

ATTACHMENT

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**ADVISORY BOARD MEETING
COMMUNITY REDEVELOPMENT AGENCY
JULY 14, 2009**

**AGREEMENT OF PURCHASE AND SALE BETWEEN THE
PALMETTO COMMUNITY REDEVELOPMENT AGENCY AND
THE SCHOOL BOARD OF MANATEE COUNTY**

**City Attorney Mark Barnebey will be providing overview and
explanation of the documents, their purpose and action required**

AGREEMENT OF PURCHASE AND SALE
BETWEEN THE PALMETTO COMMUNITY REDEVELOPMENT AGENCY AND
THE SCHOOL BOARD OF MANATEE COUNTY

THIS AGREEMENT OF PURCHASE AND SALE (this "Agreement") is made and entered into as of the Effective Date (as hereinafter defined) by and among the Palmetto Community Redevelopment Agency, a public body corporate and politic ("CRA") and The School Board of Manatee County, a public body corporate ("School Board").

INTRODUCTION

CRA owns multiple parcels of real property located between 10th Avenue West and 9th Avenue West in the City of Palmetto, Manatee County, Florida, which is described on Exhibit A attached hereto (the "School Expansion Site"); and

CRA has determined that the School Expansion Site is suitable for transfer to the School Board; and

The School Board, in coordination with the City of Palmetto, desires to enhance the educational opportunities within the City of Palmetto by acquiring the School Expansion Site; and

The CRA is agreeable to conveying the School Expansion Site (hereinafter defined) to School Board; and

The CRA, prior to approval and execution of this Agreement, acknowledges compliance with the notice requirements of Fla. Stat. 163.380 to the extent required by law.

PROVISIONS

NOW, THEREFORE, in consideration of the agreements herein contained, the parties agree as follows:

1. **Definitions and Reference Terms**. In addition to any other terms defined herein, for convenience of reference, the following terms shall have the following meanings:

(a) "Business Day". Any day that national banks in Manatee County, Florida, are open for business, excluding Saturdays and Sundays.

(b) "Closing" means the consummation of the transactions contemplated by this Agreement to take place at the time and place prescribed under **Section 6** of this Agreement.

(c) "Effective Date" means the last date upon which a copy of this Agreement has been fully executed by the CRA and the School Board.

(d) "Environmental Laws" means all applicable present and future (to the extent such relate back to the Closing date or prior) statutes, regulations, rules, ordinances, codes, licenses, permits, orders, approvals, plans, authorizations, concessions, franchises, agreements and similar items, of or with any and all governmental agencies, departments, commissions, boards, bureaus of instrumentalities of the United States, states and political subdivisions thereof and all applicable judicial and administrative and regulatory decrees, judgments and orders relating to the protection of human health or the environment, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. '9061 et seq; the Hazardous Materials Transportation Act, as amended, 49 U.S.C. '1801, et seq; and the Resource Conservation and Recovery Act, as amended, 42 U.S.C. '6901 et seq.

(e) "Hazardous Materials" shall mean (i) any toxic substance or hazardous waste, substance or related material, or any pollutant or contaminant; (ii) radon gas, asbestos in any form which is or could become friable, urea-formaldehyde foam insulation, transformers or other equipment which contain dielectric fluid containing levels of polychlorinated biphenyls in excess of federal, state or local safety guidelines, whichever are more stringent; (iii) any substance, gas, material or chemical which is or may be defined as or included in the definition of "hazardous substances", "toxic substances", "hazardous materials", "hazardous wastes" or words of similar import under any Environmental Law and (iv) any other chemical, material, gas or substance, the exposure to or release of which is or may be prohibited, limited or regulated by any governmental or quasi-governmental entity or authority that asserts or may assert jurisdiction over the real property which is the subject of this Agreement or the operations or activity at the real property, or any chemical, material, gas or substance that does or may pose a hazard to the health and/or safety of the occupants of the real property or the owners and/or occupants of property adjacent to or surrounding the real property.

(f) "Inspection Period" means the period of time ending at 5:00 p.m. EST on the date which is twenty five (25) days after the Effective Date.

(g) "School Board's Contractors" means School Board, and its authorized agents and representatives.

(h) "School Expansion Site" means the parcels of real property currently owned by the CRA, which the School Board will own at the conclusion of the transfers described herein, which is approximately 1.64+/- acres, and which is described on Exhibit A attached hereto and hereby made a part of this Agreement.

2. **Conveyance and Purchase Price.** The parties agree that, at Closing:

- (a) CRA will transfer the School Expansion Site to School Board for \$1,239,547.30 ("Purchase Price").

The Purchase Price, less credit for such credits, prorations and adjustments as are provided herein, shall be paid at Closing by wire transfer of immediately available funds to an account designated in writing by CRA.

