Package, the District is willing to entertain counteroffers related to the Property.

The District invites you, and all other prospective bidders, to make a written or oral bid for the Property and attend the April 16, 2014 Bid Hearing.

ATKINSON, ANDELSON, LOYA, RUUD & ROMO

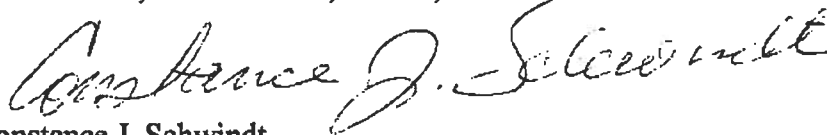
March 6, 2014

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Should you have any questions concerning the Bid Package or the Property, please do not hesitate to contact the undersigned.

Very truly yours,

ATKINSON, ANDELSON, LOYA, RUUD & ROMO

A handwritten signature in cursive script that reads "Constance J. Schwindt". The signature is written in black ink and is positioned above the printed name.

Constance J. Schwindt

Enclosures

cc: Joe Sorrera, Assistant Superintendent of Business Services

NOTICE OF PUBLIC MEETING AND BID

**NOTICE TO THE GENERAL PUBLIC OF THE INTENTION TO SELL
CERTAIN PROPERTY OF THE ORANGE UNIFIED SCHOOL DISTRICT**

(Property located at 541 North Lemon Street, Orange, California 92867)

Pursuant to the provisions of Education Code section 17469, you are hereby notified that the Orange Unified School District has adopted a resolution indicating its intention to sell its interest in certain property consisting of approximately 1.70 acres of land located at 541 North Lemon Street, Orange, California 92867 (the "Property"). Pursuant to Education Code section 17469, the Orange Unified School District offers to sell the Property to the general public at a minimum bid of Two Million Four Hundred Thousand Dollars (\$2,400,000), at a public bid to be held on Wednesday, April 16, 2014, beginning at 1:00 p.m. in the Orange Unified School District's Board Room, located at 1401 North Handy Street, Orange, California 92867. Interested bidders for the purchase of the Property shall submit a bid proposal on a form supplied by the Orange Unified School District to the District's Business Services Office, located at 1401 North Handy Street, Orange, California 92867 before 12:00 p.m., by the clock in the Business Services Department, on April 16, 2014.

All inquiries should be directed to:

Atkinson, Andelson, Loya, Ruud & Romo
Attn: Constance J. Schwindt
Attorneys for Orange Unified School District
12800 Center Court Drive, Suite 300
Cerritos, CA 90703
Tel: (562) 653-3200

**PROPOSED SALE OF CERTAIN PROPERTY OF THE
ORANGE UNIFIED SCHOOL DISTRICT**

(Approximately 1.70 acres of land located within the District at 541 North Lemon Street,
Orange, California 92867)

WHAT IF MY WRITTEN BID PROPOSAL IS NOT SUBMITTED BEFORE 12:00 P.M., BY THE CLOCK IN THE BUSINESS SERVICES DEPARTMENT, ON THE DAY OF THE BID HEARING?

Pursuant to the Bid Package materials, if a written bid is not received before 12:00 p.m., by the clock in the Business Services Department, on the day of the Bid Hearing, it cannot be accepted by the District representative. **Failure by any potential bidder to submit a written bid proposal to the Business Services Department of the District, located at 1401 North Handy Street, Orange, California 92867 before 12:00 p.m., by the clock in the Business Services Department, on Wednesday, April 16, 2014 will preclude the District from receiving such written bid proposal.** However, failure to submit a written bid proposal by this deadline will not preclude any bidder from making an oral bid at the Bid Hearing **today**, April 16, 2014, beginning at 1:00 p.m.

HOW DO I SUBMIT AN ORAL BID?

After opening and reviewing all of the sealed written bid proposals that have been received before 12:00 p.m., by the clock in the Business Services Department, on April 16, 2014, and prior to accepting any written proposal, the District must call for oral bids. Upon calling for any oral bids, any interested bidder that has provided the \$10,000 Bid Security (including bidders which have not provided a written bid) may offer to purchase the Property pursuant to the terms and conditions specified in the Bid Package for a price exceeding, **by at least five percent (5%),** the highest written proposal. After this initial five percent (5%) increase is met, other oral bids may be accepted as directed at auction. **Final acceptance of any oral bid must be made only after said oral bid is reduced to writing and signed by the offeror. Oral Bid Forms will be provided to any interested bidder at the Bid Hearing.**

ORAL BID PROPOSAL FORM

PURCHASE OF CERTAIN SURPLUS PROPERTY OF ORANGE UNIFIED SCHOOL DISTRICT

(Approximately 1.70 acres of land located within the District at
541 North Lemon Street, Orange, California 92867)

NOTE: All oral bidders must, prior to acceptance of any final oral bid, reduce their oral bid to writing utilizing this form. This form shall be used by all bidders that wish for their oral bid proposal to be considered for acceptance by the Orange Unified School District.

1. The undersigned, as oral bidder, does hereby declare that he/she has examined the Purchase Agreement and Escrow Instructions (the "Purchase Agreement") for the Property, as provided by the Orange Unified School District in the bid package materials.

2. Although a bidder may propose changes to the Purchase Agreement, unless otherwise agreed to by the District, the bidder shall agree that the existing terms and conditions of the Purchase Agreement will be binding upon the successful bidder. Any proposed changes to the Purchase Agreement must be submitted with the written or oral bid proposal. Any proposed material changes to the existing terms and conditions of the Purchase Agreement shall render such bid a counteroffer, which counteroffer may not be accepted by the District should any written or oral offer be made at or greater than the purchase price set forth in the Purchase Agreement and the minimum terms set forth therein and in the Bid Package. However, this will confirm that in the event that there are no written or oral bids made at or greater than the purchase price set forth in the Purchase Agreement that comply with all material terms set forth therein and in the Bid Package, the District is willing to entertain counteroffers. In the event that there are no written or oral bids made at or greater than the purchase price set forth in the Purchase Agreement which comply with all material terms set forth therein and in the Bid Package, and the District receives more than one counteroffer, the District may, in its sole discretion, choose which counteroffer to accept, or the District may, in its sole discretion, reject any or all counteroffers. Any proposed changes to the Purchase Agreement and/or any other oral bid for the Property must be submitted with this Oral Bid Proposal Form in the space provided below prior to the conclusion of the Orange Unified School District's Bid Hearing on April 16, 2014.

3. Bidder shall submit with, or prior to, its oral bid, a certified or cashier's check made payable to the Orange Unified School District in the amount of TEN THOUSAND DOLLARS (\$10,000.00) as bid security for entering into the Purchase Agreement. The bid security of the successful bidder will be retained by Orange Unified School District as the successful bidder's initial deposit and applied towards the purchase of the Property under the terms of the Purchase Agreement. All other bid securities will be returned after execution of the Purchase Agreement by the successful bidder and the opening of escrow, generally within ten business days of the Bid Hearing.

4. The initial minimum bid for the Property shall be TWO MILLION FOUR HUNDRED THOUSAND DOLLARS (\$2,400,000), to be paid as set forth in the Purchase Agreement, with a non-refundable initial deposit comprised of the bid security which is TEN THOUSAND DOLLARS (\$10,000) (to be fully applied to the Purchase Price) to be paid upon execution of the Purchase Agreement. Furthermore, the initial oral bid must be five percent (5%) higher than the highest written bid.

