

## AGREEMENT OF SALE AND PURCHASE

THIS **AGREEMENT OF SALE AND PURCHASE** (“**Agreement**”) made as of the \_\_\_\_\_ day of \_\_\_\_\_, 2023, by and between **THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA**, a body corporate and political subdivision of the State of Florida (“**Seller**”) and **CITY OF LAUDERHILL** (“**Purchaser**”), with the joinder and consent of **MULLEN & BIZZARRO, P.A.**, a Florida professional corporation (hereinafter referred to as “**Escrow Agent**”).

### **WITNESSETH:**

WHEREAS, Seller is the owner and holder of the fee simple title to that certain parcel of real property lying, being and situate in Broward County, Florida, legally described on **Exhibit “A”** attached hereto and made a part hereof, together with all development rights, impact fee credits, easements, rights-of-way, privileges, appurtenances, and removable structures and rights to same, belonging to and inuring to the benefit of said real property; all strips and gores, if any; all right title and interest, if any, of Seller in and to any land lying in the bed of any street, road, avenue, open or proposed, in front of or adjoining said real property to the center line thereof, and all right, title and interest of Seller in and to any awards made or to be made in lieu thereof, and in and to any unpaid awards for damage to said real property by reason of change of grade of any street (“**Land**”); and

WHEREAS, the Land, together with all of the rights and appurtenances appertaining thereto, are hereinafter collectively referred to as the “**Property**”; and

WHEREAS, Purchaser desires to purchase the Property from Seller and Seller desires to sell the Property to Purchaser, all for the price and pursuant to the terms and conditions hereinafter set forth;

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties hereto, each intending to be legally bound, do hereby agree as follows:

1. **Recitation.** The recitations set forth in the preamble of this Agreement are true and correct and are incorporated herein by this reference.

2. **Sale of Property.** Seller shall sell, transfer, assign and convey to Purchaser at the Closing, as hereinafter defined, the Property, and Purchaser shall accept such conveyance, subject to the conditions hereof and upon the representations and warranties herein made.

3. **Purchase Price.**

3.1. The Purchase Price to be paid by Purchaser to Seller for the Property (“**Purchase Price**”) shall be ONE HUNDRED THIRTY THOUSAND and 00/100 (\$130,000.00) DOLLARS.

3.2. The Purchase Price shall be paid as follows:

(a) Seller acknowledges receipt of an earnest money deposit in the amount of SIX THOUSAND FIVE HUNDRED and 00/100 and 00/100 (\$6,500.00) DOLLARS (the “**Deposit**”). This Agreement is subject to the formal approval by the School Board of Broward County, Florida (the “**Board**”) in a meeting to be held on or before \_\_\_\_\_, 2023. In the event the Board shall fail to timely approve this Agreement, the Deposit shall be forthwith returned to the Purchaser. In the event Purchaser does not terminate this Agreement, on or prior to the end of the “**Inspection Completion Date**” (as hereinafter defined), the Deposit shall be non-refundable, except in the event of an uncured Seller default or as otherwise expressly set forth in this Agreement, and provided that the closing conditions referenced in Paragraph 15 hereof have been satisfied and/or waived.

(b) In the event Purchaser does not terminate the Agreement on or prior to the “**Inspection Completion Date**” (as hereinafter defined), then and in that event, Purchaser shall deliver to Escrow Agent on the Inspection Completion Date an additional earnest money deposit in the amount of SIX THOUSAND FIVE HUNDRED and 00/100 (\$6,500.00) DOLLARS (“**Additional Deposit**”), which Additional Deposit shall be held in escrow by Escrow Agent in accordance with the terms of this Agreement. The Initial Deposit together with the Additional Deposit, if any, paid or to be paid shall collectively hereinafter be referred to as “**Deposit**”.

(c) At Closing, Purchaser shall pay to the Seller the balance of the Purchase Price, of which the Deposit shall be a part thereof, payable in cash, by wire transfer, subject to prorations, adjustments and credits as hereinafter set forth.

4. **Permitted Encumbrances.** At Closing, Seller shall deliver the Land by a Special Warranty Deed conveying good, marketable and insurable title to the Property, free and clear of all liens, claims, easements, limitations, restrictions or encumbrances whatsoever, except for the following “**Permitted Encumbrances**”, to wit:

(a) Ad valorem real estate taxes for the year of Closing and subsequent years not yet due and payable; and

(b) Zoning restrictions and prohibitions imposed by governmental and/or quasi-governmental authority; and

(c) Those matters approved by Purchaser during the Title Review Period.

(d) Schedule B-II of Title Search Report, as attached.

5. **Title.** Within thirty (30) days from the Effective Date as hereinafter defined, Seller shall deliver, at Purchaser’s cost, an ALTA Form B title insurance commitment (“**Commitment**”) with respect to the Land in the amount of the Purchase Price prepared by Old Republic National Title Insurance Company (“**Title Company**”) issued by Escrow Agent, together with legible hard copies of all exceptions contained in the Commitment. Further, Purchaser may obtain, at Purchaser’s cost, within thirty (30) days from the Effective Date, an up-to-date ALTA survey (with appropriate monuments) on the ground (“**Survey**”) prepared in accordance with the Minimum Technical Standards set forth in rules adopted by the Florida Board of Land Surveyors pursuant to Florida Statutes 472.027 and certified to Purchaser, Seller, Escrow Agent and the Title Company

