

**VACANT LAND PURCHASE AGREEMENT
AND
JOINT ESCROW INSTRUCTIONS**

BETWEEN

NORTHGATE MARKETPLACE, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY

("SELLER")

and

SOLANO COMMUNITY COLLEGE DISTRICT
(a Public School District of the State of California)

("BUYER")

Dated: September 4, **2014**



THIS AGREEMENT is made this 4 day of Sept., 2014, by and between Northgate Marketplace, LLC, a California Limited Liability Company (hereinafter "Seller"), and the Solano Community College District ("Buyer"), a public school district of the State of California.

RECITALS

WHEREAS, Seller owns property situated in the City of Vallejo and County of Solano County, more commonly known as: 1683-1699 North Ascot Parkway, Vallejo, CA 94591, APN #'s: 0183-080-010, 0183-080-020, 0183-080-030, 0183-080-040, 0183-080-050 - **Exhibit A** hereto ("Real Property")

WHEREAS, Buyer desires to acquire the Real Property and Seller desires to sell said Real Property on and subject to the terms and conditions contained herein.

OPERATIVE PROVISIONS

NOW THEREFORE, in consideration of the covenants and agreements hereinafter set forth, Seller and Buyer agree as follows:

ARTICLE 1

ASSETS PURCHASED

Seller hereby agrees to sell and convey to Buyer and Buyer agrees to purchase from Seller, subject to the terms and conditions set forth herein, the following:

1.1 The Real Property described in **Exhibit A**, including all mineral and subsurface rights, if any, and all improvements located thereon;

1.2 All rights, privileges and easements appurtenant to the Real Property, (all of which are collectively referred to as the "Appurtenances").

1.3 The Real Property and the Appurtenances are hereinafter collectively referred to as the "Property."



ARTICLE 2

TERMS

- 2.1 Purchase Price. The purchase price ("Purchase Price") for the Property, subject to the conditions outlined in Sections 3.1(a) (Clear Title), ~~shall be Six Million six Hundred and Forty Thousand, and Five Hundred Dollars and~~ Six-Million Five-Hundred Twenty-Thousand and Five-Hundred Dollars ~~00/100 (\$6,640,500.00);~~ and 00/100 (\$6,520,500.00).
- 2.2 Terms. The Purchase Price shall be paid as follows:
- a. Deposit. Within ten (10) business days of execution of this Agreement, Buyer shall deposit the sum of Seventy Five Thousand Dollars and 00/100 (\$75,000.00) (the "Deposit") in escrow with Old Republic Title Company, Vallejo, California, Ms. Jackie Javier (the "Escrow Holder"). The Deposit shall be held in an interest bearing account and the interest accruing thereon shall be held for the account of Buyer.
 - b. Balance of Purchase Price. Within three (3) days prior to close of escrow Buyer shall deposit with the Escrow Holder, for delivery to Seller at the close of escrow, the balance of the Purchase Price in immediately available funds.
 - c. Payment of Balance Upon Closing. At the close of escrow ("Closing" or "Closing Date"), the Deposit and the balance of the Purchase Price, less any amount owed to Buyer in accordance with the terms of this Agreement shall be paid by Escrow Holder to or at the direction of Seller on account of the Purchase Price.
 - d. Closing Costs. At least three (3) days prior to the Closing Date, Buyer shall deposit or cause to be deposited with Escrow Holder, in cash or a certified, bank cashier's or treasury check made payable to Escrow



Holder or a confirmed wire transfer of funds, the amount of Escrow Holder's estimate of Buyer's closing costs, pro-rations and charges payable pursuant to this Agreement.

- e. Grant Deed. Within three (3) days prior to close of escrow, Seller shall deposit a Grant Deed described herein into escrow, which Grant Deed shall be provided by the Escrow Holder.
- f. Preliminary Title Report. Within ten (10) days after the opening of escrow, Escrow Holder shall deliver to Buyer a Preliminary Title Report ("Report") for the Real Property accompanied by legible copies of all documents referred to in the Report along with plotted easements.

2.3 Conveyance of Title. At the Closing, Seller shall convey to Buyer title to the Real Property in fee simple by recordation of the Grant Deed, clear of all title defects, monetary liens, encumbrances, deeds of trust and mortgages except the lien for real property taxes, if any, for the current fiscal year not yet due, and such exceptions to title as Buyer shall approve pursuant to Section 3.1. Notwithstanding the foregoing, Buyer shall be solely responsible for any assessments of record against the Property, which shall be prorated as of Closing.

2.4 Issuance of Title Insurance. At Closing, Old Republic Title Company (the "Title Company") shall issue a CLTA owner's policy of title insurance in the full amount of the Purchase Price, insuring fee simple title to the Real Property in the condition required by Section 2.3 and containing such endorsements as Buyer shall reasonably require.

ARTICLE 3

CONDITIONS TO CLOSE

3.1 Conditions to Buyer's Obligation. Buyer's obligation to purchase the Real Property under this Agreement is subject to fulfillment of subsections a and b below, and Buyer's approval or waiver, or deemed approval or waiver, of the conditions set forth in



subsections c-h below, during the Feasibility Period (defined in Section 3.1.h.4 below), each of which is for the benefit of Buyer:

- a. Delivery of Title with Permitted Exceptions. Title to the Real Property shall be conveyed to Buyer at Closing as required under Section 2.3, and subject to the following exceptions (collectively "Permitted Exceptions"):
- (1) a lien for non-delinquent taxes and assessments;
 - (2) any assessments of record, prorated as of the date of closing;
 - (3) any exceptions which the Report discloses that are accepted or waived, or deemed accepted or waived, by Buyer in accordance with the terms and conditions of this agreement; and
 - (3) the printed exceptions in the Title Policy.