Each transfer shall include (i) all improvements situated on the land, if any (the "Improvements") (the land and any Improvements are sometimes herein called the "Real Property"); (ii) all of CRA's right, title, and interest, if any, in all items of personal property presently attached to or situated upon the Real Property, if any (the "Personalty"), but specifically excluding any movable items of personal property owned by CRA or any tenant; (iii) all right, title and interest of the CRA in and to all rights, privileges, easements, hereditaments and appurtenances to the Real Property, and (iv) the right, title and interest of the CRA in and to 8th Street West, if any, subject to proper application for and completion of procedures for the vacation of the public road thereon, and (v) the right, title and interest of the CRA, as adjoining landowner, to the land lying in the bed of any street, road, avenue or alley, open or proposed, public or private, in front of or adjoining the land to the center line thereof. The Real Property and the rights described in subparts (iii) through (v) of the preceding sentence are sometimes collectively called the "Real Property Interests." The Real Property Interests and the Personalty are sometimes collectively called the "Property."

3. **Conditions Precedent To Obligations of CRA.** The obligations of CRA to sell the Property are subject to the satisfaction at or before the end of the Inspection Period of the following conditions precedent (the "Closing Conditions"):

(a) **General Approvals.** The CRA and School Board shall have received approval of their respective governing boards on terms satisfactory to them, in their sole discretion, respectively, of the transactions described in this Agreement to be performed by the respective entity.

If any of the Closing Conditions described in this Section have not been fulfilled, then any party may terminate this Agreement by giving written notice (a "Termination Notice") to the other parties on or before the date of Closing. Upon the timely delivery of that notice, School Board and the CRA shall have no further rights or obligations pursuant to this Agreement except for the Inspection Obligations and the obligations created pursuant to Section 18, all of which shall continue until fully performed. If CRA fails to deliver a Termination Notice on or before the date of Closing, it shall not have any further right to terminate this Agreement pursuant to this Section.

(b) **Compliance with Fla. Stat. 163.380.** To the extent as required by law, the CRA shall comply with all notice provisions of Fla. Stat. 163.380 with respect to approval and execution of this Agreement as well as all notice requirements prior to conveyance of the School Expansion Site, including but not limited to public notice requirements as required by Fla. Stat. 163.380(3)(a).

4. **Reimbursement for Demolition Costs.** At or before Closing, School Board agrees to reimburse CRA for costs incurred by CRA for the demolition of structures previously located upon the School Expansion Site. Prior to reimbursement, CRA shall provide School Board with copies of paid receipts for all work related to the demolition. School Board agrees to reimburse CRA for all costs that are evidenced by paid receipts, however in no event shall the reimbursement by School Board exceed \$18,000.00.

5. **Conditions Precedent To Obligations Of School Board.** The obligations of School Board to purchase the Property, unless otherwise waived in writing by School Board, are subject to the satisfaction at or before the end of the Inspection Period of the following conditions precedent (also, the "Closing Conditions"):

(a) School Board shall be satisfied, in its sole discretion, before the end of the Inspection Period (or any extension thereof) with the results of its due diligence (not including any environmental audits/studies) conducted at the Property; and School Board shall be satisfied, in its reasonable discretion, before the end of the Inspection Period (or any extension thereof) with the results of its environmental audits/studies of the Property. If School Board is not satisfied with the results, School Board may terminate this Agreement prior to the end of the Inspection Period.

(b) School Board shall have received approval of its governing board on terms satisfactory to School Board, in its sole discretion that School Board shall be permitted to purchase the Property, develop it as intended, and perform its obligations under this Agreement.

(c) The City of Palmetto shall have approved the vacation of a portion of 8th Street West and a portion of 9th Avenue West, as provided in Section 16(a) herein.

(d) The School Board shall have received appraisal(s) of the School Expansion Site from appraisers satisfactory to and selected by and paid for by School Board reflecting a fair market value of the School Expansion Site of at least the purchase price. School Board shall have until the end of the Inspection Period to obtain the appraisals. If the fair market value of the School Expansion Site is determined by appraisals to be less than the purchase price, a super majority vote of the members of the School Board must be obtained approving the purchase price. If a super majority vote is necessary and is not obtained by the end of the Inspection Period, then this Agreement shall terminate, unless CRA agrees to an adjustment of the purchase price to equal or less than the fair market value as determined by the appraisals.

If any of the Closing Conditions described in this Section have not been fulfilled, then any party may terminate this Agreement by giving a Termination Notice to the other parties on or before the end of the Inspection Period (hereinafter defined). Upon the timely delivery of that notice: (a) School Board shall deliver the Inspection Documents to CRA; and (b) following (a) neither School Board nor CRA shall have any further rights or obligations pursuant to this Agreement except for the Inspection Obligations and the obligations created pursuant to Section 18, all of which shall continue

until fully performed. If School Board fails to deliver a Termination Notice on or before the end of the Inspection Period, it shall not have any further right to terminate this Agreement pursuant to this Section.