under seal by surveyor licensed by the State of Florida acceptable to Purchaser showing the legal description of the Land and calculation of the acreage of the Land and shall overlay all easements, (temporary or permanent), rights-of-way, improvements, fences, utilities, poles, water areas and all other matters affecting title to the Land as of the effective date of the Commitment. If the Survey shows any encroachments affecting the Land, the same shall be deemed to be a title defect. Purchaser shall have ten (10) business days from receipt of the Commitment (and the Survey if, as and only to the extent timely obtained by Purchaser) (collectively referred to as “**Title Evidence**”) in which to examine same (“**Title Review Period**”). In the event that Purchaser is not satisfied with the status of title or survey with respect to the Land for any reason (including an objection as to any of the Permitted Encumbrances), Purchaser shall have the right to terminate this Agreement upon delivery of written notice to Seller prior to the end of the Title Review Period, whereupon Escrow Agent shall return to Purchaser the Deposit and the parties shall be released of all further obligations each to the other under this Agreement, except to the extent of the indemnities and obligations stated to survive such termination (“**Surviving Obligations**”). Additionally, if Purchaser does not elect to terminate this Agreement as provided in the preceding sentence and if title is found to be subject to any matters other than the Permitted Encumbrances, Purchaser shall within said Title Review Period, notify Seller in writing specifying the defects (“**Purchaser’s Title Objections**”). Seller may thereupon elect, in its sole and absolute option and discretion to attempt to cure Purchaser’s Title Objections at Seller’s expense. If Seller shall so elect to attempt to cure Purchaser’s Title Objection(s) Seller shall have a period of ten (10) days from the date of receipt of notice of Purchaser’s Title Objections and Survey objections, if any (the “**Cure Period**”) within which, at its election, to commence to cure or eliminate or to attempt the same, to the reasonable satisfaction of Purchaser and Title Company or notify Purchaser that it elects not to cure or that it cannot obtain such a cure. Seller shall have no obligation whatsoever or expend any sums or amounts or institute any litigation (of any type) to eliminate or cure, or attempt to eliminate or cure any of Purchaser’s Title Objections. If Seller is unable to, or unwilling to cure or attempt to eliminate Purchaser’s Title Objections within the Cure Period, Seller shall give prompt written notice to Purchaser prior to the expiration of the Cure Period of the Purchaser’s Title Objections. Purchaser shall then have the option to either: (i) terminate this Agreement by giving Seller written notice of such action within five (5) days after Purchaser’s receipt of said notice from Seller, in which event the Deposit and any other payments or deposits made to Escrow Agent, by or on behalf of Purchaser will be refunded to Purchaser and no party shall have any rights, duties, or obligations hereunder, except those specifically stated herein to survive termination of this Agreement; or (ii) accept such title to the Property as Seller can deliver, on all of the other terms and conditions set forth in this Agreement without reduction of the Purchase Price. Title defects or encumbrances set forth on Schedule B-II of the Commitment to which Purchaser does not object or accepts pursuant to subsection (ii) above, shall be included within the term “Permitted Exceptions”; provided that Monetary Liens (hereinbelow defined) shall never be Permitted Exceptions unless expressly accepted by Purchaser in writing. Notwithstanding anything to the contrary contained herein, without the necessity of objection or request by Purchaser, prior to or on the Closing Date (hereinafter defined), Seller shall terminate, pay and obtain the release of all liens and encumbrances affecting the Property which secure the payment of indebtedness of an ascertainable amount (“**Monetary Liens**”). Prior to or at Closing, Seller shall be required to satisfy all requirements set forth in Schedule B-I of the Commitment which the Title Company requires Seller to satisfy as a condition to the issuance of the title insurance policy contemplated in the Commitment. Purchaser may obtain a municipal, judgment and tax lien search (the “**Searches**”) within thirty (30) days from the Effective Date at Purchaser’s cost and expense. Should any of the

Searches show open building permits, building code violations, zoning violations, or any other outstanding violation or lien that attach or relate to the Property, Seller shall cure at or prior to Closing.

6. **Representations and Warranties.** As a material inducement to Purchaser to execute this Agreement and to close the transaction contemplated hereby and to pay the Purchase Price therefor, Seller covenants, represents and warrants to Purchaser as follows, to wit:

(a) Subject to the Board's approval, the Seller has the full right, power and authority to own, operate and convey the Property, and does not need any further consents, joinders or other authorization from any governmental or private entity, corporation, partnership, firm, individual or other entity to execute, deliver and perform its obligations under this Agreement, and to consummate the transactions contemplated hereby.

(b) At Closing, no work shall have been performed or be in progress and no materials or services shall be furnished with respect to the Property or any portion thereof which could give rise to any mechanic's, materialmen or other liens. At Closing, Seller shall furnish to Purchaser an affidavit in form and substance acceptable to Title Company attesting to the absence of any such liens or potential liens (if there are no such liens) required by the Title Company to delete the mechanic's lien standard preprinted exception.

(c) Seller is not a party to and the Property is not affected by any service, maintenance, property management or any other contracts or other agreements of any kind ("**Service Contracts**").

(d) Seller is neither a "foreign person" nor a "foreign corporation" (as those terms are defined in Section 7701 of the Internal Revenue Code of 1986, as amended).

7. **Covenants of Seller.** As a material inducement to Purchaser entering into this Agreement, Seller hereby covenants unto Purchaser the following, to wit:

(a) Within five (5) days from the Effective Date, Seller will furnish, or cause to be furnished, to Purchaser any documents and other information requested by Purchaser with respect to the Property which Seller has in its possession;

(b) If Seller receives any actual notice of the commencement of any legal action or notice from any governmental authority affecting the Property, or the transaction contemplated by this Agreement, Seller agrees to immediately provide written notice of same to Purchaser. Seller shall not seek any change in the existing governmental approvals for the Property without the prior written consent of Purchaser in each instance and as otherwise required hereunder. In the event of any legal action or violation of governmental or quasi-governmental authority which will affect the Property and Seller shall fail to cure such matter giving rise to such legal action or violation within one hundred thirty (130) days from date of notice to Purchaser thereof (whereupon the Closing shall be extended for up to one hundred thirty (130) days without the payment of any extension fees to permit Seller's cure thereof, if applicable), Purchaser shall have the right to terminate this Agreement upon written notice to Seller, whereupon the Deposit shall be immediately returned to Purchaser, and the parties shall be released of all further obligations each

to the other hereunder, provided however, Purchaser shall not be released with respect to its indemnities and obligations that expressly survive termination of this Agreement.

