



AGENDA REQUEST FORM

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

MEETING DATE	2019-03-05 10:05 - School Board Operational Meeting
AGENDA ITEM	ITEMS
CATEGORY	L. OFFICE OF PORTFOLIO SERVICES
DEPARTMENT	Facility Planning and Real Estate

Special Order Request	
<input type="radio"/> Yes	<input checked="" type="radio"/> No
Time	
Open Agenda	
<input type="radio"/> Yes	<input checked="" type="radio"/> No

ITEM No.:
L-7.

TITLE:
First Amendment to Agreement of Sale and Purchase (South Area Portable Annex)

REQUESTED ACTION:
Approve the First Amendment to Agreement of Sale and Purchase between The School Board of Broward County, Florida (SBBC) and DR Horton, Inc., for the South Area Portable Annex 24.475 Acreage (Parcel 235) Site.

SUMMARY EXPLANATION AND BACKGROUND:
Section 1013.8 Florida Statutes (FS) allows a school board to dispose of any land or real property that is by resolution of the board, determined to be unnecessary for educational purposes as recommended in an educational plant survey.
See Supporting Docs for continuation of Summary Explanation and Background.
This Agreement has been reviewed and approved as to form and legal content by a District Cadre Attorney and the Office of the General Counsel and executed by DR Horton, Inc., and upon approval by SBBC, will become effective.

SCHOOL BOARD GOALS:
 Goal 1: High Quality Instruction
 Goal 2: Continuous Improvement
 Goal 3: Effective Communication

FINANCIAL IMPACT:
There is no financial impact to the School District; therefore this item does not require a collaboration form from the Capital Budget Department. Please note, the financial impact on the Agenda Request Form for the Agreement of Sale and Purchase will remain the same.

EXHIBITS: (List)
(1) Continuation of Summary Explanation and Background (2) Executive Summary (3) First Amendment to Agreement of Sale and Purchase (4) Executed Agreement of Sale and Purchase (5) Timeline for South Area Portable Annex Site

BOARD ACTION:
APPROVED
(For Official School Board Records Office Only)

SOURCE OF ADDITIONAL INFORMATION:

Name: Chris O. Akagbosu	Phone: 754-321-2162
Name:	Phone:

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
Senior Leader & Title

Leslie M. Brown - Chief Portfolio Services Officer

Signature
Leslie M. Brown
2/26/2019, 8:22:56 AM

Approved In Open Board Meeting On: MAR 05 2019
By: *Heather P. Burkwood*
School Board Chair

Continuation of Summary Explanation and Background

On December 2018, the Agreement of Sale and Purchase between SBBC and DR Horton, Inc., regarding the South Area Portable Annex 24.475 Acreage Site (Agreement) was entered into and became effective on December 20, 2018. Thereafter, implementation of certain provisions of the Agreement including Section 5, "Title" commenced. However, in course of conducting the title search called for in Section 5, the search revealed that a sliver of land (Parcel 2), located adjacent to Parcel 235 (Property), and owned by SBBC, was not reflected in the land survey for the Property. Also, that SBBC did not hold fee simple title to a portion of the Property that is the subject of the Agreement. The portion of the subject Property is identified as Parcel 4 on the attached First Amendment. Rather as was discovered in the search, the use of the Parcel 4 property was dedicated to SBBC for utility, drainage, ingress, egress and road related purposes pursuant to the Plat of Pembroke Shores recorded in Plat Book 159, Page 31 of the Public Records of Broward County, Florida. Thus, consensus reached by DR Horton, Inc., the Office of General Counsel/SBBC cadre attorney, and staff, to cure these title defects is via amendment to the Agreement; hence this First Amendment to Agreement of Sale and Purchase (Amendment).

On a related matter, DR Horton, Inc., is also claiming that the time spent to address the title defect and efforts to appropriately address/cure them, has resulted in DR Horton, Inc. losing component of days allotted in the Agreement for it to conduct inspection of the Property. Therefore, DR Horton, Inc. is requesting that an additional thirty (30) days be added to its inspection period at no cost (extension fee), to make up for the lost number of days. It should be noted that by granting this request, DR Horton, Inc. would still be entitled to the extension periods called for in Section 8 "Inspections" of the Agreement. Thus, this Amendment if approved by SBBC, would result in the amendment to Sections of the Agreement noted below, but as specifically delineated in the Amendment.:

1. Section 5 - Extension of the Title Review Period to February 8, 2019 to comply with timeframe called for in the Section.
2. Section 8 - Additional thirty (30) days added to the end (March 11, 2019) of the current inspection period, which the end of a new inspection period will be April 10, 2019.
3. Exhibit "A" - Modification to the legal description and acreage of the Property.