BID PROPOSAL FORM

PURCHASE OF CERTAIN SURPLUS PROPERTY OF ORANGE UNIFIED SCHOOL DISTRICT

(Approximately 1.70 acres of land located within the District at
541 North Lemon Street, Orange, California 92867)

1. The undersigned, as bidder, does hereby declare that he/she has examined the Purchase Agreement and Escrow Instructions (the "Purchase Agreement") for the Property as defined in the Purchase Agreement, which form of Purchase Agreement is attached hereto as Exhibit "A," and as may be further defined by any addenda hereto (the "Property").
2. Although a bidder may propose changes to the Purchase Agreement, unless otherwise agreed to by the District, the bidder shall agree that the existing terms and conditions of the Purchase Agreement will be binding upon the successful bidder. Any proposed changes to the Purchase Agreement must be submitted with the bid proposal, on or attached to this Bid Proposal Form. Any proposed material changes to the existing terms and conditions of the Purchase Agreement shall render such bid a counteroffer, which counteroffer may not be accepted by the District should any written or oral offer be made at or greater than the terms and conditions set forth in the Purchase Agreement and the minimum terms set forth herein. However, this will confirm that in the event that there are no written or oral bids made at or greater than the purchase price set forth in the Purchase Agreement that comply with all material terms set forth therein and in the Bid Package, the District is willing to entertain counteroffers. In the event that there are no written or oral bids made at or greater than the purchase price set forth in the Purchase Agreement which comply with all material terms set forth therein and in the Bid Package, and the District receives more than one counteroffer, the District may, in its sole discretion, choose which counteroffer to accept, or the District may, in its sole discretion, reject any or all counteroffers. Any proposed changes to the Purchase Agreement and/or any other written bid for the Property must be submitted with this Bid Proposal Form to the Orange Unified School District before 12:00 p.m., by the clock in the Business Services Department, on April 16, 2014 at District's Business Services Office, located at 1401 North Handy Street, Orange, California 92867, Attention: Joe Sorrera, Assistant Superintendent of Business Services, to be opened at the Bid Hearing on April 16, 2014 beginning at 1:00 p.m.
3. Bidder shall submit with its proposal a certified or cashier's check made payable to the Orange Unified School District in the amount of TEN THOUSAND DOLLARS (\$10,000) as bid security for entering into the Purchase Agreement. The bid security of the successful bidder will be retained by Orange Unified School District as the successful bidder's initial deposit and applied towards the purchase of the Property under the terms of the Purchase Agreement. All other bid securities will be returned after execution of the Purchase Agreement by the successful bidder and the opening of escrow, generally within ten business days of the Bid Hearing.
4. The initial minimum bid for the Property shall be TWO MILLION FOUR HUNDRED THOUSAND DOLLARS (\$2,400,000) to be paid as set forth in the Purchase Agreement, with a non-refundable initial deposit comprised of the bid security which is TEN THOUSAND DOLLARS (\$10,000) (to be fully applied to the Purchase Price) to be paid upon execution of the Purchase Agreement.
5. Bidder agrees to enter into the Purchase Agreement with Orange Unified School District for the purchase of the Property in an "as is" condition and according to the terms set forth in the Purchase Agreement.

Lined area for writing or notes.

The undersigned hereby declares that all of the representations of this bid are true and correct and made under the penalty of perjury under the laws of the State of California.

Proper Name of Bidder _____

Address _____

By: _____
Signature of Bidder

Date: _____

Its: _____
Title of Bidder

Tel: _____

Email: _____

NOTE: *If bidder is a corporation, the legal name of the corporation shall be set forth above together with the signature of authorized officers or agent; if bidder is a partnership, the true name of the firm shall be set forth above, together with the signature of the partner or partners authorized to sign contracts on behalf of the partnership; and if bidder is an individual, his signature shall be placed above.*

**AGREEMENT FOR PURCHASE AND SALE
AND JOINT ESCROW INSTRUCTIONS**

Between

ORANGE UNIFIED SCHOOL DISTRICT

and

Effective Date: _____, 2014

**PURCHASE AND SALE AGREEMENT AND
JOINT ESCROW INSTRUCTIONS**

THIS PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS ("Agreement") is entered into as of _____, 2014 ("Effective Date"), by and between the ORANGE UNIFIED SCHOOL DISTRICT, a public school district duly organized and existing under Chapter 1 of Division 3 of Title 2 of the Education Code of the State of California ("District" or "Seller" depending on context), and _____, a _____ ("Buyer"). Seller and Buyer are sometimes hereinafter referred to individually as a "Party" and collectively as the "Parties."

RECITALS

A. Seller is the owner in fee of that certain real property consisting of approximately 1.70 acres of land located at 541 North Lemon Street, Orange, California, known generally as the District's former Killefer Elementary School site ("Land") more particularly described in the legal description attached to this Agreement as Exhibit "A," and incorporated herein by this reference.

B. Seller desires to sell to Buyer and Buyer desires to purchase from Seller, upon the terms and conditions set forth in this Agreement, the Land, together with all improvements located thereon, all easements, licenses, and interests appurtenant thereto, and all land entitlements, owned or held by Seller in connection with the Land (collectively, the "Property").

NOW THEREFORE, in consideration of the mutual agreements set forth herein and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. PURCHASE AND SALE OF PROPERTY.

1.1 Agreement to Purchase. Subject to all the terms, conditions, and provisions of this Agreement, and for the consideration herein set forth, Seller agrees to sell to Buyer, and Buyer agrees to purchase from Seller, the Property.

1.2 Amount of Purchase Price. The purchase price which Seller agrees to accept and Buyer agrees to pay for the Property is the sum of _____ DOLLARS (\$_____) (the "Purchase Price"). **[NOTE: THE MINIMUM BID IS TWO MILLION FOUR HUNDRED THOUSAND DOLLARS (\$2,400,000). BIDS LOWER THAN THE MINIMUM BID WILL BE CONSIDERED COUNTER OFFERS.]**

1.3 Payment of Purchase Price. No later than 1:00 p.m. on the business day preceding the Closing Date (as that term is defined in Section 3.2) or such earlier time as required by Escrow Holder in order to close Escrow on the Closing Date, Buyer shall deposit

with Escrow Holder the Purchase Price, less any previously deposited amounts as required hereunder.

1.4 Deposits.

1.4.1 Initial Deposit.

Buyer's bid security payment ("Bid Security") of Ten Thousand Dollars (\$10,000.00) shall be placed into escrow and shall become a good faith non-refundable deposit ("Initial Deposit") upon execution by both parties of this Agreement. Said Initial Deposit shall be immediately released to Seller, through escrow, and shall be non-refundable to Buyer should Buyer not purchase the Property for any reason whatsoever, however, should Buyer purchase the Property, said Initial Deposit shall be fully credited to the Purchase Price.

1.4.2 Additional Deposit. Provided that this Agreement has not been terminated in accordance with Sections 2.5 and/or 2.6 below, immediately following the expiration of the Due Diligence Period, Buyer shall place into Escrow on a non-refundable basis (except as otherwise expressly provided in this Agreement) two and one-half percent (2.5%) of the Purchase Price or SIXTY THOUSAND DOLLARS (\$60,000), whichever is greater (the "Additional Deposit"). Based on the Purchase Price of [REDACTED] DOLLARS (\$[REDACTED]) the Additional Deposit is [REDACTED] DOLLARS (\$[REDACTED]). In no event shall the Closing Date occur later than that date which is four hundred and eighty (480) days after the expiration of the Due Diligence Period ("Outside Closing Date") or except as otherwise expressly provided in this Agreement. The Additional Deposit made prior to the Closing Date (i) shall be immediately released to Seller through Escrow, (ii) except as otherwise expressly provided in this Agreement, shall be non-refundable to Buyer and (iii) shall be fully credited toward the Purchase Price should Buyer purchase the Property under the terms of this Agreement.

1.4.3 Retention of Initial Deposit and Additional Deposit. The Initial Deposit and the Additional Deposit (collectively, "Deposit Payments") received by Escrow Holder will be, until the release to Seller or the Close of Escrow, as applicable, kept on deposit in a federally insured State or national bank.

1.4.4 Interest. Escrow Holder shall be required to hold the Deposit Payments in an interest-bearing account, with interest accruing for the benefit of the Seller.