6. **Closing; Conveyance Documents.** The Closing shall occur by delivery by CRA to the School Board of (a) a properly executed special warranty deed (the "Deed") conveying the Real Property to School Board, (b) bill of sale and assignment or other appropriate conveyance document (the "Bill of Sale") conveying any Personalty to School Board, and (c) a general assignment (the "General Assignment") of all of CRA's rights, if any, to the extent assignable without consent, in and to any governmental approvals, permits, site plans and specifications and the Documents (hereinafter defined), applicable to the Property, in consideration of the payment by School Board to CRA of the Purchase Price. The Closing shall take place at the office of Kirk-Pinkerton, P.A., counsel for the School Board, in Bradenton, Florida (the "Closing Agent"), at 10:00 a.m., on or before the date that is the earlier of: (i) thirty (30) days following the Effective Date or (ii) August 5th, 2009 (the "Closing Date"). The form of the Deed, Bill of Sale and General Assignment shall conform to the requirements of the Title Company. Subject to the foregoing, the Deed, Bill of Sale and General Assignment shall be the forms prepared by the Closing Agent, reasonably acceptable to School Board, School Board's counsel, and School Board's Title Company and delivered to the School Board on or before five (5) Business Days prior to the Closing Date. At the Closing, the Property will be in as good condition and repair as at the date of signing of this Agreement. School Board shall be entitled to conduct a walk-through inspection on the day before Closing to confirm that the Property is in the condition required by this Agreement, and that the warranties and representations of CRA regarding the condition of the Property are true and correct.

7. **Title.** At Closing, CRA shall convey title to the Property and Improvements to School Board, subject only to the following exceptions:

- (a) liens for ad valorem taxes not yet due and payable;
- (b) the standard printed exceptions as set forth in the Title Policy (defined in Section 8), excluding those standard printed exceptions that will be removed upon execution and delivery by CRA of the Grantor's Affidavit.
- (c) all building, zoning, environmental, and other state, county or federal laws, codes, and regulations (whether existing or proposed), affecting the Real Property, including any and all special exceptions, conditions, site plan approvals, proffers, and other similar matters, if any, related to the zoning of the Real Property.
- (d) recorded restrictions common to the subdivision in which the Property is located, so long as they do not impair or interfere with the School Board's intended use of the Property; and easements of record, so long as they are on the exterior perimeters of the Property lines and do not interfere with School Board's intended use of the Property.

8. **Title Commitment/Title Policy.** Within ten (10) days after the Effective Date, each School Board shall procure, at its own cost and expense (a) a title insurance commitment ("Commitment"), issued by Closing Agent or a title insurance agent selected by the School Board (the "Title Company"), showing CRA as the record title owner of the Real Property and the terms by which the Title Company agrees to issue to the School Board an owner's policy of title insurance (the "Title Policy") issued on the standard ALTA Owner's Policy, 1992 form with Florida modifications, in the amount of the Purchase Price insuring School Board's fee simple title to the Real Property subject to the terms of Title Policy and the title exceptions therein described; and (b) a photocopy of all documents (the "Title Documents") constituting all the title exceptions shown on the Commitment. As used herein, the term "Title Objection Period" shall mean a period commencing on the first day following the School Board's receipt of the latest of the Commitment, the Title Documents or the Survey (but in no event later than ten (10) days following the Effective Date) and ending ten (10) days thereafter. The term "Approved Exceptions" means the matters of title listed in subparagraphs (a), (b), (c) and (d) of Section 7 of this Agreement. The School Board hereby signifies its approval of the Approved Exceptions. In the event (y) the Commitment or the Survey reflects; and/or (z) at any time after the receipt of the Commitment or the Survey and prior to Closing (each a "Post Commitment Matter"), School Board receives notice of or otherwise discovers that title to the Real Property that it is purchasing hereunder is subject to, any matter other than the Approved Exceptions, the School Board may object to said matter ("Title Objection") by delivering written notice ("Title Objection Notice") on or before the expiration of the Title Objection Period (except in the event of a Post-Commitment Matter, then within five (5) days of the date School Board receives notice of such Post-Commitment Matter), and CRA shall use reasonable efforts to cure such Title Objection. If CRA is able, CRA shall notify School Board in writing of such fact (said notice hereinafter called "CRA's Title Notice") on or before five (5) days after the delivery of the Title Objection Notice (said period called "CRA's Notice Period") and in which case the elimination or curing by CRA of the Title Objections shall be completed on or before the date of Closing. In the event CRA does not deliver CRA's Title Notice to School Board within CRA's Notice Period, School Board is deemed to be notified that CRA intends to cure the Title Objections on or before the date of Closing. In the event CRA notifies School Board that CRA would be unable to cure any Title Objection, School Board shall be deemed to have waived the applicable Title Objections unless within five (5) days following the expiration of CRA's Notice Period, the School Board delivers to CRA and the Closing Agent written notice terminating this Agreement. Notwithstanding anything herein to the contrary, in the event that School Board's right to terminate this Agreement pursuant to any provision of this Section does not expire prior thereto, it shall expire upon expiration of the Inspection Period (except in the event of a Post Commitment Matter). As used in this Agreement, the term "Permitted Exceptions" shall mean (a) the Approved Exceptions and (b) all matters other than the Approved Exceptions listed in the Commitment to which the School Board does not deliver a Title Objection within the Title Objection Period (or within the applicable five (5) days for a Post Commitment Matter), or, having objected, School Board waives or is deemed to have waived in accordance with the provisions of this Section. CRA's compliance with this Section shall be conclusively established by Title Company's commitment to issue the Title Policy within a reasonable period following the Closing, subject to only the Permitted Exceptions. Upon the timely delivery of a termination notice pursuant to this Section, School Board shall deliver the Inspection