8. **Inspections.**

(a) The parties hereto acknowledge that Purchaser, as of the date of the execution of this Agreement, has not yet had an opportunity to review, examine, evaluate or otherwise satisfy itself with respect to the financial or economic viability of the transaction contemplated hereby, the soil condition, environmental condition, or other aspects of the Property. In that regard, Purchaser shall have a period (“**Inspection Period**”) which shall be sixty (60) days following the Effective Date in which to conduct such inspections and otherwise examine same. If, prior to 5:00 p.m. EST on a date (“**Inspection Completion Date**”) which is the end of the Inspection Period, Purchaser determines that the Property is not acceptable in Purchaser’s sole and absolute discretion, Purchaser shall give written notice to Seller electing to terminate this Agreement. In the event said notice is not delivered prior to 5:00 p.m. EST on the Inspection Completion Date, it shall be deemed that Purchaser has elected to proceed in accordance with the terms of this Agreement. Should Purchaser timely elect to terminate this Agreement, the Escrow Agent is hereby authorized and directed to return the Deposit to Purchaser and the parties shall be relieved of all further obligations each to the other; provided however, Purchaser shall not be released with respect to obligations and indemnities that expressly survive termination of this Agreement. Purchaser hereby indemnifies and holds Seller forever harmless from and against tort liability, or other legal liability exposures imposed by law suffered or incurred by Seller on account of the negligent acts or omissions of Purchaser, its officers, agents, or employees while acting in the course and scope of his or her employment or function with respect to the inspections, testing of soil conditions, evaluation of environmental conditions, or examination of other aspects of the Property (including, without limitation, reasonable attorney’s fees, paralegal’s fees and court costs through all trial and appellate levels incurred by Seller through the defense thereof); provided that, Purchaser shall not be liable for any losses or liabilities resulting from (i) Purchaser’s investigations discovering or uncovering the existence of any environmental contamination or any other defects or conditions which affect the Property, except to the extent that Purchaser’s investigations exacerbate such conditions or (ii) Seller’s negligence or willful misconduct. Nothing herein is intended to serve as a waiver of sovereign immunity, or increase the limits of its liability, for the Seller or Purchaser to which sovereign immunity may be applicable, and nothing herein shall be construed as consent by Purchaser to be sued by third parties in any matter arising out of this Agreement. Notwithstanding anything contained herein to the contrary, in the event the Purchaser utilizes a consultant to perform any inspections, testing of soil conditions, evaluation of environmental conditions, or examination of other aspects of the property, the Purchaser agrees to require its consultant, to the fullest extent by law, to indemnify and hold-harmless the Seller, its agents, officers, or employees from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney’s fees to the extent caused by the negligence, error or omission, recklessness, or intentional wrongful conduct of the consultant or persons employed or utilized by the consultant in performance of this Agreement. This indemnification shall survive the term of this Agreement.

(b) Purchaser, its agents, employees and representatives, shall have access to the Property at all reasonable times subsequent to the Effective Date and prior to the Closing or

earlier termination of this Agreement, upon reasonable prior notice to the Seller, with full right to perform the inspections (provided the inspections are non-intrusive, and as otherwise approved by Seller, which approval shall not be unreasonably withheld or delayed). Upon completion of any inspections, Purchaser shall restore any damage to the Property caused, directly or indirectly, by Purchaser's inspections to the condition existing immediately prior to such inspections of the Property. Purchaser shall, at Purchaser's expense, promptly cause: (i) all borings made by or on behalf of Purchaser to be plugged or capped in a safe manner in accordance with applicable law; (ii) all property, if any, damaged or destroyed by Purchaser, its employees, agents and independent contractors to be repaired, restored and replaced; and (iii) all debris, if any, and all underbrush cut or uprooted, if any, resulting from or in connection with the inspections to be removed from the Land, provided, however, in no event shall such inspections disturb environmentally sensitive lands nor shall Purchaser cut or uproot, or permit or cause any of Purchaser's employees, agents or independent contractors to cut or uproot, any living trees or disturb any wetlands situated on the Land.

(c) All inspections of the Property by Purchaser and all costs and expenses in connection with Purchaser's inspections of the Property shall be at the sole cost of Purchaser and shall be performed free and clear of all liens, claims and encumbrances and in a manner not to unreasonably interfere with the Seller's ownership, operation and maintenance of the Property. Purchaser shall not permit any liens to be placed against the Property, or any portion thereof, as a result of any actions taken or inactions or omissions by, through or under Purchaser and shall promptly remove any such liens so filed by payment or bonding of same in the manner required by Florida law so that such liens, claims or encumbrances no longer constitute same on any portion of the Property.

(d) Notwithstanding anything contained herein to the contrary, prior to Purchaser's performing any inspections upon the Property, Purchaser shall furnish Seller with a certificate of insurance evidencing that Purchaser has in effect a general liability policy (from an insurance company licensed by the State of Florida and reasonably acceptable to the Seller), with limits of not less than One Million and 00/100 (\$1,000,000.00) Dollars combined single limit for bodily injury and property damage liability in any one occurrence naming Seller as an additional insured.

(e) The Inspection Period under 8 (a) preceding shall, at the request of Purchaser, be extended for a period of two (2) consecutive thirty (30) additional days. Provided, that Purchaser shall pay directly to Seller an extension fee in the amount of Seven Thousand Five Hundred and 00/100 Dollars (\$7,500.00) ("Thirty Day Extension Fee") for each thirty (30) day extension period that may be requested by Purchaser. This Thirty Day Extension Fee shall be non-refundable to Purchaser, and will not be credited to the Purchase Price, and which fee shall be returned to the Purchaser in the event that the Seller denies the extension request. Notice of Purchaser's election to extend the Inspection Period for an additional thirty (30) days must be given to Seller by not later than the expiration date of the Inspection Period or the expiration date of the Extended Inspection Period, if and as applicable.

The provisions of this Paragraph 8 shall prevail over any other section or paragraph of this Agreement in the event of any conflict or ambiguity and shall survive the Closing.

