

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

**Between**

**FOUNTAIN VALLEY SCHOOL DISTRICT**

**and**

**COUNTY OF ORANGE**

Effective Date: November \_\_\_\_, 2017

# ATTACHMENT A- Draft Purchase and Sale Agreement

## AGREEMENT FOR PURCHASE AND SALE AND JOINT ESCROW INSTRUCTIONS

THIS AGREEMENT FOR PURCHASE AND SALE AND JOINT ESCROW INSTRUCTIONS (“Agreement”) is entered into as of November \_\_, 2017 (“Effective Date”), by and between the FOUNTAIN VALLEY SCHOOL DISTRICT, a California public school district duly organized and validly existing under the laws of the State of California (“District” or “Seller” depending on context), and the COUNTY OF ORANGE (“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 2.10 acres of land located at 265 S. Anita Drive, Orange, California, known generally as the Crossroads Office Park (“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 SEVEN MILLION SEVEN HUNDRED NINETY NINE THOUSAND AND FIFTY DOLLARS (\$7,799,050.00) (the “Purchase Price”).

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.

# ATTACHMENT A- Draft Purchase and Sale Agreement

## 1.4 Deposits.

1.4.1 Initial Deposit. Buyer shall place into escrow FIFTY THOUSAND DOLLARS (\$50,000.00), as a good faith refundable deposit (“Initial Deposit”) upon execution by both Parties of this Agreement and the opening of escrow, which is to occur within five (5) business days of the Effective Date as set forth in Section 3.1. The Initial Deposit shall be non-refundable upon expiration of the Due Diligence Period as defined below. Should Buyer elect to terminate the Escrow pursuant to the provisions of this Agreement on or before the expiration of the “Due Diligence Period” (as hereinafter defined in Section 2.2) the Initial Deposit plus any interest accrued thereon, shall be immediately returned by Escrow Holder to Buyer, this Agreement and the Escrow it creates pursuant hereto shall be deemed terminated, and neither Party shall have any further rights or obligations hereunder.

1.4.2 Retention of Deposit Payments. The Initial Deposit and any other payments, if any, 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.

1.4.3 Interest. Escrow Holder shall be required to hold the Initial Deposit and any other payments, if any, in an interest-bearing account, with interest accruing for the benefit of the Buyer.

1.4.4 Independent Consideration: In addition to the Deposit Payments, within one (1) business day following the Effective Date, Buyer shall also deposit or cause to be deposited with Escrow Holder the additional sum of ONE HUNDRED DOLLARS (\$100.00) (the “Independent Consideration”). The Independent Consideration shall be non-refundable to Buyer as independent consideration for the rights and options extended to Buyer under this Agreement, including, without limitation, the right and option to terminate this Agreement as provided herein.

## 2. INSPECTIONS AND REVIEW.

2.1 Delivery of Due Diligence Materials. Within five (5) days of the Effective Date, Seller shall deliver to Buyer copies of (unless otherwise already provided 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 District 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. Subject to notice and coordination requirements set forth herein, Buyer and its representatives, agents, engineers, consultants, contractors, and designees shall

## ATTACHMENT A- Draft Purchase and Sale Agreement

have the right to enter onto the Property from and after the Effective Date through and including the date which is forty five (45) after the Effective Date unless extended pursuant to Section 2.2.1 below (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. However, in no event shall Buyer take any action that impacts the Property or any current tenant prior to the Close of Escrow or obligate Seller to take any action or incur any obligation or cost as a result of Buyer's due diligence or discussions. In the event that Buyer enters upon Property at any time 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 by the Buyer or any of its representatives, agents, engineers, consultants, contractors and designees. Prior to entering onto the Property before the Close of Escrow, Buyer shall provide Seller with twenty-four (24) hours written notice and shall only enter onto the Property and/or meet with any current tenants of the Property after coordinating with the Seller's representative, identified as **[identify contact name and phone number/email]** as to the timing. All meetings, if any, between Buyer and current tenants of the Property shall only take place with a Seller representative present. Seller reserves the right to prohibit or restrict access to the Property at any time to ensure the current tenant's use of the Property is not disturbed. 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) General Liability and Property Damage. Buyer agrees to maintain in full force and effect throughout the duration of the Agreement a suitable policy or policies of comprehensive general 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 due diligence review and presence on the Property. Such insurance shall be in amounts not less than \$5,000,000 per occurrence; \$5,000,000 for property damage and \$15,000,000 for general aggregate.