2. INSPECTIONS AND REVIEW.

2.1 Delivery of Due Diligence Materials. Within ten (10) business days after the date of this Agreement, Seller shall deliver to Buyer all documents, reports, agreements, or other items in its possession or control relating to the Property, including without limitation the following (collectively, the "Due Diligence Materials"): (i) all licenses, leases, and permits affecting or relating to the ownership, subdivision, possession or development of the Property or the construction of improvements thereon, and all amendments and modifications thereto; (ii) applications and correspondence or other written communications to or from any governmental entity, department or agency other than Buyer regarding any permit, approval, consent or

authorization with respect to the development of the Property or the construction of improvements thereon; (iii) the most recent survey, if any, pertaining to the Property or any portion thereof; and (iv) soils reports, engineering data, environmental reports, and other data or studies pertaining to the Property or any portion thereof.

2.2 Inspections. Buyer and its representatives, agents, engineers, consultants, contractors, and designees shall have the right to enter onto the Property from and after the Effective Date through and including the date which is sixty (60) days after the date of this Agreement (the "Due Diligence Period"), for purposes of examining, inspecting and investigating the Property including the site, soil, subsurface soils, drainage, seismic and other geological and topographical matters, location of asbestos, toxic substances, hazardous materials or wastes, if any, and, at Buyer's sole and absolute discretion, determining whether the Property is acceptable to Buyer. In the event that Buyer enters upon Property at anytime prior to the Close of Escrow, Buyer hereby agrees to indemnify, defend, and hold Seller harmless from any actions, damages, liability, liens or claims which may be asserted against Seller as a result of entry or activities on or about the Property. Prior to entering onto the Property before the Close of Escrow, Buyer shall, at its own cost and expense, obtain public liability and property damage insurance, insuring against all bodily injury, property damage, personal injury, and other loss or liability caused by or connected with Buyer's investigation or inspection of Property in amounts not less than:

- (a) \$1,000,000.00 for injury to or death of one person and, subject to the limitation for the injury or death of one person, of not less than \$1,000,000.00 for injury to or death of two or more persons as a result of any one accident or incident; and
- (b) \$1,000,000.00 for property damage.

The policy shall name Seller as an additional insured and shall be issued by either a California admitted surety or through a joint powers agency, or similar entity, formed for the purpose of providing insurance to public entities.

Furthermore, after entering onto the Property before the Close of Escrow, Buyer shall, in a timely manner, repair any and all damage to the Property caused by such inspections or investigations.

2.3 Disclaimer of Warranties. Upon the Close of Escrow, Buyer shall acquire the Property in its "AS-IS" condition and shall be responsible for any defects in the Property, whether patent or latent, including, without limitation, the physical, environmental and geotechnical condition of the Property, and the existence of any contamination, Hazardous Materials, debris, or other structures located on, under or about the Property. Except as expressly set forth herein, Seller makes no representation or warranty concerning the physical, environmental, geotechnical or other condition of the Property, the suitability of the Property for the Project, or the present use of the Property, and specifically disclaims all representations or warranties of any nature concerning the Property made by it, the District and their employees, agents and representatives. The foregoing disclaimer includes, without limitation, topography, climate air, water rights, utilities, present and future zoning, soil, subsoil, existence of Hazardous Materials or similar substances, the purpose for which the Property is suited, or drainage. The

Seller makes no representation or warranty concerning the compaction of soil upon the Property, nor of the suitability of the soil for construction.

2.4 Hazardous Materials. Buyer, and each of the entities constituting Buyer, if any, from and after the Closing, hereby waives, releases, remises, acquits and forever discharges District, its directors, officers, shareholders, employees, and agents, and its respective heirs, successors, personal representatives and assigns, of and from any and all Environmental Claims, Environmental Cleanup Liability and Environmental Compliance Costs, as those terms are defined below, and from any and all actions, suits, legal or administrative orders or proceedings, demands, actual damages, punitive damages, loss, costs, liabilities and expenses, which concern or in any way relate to the physical or environmental conditions of the Property, the existence of any Hazardous Material thereon, or the release or threatened release of Hazardous Materials therefrom, whether existing prior to, at or after the Closing. It is the intention of the parties pursuant to this release that any and all responsibilities and obligations of Seller, and any and all rights, claims, rights of action, causes of action, demands or legal rights of any kind of Buyer, its successors, assigns or any affiliated entity of Buyer, arising by virtue of the physical or environmental condition of the Property, the existence of any Hazardous Materials thereon, or any release or threatened release of Hazardous Material therefrom, whether existing prior to, at or after the Closing, are by this Release provision declared null and void and of no present or future force and effect as to the parties. In connection therewith, Buyer and each of the entities constituting Buyer, expressly agree to waive any and all rights which said party may have under Section 1542 of the California Civil Code which provides as follows:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.”

BUYER'S INITIALS: _____ SELLER'S INITIALS: _____

Buyer and each of the entities constituting Buyer, shall, from and after the Closing, defend, indemnify and hold harmless District and its officers, directors, employees, agents and representatives (collectively, the “Indemnified Parties”) from and against any and all Environmental Claims, Environmental Cleanup Liability, Environmental Compliance Costs, and any other claims, actions, suits, legal or administrative orders or proceedings, demands or other liabilities resulting at any time from the physical and/or environmental conditions of the Property whether before or after the Closing or from the existence of any Hazardous Materials or the release or threatened release of any Hazardous Materials of any kind whatsoever, in, on or under the Property occurring at any time whether before or after the Closing, including, but not limited to, all foreseeable and unforeseeable damages, fees, costs, losses and expenses, including any and all attorneys' fees and environmental consultant fees and investigation costs and expenses, directly or indirectly arising therefrom, and including fines and penalties of any nature whatsoever, assessed, levied or asserted against any Indemnified Parties to the extent that the fines and/or penalties are the result of a violation or an alleged violation of any Environmental Law. Buyer further agrees that in the event Buyer obtains, from former or present owners of the

Property or any other persons or entities, releases from liability, indemnities, or other forms of hold harmless relating to the subject matter of this section, Buyer shall use its diligent efforts to obtain for District the same releases, indemnities and other comparable provisions.

For purposes of this Section 2.4, the following terms shall have the following meanings.

(a) “Environmental Claim” means any claim for personal injury, death and/or property damage made, asserted or prosecuted by or on behalf of any third party, including, without limitation, any governmental entity, relating to the Property or its operations and arising or alleged to arise under any Environmental Law.

(b) “Environmental Cleanup Liability” means any cost or expense of any nature whatsoever incurred to contain, remove, remedy, clean up, or abate any contamination or any Hazardous Materials on or under all or any part of the Property, including the ground water thereunder, including, without limitation, (A) any direct costs or expenses for investigation, study, assessment, legal representation, cost recovery by governmental agencies, or ongoing monitoring in connection therewith and (B) any cost, expense, loss or damage incurred with respect to the Property or its operation as a result of actions or measures necessary to implement or effectuate any such containment, removal, remediation, treatment, cleanup or abatement.

(c) “Environmental Compliance Cost” means any cost or expense of any nature whatsoever necessary to enable the Property to comply with all applicable Environmental Laws in effect. “Environmental Compliance Cost” shall include all costs necessary to demonstrate that the Property is capable of such compliance.

(d) “Environmental Law” means any federal, state or local statute, ordinance, rule, regulation, order, consent decree, judgment or common-law doctrine, and provisions and conditions of permits, licenses and other operating authorizations relating to (A) pollution or protection of the environment, including natural resources, (B) exposure of persons, including employees, to Hazardous Materials or other products, raw materials, chemicals or other substances, (C) protection of the public health or welfare from the effects of by-products, wastes, emissions, discharges or releases of chemical substances from industrial or commercial activities, or (D) regulation of the manufacture, use or introduction into commerce of chemical substances, including, without limitation, their manufacture, formulation, labeling, distribution, transportation, handling, storage and disposal.