EXECUTIVE SUMMARY

First Amendment to Agreement of Sale and Purchase (South Area Portable Annex)

The South Area Portable Annex site (Parcel 235), which is approximately 27.092 acres, of which 4.989 acres consists of conservation area, is located at the southeast intersection of 172nd Avenue and Pines Boulevard in the City of Pembroke Pines (City). However, 2.617 acres of the Parcel is currently under a thirty (30) year lease (with 21 years remaining) to the City. Additionally, 99 portables are located on the Parcel.

As stated in the Agenda Request Form, the Agreement of Sale and Purchase between the School Board of Broward County, Florida (SBBC) and DR Horton, Inc., regarding the sale of the South Area Portable Annex 24.475 Acreage Site (Agreement) became effective on December 20, 2018. At that time and related to the Agreement, the land survey in the School's District real estate files for Parcel 235 (Property) indicated that the Property, minus the acreage leased to the City consisted of 24.257 acres. Upon the effectiveness of the Agreement, the implementation of certain provisions of the Agreement including Section 5, "Title" commenced; and during the title search called for in Section 5, the search revealed that a sliver of land (Parcel 2), located adjacent to the Property, and owned by SBBC, was not reflected in recent past surveys and the latest land survey in the School's District real estate files for the Property. Also, that SBBC did not hold fee simple title to a portion of the Property that is the subject of the Agreement. The portion of the subject Property is identified as Parcel 4 on the attached First Amendment to Agreement of Sale and Purchase (Amendment), south Area Portable Annex (Amendment). Rather as was discovered in the search, the use of the Parcel 4 property was dedicated to SBBC for utility, drainage, ingress, egress and road related purposes pursuant to the Plat of Pembroke Shores recorded in Plat Book 159, Page 31 of the Public Records of Broward County, Florida. Currently, DR Horton in conjunction with SBBC cadre attorney are working to obtain a deed for Parcel 4 from Hovnanian Developments of Florida, Inc., (the prior developer) for SBBC. It is important to note that the Amendment provides that SBBC will not be required to expend any funds in consideration for the transfer of Parcel 4 from the prior developer.

To remedy these discrepancies, Miller Legg conducted a new land survey for the Property, which resulted in the legal description and specific acreages of the various Parcels for the Property depicted in Exhibit "A-1" and resulting in a total acreage of 24.475 of the Property; a difference of 0.218 acres (i.e. 24.475 acres – 24.257 acres). Given this minor difference in acreage, staff reached out to the appraisers who appraised the Property to ascertain the value of the Property if this minor acreage was included in their initial appraisal. The new opinion of values provided by the appraisers were \$16,833,000, \$16,938,000, and \$18,860,000. The current minimum asking price that was established by the Negotiation Parameters Committee (NPC) for the Property was **\$17,400,000**. Calculations factoring the average of these new opinion of values (the same approach utilized by the NPC) into the current minimum asking price resulted in an increased dollar amount of \$17,600,000. However, it should be noted that DR Horton's bid price, and SBBC sale price of the Property to DR Horton, is \$21,025,000, which is significantly higher than the current minimum asking price of **\$17,400,000**, and the increased dollar amount of \$17,600,000.

Thus, this Amendment is being scheduled for SBBC approval to address the discrepancies found during the title search stated herein.

Additionally, as stated herein, DR Horton, Inc., is also requesting that additional thirty (30) days be added to its inspection period called for in the Agreement to make up for the number of days it lost in efforts undertaken by representatives of the parties to the Agreement to address the title defect. Therefore, the Amendment sought if approved by SBBC would result in the amendments to the Agreement, as specifically delineated in the Amendment:

It should be noted that currently, all pertinent staff are working expeditiously towards relocation of the Community School South (CSS) and English Speakers of Other Language (ESOL) Department in a timely manner to identified SBBC owned properties prior to closing on the sale of the property. See Attachment 5, revised timeline for the project.

Also, as has continuously been communicated in pertinent presentations and Board items related to the sale of this Property, the funding source to address all applicable costs, as determined to repair SBBC owned facilities, where the CSS and ESOL Department are slated for relocation, and the cost to relocate the CSS and ESOL Department, will ultimately be derived from proceeds realized from the sale of the Property.