9. **The Closing.** The closing of title hereunder (“**Closing**”) shall take place via “mail-away” at the offices of Escrow Agent, 2929 East Commercial Boulevard, Suite PH-C, Fort Lauderdale, Florida 33308 (“**Closing Location**”) commencing at such time as may be mutually agreed to by the Parties on the date that is on or before thirty (30) days from the expiration of the Entitlement Approval Period.

10. **Prorations and Adjustments.** Special assessment liens which have been certified and physically commenced (certified liens) as of the Closing shall be paid in full by Seller (and discharged such that the Property is free of same) at the Closing. Special assessment liens which have been authorized, but where the work has not been commenced and are pending (pending liens) as of the Closing shall be assumed by Purchaser.

Seller represents that it is a tax-exempt entity and Purchaser represents that it is a tax-exempt entity. The Parties agree to comply with the provisions of Florida Statute 196.295 with respect to payment of real property taxes.

The provisions of this Paragraph 10 shall survive the Closing.

11. **Brokerage.** The Parties hereto each represent to the other that there are no brokers instrumental in the negotiation and/or consummation of this transaction. **The Seller shall not be obligated for the payment of any brokerage commission whatsoever in connection with this Agreement.** Seller and Purchaser hereby indemnify and hold each other harmless from and against any cost, fees, damages, claims and liabilities, including, but not limited to, reasonable attorney’s and paralegal’s fees arising out of any claim or demand or threats of claim made by any broker or salesmen claiming by reason of its relationship with the offending party or its representatives, employees or agents, whether incurred by settlement and whether or not litigation results in all trial, arbitration and appellate levels. The provisions of this Paragraph shall survive Closing or earlier termination of this Agreement.

12. **Closing Costs.** The costs of recording any corrective instruments shall be paid by Seller. The cost of recording the Special Warranty Deed as well as all documentary stamps owed in connection therewith and the cost of the Title Evidence and the title insurance premium due with respect to the Title Policy to be issued from the Commitment shall be paid by Purchaser.

Except in the event of a default hereunder, the parties shall each bear their own respective attorney’s fees.

13. **Documents to be Delivered.**

(a) At the Closing, simultaneously with the payment of the Purchase Price by Purchaser to Seller, Seller shall deliver or cause to be delivered to Escrow Agent on behalf of Purchaser the following, to wit:

(i) The Special Warranty Deed, a copy of which is attached hereto as **Exhibit “B”**, conveying the fee simple title to the Property to Purchaser, subject only to the Permitted Encumbrances.

(ii) A standard No-Lien, GAP, and Parties in Possession Affidavit executed by Seller a copy of which is attached hereto as **Exhibit “C”**.

(iii) A standard FIRPTA Affidavit executed by Seller a copy of which is attached hereto as **Exhibit “D”**.

(b) Purchaser shall deliver to Escrow Agent on behalf of the Seller the Purchase Price adjusted for all appropriate prorated items, credits and adjustments, of which the Deposit shall constitute a part thereof.

(c) At Closing, Seller and Purchaser shall mutually execute and deliver to each other a Closing Statement in customary form.

14. **Assignment.** Purchaser may only assign its rights under this Agreement to an affiliated entity or related party without the written consent of the Seller; provided, however, that the assignee shall be required to assume all obligations hereunder, such assignment shall not release the original Purchaser from any liability arising under this Agreement and a copy of such assignment shall be delivered to Seller.

15. **Closing Conditions.** Purchaser’s obligation to close hereunder is conditioned on the following:

(a) There has been no adverse change in the condition of title from the Effective Date of the Title Commitment which would render Seller’s title unmarketable.

(b) There has been no environmental event since the expiration of the Inspection Period which would adversely affect the Property.

16. **Default.**

16.1. In the event that Seller has complied with all terms and provisions required to be complied with by Seller hereunder and Seller is ready, willing and able to close but for the default of Purchaser and such default is not cured within ten (10) days after written notice by Seller to Purchaser specifying such default and the action deemed necessary to cure such default, then and upon the occurrence of all of the foregoing events, Escrow Agent shall deliver the Deposit to Seller as full and agreed upon liquidated damages in full settlement of any and all claims against Purchaser for damages or otherwise whereupon, this Agreement shall be null, void and of no further force and effect and neither party shall have any further liability or obligation to the other hereunder.

16.2. If: (i) Seller shall have failed to comply with any material obligations of Seller in this Agreement; or (ii) any of the representations and warranties made by Seller herein shall be in any material respect inaccurate; or (iii) Seller shall otherwise be in material default of this Agreement, Purchaser shall have the right:



(a) to cancel this Agreement by giving notice to Seller and this Agreement shall be deemed to be terminated as of the date of such notice, in which event the Escrow Agent is hereby authorized and directed to return to Purchaser the Deposit (together with interest earned thereon, if any), whereupon, the parties hereto shall be released of all further obligations each to the other hereunder, save and except for the Surviving Obligations; or

(b) to take title subject to the defect, exception, objection, inaccuracy or failure without diminution of the Purchase Price.

None of the foregoing provisions of this Paragraph 16.2 are intended to nor shall they limit or affect the Purchaser's right to an action for specific performance in the event of a refusal or failure by Seller to convey title to the Property to Purchaser or otherwise comply with the terms and provisions of this Agreement. Purchaser hereby waives any claim for damages against Seller.

16.3. The parties further agree that in the event it becomes necessary for either party to litigate in order to enforce its rights under the terms of this Agreement, then, and in that event, the prevailing party shall be entitled to recover reasonable attorneys' and paralegal fees and the costs of such litigation, through and including all trial and appellate litigation.

The provisions of this Paragraph 16 shall survive Closing.