(e) “Hazardous Material” is defined to include any hazardous or toxic substance, material or waste which is or becomes regulated by any local governmental authority, the State of California, or the United States Government. The term “Hazardous Material” includes, without limitation, any material or substance which is: (A) petroleum or oil or gas or any direct or derivate product or byproduct thereof; (B) defined as a “hazardous waste,” “extremely hazardous waste” or “restricted hazardous waste” under Sections 25115, 25117 or 25122.7, or listed pursuant to Section 25140, of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law); (C) defined as a “hazardous substance” under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Substance Account Act); (D) defined as a “hazardous material,” “hazardous substance,” or “hazardous waste” under Sections 25501(j) and (k) and 25501.1 of the California

Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory); (E) defined as a “hazardous substance” under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances); (F) “used oil” as defined under Section 25250.1 of the California Health and Safety Code; (G) asbestos; (H) listed under Chapter 11 of Division 4.5 of Title 22 of the California Code of Regulations, or defined as hazardous or extremely hazardous pursuant to Chapter 10 of Division 4.5 of Title 22 of the California Code of Regulations; (I) defined as waste or a hazardous substance pursuant to the Porter-Cologne Act, Section 13050 of the California Water Code; (J) designated as a “toxic pollutant” pursuant to the Federal Water Pollution Control Act, 33 U.S.C. § 1317; (K) defined as a “hazardous waste” pursuant to the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6901 *et seq.* (42 U.S.C. § 6903); (L) defined as a “hazardous substance” pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 *et seq.* (42 U.S.C. § 9601); (M) defined as “Hazardous Material” pursuant to the Hazardous Materials Transportation Act, 49 U.S.C. § 5101 *et seq.*; or (N) defined as such or regulated by any “Superfund” or “Superlien” law, or any other federal, state or local law, statute, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning Hazardous Materials and/or oil wells and/or underground storage tanks and/or pipelines, as now, or at any time hereafter, in effect.

Notwithstanding any other provision of this Agreement, Buyer’s release and indemnification as set forth in the provisions of this Section, as well as all provisions of this Section shall survive the termination of this Agreement and shall continue in perpetuity.

2.5 Disapproval/Termination. Buyer shall notify Seller and Escrow Holder in writing (“Buyer’s Due Diligence Notice”) on or before the expiration of the Due Diligence Period of Buyer’s approval or disapproval of the Due Diligence Materials, the condition of the Property and Buyer’s investigations with respect thereto. Buyer’s disapproval of any of said items shall constitute Buyer’s election to terminate this Agreement and cancel the Escrow. Buyer’s failure to deliver Buyer’s Due Diligence Notice on or before the expiration of the Due Diligence Period shall be conclusively deemed Buyer’s approval thereof.

2.6 Title Review. Within ten (10) business days after the Effective Date of this Agreement, Buyer shall obtain a preliminary title report for the Property, together with copies of all written instruments creating the exceptions specified therein, and a plat map, if requested by Buyer, plotting all easements specified therein (collectively, the “Title Report”). Buyer shall notify Seller in writing (“Buyer’s Objection Notice”) on or before the expiration of the Due Diligence Period of any objections Buyer may have to the title exceptions contained in the Preliminary Title Report. Buyer’s failure to provide Seller with a Buyer’s Objection Notice within said period shall constitute Buyer’s approval of all exceptions to title shown on the Preliminary Title Report. Seller shall have a period of ten (10) days after receipt of Buyer’s Objection Notice in which to deliver written notice to Buyer (“Seller’s Notice”) of Seller’s election to either (i) agree to remove or cure the objectionable items prior to the Close of Escrow, or (ii) decline to remove or cure any such title exceptions and terminate Escrow and this Agreement. If Seller notifies Buyer of its election to terminate Escrow rather than remove and cure the objectionable items, Buyer shall have the right, by written notice delivered to Seller within ten (10) days after Buyer’s receipt of Seller’s Notice, to agree to accept the Property subject to the objectionable items, in which event Seller’s election to terminate the Escrow shall

be of no effect, and Buyer shall take title at the Close of Escrow subject to such objectionable items without any adjustment to or credit against the Purchase Price.

Upon the issuance of any amendment or supplement to the Title Report which adds additional exceptions, or adds any new requirement, the foregoing right of review and approval shall also apply to said amendment or supplement; provided, however, that Buyer's initial period of review and approval or disapproval of any such additional exceptions shall be limited to ten (10) business days following Buyer's and Buyer's attorney's receipt of the instrument(s) creating such additional exceptions.

27. Development Processing for the Property. While not a condition to Closing, Seller and Buyer acknowledge and agree that during the term of this Agreement Buyer intends to develop and process a tentative tract map for the Property in connection with Buyer's proposed development of the Property (the "Tentative Tract Map") and other entitlements consistent with the Tentative Tract Map. Buyer shall remain responsible for any processing of the Tentative Tract Map(s) and entitling the Property pursuant to the Tentative Tract Map (collectively, "Buyer's Entitlements"), including all expenses relating to project processing and approval, and shall exercise its commercially reasonable efforts to obtain the City's approval of the Tentative Tract Map. Buyer shall have the sole and absolute right, in its discretion, to accept or reject any and all exactions, conditions, fees, requirements or other obligations imposed or proposed by the City or any other governmental or quasi-governmental agency or authority with jurisdiction over the proposed Buyer's Entitlements. Seller shall cooperate with Buyer, at no cost to Seller (other than internal administrative time), in connection with the processing and approval of the Buyer's Entitlements through the Closing and shall execute any and all documents reasonably required by the City or any other governmental or quasi-governmental agency or authority with jurisdiction over the proposed Buyer's Entitlements in connection therewith.

Buyer and Seller acknowledge and agree that Seller shall not have any approval rights with respect to the Buyer's Entitlements or Buyer's processing thereof, nor shall Seller be committed to provide any opinion or analysis related to any of Buyer's Entitlements or processing thereof. In connection with the processing of the Tentative Tract Map, Buyer shall not have the right to commit the Property to having to pay, or being liable for, any fee, tax or other charge prior to the Close of Escrow, excluding only any tax or assessment of tax related to the Property, and excluding any fee or other charge that Buyer pays or is responsible for paying prior to Close of Escrow. Buyer shall be required to utilize best efforts to pursue the Tentative Tract Map and Buyer's Entitlements as expeditiously as possible. Buyer shall provide Seller with monthly written reports ("Monthly Report"), due the 1st business day of each month, that provides detailed information on the steps taken by Buyer in pursuing the Tentative Tract Map and Buyer's Entitlements and the status of the process. A failure by Buyer to utilize best efforts to pursue the Tentative Tract Map and Buyer's Entitlements or to provide the Monthly Report shall be deemed an immediate breach and forfeit any rights to a return of the Initial Deposit or the Additional Deposit; District shall provide Buyer written notice of any such failure and Buyer shall have five (5) business days from the date of such notice to cure.

Buyer shall defend, indemnify and hold harmless Seller and the other Indemnified Parties from and against any and all claims resulting from Buyer's (or its representatives, agents, engineers, consultants, contractors, designees, and invitees) processing and approval of the

Buyer's Entitlements. Such indemnification shall include, and shall not be limited to, all foreseeable and unforeseeable damages (specifically excluding consequential (including lost profits), special and punitive damages), fees, costs, losses and expenses, including any and all reasonable attorneys' fees and consultant fees and investigation costs and expenses, arising therefrom, and including fines and penalties of any nature whatsoever, assessed, levied or asserted against any of the Indemnified Parties.

3. ESCROW.

3.1 Escrow Instructions; Opening of Escrow. This Agreement, together with any standard instructions of Escrow Holder, shall constitute the joint escrow instructions of Buyer and Seller to Escrow Holder as well as an agreement between Buyer and Seller. In the event of any conflict between the provisions of this Agreement and Escrow Holder's standard instructions, this Agreement shall prevail. Within five (5) business days of the Effective Date of this Agreement, the Parties shall open an escrow (the "Escrow") with Commonwealth Land Title/Lawyers Title ("Escrow Holder") at its offices located at 4100 Newport Place Drive, Suite 120, Newport Beach, CA 92660; Tel: (949) 724-3145; Fax: (949) 271-5762; Attn: Joy Eaton, Vice President, Sr. Commercial Officer National Commercial Services, by causing an executed copy of this Agreement to be deposited with Escrow Holder. Escrow shall be deemed open on the date that a fully executed copy of this Agreement is delivered to Escrow Holder (the "Opening of Escrow"). Escrow Holder shall provide each of the parties in Section 6.3 with written confirmation of the date of the Opening of Escrow. Furthermore, title insurance services related to this Agreement shall be provided by Commonwealth Land Title/Lawyers Title ("Title Officer") at its offices located at 888 South Figueroa Street, Suite 2100, Los Angeles, CA 90017; Tel: (213) 330-3055; Fax: (213) 330-3104; Attn: Douglass Abernathy, Vice President – Title Operations Manager National Commercial Services.