STATE: FLORIDA
COUNTY: BROWARD

DIVISION: SOUTHEAST FLORIDA
PROJECT: BROWARD SCHOOL BOARD SITE

FIRST AMENDMENT TO AGREEMENT OF SALE AND PURCHASE

This First Amendment to Agreement of Sale and Purchase (the "Amendment") is made and entered into by and between **D.R. Horton, Inc.**, a Delaware corporation ("Purchaser"), and **The School Board of Broward County, Florida**, a body corporate and political subdivision of the State of Florida ("Seller").

BACKGROUND

Seller and Purchaser entered into that certain Agreement of Sale and Purchase effective as of December 20, 2018 (the "Agreement") and Seller and Purchaser have agreed to amend the terms and provisions thereof as more particularly set forth herein.

AGREEMENT

1. The above recitals are true and correct and are incorporated herein by reference. Capitalized terms which are not defined in this Amendment shall have the same meaning as defined in the Agreement.

2. Section 5 of the Agreement is hereby amended to extend the Title Review Period through February 8, 2019.

3. Section 8.1 of the Agreement is hereby amended to extend the Inspection Period through April 10, 2019.

4. Exhibit "A" to the Agreement is hereby deleted and replaced with Exhibit "A-1" attached hereto and incorporated herein. The parties acknowledge the Legal Description does not reflect fee simple title to Parcel 4 is vested in the Seller, rather Parcel 4 is dedicated to the Seller for utility, drainage, ingress, egress and road related purposes pursuant to the Plat of Pembroke Shores Parcel 2 & 10 recorded in Plat Book 159, Page 31 of the Public Records of Broward County, Florida. Seller and Purchaser agree to work together in good faith during the Inspection Period to satisfy any requirements of the Title Company in order for Seller to convey fee simple, insurable title to Parcel 4 to Purchaser at Closing, provided however, conveyance of fee simple insurable title to Parcel 4 to Purchaser at Closing shall be a condition to Purchaser's obligation to close. The Seller shall not be obligated to expend any funds in consideration for the transfer of Parcel 4 as contemplated herein.

5. Section 18.1 of the Agreement is hereby amended to add "final and irrevocable approval by the Governing Jurisdiction of a replat of the Property acceptable to Purchaser to permit the Anticipated Use, on terms and conditions acceptable to Purchaser" to the definition of "Entitlements" contained in the first sentence thereof.

6. IN ACCORDANCE WITH SECTION 42 OF THE AGREEMENT, THIS AMENDMENT SHALL NOT BE A VALID, BINDING AND ENFORCEABLE

OBLIGATION OF PURCHASER UNLESS AND UNTIL SUCH DOCUMENT IS RATIFIED IN WRITING BY ONE OF THE FOLLOWING AUTHORIZED OFFICERS OF PURCHASER: DONALD R. HORTON, MICHAEL J. MURRAY, BILL W. WHEAT, DAVID V. AULD OR PAUL ROMANOWSKI.

7. This Amendment 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 March 5, 2019 and is non-binding on the Seller until such time as it shall be reviewed and approved by the Board.

8. This Amendment may be executed in any number of counterparts, each of which shall be deemed to be an original instrument, but all such counterparts together shall constitute one in the same instrument. Signature and acknowledgement pages, if any, may be detached from the counterparts and attached to a single copy of this document to physically form one document. In addition, facsimile or electronic counterparts of this Amendment shall be deemed for all purposes as an original.

9. The ratification of this Amendment by any of the Authorized Officers on behalf of Purchaser, may be accomplished by electronic signature using DocuSign or other similar technology.

10. In the event of any conflict between the terms of the Agreement and the terms of this Amendment, the terms of this Amendment shall control. Except as amended and modified herein, the remaining terms and provisions of the Agreement shall remain in full force and effect as originally set forth therein.

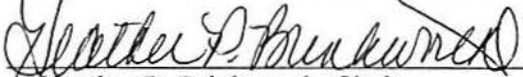
IN WITNESS WHEREOF, the parties have executed this Amendment as of the last date set forth below.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK

(Corporate Seal)

SELLER:

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

By: 

Heather P. Brinkworth, Chair

Date:

ATTEST:

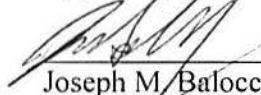


Name: Robert W. Runcie

Title: Superintendent of Schools

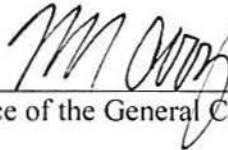
Date:

Approved as to form and legal content:




Joseph M. Balocco, Jr., President

JOSEPH M. BALOCCO, JR., P.A.