Buyer shall have fifteen business (15) days from receipt of title report ("Title Review Period") to approve, in writing, any exceptions appearing in the Report. If Buyer fails to either approve or disapprove any or all the exceptions in the Report within the Title Review Period, the Report will be deemed accepted and any title contingencies waived. If Buyer gives Seller written notice that Buyer disapproves an item, Seller may elect, within five (5) days after receipt of such written notice, to cure any such disapproved item. Failure by Seller to provide such written notice to Buyer will be deemed an election by Seller not to cure any such disapproved item. If Seller elects or is deemed to have elected not to cure a disapproved item, Buyer shall have five (5) days thereafter either to waive its prior disapproval or to terminate this Agreement. In the event of an election by Buyer to terminate, the parties shall jointly pay any cancellation charges, the Deposit will be returned to Buyer, and Seller shall be released from its obligation under this Agreement of selling the Property to Buyer.

b. Issuance of an CLTA Policy of Title Insurance. Issuance of the Title Policy in the full amount of the Purchase Price for the Real Property with only those



exceptions which are accepted or waived, or deemed accepted or waived, by Buyer under this agreement, accompanied by legible copies of all documents referred to in the Report.

c. Survey. Buyer may provide a survey of the Real Property to be paid for by Buyer prepared by a licensed surveyor or civil engineer in sufficient detail to provide for the issuance of the Title Policy, certified to Buyer and the Title Company in form satisfactory to Buyer without boundary, encroachment, or survey expectations which shall show the location of all easements and improvements ("Survey"). A copy of the Survey, if prepared, shall be provided to Seller and Title Company when complete.

d. [Reserved].

e. State and Local Regulatory Agencies' Approval. Unconditional acceptance and approval of Buyer's purchase of the Property for school site purposes by appropriate state and local regulatory agencies, including, but not limited to, the County of Solano, the State Community College Chancellor's Office - Facilities Division, the Division of State Architect and the Department of Toxic Substance Control. Buyer shall have received within 60 days of execution of this Agreement all above approvals.

f. Solano Community College Governing Board Acceptance of Purchase. Final acceptance and approval of any final inspections, reports, or analyses prepared by any of the regulatory agencies referred to in Section 3.1(e) or any other regulatory agency with any jurisdiction over the Property and its future development, including approval of requirements imposed by such agencies that Buyer remediate or remove hazardous substances on the Real Property.

g. Environmental Compliance by Buyer. Determination by Buyer that the Property complies with all federal, state and local environmental requirements applicable for use of the Property. Any environmental assessment of the Real Property shall be performed at the expense of Buyer. If the Real Property is not acceptable to Buyer because of the



results of any environmental assessment required by the aforementioned statutes, the provisions of section 3.5 (a) shall apply.

h. Approval of Condition of Property. Final approval of the condition of the Property by Buyer, as follows:

1. Feasibility Review. Buyer shall analyze the feasibility of development of the Property by Buyer. Buyer shall be solely responsible for any and all costs incurred by Buyer in connection with its review and/or investigations of the Property.

2. Delivery of Property-Related Documents. Unless Seller is not in possession of the following, which shall be evidenced by Seller's written notice to Buyer of the same, Seller shall, within fifteen (15) days of the execution of this Agreement, deliver or make electronically available (e.g., by website portal, Dropbox or other means allowing Buyer full access thereto) to Buyer all documents and information related to the Property that are in the possession of Seller or Seller's agents, including without limitation, Marcel Lip (the "Project Documents"), including any: (1) environmental documents on the Property; (2) copies of all documents evidencing interests not shown on the Title Report, if any; (3) permission for Buyer to discuss the Property with Seller's consultants; and (4) any existing leases and amendments relating to the Real Property. Buyer acknowledges that Seller has represented that (i) Seller has only owned the Property since the mid 1990's (however, for much of the time the Property was conveyed into a joint venture where Seller was not the managing member, and took a very passive investment roll in the ownership, management, entitlement and development of the Property) and therefore Seller's books and records concerning the Property relating to periods prior to such date may be incomplete, vague and/or ambiguous with respect to various relevant subjects, and (ii) a significant portion of the Project Documents were not prepared by Seller. Buyer further acknowledges that, except as expressly provided in this Agreement (x) neither Seller nor any of its agents, employees, attorneys or contractors has made any (and hereby disclaims any and all)



warranties or representations regarding the truth, accuracy or completeness of the Project Documents (except that Seller represents and warrants that the Project Documents delivered or made available for Buyer's review is a true and complete copy of such Project Documents in Seller and Marcel Lip's possession), (y) Seller has not undertaken and will not undertake any independent investigation as to the truth, accuracy or completeness of the Project Documents, and (z) Buyer hereby releases Seller and its respective agents, employees, attorneys or contractors from any and all claims, suits, damages or liability arising out of the Project Documents or any inaccuracy, error or omission therein. Buyer shall review and analyze the Project Documents to determine their individual and collective impact on the Property and its development by Buyer.