3.2 Close of Escrow; Closing Date. Provided that all of the conditions of this Agreement shall have been satisfied (or waived, if applicable) prior to or on the Closing Date, the Closing of this transaction for the acquisition of the Property shall take place at the offices of Escrow Holder on the earlier to occur of: (i) the Tentative Map Approval Date (as that term is defined below), or (ii) the Outside Closing Date set forth in Section 1.4.2 ("Closing Date") unless both Parties mutually agree to extend.

For purposes herein, (i) the term "Approved" or "Approval" shall mean that the City, and all other Governmental Authorities (which have jurisdiction over the Property and the approval of which is required), have adopted a resolution or ordinance of final approval, and all appeal and referendum periods have expired without the filing of an appeal or referendum or, if an appeal or referendum has been filed, that appeal or referendum has been resolved on terms satisfactory to Buyer in its sole discretion, but in no event longer than ninety (90) days, (ii) the term "Governmental Authority" shall mean any local, regional, state or federal governmental entity, agency, court, judicial or quasi-judicial body, or legislative or quasi-legislative body, (iii) the term "Tentative Map Approval Date" shall mean the date that is five (5) business days after the date on which the Tentative Map is Approved, (iv) the term "Tentative Map" shall mean a tentative subdivision map for the Property, which map contemplates the development thereon of condominiums, apartments, single-family residences, or any other project that requires discretionary development approvals and (v) the term "Close of Escrow" shall mean the date on

which a fully executed and acknowledged original of the Grant Deed is recorded in the Official Records of Orange County, California.

Subject to the provisions set forth in Section 1.4.2 above, Buyer shall make the Additional Deposit necessary to keep the Escrow open and current. In no event shall the Closing Date occur later than the Outside Closing Date except as otherwise expressly provided in this Agreement. Possession of the Property shall be delivered to Buyer on the Closing Date free and clear of all tenancies, lessees, occupants, licensees, and all possessory rights of any kind or nature except for any Permitted Exceptions as set forth in Section 4.1.2. To the extent not previously delivered to Buyer, any originals of the Due Diligence Documents shall be delivered to Buyer on the Closing Date free and clear of all possessory rights of any kind or nature.

3.3 Deliveries by Seller. No later than 1:00 p.m. on the date two business days preceding the Closing Date, Seller shall deliver to Escrow Holder:

(a) an executed grant deed in the form of Exhibit "B" attached to this Agreement (the "Grant Deed") conveying to Buyer fee simple title to the Property, duly executed and acknowledged by Seller;

(b) an executed certificate of non-foreign status in the form attached hereto as Exhibit "C" and California Franchise Tax Board Form 590-RE, each executed by Seller;

(c) an executed Assignment and Bill of Sale in the form attached hereto as Exhibit "D"; and

(d) all other sums and documents required by Escrow Holder to carry out and close the Escrow pursuant to this Agreement, including Seller's portion of prorations, if any.

3.4 Deliveries by Buyer. No later than 1:00 p.m. on the business day preceding the Closing Date, and after Seller's deliveries pursuant to Section 3.3 above, Buyer shall deliver to Escrow Holder:

(a) the Purchase Price less Initial Deposit and Additional Deposit;

(b) an executed Assignment and Bill of Sale in the form attached hereto as Exhibit "D"; and

(c) All other sums and documents required by Escrow Holder to carry out and close the Escrow pursuant to this Agreement, including the Escrow fees and Buyers' portion of prorations, if any.

3.5 Closing, Recording and Disbursements. On or before the Closing Date, and when all of the conditions precedent to the Close of Escrow set forth in Section 4 of this Agreement have been satisfied or waived in writing, Escrow Holder shall take the actions set forth in this Section 3.5.

3.5.1 Recording. Escrow Holder shall cause the Grant Deed to be recorded in the Official Records of Orange County, California.

3.5.2 Disbursement of Funds. Escrow Holder shall disburse to Seller the remainder of the Purchase Price, less those mutually agreed upon prorations chargeable to Seller, if any.

3.5.3 Title Policy. Escrow Holder shall deliver to Buyer a commitment to issue the Title Policy referred to in Section 4.1.3 of this Agreement.

3.5.4 Delivery of Documents to Buyer. Escrow Holder shall deliver to Buyer a conformed copy of the Grant Deed, and any other documents (or copies thereof) deposited by Seller with Escrow Holder pursuant to this Agreement. The original of the Grant Deed shall be returned to Buyer after recordation.

3.5.5 Delivery of Documents to Seller. Escrow Holder shall deliver to Seller a conformed copy of the Grant Deed, Grant of Easement and any other documents (or copies thereof) deposited by Buyer with Escrow Holder pursuant to this Agreement.

3.5.6 Real Property Taxes. All non-delinquent general and special real property taxes and assessments shall be prorated to the Close of Escrow.

3.6 Payment of Costs. Buyer shall pay the Escrow fee, all documentary transfer taxes, and all title insurance premiums for the CLTA standard owner's form policy. Buyer shall pay all charges for recording the Grant Deed, the title insurance premium for any additional cost of obtaining any additional coverage requested by the Buyer, including the difference between an CLTA standard owner's policy and an ALTA extended owner's policy. Seller and Buyer shall each be responsible for their respective attorneys' fees. All other costs of Escrow not specifically allocated in this Agreement shall be paid by Buyer.

4. CONDITIONS PRECEDENT TO CLOSE OF ESCROW.

4.1 Conditions to Buyer's Obligations. Buyer's obligation to purchase the Property, and the Close of Escrow, shall be subject to the satisfaction or written waiver by Buyer of each of the conditions precedent set forth in this Section 4.1.

4.1.1 Seller's Performance. Seller is not in material default of any term or condition of this Agreement.

4.1.2 Seller Deliveries Made. Seller has deposited with Escrow Holder all documents required of Seller by this Agreement.

4.1.3 Title Policy. Title Officer has committed to issue to Buyer an CLTA standard, or at Buyer's choice, an extended coverage owner's policy of title insurance ("Title Policy"), with liability in the amount of the Purchase Price, showing fee title to the Property vested in the Buyer, subject only to:

- (a) the standard printed exceptions and exclusions contained in the form of the Title Policy commonly used by Escrow Holder,
- (b) title exceptions approved by Buyer pursuant to Section 2.6 of this Agreement;
- (c) title exceptions resulting from documents being recorded or delivered through Escrow pursuant to this Agreement; and
- (d) any other exceptions approved in writing by Buyer.

The terms of sub-sections (a) through (d), inclusive, being herein collectively referred to as the "Permitted Exceptions."

4.1.4 Representations and Warranties. All representations and warranties made by Seller in this Agreement are true and correct as of the Closing as though made at that time.

4.2 Conditions to Seller's Obligations. Seller's obligations to convey the Property, and the Close of Escrow, shall be subject to the satisfaction or written waiver by Seller of each of the conditions precedent set forth in this Section 4.2.

4.2.1 Buyer's Performance. Buyer is not in material default of any term or condition of this Agreement.

4.2.2 Buyer Deliveries Made. Buyer has deposited with Escrow Holder all sums and documents required of Buyer by this Agreement.

4.2.3 Representations and Warranties. All representations and warranties made by Buyer in this Agreement are true and correct as of the closing as though made at that time.