Office of the General Counsel

PURCHASER:
D.R. HORTON, INC.,
A Delaware Corporation

By: 
Name: Rafael Roca
Title: Vice President
Date: 2/13/19

Pursuant to Section 42 of the Agreement and Section 6 above, the undersigned hereby ratifies the Agreement on behalf of D.R. Horton, Inc.

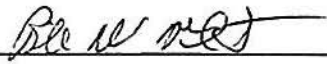

Print Name: **Bill W. Wheat**
Title: **Chief Financial Officer**
Date: **February 15, 2019**

EXHIBIT "A-1"

PARCEL 1:

Parcel D of PEMBROKE SHORES, according to the Plat thereof, recorded in Plat Book 157, page 22, of the Public Records of Broward County, Florida.

LESS AND EXCEPT THEREFROM: A portion of Parcel D of PEMBROKE SHORES, according to the Plat thereof, recorded in Plat Book 157, page 22, of the Public Records of Broward County, Florida, more particularly described as follows:

Begin at the Southwest corner of said parcel D; thence along West boundary of said Parcel "D" the following three (3) courses: (1) North 01°47'25" West 40.01 feet; (2) South 88°12'35" West 12.00 feet; (3) North 01°47'25" West 138.14 feet; thence North 89°39'15" East 643.91 feet; thence South 01°47'17" East 177.85 feet to the South line of said Parcel "D"; thence along said South line South 89°39'15" West 631.89 feet to the Point of Beginning. Said lands situate, lying, and being in the City of Pembroke Pines, Broward County, Florida. (Acreage 18.293)

PARCEL 2:

A portion of Parcel A-1 of PEMBROKE SHORES, according to the Plat thereof, recorded in Plat Book 157, page 22, of the Public Records of Broward County, Florida, more particularly described as follows:

Begin at the Northwest corner of said Parcel A-1; thence along the North line of said Parcel A-1 on a Plat bearing of North 89° 39'58" East 11.30 feet; thence parallel with and 11.30 feet East of the West line of said Parcel A-1, also being the East line of Parcel D, South 00° 20'02" East 839.58 feet to a line parallel with and 50.00 feet North of the boundary of said Parcel A-1; thence along said parallel line, South 89° 39'26" West 11.30 feet to the East line of said Parcel D; thence along said East line, North 00° 20'02" West 839.58 feet to the Point of Beginning. (Acreage 0.218)

PARCEL 3:

Tract 45, less the West 1/2 thereof, of FLORIDA FRUIT LANDS COMPANY'S SUBDIVISION NO. ONE of Section 17, Township 51 South, Range 40 East, according to the Plat thereof, recorded in Plat Book 2, page 17, of the Public Records of Miami-Dade County, Florida, said lands lying, being and situate in Broward County, Florida. (Acreage 4.989)

PARCEL 4:

Tract A-2 of PEMBROKE SHORES PARCEL 2 & 10, according to the Plat thereof, recorded in Plat Book 159, page 31, of the Public Records of Broward County, Florida. (Acreage 0.975)

AGREEMENT OF SALE AND PURCHASE

18th THIS AGREEMENT OF SALE AND PURCHASE ("Agreement") made as of the 18 day of December, 2018, by and between THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA, a body corporate and political subdivision of the State of Florida ("Seller") and D.R. HORTON, INC., a Delaware corporation ("Purchaser"), with the joinder and consent of JOSEPH M. BALOCCO, JR., P.A. (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 easements, rights-of-way, privileges, appurtenances 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 Twenty-One Million, Twenty-Five Thousand and 00/100 Dollars (\$21,025,000.00).

3.2. The Purchase Price shall be paid as follows:

(a) Escrow Agent acknowledges receipt of an earnest money deposit in the amount of Two Million, One Hundred Two Thousand, Five Hundred and 00/100 Dollars (\$2,102,500.00) ("Deposit"), which Deposit accompanied Purchaser's Proposal on Bid 19-066V dated July 25, 2018. Escrow Agent shall hold the Deposit in accordance with the terms of this Agreement provided this Agreement shall be approved by the Board. 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 December 18, 2018 and in the event the Board shall fail to approve this Agreement, the Deposit shall be promptly returned to the Purchaser.