(b) Automobile Liability. Buyer also agrees to maintain in full force and effect with regard to any vehicles which Buyer brings onto the Property a suitable policy or policies of automobile liability insurance with a combined single limit of \$1,000,000 per accident.

(c) Workers' Compensation. Buyer shall also maintain, in full force and effect throughout the term of this Agreement, Workers' Compensation insurance in accordance with the laws of California, and employers' liability insurance with a limit of not less than \$1,000,000 per employee and \$1,000,000 per occurrence.

(d) Notice; Additional Named Insureds. All insurance required under this Agreement shall be issued by a company or companies lawfully authorized to do business in California as admitted carriers. Buyer shall require all third parties hired by Buyer to perform due diligence review of the Property to maintain the same policies and coverage amounts listed

## ATTACHMENT A- Draft Purchase and Sale Agreement

above. Seller shall be designated as an additional named insured. Prior to entry, Buyer shall provide Seller with Certificates of Insurance. All insurance required under this Agreement shall be primary and shall waive all rights of subrogation. Any insurance carried by Seller is excess and non-contributory with such primary insurance.

(e) Right to Self-Insure. In lieu of commercial insurance, Buyer shall retain the right to self-insure all or any portion of its insurance obligations under this Agreement.

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.

2.2.1 Due Diligence Period Extensions. At Buyer's option, Buyer may extend the Due Diligence Period, at no cost, by an additional thirty (30) days ("Due Diligence Extension") by providing written notice to Seller of the need to extend the Due Diligence Period. Buyer may only exercise this Due Diligence Extension option if Buyer determines additional "Detailed Investigations" of the Property are necessary. This "Detailed Investigation" must involve an investigation and report which triggers a subsequent report or analysis regarding the mechanical or structural sufficiency of the Property's buildings, or an environmental analysis beyond a Phase 1 Environmental Assessment. To exercise this Due Diligence Extension, Buyer must provide the Seller with any and all written reports or summary documents which purport to trigger the Detailed Investigation, and confirm that the Buyer will later provide a copy of the written report or analysis that will result from the Detailed Investigation. Nothing herein shall be interpreted to allow Buyer to conduct any deconstructive testing, any and all of which must be approved by Seller, in its sole discretion, in writing, before conducted.

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,

## ATTACHMENT A- Draft Purchase and Sale Agreement

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,

## ATTACHMENT A- Draft Purchase and Sale Agreement

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

## ATTACHMENT A- Draft Purchase and Sale Agreement

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. Upon Buyer’s approval of the Due Diligence Period, the Initial Deposit shall become non-refundable. 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 disapproval thereof.

2.6 Title Review. Within five (5) calendar 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”). Within fifteen (15) calendar days after the Effective Date of this Agreement, 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) calendar 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 five (5) calendar 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



## ATTACHMENT A- Draft Purchase and Sale Agreement

of review and approval or disapproval of any such additional exceptions shall be limited to five (5) calendar days following Buyer's and Buyer's attorney's receipt of the instrument(s) creating such additional exceptions.

2.7 Buyer Negotiations with Tenants. While not a condition to Closing, Seller and Buyer acknowledge and agree that during the term of this Agreement, Buyer may enter into direct discussions with any existing tenants on the Property to discuss the term of their tenancy in order to gain a greater understanding of tenancy issues; provided, however, that no such discussions shall culminate in any agreements which will be effective until after the Close of Escrow. In no event shall any such negotiations or resulting agreements be deemed a condition of Closing or otherwise allow Buyer to void its obligations under this Agreement, and in no event shall Buyer's negotiations, or any agreements entered with any tenant, if any, create any obligation or duty as to the Seller. The Parties agree that prior to any such negotiations with a tenant or tenants, Buyer shall provide a statement to tenant(s) that includes the following language: "The Fountain Valley School District is not a party to any of Buyer's discussions or dealings with any tenant, and the District is in no way endorsing Buyer or any information provided by Buyer. Neither the District nor the Buyer guarantees that the Buyer will take title to the Property. Buyer agrees that any negotiations or agreements regarding the Property which may occur between Buyer and any tenant shall not take effect until after the Close of Escrow for the Property between District and Buyer."

Furthermore, Seller agrees to not enter into any new lease agreements or negotiations for any extensions thereof related to the Property, except those identified to Buyer as of the Effective Date.

### 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 First American Title ("Escrow Holder") at its offices located at 18500 Von Karman Ave., Ste 600, Irvine, CA 92612; Tel: 949-885-2405; Email: jagould@firstam.com; Attn: Jeanne Gould, 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 First American Title ("Escrow Holder") at its offices located at 18500 Von Karman Ave., Ste 600, Irvine, CA 92612; Tel: 949-885-2405; Email: jagould@firstam.com; Attn: Jeanne Gould.