4.3 Satisfaction of Conditions. Where satisfaction of any of the foregoing conditions requires action by Buyer or Seller, each Party shall use its diligent best efforts, in good faith, and at its own cost, to satisfy such condition. Where satisfaction of any of the foregoing conditions requires the approval of a Party, such approval shall be in such Party's sole and absolute discretion.

4.4 Waiver. Buyer may at any time or times, at its election, waive any of the conditions set forth in Section 4.1 above to its obligations hereunder, but any such waiver shall be effective only if contained in a writing signed by Buyer and delivered to Seller. Seller may at any time or times, at its election, waive any of the conditions set forth in Section 4.2 above to its obligations hereunder, but any such waiver shall be effective only if contained in a writing signed by Seller and delivered to Buyer.

4.5 Termination. In the event each of the conditions set forth in Section 4.1 is not fulfilled within the time provided in Section 4.1 or waived by Buyer pursuant to Section 4.4, Buyer may, at its option, terminate this Agreement and the Escrow opened hereunder, thereby releasing the Parties from further obligations hereunder. In the event of such termination by

Buyer, Buyer shall be entitled to a refund of any and all payments made by Buyer, including any Initial Deposit and Additional Deposit; provided however, Buyer shall not be entitled to any refund of the Initial Deposit, or Additional Deposit, or any portion thereof, for failure of the conditions set forth in Section 4.1.3 to be fulfilled within the time provided by Section 4.1. In the event that the conditions set forth in Section 4.2 are not fulfilled or waived prior to the Closing Date, Seller may, at its option, terminate this Agreement and the Escrow opened hereunder, thereby releasing the Parties from further obligations hereunder. In the event of such termination by Seller, Buyer shall not be entitled to any refund, or portion thereof, of the Initial Deposit or Additional Deposit. In the event of termination of this Agreement by either Party, all documents delivered by Seller to Buyer or Escrow Holder shall be returned immediately to Seller and all documents delivered by Buyer to Seller or Escrow Holder shall be returned immediately to Buyer and Buyer shall deliver to Seller all third party reports or work product performed by the Buyer or any of the Buyer's consultants, contractors or agents that pertains to the Property and all rights to such reports and work product shall be assigned to the Seller automatically upon such termination without further action by Buyer or Seller. Nothing in this Section 4.5 shall be construed as releasing any Party from liability for any default of its obligations hereunder or breach of its representations and warranties under this Agreement occurring prior to the termination of this Agreement and/or the Escrow to be opened hereunder.

5. REPRESENTATIONS AND WARRANTIES.

5.1 Seller's Representations and Warranties. Seller hereby makes the following representations and warranties to Buyer, each of which (i) is material and relied upon by Buyer in making its determination to enter into this Agreement, (ii) is true in all respects as of the date hereof and shall be true in all respects on the Closing Date, and (iii) shall survive the Close of Escrow.

(a) Seller has full right, power, and authority to enter into this Agreement and perform Seller's obligations hereunder. This Agreement and all other documents delivered by Seller to Buyer now or at the Close of Escrow, have been or will be duly executed and delivered by Seller and are legal, valid, and binding obligations of Seller, sufficient to convey to Buyer good and marketable title to the Property, are enforceable in accordance with their respective terms, and do not violate any provisions of any agreement to which Seller is a party.

(b) To the best of Seller's knowledge, there are no pending or threatened, actions, suits, writs, injunctions, decrees, legal proceedings or governmental investigations against or affecting the Property or relating to the ownership, maintenance, use or operation of the Property.

(c) There are no leases or other agreements relating to the right of possession and/or occupancy of the Property by any person or entity other than the Buyer, other than those disclosed in the Due Diligence Materials.

If Seller becomes aware of any act or circumstance which would change or render incorrect, in whole or in part, any representation or warranty made by Seller hereunder, whether as of the date given or any time thereafter through the Closing Date, Seller will give immediate

written notice of such changed fact or circumstance to Buyer, but such notice shall not release Seller of any liabilities or obligations with respect thereto.

5.2 Buyer's Representations and Warranties. Buyer hereby makes the following representations and warranties to Seller, which is (i) is material and relied upon by Seller in making its determination to enter into this Agreement, (ii) is true in all respects as of the date hereof and shall be true in all respects on the Closing Date, and (iii) shall survive the Close of Escrow:

Buyer has full right, power, and authority to enter into this Agreement and perform Buyer's obligations hereunder. This Agreement and all other documents delivered by Buyer to Seller now or at the Close of Escrow, have been or will be duly executed and delivered by Buyer and are legal, valid, and binding obligations of Buyer, are enforceable in accordance with their respective terms, and do not violate any provisions of any agreement to which Buyer is a party.

If Buyer becomes aware of any act or circumstance which would change or render incorrect, in whole or in part, any representation or warranty made by Buyer hereunder, whether as of the date given or any time thereafter through the Closing Date, Buyer will give immediate written notice of such changed fact or circumstance to Seller, but such notice shall not release Buyer of any liabilities or obligations with respect thereto.

5.3 Brokerage Commissions. Seller and Buyer each represents and warrants to the other that no third party is entitled to a broker's commission and/or finder's fee with respect to the transactions contemplated by this Agreement, unless as otherwise disclosed by Buyer prior to the Effective Date. Furthermore, should Buyer disclose any broker's commission and/or finder's fee applicable to the transactions contemplated by this Agreement, such commission and/or finder's fee shall in no way apply to the District, the Purchase Price, or any payments by the Parties hereunder. Each party agrees to indemnify and hold the other harmless from and against all liabilities, costs, damages, and expenses, including without limitation, attorneys' fees, resulting from any claims or fees or commissions, based upon agreements by it, if any, to pay a broker's commission and/or finder's fee.

5.4 "AS-IS". Except as provided in Section 5.1 above, Seller makes no representation or warranty of any kind as to the Property, including, but not limited to, the physical condition of the Property or the existence of any Hazardous Substance on or under the Property. As more specifically set forth in Sections 2.3 and 2.4 herein, Buyer acknowledges and agrees that except as specifically set forth herein it is purchasing the Property in an "As-Is" condition and further acknowledges that Buyer is assuming all risk associated with any use, generation, storage, disposal, discharge, release, presence or transportation of any Hazardous Substances on, under, or about the Property and that Buyer will defend, indemnify and hold the Seller harmless from any liability for any such use, generation, storage, disposal, discharge, release, presence or transportation. Nothing in this Section 5.4 shall limit the effect of Sections 2.3, 2.4 or any other Section herein.

5.5 LIQUIDATED DAMAGES. BUYER AND SELLER AGREE THAT IN THE EVENT OF A DEFAULT OR BREACH OF THIS AGREEMENT BY BUYER, ACTUAL

DAMAGES TO SELLER WOULD BE EXTREMELY DIFFICULT AND IMPRACTICAL TO ASCERTAIN, AND THEREFORE, AGREE THAT THE INITIAL DEPOSIT AND THE ADDITIONAL DEPOSIT, PAID HEREUNDER SHALL CONSTITUTE LIQUIDATED DAMAGES TO SELLER UNDER THE PROVISIONS OF SECTION 1671 OF THE CALIFORNIA CIVIL CODE. BUYER HEREBY IRREVOCABLY INSTRUCTS ESCROW HOLDER, UPON SUCH BREACH OR DEFAULT BY BUYER, TO RELEASE SAID PAYMENT(S) AND ACCRUED INTEREST THEREON TO SELLER SHOULD ESCROW HOLDER THEN BE IN POSSESSION THEREOF. THE FOREGOING PROVISION SHALL IN NO WAY LIMIT OR IMPAIR SELLER'S RIGHT OR ABILITY TO RECOVER FROM BUYER ATTORNEY'S FEES TO WHICH SELLER MAY OTHERWISE BE ENTITLED UNDER THIS AGREEMENT OR ANY SUMS WHICH MAY BECOME DUE TO SELLER BASED UPON ANY INDEMNITY PROVIDED BY SELLER PURSUANT TO THE TERMS OF THIS AGREEMENT.