Documents (hereinafter defined) to CRA, neither CRA nor School Board shall have any further rights or obligations pursuant to this Agreement except for the School Board's Inspection Obligations and the obligations created pursuant to Section 18, all of which shall continue until fully performed.

9. **Survey.** Within ten (10) days after the Effective Date, School Board shall: (a) procure a current ALTA survey ("Survey") of the Real Property to be transferred hereunder, from a Florida licensed surveyor, certified to School Board, Closing Agent and the Title Company designated by the School Board; and (b) provide a copy of the Survey to each party to whom the survey is certified. The Survey will include and identify all of the Real Property, will include a legal description of the School Expansion Site. If the Survey shows any matters which would affect the marketability of title to the Real Property (except for the Permitted Exceptions), the affected School Board shall notify CRA in writing of the specific defects (the "Survey Defects") as if it were a Title Objection under Section 8. Any Survey Defects shall be treated in the same manner as Title Objections are treated under this Agreement.

10. **Inspection Period.**

(a) **Inspection Period.** During the Inspection Period and at any other time prior to Closing, unless this Agreement is terminated prior thereto, the School Board's Contractors shall be entitled to enter upon the Real Property at all reasonable times during normal business hours to inspect and conduct tests to determine the suitability and feasibility of the Property for the School Board's intended use. The School Board shall bear the cost of its own inspections and tests. Additionally, School Board's Contractors may enter on the Real Property to prepare the Survey of the Real Property or to update the Survey. Subject to the limitations of sovereign immunity as provided in Fla. Stat. 768.28, Buyers shall indemnify and hold the CRA harmless for contractors entering upon the Real Property including but not limited to mechanic's liens, personal injury and damage to the property caused by the Buyer's contractors.

(b) **During the Inspection Period.** Within five (5) days after the Effective Date, CRA shall, to the extent it possesses or has reasonable access to any of the following, provide School Board with each of the following: true and correct copies of all licenses, permits, and approvals, with respect to the ownership and operation of the Real Property, including building permits and certificates of occupancy, if any; any surveys, as-built engineering and architectural plans, drawings, specifications, which CRA or CRA's agents have relating to the Real Property; true and correct copies of any and all environmental reports, proposals, studies, analyses, and notices of information of any kind relating to or affecting the environmental condition of the Real Property or any portion thereof; notices of assessments (special or otherwise), real property *ad valorem* tax bills, notices, or correspondence from governmental entities; maintenance, property and any other records relating to the Real Property; any building or aerial photographs; governmental approvals for zoning, platting, utility services or other matters; copies of any service contracts; copies of any title insurance policies; and such additional information concerning the Real Property as School Board may reasonably request. All documents and other materials delivered to or made available to School Board pursuant

to this Section or otherwise and all copies thereof are hereafter called the "Documents." The term "Inspection Documents" means the Documents and all studies, reports or test results obtained by the School Board in connection with its inspection of the Property. The School Board shall deliver all of the Inspection Documents to CRA on the first to occur of (i) such time as School Board determines that it shall not acquire the Property, or (ii) such time as this Agreement shall have terminated for any reason.

(c) **Inspection Obligations.** School Board's Contractors shall: (a) not unreasonably interfere with the operation and maintenance of the Real Property; (b) not damage any part of the Property; (c) not injure or otherwise cause bodily harm to CRA, its agents, contractors and employees or any tenant of the Property; (d) not permit any liens to attach to the Property by reason of the exercise of its rights hereunder; and (e) restore the surface of the Real Property to substantially the condition in which the same was found before any permitted inspections or tests were undertaken. The obligations of School Board created pursuant to this Section are called "School Board's Inspection Obligations," and shall survive the Closing or any termination of this Agreement.