17. **Condemnation or Eminent Domain or Casualty.** In the event of any condemnation or eminent domain proceedings for any public or quasi-public purposes at any time prior to Closing resulting in a taking of any part or all of the Property, Seller shall immediately provide written notice thereof to Purchaser and, Purchaser shall have the option: (i) to cancel this Agreement, in which event the Deposit with interest thereon shall be promptly returned to Purchaser, and upon such return, this Agreement shall be terminated and the parties released of any further obligation hereunder; or (ii) to Close the transaction contemplated by this Agreement, in which event the Purchase Price shall not be abated; provided, however, Seller shall cause any condemnation or eminent domain award to be assigned to Purchaser. Purchaser shall notify Seller of its election of (i) or (ii) above within ten (10) business days of Purchaser's receipt of notice of any such condemnation or eminent domain proceedings. Seller agrees that it shall not enter into any settlement of any condemnation proceedings or eminent domain award without the prior written consent of Purchaser.

If, prior to the Closing Date, all or any part of the Property is substantially damaged by casualty, the elements or any other cause (e.g. sinkholes), Seller shall give notice to Purchaser of such fact within ten (10) days of the occurrence of the damage and, at Purchaser's option (to be exercised within fifteen (15) calendar days after Seller's notice), this Agreement shall terminate, in which event neither party will have any further obligations under this Agreement, except for those obligations which expressly survive the termination hereof, the Deposit shall be returned to Purchaser. If Purchaser fails to elect to terminate despite such damage, or if the Property is damaged but not substantially, the parties shall proceed to Closing with no reduction in the Purchase Price, and Seller shall assign to Purchaser its interest in the damage proceeds of any insurance policies payable to Seller. For purposes of this Section, the words "substantially

damaged” means damage that would cost Twenty-Five Thousand and No/100ths Dollars (\$25,000.00) or more to repair.

18. **Entitlement Approval Period.** Intentionally Omitted.

19. **Escrow Agent.** Escrow Agent agrees, by the acceptance of the Deposit, to hold same in escrow and to disburse it in accordance with the terms and conditions of this Agreement; provided, however, that in the event a dispute shall arise between any of the parties to this Agreement as to the proper disbursement of the Deposit, the Escrow Agent may, at its option: (1) take no action and hold all funds until agreement is reached between the disputing parties, or until a judgment has been entered by a court of competent jurisdiction and the appeal period has expired thereon, or if appealed then until the matter has been finally concluded, and then to act in accordance with such final judgment; or (2) institute an action for declaratory judgment, interpleader or otherwise joining all affected parties and thereafter complying with the ultimate judgment of the court with regard to the disbursement of the deposit and disposition of documents, if any. In the event of any suit between Seller and Purchaser wherein the Escrow Agent is made a party by virtue of acting as such escrow agent hereunder, or in the event of any suit wherein Escrow Agent interpleads the subject matter of this escrow, the Escrow Agent shall be entitled to recover all attorneys’ fees and costs incurred, including costs and attorneys’ fees for appellate proceeding, if any, said fees and costs to be charged and assessed as court costs against the losing party or parties, jointly and severally. Further, the parties hereto acknowledge that Escrow Agent shall have the right to represent Seller and itself in connection with the matters contemplated by this Agreement, and in that regard, Purchaser shall not, and is hereby estopped from objecting to such representation.

20. **Agreement Administration.** The Seller has delegated authority to the Superintendent of Schools or his/her designee, to take any action necessary to implement and administer this Agreement, including but not limited to granting requested extensions for the Inspection Period(s).

21. **Notices.** All notices of request, demand and other communications hereunder shall be addressed to the parties as follows:

As to Seller:

Interim Superintendent of Schools  
The School Board of Broward County Florida  
600 Southeast Third Avenue -10<sup>th</sup> floor  
Fort Lauderdale, FL 33301  
Telephone No: (754) 321-2600  
Telecopier No: (754) 321-2701

With a copy to:

Director of Facility Planning and Real Estate  
The School Board of Broward County Florida  
600 Southeast Third Avenue - 8<sup>th</sup> floor  
Fort Lauderdale, FL 33301  
Telephone No: (754) 321-2162  
Telecopier No: (754) 321-2179  
E-Mail: [chris.akagbosu@browardschools.com](mailto:chris.akagbosu@browardschools.com)



With a copy to:	Office of the General Counsel The School Board of Broward County Florida 600 Southeast Third Avenue -11 <sup>th</sup> floor Fort Lauderdale, FL 33301
As to Purchaser:	City of Lauderhill Desorae Giles-Smith City Manager 5581 West Oakland Park Blvd. Lauderhill, FL 33313 Telephone No. (954) 730-3000 E-Mail: <a href="mailto:dgiles@lauderhill-fl.gov">dgiles@lauderhill-fl.gov</a>
With a copy to:	Angel Petti Rosenberg, Esq. City Attorney Hall & Rosenberg, P.L. 8850 West Oakland Park Blvd. #101 Sunrise, FL 33351 Telephone No. (954) 572-9020 E-Mail: <a href="mailto:angel@hallrosenberg.com">angel@hallrosenberg.com</a>
With a copy to:	Pat Nugent, Esq. Nugent & Ground, LLC 2455 W. Sunrise Blvd., Suite 807 Fort Lauderdale, FL 33304 Telephone No. (954) 537-1717 E-Mail: <a href="mailto:pnugent@nglawfl.com">pnugent@nglawfl.com</a>
As to Escrow Agent And as to Seller:	Joseph P. Mullen, Esq. Mullen & Bizzarro, P.A. 2929 East Commercial Boulevard, Ste PH-C Fort Lauderdale, Florida 33308 Telephone No: (954) 772-9100 Telecopier No: (954) 493-8765 E-Mail: <a href="mailto:jpmullen@mullenbizzarro.com">jpmullen@mullenbizzarro.com</a>

unless the address is changed by the party by like notice given to the other parties. Notice shall be in writing, mailed certified mail, return receipt requested, postage prepaid and shall be deemed delivered when mailed or upon hand delivery to the address indicated. Notwithstanding the foregoing, notices, requests or demands or other communications referred to in this Agreement may be sent by e-mail (with delivery or receipt confirmation), telegraph, telephonic communication reduced to written form (i.e., telecopier) or Federal Express, but shall only be deemed to have been given when received. Correspondence to either party's legal counsel shall be sufficient for delivery purposes.