3.2 Close of Escrow; Closing Date. Escrow shall close no later than the date that is fifteen (15) days after the expiration of the Due Diligence Period, and after all of the conditions to closing described in Section 4 below have been satisfied or waived by the respective Party (the "Closing Date") ("Closing Date," "Close of Escrow," and/or the "Closing"). Provided that all of

## ATTACHMENT A- Draft Purchase and Sale Agreement

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 or before the Outside Closing Date set forth herein ("Closing Date") unless both Parties mutually agree to extend. For purposes herein, 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.

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 counterpart of an assignment and bill of sale ("Assignment and Bill of Sale") in the form attached hereto as Exhibit "D";

(d) an executed counterpart of an assignment and assumption agreement related to each lease ("Assignment and Assumption Agreement") in the form attached hereto as Exhibit "E";

(e) an original or true, correct and complete copy of all leases related to the Property and any amendments/addendums thereto;

(f) an executed estoppel certificate ("Estoppel Certificate") from each tenant under each lease, if such is received by Seller from any tenant, in the form attached hereto as Exhibit "F"; however, executed Estoppel Certificates are not a condition to Closing;

(g) a copy of notice to each tenant advising it of the assignment of each lease and instructions for the payment of future rent under each lease; and

(h) 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 as provided in Section 1.4.1 and any other payments made, if applicable;

(b) an executed counterpart of the Assignment and Bill of Sale;

(c) an executed counterpart of the Assignment and Assumption Agreement related to each lease;

## ATTACHMENT A- Draft Purchase and Sale Agreement

(d) 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.

3.5.7 Rent and Other Items. All rent and other payments due to Seller under the Leases shall be prorated as of the Closing Date, with the rents accrued on and before the Closing Date being allocated to the Seller.

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.

## ATTACHMENT A- Draft Purchase and Sale Agreement

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.

## ATTACHMENT A- Draft Purchase and Sale Agreement

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 or other payments made, if any; provided however, Buyer shall not be entitled to any such refund 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 other payments made, if any. 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

## ATTACHMENT A- Draft Purchase and Sale Agreement

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 between Seller and a third party relating to an existing right of possession and/or occupancy of the Property by any person or entity other than Buyer, other than those identified in the Due Diligence Materials or disclosed to Buyer during the Due Diligence Period.

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

# ATTACHMENT A- Draft Purchase and Sale Agreement

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 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 any legal action is necessary to enforce any of the terms or conditions of this Agreement, each party shall bear their own attorneys' fees. 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

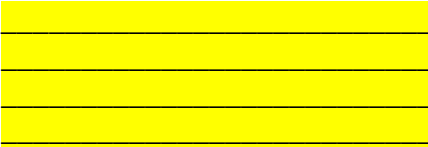
# ATTACHMENT A- Draft Purchase and Sale Agreement

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 an email, 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 District: Fountain Valley School District  
Christine Fullerton, Assistant Superintendent, Business Services  
Fountain Valley School District  
10055 Slater Avenue  
Fountain Valley, CA 92708

With copy to: Atkinson, Andelson, Loya, Ruud & Romo  
Attn: Andreas Chialtas  
12800 Center Court Dr., Suite 300  
Cerritos, CA 90703-8597

To County County of Orange, County Executive Office  
Scott D. Mayer, Chief Real Estate Officer  
333 West Santa Ana Blvd., 3<sup>rd</sup> Floor  
Santa Ana, CA 92701

With copy to: 

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. This Agreement and all of the terms, conditions and provisions hereof shall inure to the benefit of and be binding upon the respective successors and assigns of the parties hereto. At any time prior to the Close of Escrow, Buyer, without being relieved of any liability hereunder, may assign its rights under this Agreement to any entity controlled by Buyer,



## ATTACHMENT A- Draft Purchase and Sale Agreement

any entity for which Buyer acts as asset manager or any entity in which Buyer has a material economic interest.

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. Unless otherwise defined in this Agreement, if the expiration date of a time period of this Agreement falls on a Saturday, Sunday or national holiday, such time period shall be extended to the next business day.

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," "D," "E," and "F" 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
- "E" - ASSIGNMENT AND ASSUMPTION AGREEMENT
- "F" - FORM OF ESTOPPEL CERTIFICATE

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.