3. Studies and Investigations. Buyer shall conduct such independent investigations, studies and tests as it deems necessary or appropriate concerning Buyer's proposed use and/or the suitability of the Real Property for Buyer's intended purposes, including studies related to requirements or limitations imposed on the use of the Property.

4. Approval or Disapproval of Feasibility Studies. Buyer's obligation to consummate the purchase of the Property is conditioned upon delivery of the written approval of the Property to the Escrow Holder by Buyer. All conditions listed in this section 3.1 shall be approved or disapproved by Buyer within ninety (90) days of the effective date (the "Feasibility Period") of this Agreement by delivery of written approval or disapproval thereof, and Buyer's failure to timely deliver such written approval or disapproval shall be deemed Buyer's disapproval hereunder.

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3.2 Seller's Obligations.

1. Seller shall have timely performed all of the obligations required by the terms of this Agreement to be performed by Seller.

2. Seller shall not enter into any rental or other occupancy agreements for the Property after execution of this Agreement and during the escrow period.

3. Seller's Representations. To the best of Seller's knowledge, all representations and warranties made by Seller to Buyer in this Agreement shall be true and correct in all material respects as of the Closing.

3.3 As-Is Sale.

a. No Side Agreements or Representations. No person acting on behalf of Seller is authorized to make, and by execution hereof, Buyer acknowledges that no person has made any representation, agreement, statement, warranty, guarantee or promise regarding the Property or the transaction contemplated herein, or the zoning, construction, physical condition, compliance with law, or other status of the Property. Except as may be set forth in this agreement, no representation, warranty, agreement, statement, guarantee or promise, if any, made by any person acting on behalf of Seller will be valid or binding on Seller.

b. As-Is Condition.

(i) In General. Except as may be set forth in this Agreement, Buyer acknowledges and agrees that Seller has not made, does not make and specifically negates and disclaims any representations, warranties, promises, covenants, agreements or guarantee of any kind or character whatsoever, whether express or implied, oral or written, past, present or future, of, as to, concerning or with respect to (i) value; (ii) the income to be derived from the Property; (iii) the suitability of the Property for any and all activities



and uses which Buyer may conduct thereon, including the possibilities for future development of the Property; (iv) the habitability, merchantability, marketability, profitability or fitness for a particular purpose of the Property; (v) the manner, quality, state of repair or lack of repair of the Property; (vi) the nature, quality or condition of the Property, including, without limitation, the water, soil and geology; (vii) the compliance of or by the Property or its operation with any laws, rules, ordinances or regulations of any applicable governmental authority or body; (viii) the manner or quality of the construction or materials, if any, incorporated into the Property; (ix) compliance with any environmental protection, pollution or land use laws, rules, regulations, orders or requirements, including but not limited to, the following laws and any amendments thereto: Title III of the Americans with Disabilities Act of 1990, California Health & Safety Code, the Federal Water Pollution Control Act, the Federal Resource Conservation and Recovery Act, the U.S. Environmental Protection Agency Regulations at 40 C.F.R., Part 261, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as Amended ("CERCLA"), the Resource Conservation and Recovery Act of 1976 ("RCRA"), the Safe Drinking Water Act, the Hazardous Materials Transportation Act, the Toxic Substance Control Act, and regulations promulgated under any of the foregoing; (x) the presence or absence of hazardous materials at, on, under, or adjacent to the Property; (xi) of the preliminary title report or any Project Documents delivered or made available to Buyer; (xii) the conformity of the improvements to any plans or specifications for the Property, including any plans and specifications that may have been or may be provided to Buyer; (xiii) the conformity of the Property to past, current or future applicable zoning or building requirements; (xiv) deficiency of any undershoring; (xv) deficiency of any drainage; (xvi) the fact that all or a portion of the Property may be located on or near an earthquake fault line; (xvi) the existence of vested land use, zoning or building entitlements affecting the Property; or (xvii) with respect to any other matter. Buyer further acknowledges and agrees that Buyer, as of

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the end of the Feasibility Period, assuming Buyer has not terminated this Agreement as permitted in Section 3.5(a), has been given the opportunity to inspect the Property and to review information and documentation affecting the Property and that Buyer is relying solely on its own investigation of the Property and review of such information and documentation, and not on any information provided or to be provided by Seller other than Seller's representations and warranties set forth in this agreement. In addition and subject to the representations, warranties, disclosures, disclaimers and other agreements set forth in this agreement, Buyer further acknowledges and agrees that (A) any information made available to Buyer or provided or to be provided by or on behalf of Seller with respect to the Property was obtained from a variety of sources, and (B) Seller has not made any independent investigation or verification of such information and makes no representations or warranties as to the accuracy or completeness of such information. Seller is not liable or bound in any manner by any oral or written statements, representations or information pertaining to the Property, or the operation thereof, furnished by any real estate broker, agent, employee, servant or other person. BUYER FURTHER ACKNOWLEDGES AND AGREES THAT TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE SALE OF THE PROPERTY AS PROVIDED FOR HEREIN IS MADE ON AN "AS IS" CONDITION AND BASIS WITH ALL FAULTS, AND THAT SELLER HAS NO OBLIGATIONS TO MAKE REPAIRS, REPLACEMENTS OR IMPROVEMENTS. BUYER REPRESENTS, WARRANTS AND COVENANTS TO SELLER THAT BUYER IS RELYING SOLELY UPON BUYER'S OWN INVESTIGATION OF THE PROPERTY AND SELLER'S EXPRESS REPRESENTATIONS AND WARRANTIES SET FORTH IN THIS AGREEMENT.