22. **Effective Date.** The “**Effective Date**” shall mean the last day upon which this Agreement becomes fully executed by Seller and the Purchaser and approved by the Board. All time periods shall be calculated in calendar days unless specifically provided otherwise herein.

23. **Further Assurances.** Each of the parties hereto agree to execute, acknowledge and deliver and cause to be done, executed, acknowledged and delivered all such further acts, assignments, transfers and assurances as shall reasonably be requested of it in order to carry out this Agreement and give effect thereto. The parties hereto acknowledge that it is to their mutual benefit to have an orderly and efficient transfer of ownership as contemplated hereby. Accordingly, without in any manner limiting the specific rights and obligations set forth in this Agreement, the parties declare their intention to cooperate each with the other in effecting the terms of this Agreement.

24. **Time is of the Essence.** For purposes herein, the parties agree that time shall be of the essence of this Agreement and the representations and warranties made are all material and of the essence of this Agreement.

25. **Captions and Paragraph Headings.** Captions and Paragraph headings contained in this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope or intent of this Agreement, nor the intent of any provision hereof.

26. **No Waiver.** No waiver of any provision of this Agreement shall be effective unless it is in writing, signed by the party against whom it is asserted and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed to be a continuing or future waiver.

27. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same Agreement.

28. **Binding Effect.** This Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective heirs, personal representatives, successors and assigns.

29. **Governing Law.** This Agreement shall be construed and interpreted according to the laws of the State of Florida and venue with respect to any litigation shall be Broward County, Florida.

30. **Gender.** All terms and words used in this Agreement regardless of the number and gender in which used, shall be deemed to include any other gender or number as the context or the use thereof may require.

31. **Entire Agreement.** This Agreement contains and sets forth the entire understanding between Seller and Purchaser, and it shall not be changed, modified or amended except by an instrument in writing and executed by the party against whom the enforcement of any such change, modification or amendment is sought. This Agreement shall be binding upon the parties hereto and their respective heirs, personal representatives, successors and assigns.

32. **Relationship.** Nothing contained in this Agreement shall constitute or be construed to be or create a partnership, joint venture or any other relationship between Seller and Purchaser other than the relationship of a purchaser and seller of real and personal property as set forth in this Agreement.

33. **Offer.** This offer is non-binding on the Seller until such time as it shall be reviewed and approved by the Board. The Board reserves the right to reject or accept same. In the event that the Board shall reject same, Purchaser's Deposit shall be refunded to Purchaser forthwith and neither Party shall have any rights or obligations hereunder.

34. **Possession.** Subject to the Provisions of Article 39, possession of the Property shall be delivered to Purchaser at the Closing, free and clear of all tenancies, use agreements and possessory rights.

35. **Modification.** This Agreement shall not be modified (and no purported modification thereof shall be effective) unless in writing and signed by the party to be charged.

36. **Joint Preparation.** The preparation of this Agreement has been a joint effort of the parties and the resulting documents shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

37. **Recording.** The parties hereby agree that neither party shall record this Agreement or any memorandum of its terms without the prior written consent of the other party.

38. **Radon Gas.** Radon gas is naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who were exposed to it over a time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information concerning radon and radon testing may be obtained from your public health unit.

39. **Post-Closing Occupancy.** Intentionally Deleted.

40. **DISCLAIMER.** THE PROPERTY IS BEING SOLD "AS IS", "WHERE IS" AND "WITH ALL FAULTS" AS OF CLOSING, WITHOUT ANY REPRESENTATION OR WARRANTY WHATSOEVER AS TO ITS CONDITION, FITNESS FOR ANY PARTICULAR PURPOSE, MERCHANTABILITY OR ANY OTHER WARRANTY, EXPRESS OR IMPLIED, EXCEPT AS IS SPECIFICALLY PROVIDED ELSEWHERE BY THIS AGREEMENT. SELLER SPECIFICALLY DISCLAIMS ANY WARRANTY, GUARANTY OR REPRESENTATION, ORAL OR WRITTEN, PAST OR PRESENT, EXPRESS OR IMPLIED, CONCERNING THE PROPERTY, EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT. PURCHASER ACKNOWLEDGES THAT PURCHASER IS PURCHASING THE PROPERTY BASED SOLELY UPON PURCHASER'S OWN INDEPENDENT INVESTIGATIONS AND FINDINGS AND NOT IN RELIANCE UPON ANY INFORMATION PROVIDED BY SELLER OR SELLER'S AGENTS OR CONTRACTORS. THE PROVISIONS OF THIS SECTION SHALL SURVIVE TERMINATION OR CLOSING.

41. **RELEASE.** TO THE EXTENT PERMITTED BY STATE OR FEDERAL LAW, PURCHASER HEREBY RELEASES SELLER , ITS AGENTS, OFFICERS, OR EMPLOYEES (EACH A “SELLER RELATED PARTY”) FROM ALL CLAIMS, LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES WHICH PURCHASER OR ANY PARTY RELATED TO OR AFFILIATED WITH PURCHASER HAS OR MAY HAVE ARISING FROM OR RELATED TO ANY MATTER OR THING RELATED TO THE PHYSICAL CONDITION OF THE PROPERTY, ANY PATENT CONSTRUCTION DEFECTS, ANY UNKNOWN ERRORS OR OMISSIONS IN THE DESIGN OR CONSTRUCTION OF THE PROPERTY, AND UNLESS PROHIBITED BY STATE OR FEDERAL LAW, ANY STRICT LIABILITY ARISING OUT OF ENVIRONMENTAL CONDITIONS AT, IN, ON OR UNDER THE PROPERTY. PURCHASER WILL NOT LOOK TO SELLER OR ANY SELLER RELATED PARTY IN CONNECTION WITH THE FOREGOING FOR ANY REDRESS OR RELIEF UNLESS OTHERWISE STATED HEREIN. THE PROVISIONS OF THIS SECTION SHALL SURVIVE TERMINATION OR CLOSING.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the day and year first above written.