(d) **Environmental Studies.** As additional consideration for the transaction contemplated herein, School Board agrees that it will provide to CRA immediately following the receipt of same by School Board copies of any and all reports, tests or studies involving Hazardous Materials on, under or at the Real Property which reports, tests or studies shall be addressed to both CRA and the School Board at no cost to CRA; provided, however, School Board shall have no obligation to cause any such tests or studies to be performed on the Real Property. In the event that such reports, tests or studies indicate the existence or reasonable potential existence of any Hazardous Materials on, under or at the Real Property, the School Board may terminate this Agreement by giving written notice to the CRA prior to the expiration of the Inspection Period; and neither CRA nor School Board shall have any further rights or obligations pursuant to this Agreement except for the School Board's Inspection Obligations and the obligations created pursuant to Section 18, all of which shall continue until fully performed. Notwithstanding the foregoing, in the event that such reports, tests or studies indicate the existence or reasonable potential existence of any Hazardous Materials on, under or at the Real Property, the School Board may have the right to proceed with the purchase of the Real Property, subject however to a reduction in the purchase price as determined through negotiations between the CRA and School Board. Any such reduction shall be agreed upon in writing by both parties and subject to all terms as provided herein.

11. **Closing Costs and Documentary Stamp Tax Indemnity**

(a) **Closing Costs.** The School Board shall pay any documentary stamp tax and the cost of the Title Policy; and CRA shall pay the cost of recording any corrective title instruments. The CRA and School Board shall share equally the costs of recording the deed and the costs of recording any easements or agreements described herein. Each party shall be responsible for its own attorneys fees.

(b) **Title and Due Diligence Costs.** The School Board shall pay for the cost of any survey. School Board shall pay all costs of all soil tests, environmental tests, hydrological studies, and other tests associated with its due diligence, zoning and permitting.

12. **Proration of Taxes and Assessments.** At Closing, the CRA shall, in accordance with the statutory requirements set forth in Section 196.295, Florida Statutes, deposit in escrow with the County Tax Collector an amount equal to any real, personal and intangible property taxes for the current year for the Property being transferred, prorated to the Closing date. This amount shall be based upon the current assessment and millage rate, if any. If the actual taxes vary from the figures used to close this transaction, CRA or School Board shall pay appropriate adjustments upon demand, which demand shall be made no later than December 31, 2009. There shall be no proration of any expenses related to the operation of the Property unless specifically and expressly agreed. Certified liens levied by any governmental authority for which the work has been substantially completed shall be paid by CRA, and CRA may use all or any portion of the cash to close to pay off or satisfy such liens concurrently with Closing. Pending liens and certified liens for which the work has not been substantially completed shall be assumed by School Board. The provisions of this Section shall survive the Closing.

13. **Representations, Warranties and Covenants of CRA and School Board.**

(a) **Representations and Warranties of CRA.** As an inducement to School Board to enter into this Agreement and to consummate the transactions contemplated herein, CRA represents and warrants to and covenants with School Board that the following are true and correct as of the date hereof, and shall be true and correct as of the Closing:

(i) There is no party in possession of, or that has a right to possess, any portion of the Property as lessee, tenant at sufferance, licensee, or otherwise.

(ii) CRA has not received any written notice from any governmental agency that the Property is not in full compliance with all applicable laws, statutes, ordinances, regulations, codes, covenants, conditions and restrictions of any kind or nature affecting the Property or any part of it.

(iii) All payments required to be made to contractors, subcontractors, mechanics, materialmen and all other persons hired by CRA in connection with work done or services performed with respect to the Property have been made, and there is no basis for the filing of any lien against the Property.

(iv) CRA has disclosed in writing to School Board any material, adverse fact or condition known to CRA regarding the Property, it being understood that School Board's inspection of the Property shall not constitute a waiver of or otherwise affect this representation and warranty

(v) Except as disclosed, no public or private assessments have been made against the Property which remain unpaid, including without limitation those for the construction of utility lines and apparatus, streets, sidewalks and curbs.

(vi) CRA has no knowledge of any subsurface condition which would impair the usability or developability of the Property for School Board's intended use, which has not already been disclosed to School Board in writing.

(vii) Except as disclosed, there are no outstanding obligations or assessments for sewer, water, drainage, roadway or other improvements which presently impact upon the Property by reason of any existing improvements on the Property.

(viii) All utilities necessary for the use of the Property as presently being used are available, contiguous and adjacent to the boundary line of the Property, or accessible from adjacent public rights-of-way, and are adequate to fully service the Property, including, without limitation, potable water, electricity, cable communications systems, and telephone services, all existing utilities enter the Property through adjoining public streets or private land in accordance with valid public or private easements that will inure to the benefit of School Board and its successors and assigns, and all of said utilities are operating, with installation and connection charges paid in full.

(ix) To the best of CRA's knowledge: (i) prior to CRA obtaining title to the Property, the activities, operations and business conducted at or on the Property were in compliance with all Environmental Laws; (ii) after CRA obtained title to the Property, the activities, operations and business conducted at or on the Property have been at all times in compliance with all Environmental Laws; (iii) no further action is required to remedy any environmental condition or violation of, or to be in full compliance with, any Environmental Laws; and (iv) no lien has been imposed on the Property by any federal, state or local governmental or quasi-governmental entity in connection with any environmental condition, the violation or threatened violation of any Environmental Laws or the presence of any Hazardous Materials on the Property.