Buyer's Initials _____ Date _____
Seller's Initials _____ Date _____

6. MISCELLANEOUS.

6.1 Costs of Conveyance. All costs not covered in Section 3.6 herein shall be paid solely by Buyer, including, but not limited to, costs associated with further appraisals, inspections, title reports, preparation and recordation of documents, inspections and testing, and production of reproduction of Due Diligence Materials not otherwise provided by Seller.

6.2 Attorneys' Fees; Litigation. If either Party commences an action against the other Party arising out of or in connection with this Agreement, the prevailing Party shall be entitled to recover reasonable attorneys' fees and costs of suit from the losing Party, including expert witness fees and costs, and fees for discovery and appeal. The only remedies available to either Party in the enforcement of this Agreement or any obligation under this agreement shall be for injunctive relief, specific performance, and similar equitable remedies. No other remedy, including any remedy for damages shall be available to either Party in the enforcement of this Agreement or in the event of a default under the terms of this Agreement. In addition, neither Party shall be obligated for any economic or consequential damages or damages for lost profit or any other damages of like kind or nature in the event of a default on the part of the other Party.

6.3 Notices. All notices required to be delivered under this Agreement to the other Party must be in writing and shall be effective (i) when personally delivered by the other Party or messenger or courier thereof; (ii) upon receipt by the other Party or refusal to accept delivery by the other Party of United States mail, registered or certified; (iii) twenty-four (24) hours after deposit before the daily deadline time with a reputable overnight courier or service; or (iv) upon receipt of a telecopy or fax transmission, provided a hard copy of such transmission shall be thereafter delivered in one of the methods described in the foregoing (i) through (iii); in each case postage fully prepaid and addressed to the respective parties as set forth below or to such other address and to such other persons as the Parties may hereafter designate by written notice to the other Parties hereto:

To Seller: ORANGE UNIFIED SCHOOL DISTRICT
Attn: Joe Sorrera, Assistant Superintendent of Business Service

1401 North Handy Street
Orange, California 92867
Email: joes@orangeusd.org

With copy to: ATKINSON, ANDELSON, LOYA, RUUD & ROMO
Attn: Constance J. Schwindt
12800 Center Court Dr., Suite 300
Cerritos, CA 90703-8597
Email: cschwindt@aalrr.com

To Buyer: _____

Email: _____

With copy to: _____

Email: _____

Email addresses are provided for convenience of communications between the parties but shall not constitute notice under this Section.

6.4 Authority. The person(s) executing this Agreement on behalf of the Parties hereto warrant that (i) such Party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said Party, (iii) by so executing this Agreement, such Party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other agreement to which said Party is bound.

6.5 Execution in Counterpart. This Agreement may be executed in several counterparts, and all so executed shall constitute one agreement binding on all Parties hereto, notwithstanding that all Parties are not signatories to the original or the same counterpart.

6.6 Assignment. Neither Party shall assign this Agreement nor any right or privilege either party might have under this Agreement without the prior written consent of the other Party.

6.7 Third Party Beneficiaries. Nothing in this Agreement shall be construed to confer any rights upon any party not signatory to this Agreement.

6.8 Binding on Heirs. This Agreement shall be binding upon the parties hereto and their respective heirs, representatives, transferees, successors, and assigns.

6.9 Time of the Essence. Time is of the essence with respect to each of the terms, covenants, and conditions of this Agreement.

6.10 Condemnation. In the event that any substantial portion of the Property is taken or designated to be taken by condemnation proceedings, or proceedings in lieu thereof, prior to the Close of Escrow, Buyer shall have the right to terminate this Agreement and cancel Escrow by delivering to Seller and Escrow Holder written notice thereof. "Substantial portion" used in this Section 6.10, shall be defined as ten percent (10%) or more of the Property or the taking of a portion of the Property which materially affects the subdivision and development of the remainder of the Property. In the event Buyer does not elect to terminate this Agreement pursuant to this Section 6.10, Buyer shall be entitled to all condemnation proceeds upon the Close of Escrow for the purchase and sale of the Property.

6.11 Entire Agreement, Waivers and Amendments. This Agreement incorporates all of the terms and conditions mentioned herein, or incidental hereto, and supersedes all negotiations and previous agreements between the Parties with respect to all or part of the subject matter thereof. All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of the Party to be charged. Any amendment or modification to this Agreement must be in writing and executed by Seller and Buyer.

6.12 Exhibits. Exhibits "A," "B," "C," and "D" attached to this Agreement are incorporated herein by this reference and made a part hereof. Said Exhibits are identified as follows:

- "A" - LEGAL DESCRIPTION OF LAND
- "B" - GRANT DEED
- "C" - NON-FOREIGN AFFIDAVIT
- "D" - ASSIGNMENT AND BILL OF SALE

6.13 Effect of Recitals. The Recitals above are deemed true and correct, are hereby incorporated into this Section as though fully set forth herein, and Seller and Buyer acknowledge and agree that they are each bound by the same.

6.14 Section References. Any reference to any section of this Agreement cited without a decimal includes all sections following the cited section. For example, a reference to Section 5 includes 5.1, 5.1(a) et seq.

6.15 Severability. If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

6.16 Interpretation: Governing Law. This Agreement shall be construed according to its fair meaning and as if prepared by both Parties hereto. This Agreement shall be construed in accordance with the laws of the State of California in effect at the time of the execution of this Agreement with venue in Orange County, California.

6.17 Covenants to Survive Escrow. The covenants and agreements contained in this Agreement shall survive the Close of Escrow.

6.18 Conflicts of Interest. No director, officer, official, representative, agent or employee of the Buyer or Seller shall have any financial interest, direct or indirect, in this Agreement.

6.19 Nondiscrimination. There shall be no discrimination by Seller nor Buyer against any person on account of race, color, religion, sex, marital status, national origin, or ancestry in the performance of their respective obligations under this Agreement.

6.20 Rights and Remedies are Cumulative. Except as may be otherwise expressly stated in this Agreement, the rights and remedies of the Parties are cumulative, and the exercise by any Party of one or more of its right or remedies shall not preclude the exercise by it, at the same time or at different times, or any other rights or remedies for the same default or any other default by another party.

6.21 Provisions Required by Law Deemed Inserted. Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein and the Agreement shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon application of either party the Agreement shall forthwith be physically amended to make such insertion or correction.

6.22 Cooperation. Buyer and Seller acknowledge that it may be necessary to execute documents other than those specifically referred to herein in order to complete the acquisition of the Property, and/or to accomplish the objectives and requirements that are set out in this Agreement. Both Buyer and Seller hereby agree to cooperate with each other by executing such other documents or taking such other actions as may be reasonably necessary to complete this transaction in accordance with the intent of the parties as evidenced in this Agreement and the Exhibits attached hereto.

*** * * Signatures on Following Page * * ***

IN WITNESS WHEREOF, this Agreement has been executed as of the Effective Date.

Seller:

ORANGE UNIFIED SCHOOL DISTRICT

By: Joe Sorrera, Assistant Superintendent of
Business Services

APPROVED AS TO FORM:

ATKINSON, ANDELSON, LOYA, RUUD & ROMO

By: _____
Constance J. Schwindt, Esq., legal counsel for
Orange Unified School District

Buyer:

_____,
a _____

By: _____

Its: _____

EXHIBIT "A"

LEGAL DESCRIPTION OF LAND

Lots 1 and 2 of Tract No. 566, in the City of Orange, County of Orange, State of California, as per map thereof recorded in Book 6, Page 17 of Miscellaneous Maps, Records of said Orange County.

Lots 4, 5, 6, 7 and the northerly 18 feet of Lot 3 of John R. Schooley's First Addition to the City of Orange, in the City of Orange, County of Orange, State of California, as per map thereof recorded in Book 6, Page 17 of Miscellaneous Maps, Records of said Orange County.