**For SELLER**

**THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA**, a body corporate and political subdivision of the State of Florida

WITNESS:

By: \_\_\_\_\_  
Lori Alhadeff, Chair

ATTEST:

Approved as to form and legal content:

\_\_\_\_\_  
Earlean C. Smiley, Ed.D.  
Interim Superintendent of Schools

\_\_\_\_\_  
Office of the General Counsel

\_\_\_\_\_  
Joseph P. Mullen, Esq.  
Cadre Real Estate Counsel

**For PURCHASER:**

**CITY OF LAUDERHILL**, a body corporate and  
political subdivision of the State of Florida

WITNESS:

\_\_\_\_\_  
  
\_\_\_\_\_

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

ATTEST:

Approved as to legal form:

\_\_\_\_\_  
Andrea M. Anderson  
City Clerk

\_\_\_\_\_  
Angel Petti Rosenberg, City Attorney



The undersigned joins in this Agreement to acknowledge receipt of a check in the amount of \_\_\_\_\_ and 00/100 (\$\_\_\_\_\_) DOLLARS and to agree to hold same (subject to collection), in escrow, pursuant to the terms of Paragraph 19 of this Agreement.

Mullen & Bizzarro, P.A.  
a Florida professional corporation

By: \_\_\_\_\_  
Joseph P. Mullen, Authorized Member

Date: \_\_\_\_\_, 2023

## **INDEX OF EXHIBITS**

EXHIBIT "A"	-	LEGAL DESCRIPTION
EXHIBIT "B"	-	SPECIAL WARRANTY DEED
EXHIBIT "C"	-	NO LIEN AFFIDAVIT
EXHIBIT "D"	-	FIRPTA AFFIDAVIT

**EXHIBIT “A”**

**LEGAL DESCRIPTION**

**(Insert Legal Description from Survey)**

## EXHIBIT "B"

Prepared by:  
Joseph P. Mullen, Esquire  
Mullen & Bizzarro, P.A.  
2929 East Commercial Blvd., Ste PH-C  
Fort Lauderdale, Florida 33308

### SPECIAL WARRANTY DEED

THIS INDENTURE, made this \_\_\_\_ day of \_\_\_\_\_, 2023, BETWEEN THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA, a body corporate and political subdivision of the State of Florida, whose post office address is: 600 SE Third Avenue, Fort Lauderdale, FL 33301, of the County of Broward and State of Florida, Grantor\*, and \_\_\_\_\_, whose post office address is: \_\_\_\_\_, of the County of Broward and State of Florida, Grantee\*,

WITNESSETH, that said Grantor, for and in consideration of the sum of TEN and 00/100 (\$10.00) DOLLARS, and other good and valuable consideration to said Grantor in hand paid by said Grantee, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the said Grantee, and Grantee's heirs and assigns forever, the following described land, situate, lying and being in Broward County, Florida, to-wit:

Legal Description attached hereto as Exhibit "A"

Tax Folio No. 4941 26 28 0050

SUBJECT TO land use designations, zoning restrictions, prohibitions and other requirements imposed by governmental authority none of which are hereby reimposed; the Permitted Encumbrances attached hereto as Exhibit "B"; and taxes for the year of closing and subsequent years.

**Grantee, for itself and its heirs, successors and assigns, covenants and agrees that the Property shall never be used to enroll any students in classes earning credit towards graduation for Kindergarten through Grade 12.**

**In the event that the Grantee, its heirs, successors and assigns, violates the afore covenant, Grantor shall have all remedies available at law or equity, including but not limited to the right to injunctive relief.**

And said Grantor will only warrant and forever defend the right and title to the above described property unto said Grantee against the claims of those persons claiming by, through or under Grantor, but not otherwise.

\*"Grantor" and "Grantee" are used for singular or plural, as the context requires.

IN WITNESS WHEREOF, Grantor has hereunto set Grantor's hand and seal the day and year first above written.

Signed, sealed, and delivered in  
our presence:

THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA, a body corporate and  
political subdivision of the State of Florida

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

ATTEST:

Approved as to form and legal content:

\_\_\_\_\_  
Name: Earlean C. Smiley, Ed.D.  
Title: Interim Superintendent of Schools

\_\_\_\_\_  
Name: \_\_\_\_\_  
Title: School Board Attorney

\_\_\_\_\_  
Joseph P. Mullen, Esq.  
Cadre Real Estate Counsel

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 2023, by \_\_\_\_\_, in (his/her) capacity as Chair of The School Board of Broward County, Florida, a body corporate and political subdivision of the State of Florida, who is personally known to me or has produced \_\_\_\_\_ as identification.

[Notary Seal]

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

\_\_\_\_\_  
Name typed, printed or stamped  
My Commission Expires: \_\_\_\_\_

## EXHIBIT "C"

### NO LIEN AFFIDAVIT

BEFORE ME, the undersigned authority, personally appeared Earlean C. Smiley, Ed.D., Interim Superintendent of Schools, who, being by me first duly sworn on oath, depose(s) and say(s), collectively as the "Affiant":

1. That Affiant is the Interim Superintendent of Schools and The School Board of Broward County, Florida, as governing body of the School District of Broward County, Florida, a body corporate existing under the laws of the State of Florida ("School Board") is the owner of, and has fee simple title to, the following described property (the "Property") situate, lying and being in the County of Broward, State of Florida, to-wit:

See Attached Exhibit "A"

2. That the School Board has not sold, transferred, assigned, or conveyed title to the Property prior to the transfer to \_\_\_\_\_ (the "Buyer").

3. That the Property and all improvements thereon are free and clear of all mortgages, easements or claims of easements of any type or nature whatsoever not shown by the public records, liens, taxes, waste, water and sewer charges, encumbrances, judgments, and claims of every nature whatsoever other than those described in the Special Warranty Deed of even date herewith transferring the Property from the School Board to the Buyer.