## ATTACHMENT A- Draft Purchase and Sale Agreement

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 \* \* \***

ATTACHMENT A- Draft Purchase and Sale Agreement

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

Seller:

FOUNTAIN VALLEY SCHOOL DISTRICT

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

Its: \_\_\_\_\_

APPROVED AS TO FORM:

ATKINSON, ANDELSON, LOYA, RUUD & ROMO

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

Andreas C. Chialtas, Esq., Legal Counsel for  
Fountain Valley School District

Buyer:

COUNTY OF ORANGE

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

Its: \_\_\_\_\_

APPROVED AS TO FORM:

 \_\_\_\_\_

By: Deputy County Counsel 10/25/17

**EXHIBIT "A"**

**LEGAL DESCRIPTION OF LAND**

ATTACHMENT A- Draft Purchase and Sale Agreement

**EXHIBIT "B"**

RECORDING REQUESTED BY  
AND WHEN RECORDED RETURN TO:

COUNTY OF ORANGE

[insert address]

---

(Space Above For Recorder's Use)

*add applicable transfer/documentary  
tax information*

---

**GRANT DEED**

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, FOUNTAIN VALLEY SCHOOL DISTRICT, a California public school district duly organized and validly existing under the laws of the state of California, hereby grants to COUNTY OF ORANGE 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: \_\_\_\_\_

**FOUNTAIN VALLEY SCHOOL DISTRICT**

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

Its: \_\_\_\_\_

ATTACHMENT A- Draft Purchase and Sale Agreement

EXHIBIT "A" TO GRANT DEED

**LEGAL DESCRIPTION OF LAND**

ATTACHMENT A- Draft Purchase and Sale Agreement

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 COUNTY OF ORANGE ("Transferee"), that withholding of tax is not required upon the sale by FOUNTAIN VALLEY SCHOOL DISTRICT, a California public school district duly organized and validly existing under the laws 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 November \_\_\_\_, 2017, 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 10055 Slater Avenue Fountain Valley, CA 92708; 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 Vice President of Administrative Services of Transferor and that I have authority to sign this document on behalf of the Transferor.

Dated: \_\_\_\_\_

FOUNTAIN VALLEY SCHOOL DISTRICT

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

Its: \_\_\_\_\_

**EXHIBIT "A" TO NON-FOREIGN AFFIDAVIT**

**LEGAL DESCRIPTION OF LAND**



# ATTACHMENT A- Draft Purchase and Sale Agreement

## 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 FOUNTAIN VALLEY SCHOOL DISTRICT, a California public school district duly organized and validly existing under the laws of the state of California ("District" or "Seller" depending on context) and the COUNTY OF ORANGE ("Buyer") dated November \_\_, 20\_\_, is hereby entered into this \_\_\_ day of \_\_\_\_\_, 2017 ("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 2.10 acres of land located at 265 S. Anita Drive, Orange, California ("Property") 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

**ATTACHMENT A- Draft Purchase and Sale Agreement**

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, CA, 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.

**FOUNTAIN VALLEY SCHOOL DISTRICT**

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

Its: \_\_\_\_\_

**COUNTY OF ORANGE**

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

Its: \_\_\_\_\_

# ATTACHMENT A- Draft Purchase and Sale Agreement

## EXHIBIT "E"

### ASSIGNMENT AND ASSUMPTION AGREEMENT

This ASSIGNMENT AND ASSUMPTION AGREEMENT ("Assignment") is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 201\_\_, by and between FOUNTAIN VALLEY SCHOOL DISTRICT, a California public school district duly organized and validly existing under the laws of the state of California ("Assignor") and the COUNTY OF ORANGE ("Assignee") dated November \_\_, 2017, is hereby entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ ("Effective Date").

WHEREAS, the Assignor and Assignee are parties to that certain Purchase and Sale Agreement dated November \_\_, 2017 ("Agreement") pursuant to which Assignor is to assign and Assignee is to assume the obligations of Assignor as the "Landlord" under the "Lease" identified as part of the Closing of the transaction contemplated by such Agreement;

WHEREAS, as used herein, the term "Lease" shall mean that certain Lease dated \_\_\_\_\_, with \_\_\_\_\_, a \_\_\_\_\_ ("Tenant"), and any amendments thereto; and

WHEREAS, Assignor desires to assign its rights and obligations under each Lease to Assignee, and Assignee desires to assume such rights and obligations as provided herein.