(x) CRA is not aware of any pending or threatened litigation or proceedings before any administrative agency in which any person or entity alleges the violation or threatened violation of any Environmental Laws or the presence, release, threat of release or placement on or at the Property of any Hazardous Materials, or of any facts which would give rise to any such action, nor has CRA (i) received any notice (and CRA has no actual or constructive knowledge) that any governmental or quasi-governmental authority or any employee or agent thereof, has determined, threatened to determine or required an investigation to determine that there has been a violation of any Environmental Laws at, on or in connection with the Property or that there exists a presence, release, threat of release or placement of any Hazardous Materials on or at the Property, or the use, handling, manufacturing, generation, production, storage, treatment, processing, transportation or disposal of any Hazardous Materials at or on the Property; (ii) received any notice under the citizen suit provision of any Environmental Law in connection with the Property

or any facilities, operations or activities conducted thereon, or any business conducted in connection therewith; or (iii) received any request for inspection, request for information, notice, demand, administrative inquiry or any formal or informal complaint or claim with respect to or in connection with the violation or threatened violation of any Environmental Laws or existence of Hazardous Materials relating to the Property or any facilities, operations or activities conducted thereon or any business conducted in connection therewith.

(xi) The execution and delivery by CRA of, and CRA's performance under, this Agreement are within CRA's powers and have been duly authorized by all requisite parties, and that the person executing this Agreement on behalf of CRA has the authority to do so.

(xii) This Agreement constitutes the legal, valid and binding obligation of CRA, enforceable in accordance with its terms.

(xiii) Performance of this Agreement will not result in any breach of, or constitute any default under, any agreement or other instrument to which CRA is a party or by which CRA might be bound.

(xiv) **Radon.** Florida Statutes requires the following notice be given: "RADON GAS: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed Federal and State guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your County Public Health Unit."

(b) **Covenants of CRA.** CRA covenants to School Board as follows:

(i) From and after the Effective Date, through and including the Closing Date, CRA shall not apply for any change whatsoever of the current zoning of any Property or otherwise seek to change in any manner whatsoever the nature of the use of the Property or seek any variance of such zoning of the Property except in conjunction with the other parties to this Agreement and as otherwise provided for herein.

(ii) From and after the Effective Date, through the Closing Date, CRA shall not transfer, convey, or encumber (unless CRA shall remove such encumbrance on or before the Closing Date) in any manner whatsoever any portion of the Property or any rights therein, or enter into any easement, license or agreement (or amend any existing easement, license or agreement) granting to any person or entity any right with respect to the Property or any portion thereof.

(iii) That it shall not direct any person to make, nor shall it consent to any other person making, any material changes to the Property or any portion thereof from the date of this Agreement through the Closing Date without the prior written consent of School Board.

(c) **School Board's Representations and Warranties.** School Board represents and warrants to CRA, its successors and assigns, which representations and warranties are now and on the Closing Date shall be true and correct, as follows:

(i) The execution and delivery by School Board of, and School Board's performance under, this Agreement are within School Board's powers and have been duly authorized by all requisite parties, and that the person executing this Agreement on behalf of School Board has the authority to do so.

(ii) This Agreement constitutes the legal, valid and binding obligation of School Board, enforceable in accordance with its terms.

(iii) Performance of this Agreement will not result in any breach of, or constitute any default under, any agreement or other instrument to which School Board is a party or by which School Board might be bound.

14. **Casualty Loss/Condemnation.**

(a) **Casualty Loss.** Prior to Closing, risk of loss with regard to any Property shall be borne by the CRA. If any Property should be damaged or destroyed by an insured or uninsured loss of more than Fifty Thousand Dollars (\$50,000) prior to Closing, then School Board may elect to terminate this Agreement by written notice to CRA within ten (10) days of receipt by School Board of CRA's written notice to School Board of damage or destruction to the Property (which notice must include a good faith estimate of the cost to repair and the extent, if any, to which the damage or destruction is insured), and neither School Board nor CRA shall have any further obligation to each other hereunder with respect to that Property. Failure of School Board to give notice of termination shall be deemed a waiver of School Board's right to terminate, in which event all insurance proceeds shall be paid or assigned to School Board at Closing, and the Purchase Price and cash due at Closing shall be adjusted downward to the extent the cost of repair or replacement exceeds insurance funds paid or assigned to School Board.

(b) **Condemnation.** CRA agrees to give School Board written notice of any action or proceeding for condemnation of any part of the Property, which may result in the taking of all or part of a Property. Upon such notification, School Board shall have the right, to be exercised within ten (10) days after receipt of such notice, to terminate this Agreement. If School Board does not elect to terminate this Agreement, then this Agreement shall remain in full force and effect, School Board shall have the right to participate in the negotiation of any condemnation awards or other compensation from taking and CRA will credit to School Board at Closing the amount of any monies or other compensation received by CRA to date by reason of such taking, and will assign to School Board the right to any condemnation awards or proceeds received after such date relating to the Property and CRA shall convey the portion of the Property, if any, which remains after the taking. In the event School Board fails to timely deliver written notice of termination pursuant to

this Section, School Board shall be deemed to have waived its right of termination pursuant to this Section.