c. Buyer's Waiver of Objections. Buyer acknowledges that, as of the date of Closing, but subject to Seller's express representations and warranties set forth in this agreement, Buyer will have inspected or will have had a full and fair opportunity to inspect the Property and its physical characteristics and existing conditions and will have observed or had sufficient opportunity to inspect or observe, conducted or had sufficient opportunity



to conduct such investigations and studies on and of said Property and adjacent areas as it deems necessary, and as of the date of Closing hereby waives any and all objections to or complaints regarding the Property and its condition, including, but not limited to, federal, state or common law based actions and any private right of action under state and federal law to which the Property is or may be subject, including, but not limited to, CERCLA, RCRA, physical characteristics and existing conditions, including, without limitation, structural and geologic conditions, subsurface soil and water conditions and solid and hazardous waste and hazardous materials on, under, adjacent to or otherwise affecting the Property.

d. Seller Released From Liability. Effective as of Closing, Buyer and anyone claiming by, through or under Buyer hereby waives its right to recover from and fully and irrevocably releases Seller and its shareholders, employees, officers, directors, representatives, agents, servants, attorneys, affiliates, parents, subsidiaries, successors and assigns, and all persons, firms, corporations and organizations in its behalf ("Released Parties") from any and all claims, responsibility and/or liability that it may now have or hereafter acquire against any of the Released Parties for any costs, loss, liability, damage, expenses, demand, action or cause of action arising from or related to the condition, valuation, salability, utility, or suitability for any purpose of, or any other matter related to or concerning, the Property or the transaction contemplated by this Agreement (including without limitation any construction defects, errors, omissions or other conditions, latent or otherwise, and the presence in the soil, air, structures, or surface or subsurface waters of materials or substances that have been or may in the future be determined to be toxic, hazardous, undesirable or subject to regulation and that may need to be specially treated, handled and/or removed from the Property under current or future federal, state and local laws regulations or guidelines), except that such release shall not relieve Seller of its liability for any breach of Seller's covenants, representations and warranties that expressly survive Closing in accordance with the provisions of, and subject to the limitations contained herein.



This release includes claims of which Buyer is presently unaware or which Buyer does not presently suspect to exist which, if known by Buyer, would materially affect Buyer's release to Seller; provided, however, that this waiver extends only to those claims made by, through or under Buyer, and not as to claims made by third parties. Buyer specifically waives the provision of California Civil Code Section 1542, which provides as follows:

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

e. Buyer's Specific Acknowledgment. BY PLACING ITS INITIALS BELOW, BUYER SPECIFICALLY ACKNOWLEDGES THAT IT HAS READ, UNDERSTOOD AND AGREED TO BE BOUND BY EACH AND EVERY OF THE WAIVERS, CONSENTS ACKNOWLEDGMENTS, DISCLAIMERS AND RELEASES SET FORTH IN SECTIONS 3.3(a), 3.3(b) AND 7(c).

BUYER'S INITIALS

f. Survival. The provisions of this Section 3.3 shall survive the Closing without limitation.

3.4 Representations and Warranties. Seller warrants and represents that:

a. No Pending Litigation. To Seller's actual knowledge, there are no actions, suits or proceedings pending or threatened against or affecting the Property in any court at law or in equity, or before or by any governmental department, commission, board, bureau, agency or instrumentality relating to the Property.

b. Violations. That neither Seller, nor Marcel Lip ("Seller's Representative"), has received any notice of any violation of any statute, ordinance,



regulation or administrative or judicial order or holding, whether or not appearing in public records, with respect to the Property or any improvements on the Property.

c. Material Defects. Neither Seller nor Seller's Representative has received any notice that any material defect in the Property exists at present or as of the Closing.

d. Easements Not of Record. Neither Seller nor Seller's Representative has knowledge, and has not received any notice of the title to be conveyed to Buyer being encumbered by any easements, licenses, or other rights not disclosed by the public record.

e. Status of Title. As a covenant that will survive the Closing, Seller warrants that it is the sole owner of the Property, free and clear of all liens, claims, encumbrances and/or easements, encroachments on the Property from adjacent properties, encroachments by improvements or vegetation of the Property onto adjacent property, or rights of way of any nature. Any and all financial or monetary liens, claims and/or encumbrances shall be satisfied by Seller to the extent required by Section 5.3.

Where any of Seller's or Seller's Representative's representations and warranties set forth above or in Section 6.2 below are stated to be "to knowledge" or "actual knowledge" or words of similar import, such limitation shall mean that such representations and warranties are made without independent investigation of the matters stated therein and are based solely on the current, actual knowledge of Seller and Seller's Representative. All of the representations and warranties will be reaffirmed by Seller and Seller's Representative as true and correct as of the date of the Closing and will survive the Closing. Seller's representations and warranties hereunder shall survive the Closing for four (4) years.