4. That no legal actions, Internal Revenue Service claims, or State tax claims are pending or threatened that could ripen into a lien or encumbrance on the Property or the improvements thereon.

5. This Affidavit is made for the purpose of inducing the Buyer to part with valuable consideration and consummate the purchase of the Property, and the Buyer is materially relying on the veracity of the contents hereof. \_\_\_\_\_ as Title Agent and \_\_\_\_\_ as Title Insurer are relying upon the representations herein made in issuing title insurance. In this regard, the Affiant represents and warrants on behalf of School Board that the statements contained herein are true and correct in all respects.

6. That for at least ninety (90) days prior to the date hereof, no material, labor or services have been furnished, performed or supplied in connection with the Property, including the improvements located thereon, for which payment has not been made in

full; no material, labor or services have been contracted to be furnished, performed or supplied at a future date in connection with the Property, including the improvements located thereon, for which payment has not been made in full; and there are no unpaid construction, material person's or other liens affecting the Property or actual or potential claims on account of any such material, labor or services.

7. That to the best of Affiant's knowledge, no violations of municipal ordinances or other laws, statutes, rules, or regulations pertaining to the Property exist, and no orders or notices concerning any violations have been given to the Affiant or made against the Property.

8. That School Board alone and no other person(s), firm(s), corporation(s) or individual(s) are in control and possession of the Property, described in the Agreement of Sale and Purchase between the School Board and the Buyer.

9. Affiant knows that there are no matters pending against said Affiant or the School Board that could give rise to a lien that would attach or otherwise encumber the real property described herein between the date of the last title examination (being \_\_\_\_\_, 20\_\_\_\_ @ 8:00 a.m.) and the recording of the interest to be insured; no judgment or decree has been entered in any court of this State, any other State, or the United States against Affiant or the School Board which remains unsatisfied; that there are no Notices of Federal Tax Lien against Affiant or the School Board outstanding and that neither Affiant or the School Board have or will execute any instrument that would adversely affect the title or interest of the Buyer and/or Lender relying hereon.

FURTHER AFFIANT SAYETH NAUGHT.

---

Earlean C. Smiley, Ed.D., Interim  
Superintendent of Schools of The School  
Board of Broward County, Florida  
as governing body of the School District of  
Broward County Florida, a body corporate  
existing under the laws of the State of  
Florida

STATE OF FLORIDA  
COUNTY OF BROWARD

ss.:

The foregoing instrument was sworn to and subscribed before me by ( ) physical presence or ( ) online notarization, this \_\_\_\_ day of \_\_\_\_\_, 2023, by Earlean C. Smiley, Ed.D., Interim Superintendent of Schools of The School Board of Broward County, Florida, as governing body of the School District of Broward County, Florida, a body corporate existing under the laws of the State of Florida, who is personally known to me, or who has produced \_\_\_\_\_ as identification.

[Notary Seal]

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

\_\_\_\_\_  
Name typed, printed or stamped

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



**EXHIBIT “A”**

**NO LIEN AFFIDAVIT**

**LEGAL DESCRIPTION**

**NON-FOREIGN CERTIFICATION BY NON-INDIVIDUAL  
TRANSFEROR**  
(Seller's FIRPTA Affidavit)

Seller: SCHOOL BOARD OF BROWARD COUNTY, FLORIDA, a body  
corporate and political subdivision of the State of  
Florida

Purchaser: CITY OF LAUDERHILL, a political subdivision of the

State of FloridaProperty: See Legal Description attached as Exhibit A

Closing Date: \_\_\_\_\_, 2023

BEFORE ME, the undersigned authority, personally appeared Earlean C. Smiley, Ed.D., the Interim Superintendent of Schools, of The School Board of Broward County, Florida, as governingbody of the School District of Broward County, Florida, a body corporate existing under the lawsof the State of Florida, who, after being duly sworn, stated as follows:

1. This certificate is to inform the Purchaser that withholding Federal Income Tax is not required upon the sale of the hereinabove described real property.

2. The undersigned, on behalf of the Seller, certifies and declares as follows:

a. The Seller is not a foreign person for purposes of United States income taxation and is not subject to the tax withholding requirements of Section 1445 of the Internal Revenue Code of 1954, as amended.

b. The Seller's United States taxpayer identification is:  
59-6000530

c. The business address of the Seller is: 600 SE Third Avenue, Fort Lauderdale, FL 33301.

d. There are no other persons or entities who have an ownership interest in the hereinabove described property.

3. The undersigned hereby further certifies and declares:

a. I understand the Purchaser of the hereinabove described real property intends to rely on the foregoing representations in connection with the United States

Foreign Investment in Real Property Tax act (FIRPTA).

b. I understand the Purchaser may disclose this certification to the Internal Revenue Service and that any false statements contained in this certification may be punished by fine, imprisonment or both.

Under penalties of perjury, I state that his declaration was carefully read and is true and correct.

FURTHER AFFIANT SAYETH NAUGHT.

---

Earlean C. Smiley, Ed.D., Interim  
Superintendent of Schools of The School  
Board of Broward County, Florida as  
governing body of the School District of  
BrowardCounty Florida, a body corporate  
existing under the laws of the State of Florida

STATE OF FLORIDA

COUNTY OF BROWARD

ss.:

The foregoing instrument was sworn to and subscribed before me by ( ) physical presence or ( ) online notarization, this \_\_\_\_ day of \_\_\_\_\_, 2023, by Earlean C. Smiley, Ed.D., Interim Superintendent of Schools of The School Board of Broward County, Florida, as governing body of the School District of Broward County, Florida, a body corporate existing under the laws of the State of Florida, who is personally known or \_\_\_\_\_ has produced \_\_\_\_\_ as identification.

[Notary Seal]

---

Notary Public

---

Name typed, printed or stamped

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

**EXHIBIT “A”**

**FIRPTA AFFIDAVIT**

**LEGAL DESCRIPTION**