(c) **Termination Pursuant to Paragraphs (a) or (b).** Upon the timely delivery of a termination notice pursuant to either Paragraph (a) or (b): (i) School Boards shall deliver the Inspection Documents to CRA; and (ii) following (i), no party shall have any further rights or obligations pursuant to this Agreement except for the School Board's Inspection Obligations and the obligations created pursuant to Section 18, all of which shall continue until fully performed.

15. **Closing Documents.** At Closing, in addition to any other documents required to be delivered hereunder, the following documents shall be executed and delivered to the Closing Agent to be held in escrow pending completion and funding:

(a) **Authority of CRA.** CRA shall deliver to School Board satisfactory evidence of its due and proper authority and power to perform its obligations hereunder and to execute and deliver all documents required hereby.

(b) **Authority of School Board.** School Board shall deliver to CRA satisfactory evidence of its due and proper authority and power to perform its obligations hereunder and to execute and deliver all documents required hereby.

(c) **Deed.** CRA shall execute and deliver to School Board the Deed conveying the Property to School Board.

(d) **Bill of Sale and General Assignment.** CRA shall execute and deliver to School Board the Bill of Sale and General Assignment conveying and/or assigning CRA's right title and interest to the Personalty to School Board.

(e) **FIRPTA Affidavit.** CRA shall execute and deliver to School Board a certificate certifying that CRA is not a foreign person, corporation or partnership or state within the meaning of Section 1445 of the Internal Revenue Code of 1986, as amended.

(f) **Lease Termination.** Terminations of any current leases of portions of the Property.

(g) **Other Required Documents.** CRA and School Board shall execute such other documents as may be required by the law of the jurisdiction in which the Real Property is located. In addition, CRA will execute and deliver to the Closing Agent the Grantor's Affidavit and such federal income tax reports respecting the sale of the Property as are required by the Internal Revenue Code of 1986, as amended.

16. **Additional Conditions.** The CRA hereby agrees to be bound by the following terms, and the School Board's agreement to purchase the Property are conditioned upon the

following terms:

(a) **Rezone of School Extension Site.** The School Board intends to pursue a rezone application with the City of Palmetto for rezoning of the School Board's 0.9 +/- acre parcel located on the northwest corner of 10th Avenue West and 7th Street West to a zoning classification sufficient to permit office and/or commercial use in anticipation of the School Board's sale of the property. CRA agrees to review the rezone application and use its best efforts to provide comments to the requested rezone application to the School Board as soon as practical.

17. **Assignment.** No party may assign any or all of its rights and obligations pursuant to this Agreement (whether by direct or indirect transfer or assignment) without the other parties' prior written consent.

18. **Brokers/Indemnification.** The parties represent and warrant to each other that they have not dealt with any realtor, broker, salesperson, or agent in connection with this Agreement. In the event of any breach of the foregoing representations, the breaching party shall indemnify and hold the others harmless from any cost, expense, or liability (including reasonable attorneys' fees) for any compensation, commissions or charges claimed by any realtor, broker, or agent in connection with this Agreement or by reason of any act of such breaching party. The representations, warranties, and indemnities contained in this Section shall survive the recession, cancellation, termination or consummation of this Agreement.

19. **Notices.** Any notice or communication shall be in writing and shall be sent by either: (a) personal delivery service with charges therefor billed to shipper; (b) overnight or expedited delivery service with charges therefor billed to shipper; (c) facsimile transmission provided a confirmation copy is mailed pursuant to paragraph (d) below; or (d) United States mail, postage prepaid, registered or certified mail, return receipt requested. Any notice or communication sent as above provided shall be deemed given or delivered: (a) upon receipt if personally delivered (provided that such delivery is confirmed by the courier delivery service); (b) if sent by United States Mail, on the date appearing on the return receipt, or if there is no date on such return receipt, the receipt date shall be presumed to be the postmark appearing on such return receipt; or (c) on the date of actual delivery by any overnight or expedited delivery service or actual receipt if sent by facsimile transmission (provided receipt is confirmed as provided above). All notices, requests or demands which any party is required or may desire to give to any other party under any provision of this Agreement must be delivered to the other parties at the following address:

School Board: Manatee County School Board
 215 Manatee Avenue West
 Palmetto, Florida 34205
 Attn: Tim McGonegal, Superintendent
 Fax: 941/708-8686

With copy to: Mark P. Barnebey
Kirk Pinkerton, P.A.
1301 6th Avenue West, Suite 401
Bradenton, Florida 34205
Fax: 941- 744 -9691 and 941-364-2490

With copy to: Manatee County School Board
The Matzke Complex
2802-B 27th St. East
Bradenton, Florida 34208
Attn: Michael Pendley, School Planner
Fax: (941) 708-8832

CRA: Palmetto Community Redevelopment Agency
516 8th Ave. West
Palmetto, Florida 34221
Attn: Tanya Lukowiak, Executive Director
Fax: (941) 723-4704

With copy to: City of Palmetto
518 8th Ave. West
Palmetto, Florida 34221
Attn: Shirley Bryant, Mayor
Fax: (941) 722-8557

or to such other address as any party may designate by written notice to the other party.