3.5 Conditions to Benefit Parties

a. Conditions to Benefit Buyer. The conditions contained in Sections 3.1 through 3.4 are intended solely for the benefit of Buyer. If the Seller is unable to deliver



title to the Real Property, and the Property as required herein, or the conditions described in Sections 3.1 through 3.4 are not satisfied approved or waived, or deemed approved or waived, Buyer shall have the right at its sole election, either to proceed with the purchase of the Property in accordance with the terms hereof, or, in the alternative, to terminate this Agreement and obtain a refund of the deposit plus all interest accrued thereon. In the event Buyer elects to terminate this Agreement for the reasons provided herein, Buyer shall pay any title and escrow charges, and neither party shall have any further rights or obligations under this Agreement.

b. Conditions to Benefit Seller. Seller's Conditions to Close contained in paragraph 3.6 are for the benefit of Seller, and should Buyer fail to timely comply with the Seller's Conditions to Close, Seller may, in its sole discretion, terminate this Agreement and retain the Liquidated Damages as provided in Section 7. In the event Seller elects to terminate this Agreement for failure of Buyer to satisfy Seller's conditions to close as provided herein, Buyer shall pay any title and escrow charges.

3.6 Conditions to Seller's Obligation. For the benefit of Seller, the Closing shall be conditioned upon the occurrence and/or satisfaction of each of the following conditions (or Seller's written waiver thereof, it being agreed that Seller may waive any or all of such conditions):

a. Buyer's Obligations. Buyer shall have performed by the Closing, all of the obligations required by the terms of this Agreement to be performed by Buyer.

b. Buyer's Representations. All representations and warranties made by Buyer to Seller in this Agreement shall be true and correct as of the Closing.

ARTICLE 4

ESTABLISHMENT OF ESCROW

4.1 Time to Open Escrow. Promptly after the execution of this Agreement, an escrow shall be opened to consummate the sale of the Property pursuant to this Agreement



in accordance with further escrow instructions of Buyer and of Seller (the "Escrow Instructions"), which instructions shall be consistent with the terms of this Agreement.

4.2 Delivery of Agreement. Seller and Buyer shall open the escrow by delivering an executed counterpart of this Agreement to the Escrow Holder.

ARTICLE 5

CLOSING

5.1 Closing Date. The Closing hereunder shall be held and delivery of all items to be made at the Closing under the terms of this Agreement shall be made at the offices of the Title Company not later than ten (10) days following expiration of the Feasibility Period ("Closing Date"), unless Buyer and Seller agree in writing to extend the Closing Date.

5.2 Encumbrances. Except as specified in Section 2.3, the Seller shall pay in full any monetary liens or mortgages encumbering the Property, if applicable. All real and personal property ad valorem taxes and special assessments, if any, whether payment in installments or not, including without limitation all supplementary taxes attributable to the period before the Closing Date for the calendar year in which the Closing occurs will be prorated to the Closing Date, based on the latest available tax rate and assessed valuation. Notwithstanding anything herein to the contrary, Buyer shall be responsible for all assessments on the Property, which shall be prorated as of the Closing Date.

5.3 Recording and Other Fees and Costs. Buyer shall pay for the full costs of the Title Policy (and all endorsements thereto). All city and county transfer taxes, and all other fees and costs incurred in connection with the Closing shall be paid by Buyer. If, as a result of no fault of Buyer or Seller, Escrow fails to close, Buyer and Seller shall share equally all of Escrow Holder's fees and other customary charges for document drafting, recording and miscellaneous charges. In the event this escrow fails to close through the fault of Seller, Seller shall pay any and all escrow costs and expenses in connection therewith, and Buyer shall be at no expense with respect to the same. In the event this escrow fails to close



through the fault of Buyer, Buyer shall pay any and all escrow costs and expenses in connection therewith and Seller shall be at no expense with respect to the same.

ARTICLE 6

REPRESENTATIONS AND WARRANTIES

6.1 Buyer Representations and Warranties. In consideration of Seller entering into this Agreement and as an inducement to Seller to sell the Property to Buyer, Buyer makes the following representations and warranties, each of which is material and is being relied upon by Seller (the continued truth and accuracy of which shall constitute a condition precedent to Seller's obligations hereunder):

a. Buyer Authority to Execute Agreement. Buyer is a public school district duly formed under the laws of the State of California, and this Agreement and the execution and delivery thereof by the persons designated below have been specifically authorized by Buyer. Buyer has the legal right, power and authority to enter into this Agreement, to consummate the transactions contemplated hereby.

b. Authority of Executing Officer. Each individual executing this Agreement on behalf of Buyer represents, for the benefit of Seller, that he or she is duly authorized to execute and deliver this Agreement on behalf of Buyer.

c. Validity of Buyer's Representations and Warranties at Closing. The representations and warranties of Buyer set forth in this Agreement shall be true on and as of the Closing as if those representations and warranties were made on and as of such time.

6.2 Seller Representations and Warranties. In consideration of Buyer entering into this Agreement and as an inducement to Buyer to purchase the Property from Seller, Seller makes the following representations and warranties, each of which is material and is being relied upon by Buyer (the continued truth and accuracy of which shall constitute a condition precedent to Buyer's obligations hereunder):



a. Seller Authority to Execute Agreement. Seller warrants that the persons executing this Agreement are legally authorized to execute this Agreement and constitute all persons or entities with a legal interest in the Property necessary to convey clear title to a fee simple interest in the Real Property; that Seller has the legal right, power and authority to enter into this Agreement and to consummate the transactions contemplated hereby; the execution, delivery and performance of this Agreement have been duly authorized, and no other action by Seller is requisite to the valid and binding execution, delivery and performance of this Agreement, except as otherwise expressly set forth herein.