That portion of the Southeast quarter of Lot 4 in Block "G" of the A.B. Chapman Tract, in the City of Orange, County of Orange, State of California, as surveyed by Frank Lecouvreux in December 1870, described as follows: Beginning at a point 33 feet West of the East line of Olive Street and 132 feet North of the North line of Walnut Avenue, in the City of Orange, said point being on the East line of the West 5 acres of the Southeast quarter of said Lot 4 in Block "G" of the A.B. Chapman Tract; thence North 68 feet; thence West 165 feet; thence South 68 feet; thence East parallel with the North line of Walnut Avenue, 165 feet to the point of beginning.

EXCEPT the East 33 feet of said premises.

EXHIBIT "B"

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

(Space Above For Recorder's Use)

*add applicable transfer/documentary
tax information*

GRANT DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, ORANGE UNIFIED SCHOOL DISTRICT, a public school district duly organized and existing under Chapter 1 of Division 3 of Title 2 of the Education Code of the State of California, hereby grants to _____, a _____, that certain real property located in the City of Orange, State of California, along with all improvements thereon, as described in the legal description attached hereto as Exhibit "A," incorporated herein by this reference.

THE PROPERTY IS CONVEYED TO GRANTEE SUBJECT TO:

1. Current taxes and assessments. The property interest conveyed herein may be subject to real property taxation and/or assessment. In such event, (lessee, permittee, concessionaire, etc.) shall pay before delinquency, all taxes or assessments which at any time may be levied by the State, County, City or any other tax or assessment-levying body upon the (leased, assigned, concession, etc.) premises and any improvements or fixtures located thereon.
2. All other covenants, conditions, restrictions, reservations, rights, rights of way, easements and title matters whether or not of record or visible from an inspection of the Property and all matters which an accurate survey of the Property would disclose.

Dated: _____

ORANGE UNIFIED SCHOOL DISTRICT

By: _____
Joe Sorrera, Assistant Superintendent of
Business Services

EXHIBIT "A" TO GRANT DEED

LEGAL DESCRIPTION OF LAND

Lots 1 and 2 of Tract No. 566, in the City of Orange, County of Orange, State of California, as per map thereof recorded in Book 6, Page 17 of Miscellaneous Maps, Records of said Orange County.

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EXCEPT the East 33 feet of said premises.

EXHIBIT "C"**NON-FOREIGN AFFIDAVIT**

Section 1445 of the Internal Revenue Code provides that the transferee of an interest in real property located in the United States must withhold tax if the transferor is a foreign person. To inform _____, a _____ ("Transferee"), that withholding of tax is not required upon the sale by ORANGE UNIFIED SCHOOL DISTRICT, a public school district duly organized and existing under Chapter 1 of Division 3 of Title 2 of the Education Code of the State of California ("Transferor"), of its fee simple interest in that certain real property sold pursuant to the Agreement for Purchase and Sale of Real Property and Joint Escrow Instructions dated _____, 2014, which real property is described in the legal description attached hereto as Exhibit "A," incorporated herein by this reference, the undersigned hereby certifies the following:

1. The Transferor is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Internal Revenue Code and the income tax regulations promulgated thereunder);
2. The Transferor's United States Taxpayer Identification Number is _____;
3. The Transferor's office address is 1401 North Handy Street, Orange CA 92867, and
4. The Internal Revenue Service has not issued any notice with respect to Transferor or listed Transferor as a person whose affidavit may not be relied upon for purposes of Section 1445 of the Internal Revenue Code.

The Transferor understands that this certification may be disclosed to the Internal Revenue Service by Transferee and that any false statement contained herein could be punished by fine, imprisonment or both.

Under penalty of perjury, I declare that I have examined this certification and to the best of my knowledge and belief it is true, correct and complete, and I further declare that I am the Superintendent of Transferor and that I have authority to sign this document on behalf of the Transferor.

Dated: _____

ORANGE UNIFIED SCHOOL DISTRICT

By: _____
Joe Sorrera, Assistant Superintendent of
Business Services

EXHIBIT "A" TO NON-FOREIGN AFFIDAVIT**LEGAL DESCRIPTION OF LAND**

Lots 1 and 2 of Tract No. 566, in the City of Orange, County of Orange, State of California, as per map thereof recorded in Book 6, Page 17 of Miscellaneous Maps, Records of said Orange County.

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EXCEPT the East 33 feet of said premises.

EXHIBIT "D"**ASSIGNMENT AND BILL OF SALE**

This ASSIGNMENT AGREEMENT AND BILL OF SALE ("Assignment and Bill of Sale") to the Purchase and Sale and Joint Escrow Instructions ("Purchase Agreement") by and between ORANGE UNIFIED SCHOOL DISTRICT, a public school district duly organized and existing under Chapter 1 of Division 3 of Title 2 of the Education Code of the State of California ("District" or "Seller" depending on context) and _____, a _____ ("Buyer") dated _____, 2014, is hereby entered into this ____ day of _____, 2014 ("Effective Date") as follows:

A. WHEREAS, District and Buyer have entered into the Purchase Agreement for the sale by District to Buyer of that certain real property consisting of approximately 1.70 acres of land located at 541 North Lemon Street, Orange, California 92867, known generally as the District's former Killefer Elementary School Property ("Land") as more particularly set forth in the Purchase Agreement; and

B. WHEREAS, the execution and delivery of this Assignment and Bill of Sale is required to consummate the Close of Escrow. Capitalized terms used herein and not otherwise defined shall have the meanings provided to them in the Purchase Agreement.

NOW, THEREFORE, in consideration of the benefits set forth herein and in the Purchase Agreement, the parties hereto hereby agree as follows:

Seller hereby grants, sells, conveys, assigns, transfers, sets over to, and vests in the Buyer, its successors and assigns, all of the right, title, and interest, legal or equitable, of the Seller in and to any and all improvements and fixtures associated with the Property, excepting all of Seller's personal property, furnishing, equipment, and materials, which shall be removed from the Property prior to the Close of Escrow.

Seller hereby assigns all of its right, title and interest in and to the Property to Buyer, including: all licenses, permits, certificates of occupancy, approvals, dedications, subdivision maps and entitlements issued, approved or granted by governmental authorities with jurisdiction over the Property, or otherwise in connection with the Property; any and all development rights and other intangible rights, titles, interests, privileges and appurtenances owned by District and in any way related to or used in connection with the Property and its operation; and all licenses, consents, easements, rights of way and approvals required from private parties to make use of the utilities (collectively, "Licenses and Permits"); and

Seller hereby assigns, sells, transfers, sets over and delivers unto Buyer all of District's estate, right, title and interest in and to the Licenses and Permits, and Buyer hereby accepts such Assignment and Bill of Sale.

Although the Property is being sold by Seller and Buyer in an "AS-IS" condition, as a courtesy to Buyer, and without any indemnification or representation regarding the extent, nature, quality or even existence of any Licenses and Permits, Seller hereby covenants that Seller

will, from time to time as reasonably necessary, upon written request therefore, execute and deliver to Buyer, Buyer’s successors, nominees and assigns, any new or confirmatory instruments which Buyer, Buyer’s successors, nominees and assigns may reasonably request in order to fully assign and transfer to and vest in Buyer, or Buyer’s successors, nominees and assigns right, title and interest in and to the Licenses and Permits, if any, or to otherwise realize upon or enjoy such rights in and to the Licenses and Permits, if any.

This Assignment and Bill of Sale shall be binding upon and inure to the benefit of the successors, personal representatives, heirs and legatees of all the respective parties hereto.

This Assignment and Bill of Sale shall be governed by, interpreted under, and construed and enforceable in accordance with the laws of the State of California with venue in Orange County, California.

This Assignment and Bill of Sale shall only be effective upon the recordation of the Grant Deed in the Official Records of Orange County, conveying the Property to Buyer.

IN WITNESS WHEREOF, District and Buyer have executed and delivered this Assignment and Bill of Sale as of the day and year first written above.

“District”:

ORANGE UNIFIED SCHOOL DISTRICT

By: _____

Name: Joe Sorrera,

Its: Assistant Superintendent of Business Service

“Buyer”:

By: _____

Name: _____

Its: _____