20. **Remedies.** In the event that any party fails to timely comply with any condition, covenant or obligation it has hereunder, the other parties shall have the right to:

(a) Terminate this Agreement by giving written notice thereof to the other parties, whereupon no party shall have any further rights or obligations hereunder; or

(b) Enforce specific performance of the defaulting party's obligations under this Agreement, and/or seek damages resulting from the defaulting party's default.

21. **Miscellaneous.**

(a) **Entire Agreement.** This Agreement constitutes the entire agreement between the parties. No representation, promise or inducement not set forth herein shall be binding upon any party.

(b) **No Oral Modifications.** This Agreement shall not be modified or amended except by an instrument in writing executed by or on behalf of all of the parties.

(c) **Binding Effect.** The provisions of this Agreement shall inure to the benefit of and shall be binding upon the parties and their respective successors.

(d) **Time of Essence.** TIME IS OF THE ESSENCE OF THIS AGREEMENT.

(e) **Delivery of Possession.** Possession of the Property shall be granted to School Board upon completion of Closing and School Board's performance of its obligations.

(f) **Calculation of Time.** If the time period by which any right, option or election provided under this Agreement must be exercised, or by which any act required must be performed, or by which the Closing must be held, expires on a Saturday, Sunday or legal holiday, then such time period shall be automatically extended through the close of business on the next Business Day. Unless otherwise expressly stated, time periods shall be calculated in calendar days.

(g) **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same Agreement.

(h) **Captions.** Captions contained in this Agreement are inserted only as a matter of convenience and for reference, and in no way define, limit, extend or describe the scope of this Agreement nor the intent of any provision hereof.

(i) **Governing Law.** This Agreement shall be governed by and construed under the laws of the State of Florida.

(j) **No Recordation.** No party shall have the right to record this Agreement.

(k) **No Waiver.** No failure of any party to exercise any power given such party hereunder or to insist upon strict compliance by any other party with its obligations hereunder, and no custom or practice of the parties at variance with the terms hereof shall constitute a waiver of any party's right to demand exact compliance with the terms hereof. Nothing contained herein or in the Introduction to this Agreement shall be construed as a waiver of any party's rights in the event of a condemnation proceeding.

(l) **Construction of Agreement.** The parties acknowledge and agree that they have been represented by counsel and that each of the parties has participated in the drafting of this Agreement. Accordingly, it is the intention and agreement of the parties that the language, terms and conditions of this Agreement are not to be construed in any way against or in favor of any party hereto by reason of the responsibilities in connection with the preparation of this Agreement.

(m) **Public Disclosure Affidavit.** The parties confirm that, before entering into this Agreement, they have complied with Section 286.23(2), *Florida Statutes* to the extent applicable to any transaction described in this Agreement.

(n) **Attorneys' Fees and Costs.** In the event of any litigation arising out of this Agreement, the prevailing party shall be entitled to recover its costs and reasonable attorneys' fees (including appeal and recovery of judgment costs and fees) from the non-prevailing party.

(o) **Delegation of Authority.** After execution of this Agreement by the parties, the duties and responsibilities under this Agreement of the School Board may be performed by the Superintendent of Schools or the Superintendent's designee.

(p) **Effect of Termination of Agreement.** Unless the parties agree otherwise, the termination of this Agreement with respect to the School Board as to the Property which it has agreed to purchase shall terminate this Agreement entirely as to the School Board and CRA, and all parties shall have no further rights nor obligations pursuant to this Agreement except for the Inspection Obligations and the obligations created pursuant to Section 18, all of which shall continue until fully performed.

IN WITNESS WHEREOF, the parties hereto set their respective hands and affixed their seals on the day and year indicated below.

**Signed, sealed and delivered
in the presence of:**

	SCHOOL BOARD OF MANATEE COUNTY, FLORIDA, a public body corporate
_____ Signature	By: _____
_____ Print Name	As its: _____
_____ Signature	ATTEST:
_____ Print Name	_____ Superintendent
Approved to Form and Legal Sufficiency By: _____	Date Executed: _____, 2009

	PALMETTO COMMUNITY REDEVELOPMENT AGENCY, a public body corporate and politic
_____ Signature	By: _____
_____ Print Name	As its: _____
_____ Signature	ATTEST:
_____ Print Name	_____ Superintendent
	Date Executed: _____, 2009

List of Exhibits

A- legal description of School Expansion Site