b. Validity of Seller's Representations and Warranties at Closing. The representations and warranties of the Seller set forth in this Agreement shall be true on and as of the Closing as if those representations and warranties were made on and as of such time. All references made to Seller's "knowledge" or "actual knowledge," shall be limited as set forth in Section 3.4 above.

c. Foreign Person. Seller warrants and represents that Seller is not, and will not be at the Closing, a "foreign person", within the meaning of section 1445 of the Internal Revenue Code of 1986, as amended. If required, Seller will deposit in Escrow concurrent with the deposit of the Grant Deed, Seller's notarized, completed affidavit to such effect, including a California Form 590.

d. Contracts. Seller warrants that at the Closing, there will be no contracts, licenses, commitments, or undertakings respecting maintenance of the Property or equipment on the Property, or the performance of services on the Property.

ARTICLE 7

TERMINATION

7.1 Buyer Termination. If Seller fails to comply with or perform any of its covenants, agreements and obligations under this Agreement, Buyer shall have the right to



give notice to Seller specifically setting forth the nature of such failure and stating that Seller shall have a period of ten (10) days to cure such failure. If Seller has not cured such failure within such period (or, if such failure is not capable of being cured within ten (10) days, Seller either has not commenced in good faith the curing of such failure within such period or does not diligently thereafter complete such cure prior to the Closing, as the same may be extended under the terms of this Agreement), Buyer shall have the right to exercise any one of the following mutually-exclusive remedies:

- a. Waive such failure and proceed to the Closing; provided, however, that this provision will not limit Buyer's right to receive reimbursement for attorney's fees pursuant to Section 9.6 in connection with any legal proceedings instituted by either party with respect to the enforcement of this agreement, nor waive or affect any of Seller's indemnity or other obligations under this agreement to be performed after the Closing or Buyer's rights to enforce those obligations;
- b. Terminate this Agreement by notice to Seller and Escrow Holder to that effect, to recover the full amount of Deposit and all interest thereon; or
- c. The right to maintain an action for specific performance of Seller's obligation to convey the Property to Buyer provided that the action shall be commenced, and service of process made, not later than ninety (90) days after the expiration of the Feasibility Period.

Buyer's obligations under this Agreement are conditioned on Buyer's determination during the Feasibility Period that the Property is satisfactory for the use and development intended by Buyer and that the development is economically feasible. Buyer has the right



to terminate this Agreement on written notice to Seller given at any time and for any reason or for no reason by delivery of written notice (a "Termination Notice") delivered to Seller within the Feasibility Period. On termination during the Feasibility Period, the Title Company will pay the sum of One Hundred Dollars and 00/100 cents \$100.00 to Seller, the balance of the Deposit will be paid to Buyer, and all rights and obligations of the parties under this Agreement will be of no further force or effect, except for obligations that are expressly stated to survive the termination of this agreement. Seller acknowledges and agrees that the sum of \$100.00 is good, adequate and sufficient consideration for the rights granted to Buyer under this Section 7.1. In the event that Buyer does not deliver a Termination Notice to Seller prior to expiration of the Feasibility Period, Buyer shall be deemed to have affirmatively elected not to terminate this Agreement as permitted herein, and the entire Deposit shall thereafter become non-refundable (except as otherwise set forth herein in the event of a Seller default or termination as a result of condemnation or the failure of any other express condition to Closing in this Agreement for Buyer's benefit).

7.2 Seller Termination. If Buyer defaults in any obligations hereunder, Seller's sole remedy shall be to terminate this Agreement and retain the full amount of the Deposit as liquidated damages for such default ("Liquidated Damages").

7.3 [Reserved].

7.4 LIQUIDATED DAMAGES. THE LIQUIDATED DAMAGES REFERRED TO IN 7.2 ABOVE SHALL BE DEEMED TO BE SELLER'S SOLE AND EXCLUSIVE REMEDY IN DAMAGES. THE PARTIES AGREE THAT THIS IS A REASONABLE SUM CONSIDERING ALL OF THE CIRCUMSTANCES EXISTING ON THE DATE OF THIS AGREEMENT, INCLUDING THE RELATIONSHIP OF THE SUM TO THE RANGE OF HARM TO SELLER THAT REASONABLY COULD BE ANTICIPATED, AND THE ANTICIPATION THAT PROVING ACTUAL DAMAGES WOULD BE COSTLY, IMPRACTICAL AND EXTREMELY DIFFICULT. IN PLACING THEIR INITIALS AT THE PLACES PROVIDED BELOW, EACH PARTY AGREES TO THE LIQUIDATED



DAMAGES PROVISIONS CONTAINED HEREIN, AND CONFIRMS THE ACCURACY OF THE STATEMENTS MADE ABOVE AND THE FACT THAT EACH PARTY WAS REPRESENTED BY COUNSEL WHO EXPLAINED THE CONSEQUENCES OF THIS LIQUIDATED DAMAGES PROVISION AT THE TIME THIS AGREEMENT WAS MADE. IN CONSIDERATION OF THE PAYMENT OF SUCH LIQUIDATED DAMAGES, SELLER SHALL BE DEEMED TO HAVE WAIVED ALL OTHER CLAIMS FOR DAMAGES OR RELIEF AT LAW OR IN EQUITY (INCLUDING ANY RIGHTS SELLER MAY HAVE PURSUANT TO CALIFORNIA CIVIL CODE SECTIONS 3389 AND 1680).