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby irrevocably acknowledged, Assignor hereby assigns, grants, transfers, sets over and delivers the Lease to Assignee as of the day and year first above written (the "Transfer Date"). Assignee hereby assumes all obligations of the Assignor under the Lease for the term thereof and hereby agrees to observe and perform all the covenants and agreements contained in the Lease on the part of Assignor, to the extent the same first accrue from and after the Transfer Date. Assignee hereby agrees to indemnify, defend and hold Assignor harmless from and against all claims, liabilities, losses, damages, causes of action and expenses (including court costs and reasonable attorneys' fees relating thereto) incurred in connection with or arising out of the failure to perform the obligations of the Landlord under the Lease to the extent such failures accrue from and after the Transfer Date.

The agreements and covenants contained in this Assignment are binding on and shall inure to the benefit of Assignor and Assignee and their respective successors and assigns.

ATTACHMENT A- Draft Purchase and Sale Agreement

IN WITNESS WHEREOF, the parties hereto have executed this Assignment and Assumption of Leases as of the day and year first above written.

**FOUNTAIN VALLEY SCHOOL DISTRICT**

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

Its: \_\_\_\_\_

**COUNTY OF ORANGE**

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

Its: \_\_\_\_\_

ATTACHMENT A- Draft Purchase and Sale Agreement

**EXHIBIT "F"**

**FORM OF ESTOPPEL CERTIFICATE**

The undersigned, \_\_\_\_\_ ("Tenant"), a \_\_\_\_\_, is the Tenant under a lease (the "Lease") dated \_\_\_\_\_, between the Tenant and Fountain Valley School District, as the landlord (the "Landlord"), of certain real property located at \_\_\_\_\_, as described on Exhibit A (the "Legal Description"), attached hereto and made a part hereof. Tenant hereby certifies to \_\_\_\_\_:

1. The Tenant is the owner and holder of all rights, title and interest in the leasehold estate created by the Lease.

2. Except for any ongoing construction of the improvements, there is no construction of the Demised Premises. List any punch list items:\_\_\_\_\_.

3. The Landlord does not have any unsatisfied obligations under the Lease, known to the Tenant, and no defense or right of termination, offset, deduction, abatement, or counterclaim are known to Tenant to exist with respect to any rents or other sums payable or to become payable by the Tenant under the Lease except:\_\_\_\_\_.

4. All permits and certificates of occupancy, if any, known by Tenant to be required for its business operation at the Demised Premises have been obtained, and the Demised Premises, to the best of Tenant's knowledge, may be used for the purposes contemplated by the Tenant in accordance with applicable law.

5. The Lease is in full force and effect and has not been modified, supplemented, canceled or amended in any respect except as follows:\_\_\_\_\_.

6. The Term of the Lease commenced on \_\_\_\_\_, 20\_\_ and continues through \_\_\_\_\_, 20\_\_, unless terminated or extended as provided in the Lease. Tenant has commenced paying rent. The Tenant is obligated to pay rent in the monthly installments in an amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_), subject to any offsets or deductions as provided in the Lease, which rent obligation is continuing and is not past due or delinquent in any respect. No installment of rent has been or will be prepaid more than thirty (30) days before it comes due.

7. Tenant has fulfilled its obligation to reimburse Landlord for paid insurance premiums through \_\_\_\_\_ and Tenant shall not be obligated to reimburse for any insurance premium until after such date.

8. To the best of Tenant's knowledge, no event has occurred or is continuing which would constitute a default by the Landlord under the Lease or would constitute such a default but for the requirement that notice be given or that a period of time elapse or both.

9. This estoppel certificate has been duly authorized, executed and delivered by Tenant and constitutes a legal, valid and binding instrument enforceable against Tenant in

## ATTACHMENT A- Draft Purchase and Sale Agreement

accordance with its respective terms, except that such other terms may be limited by bankruptcy, insolvency or similar laws affecting creditor's rights generally and general principles of equity.

10. The execution and delivery of this estoppel certificate shall in no way expand the rights or obligations of the Landlord and Tenant arising under the Lease.

11. There are no occupants of the Demised Premises other than Tenant and Tenant is using the Demised Premises for its operation in accordance with the terms of the Lease.

12. This estoppel certificate shall be governed by the laws of the State in which the Demised Premises are located.

13. All defined terms shall have the meaning set out in the Lease unless otherwise defined in this Certificate.

14. The statements contained in this estoppel certificate are accurate only as of the date of execution and Tenant has no duty to notify the certified party of any change in circumstance.

IN WITNESS WHEREOF, this estoppel certificate has been duly executed by the undersigned as of \_\_\_\_\_, 201\_\_.

TENANT:

\_\_\_\_\_

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

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

Title: \_\_\_\_\_

**EXHIBIT "A" TO FORM OF ESTOPPEL CERTIFICATE**

**LEGAL DESCRIPTION OF DEMISED PREMISES**