BUYER
Initials: _____

SELLER
Initials:  _____

ARTICLE 8

ASSIGNABILITY

8.1 Assignment. Neither party shall, voluntarily or by operation of law, assign or otherwise transfer any of its rights or obligations under this Agreement, including, without limitation, transferring ownership of the Property to another party, without obtaining the prior written consent of the other party. Such consent may only be withheld based upon objective factors which relate to the discharge of obligations set forth herein and in no event shall such consent be unreasonably withheld.

ARTICLE 9

GENERAL PROVISIONS

9.1 Time of Essence. Time is of the essence of each provision of this Agreement in which time is an element.



9.2 Notice. Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served and received if sent by international overnight delivery service, facsimile transmission, or by electronic mail, addressed as follows:

SELLER

Northgate Marketplace, LLC
c/o Jos van Aalderenlaan 11
7908 HC Hoogeveen
The Netherlands
Electronic Mail: marcel@vantriest.nl
ATTN: Marcel Lip

and

Mr. Bill Elliott
c/o Elliott Real Estate, Inc.
1600 Tennessee Street
CA 94590 Vallejo, CA
Electronic Mail: wge3@pacbell.net
ATTN: RE Northgate Marketplace

With a copy to:

Prestige Realty
Attn: Peggy A. Cohen-Thompson, Broker
1748 Tuolumne St. #38
Vallejo, Calif. 94589
Electronic Mail:
prestige.solutions@ymail.com

and

Horner & Singer, LLP.
1646 N. California Blvd., Suite 250
Walnut Creek, California 94596
PHONE: (925) 943-6570
FAX: (925) 943-6888
Electronic Mail: ssinger@hornersinger.com
ATTN: Scott W. Singer

Any notice sent by overnight delivery service, facsimile transmission or electronic mail shall be effective upon receipt.

9.3 Brokers. Buyer and Seller acknowledge that Prestige Realty ("Buyer's Broker"), representing Buyer, and Elliot Real Estate and Colliers International (collectively,



the "Seller's Broker", and together with Buyer's Broker, the "Brokers"), representing Seller, have acted as the only brokers in connection with the sale of the Property. At the Closing, and only in the event of the Closing, Seller will pay the Brokers a real estate sales commission in the total amount of four percent (4%) which shall be payable one-third (1/3) to each individual Broker. In the event this transaction is not consummated for any reason, then no commission is earned and none is payable. Seller will indemnify Buyer against any claim for any real estate sales commission, finder's fees, or like compensation in connection with this transaction and arising out of any act or agreement of Seller, including any claims asserted by the Brokers. Likewise, Buyer will indemnify Seller against any claim for any real estate sales commission, finder's fees or like compensation in connection with this transaction and arising out of any act or agreement of Buyer, other than any claims asserted by the Brokers. Seller's indemnity and Buyer's indemnity will survive the Closing or any termination of this Agreement.

9.4 Entire Agreement of Parties. This Agreement constitutes the entire Agreement between the parties and supersedes all prior discussions, negotiations and Agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by the Seller and Buyer.

9.5 California Law. This Agreement shall be governed by and the rights, duties and obligations of the parties shall be determined and enforced in accordance with the laws of the State of California.

9.6 Attorneys' Fees. If either party files any action or brings any proceedings against the other arising out of this Agreement, or is made a party to any action or proceeding brought by the title company, then, as between Buyer and Seller, the prevailing party shall be entitled to recover, in addition to its costs of suit and damages, reasonable attorneys' fees to be fixed by the court. The "prevailing party" shall be the party who is entitled to recover its costs of suit, whether or not suit proceeds to final judgment.



9.7 Waiver. No waiver by any party of any provision of this Agreement shall be considered a waiver of any other provision or of any subsequent breach of the same or any other provision, including the time for performance of any such provision. The exercise by a party of any remedy provided in this Agreement or at law shall not prevent the exercise by that party of any other remedy provided in this Agreement or at law or in equity.

9.8 Binding Agreement. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors, and assigns.

9.9 Counterparts. This Agreement and all amendments and supplements to it may be executed in counterparts, and all counterparts together shall be construed as one document.

9.10 Captions. The captions contained in this Agreement are for convenience only and shall not in any way affect the meaning or interpretation hereof nor serve as evidence of the interpretation hereof, or of the intention of the parties hereto.

9.11 Disputes. Any actions or proceedings arising under, growing out of, or in any way related to this Agreement shall be instituted and prosecuted only in courts located in the County of Solano, State of California, and each party hereto expressly waives its right, under part II, title IV of the California Code of Civil Procedure, to cause any such actions or proceedings to be instituted or prosecuted elsewhere.

9.12 Time. All periods of time referred to in this Agreement shall include all Saturdays, Sundays and state or national holidays, unless the period of time specifies business days, provided that if the date or last date to perform any act or give any notice with respect to this Agreement shall fall on a Saturday, Sunday or state or national holiday, such act or notice may be timely performed or given on the next succeeding day which is not a Saturday, Sunday or state or national holiday.



9.13 Severability. The unenforceability, invalidity, or illegality of any provision of this Agreement shall not render the other provisions hereof unenforceable, invalid or illegal.

9.14 Review of Form of Agreement. Submission of this instrument for examination or signature by Seller does not constitute an agreement to purchase all, or any portion of, the Property and it is not effective as an Agreement, or otherwise, until execution and delivery by both Buyer and Seller.

9.15 Survival of Warranties. The warranties of each of the parties under the provisions of this Agreement shall survive the close of the escrow for a period of four (4) years.

9.16 Incorporation of Recitals and Exhibits. The Recitals and each exhibit attached hereto are hereby incorporated herein by reference.

9.17 Cooperation: Further Documents. 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. Both Buyer and Seller hereby agree to cooperate with each other by executing such other documents or taking such other action as may be reasonably necessary to complete this transaction in accordance with the intent of the parties as evidenced in this Agreement.

9.18 Section 1033 Condemnation/Section 1031 Exchange. Prior to Closing, Seller may request that Buyer deliver, or cause to be delivered, to Seller correspondence and documentation necessary for Seller and the sale of the Property to qualify under Section 1033 of the Internal Revenue Code of 1986, as amended (the "Code"), assuming this action by Buyer is permitted by law. Otherwise, Seller may consummate the sale of the Property as part of a so-called like kind exchange (an "Exchange") pursuant to §1031 of the Code, provided that: (a) the Closing shall not be delayed or affected by reason of the Exchange nor shall the consummation or accomplishment of an Exchange be a condition precedent or condition subsequent to Seller's obligations under this Agreement; (b) Seller shall effect its



Exchange through an assignment of this Agreement, or its rights under this Agreement, to a qualified intermediary; (c) Buyer shall not be required to take an assignment of the purchase agreement for the replacement property or be required to acquire or hold title to any real property for purposes of consummating an Exchange desired by Seller; and (d) the Seller shall pay any costs associated with the Exchange. Buyer shall not by this Agreement or acquiescence to an Exchange desired by Seller have its rights under this Agreement affected or diminished in any manner or be responsible for compliance with or be deemed to have warranted to Seller that its Exchange in fact complies with §1031 of the Code.

ARTICLE 10

RIGHT TO ENTER PROPERTY

10.1 Access to Real Property. Commencing with execution of this Agreement, upon reasonable advance notice to Seller, Buyer or Buyer's representatives shall have the right of access to the Real Property with Seller's consent prior to the Closing, at all reasonable times for the purpose of obtaining data and making surveys, tests, inspections and other studies at Buyer's sole expense, necessary to carry out this Agreement or as required by local and California state regulatory agencies. Buyer and its respective contractors shall maintain commercial general liability insurance insuring Buyer and its respective contractors against any liability arising out of or in connection with any entry or inspection of the Property and all areas appurtenant thereto. Such insurance shall be in the amount of at least One Million Dollars (\$1,000,000) combined single limit for injury to or death of one or more persons in an occurrence, and for damage to tangible property (including loss of use) in an occurrence. Buyer's policy shall insure the contractual liability of Buyer covering the indemnities herein and shall (a) name Seller as an additional insured, (b) contain a cross-liability provision, and (c) be primary and noncontributing with any other



insurance available to Seller. Buyer shall provide Seller with evidence of such insurance coverages prior to any entry or inspection of the Property.

10.2 Restoration of Real Property. Buyer shall, upon completion of data gathering, and making surveys, tests, inspections and other studies, restore the Real Property to the extent reasonably possible to its condition prior to such data gathering, surveys, tests, inspections and other studies.

10.3 Indemnification Resulting From Access. Buyer shall indemnify and hold Seller and the Property harmless from and against any and all damages, demands, claims, losses, liabilities, injuries, penalties, fines, liens, judgments, suits, actions, investigations, proceedings, costs or expenses whatsoever (including, without limitation, reasonable attorneys' and experts' fees and costs and, in the event of any release of hazardous materials caused by Buyer, investigation and remediation costs) arising out of or relating to any physical harm, physical damage or personal injury or death caused by entry on the Property by Buyer, or its respective agents, employees or contractors in the course of performing any inspections, testings or inquiries provided for in this Agreement; provided, however, that neither Buyer nor its respective agents, employees or contractors shall be liable for the discovery of any hazardous materials on the Property. Without limiting the generality of the foregoing indemnity, Buyer shall remove any mechanic's or other lien which may be recorded against the Property by any party providing labor, materials or services at the request of Buyer. The foregoing indemnity shall survive beyond the Closing, or, if the sale is not consummated, beyond the termination of this Agreement.

10.4 Time is of the essence. This Purchase Agreement must be fully executed and communicated to both parties no later than September 12th at the end of the business day in Vallejo, California or this sale is terminated by Seller.



IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

BUYER:

SOLANO COMMUNITY COLLEGE DISTRICT

By: _____

By: JOWEL C. LAGUERRE, Ph.D.
Superintendent-President

SELLER:

Northgate Marketplace, LLC,
a California limited liability company

By: CA Real Properties, LLC,
a California limited liability company

By: 

Hendrikus van Triest, Manager



EXHIBIT A

LEGAL DESCRIPTION

(1683-1699 North Ascot Parkway, Vallejo, CA 94591)

Reference: Assessors Book 183 – page 08 – Tax Code #7013 Solano County,

APN #'s: 0183-080-010, 0183-080-020, 0183-080-030, 0183-080-040, 0183-080-

050

Five Parcels of vacant land totaling approximately 9.26 acres combined



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A handwritten mark or signature consisting of a vertical line with a horizontal crossbar and a small dot to the right.