(b) 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 Property 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:

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

4.2 Zoning restrictions and prohibitions imposed by governmental and/or quasi-governmental authority; and

4.3 Those matters deemed to be "Permitted Exceptions" pursuant to Paragraph 5 hereof.

5. **Title.** Within fifteen (15) 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 Chicago Title Insurance Company ("Title Company") issued by Joseph M. Balocco, Jr., P.A., together with legible hard copies of all exceptions contained in the Commitment. Further, Purchaser may obtain, at Purchaser's cost, within thirty (30) days following the Effective Date of this Agreement, an up-to-date boundary or ALTA survey ("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 fifteen (15) 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") and give written notice to Seller of any objections that Purchaser may have (the "Initial Title Objections"). Within ten (10) days after receipt of the Initial Objection to Title Notice, Seller shall provide written notice to Purchaser whether Seller will cure any such objections or refuse to cure such objections. Failure by Seller to give written notice of its election within ten (10) days after receipt of the Initial Objection to Title Notice shall be deemed an election by Seller not to cure the objections. In the event Seller elects, or is deemed to have elected, not to cure any objections, then Purchaser shall have the right to elect to either (i) waive the unsatisfied objections and proceed with Closing, or (2) 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"). Failure by Purchaser to give written notice of its election within ten (10) days after Seller's election or deemed election shall constitute an election by Purchaser to terminate this Agreement and receive an immediate refund of the Deposit. In the event Seller elects to cure the objections, Seller shall have sixty (60) days from the date of the notice to exercise its best efforts to cure the defect and if after said sixty (60) day period Seller shall not have cured such defect, then Purchaser shall have the right to elect to either (i) waive the uncured objections and proceed with Closing, or (2) terminate this Agreement upon delivery of written notice to Seller and the Deposit shall be refunded to Purchaser and this Agreement shall be terminated except for the Surviving Obligations. Any objections that are waived in writing by Purchaser, or deemed to be waived by Purchaser pursuant to this Section, shall become "Permitted Exceptions." Seller shall not be obligated to file suit to cure title. Purchaser may re-examine title up to Closing and give written notice to Seller of any objections that Purchaser may have as to matters that did not exist or were not of public record as of the Effective Date, which new title objections shall be addressed as set forth above.

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:

6.1 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.

6.2 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.

6.3 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").

6.4 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).

6.5 There are no leases, use rights or other rights of occupancy which affect the Property, and there will be no leases, use rights or other rights of occupancy affecting the Property at Closing.

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

7.1 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;

7.2 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.

7.3 Seller has full authority to execute this Agreement and convey the Property to Purchaser and execute and deliver the deed and such other documents, instruments, affidavits and certificates as are necessary or desirable to effectuate this transaction, and no other signatures are required for this Agreement to be fully enforceable by Purchaser;

7.4 The execution and delivery of this Agreement and the consummation of this transaction will not result in a breach of any of the terms of, or constitute a default under, any (i) indenture, contract or instrument to which Seller is a party or by which Seller or the Property is bound, or (ii) law, order, ruling, ordinance, rule or regulation with respect to Seller or the Property or the use or construction thereof;

8. Inspections.

8.1 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 eighty-one (81) days following the Effective Date in which to conduct such inspections and otherwise examine same. On or before 5:00 p.m. e.s.t. on a date ("Inspection Completion Date") which is the end of the Inspection Period, Purchaser may notify Seller that such results are suitable to Purchaser by delivering to Seller a written Notice of Suitability signed by one of the executive officers of Purchaser listed in Section 42 below (collectively, the "Authorized Officers"). No such Notice of Suitability shall be valid and effective unless signed by one of the Authorized Officers. If Purchaser fails for any reason to send Seller the Notice of Suitability by the Inspection Completion Date, and such failure continues for a period of five (5) days beyond the Inspection Completion Date, this Agreement shall automatically terminate. Also, if Purchaser notifies Seller in writing at any time prior to issuance of a Notice of Suitability that the results of its inspections, tests, examinations or studies are not suitable to Purchaser, then this Agreement shall automatically terminate. Upon such termination, 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 harmless from and against any and all loss, cost, damage, liability, lien, claim, threat(s) of claim, or other exposure suffered or incurred by Seller on account of the acts or omissions of Purchaser, its employees, agents and/or contractors which respect to the inspections (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). Purchaser shall have the right to two (2) extensions of thirty (30) days each of the Inspection Completion Date by giving Seller written notice of each such request prior to the expiration of the initial Inspection Completion Date or prior to the expiration of the first extended Inspection Completion Date, as applicable. Any notice of an

extension of the Inspection Completion Date shall be accompanied by a Fifteen Thousand and 00/100 Dollar (\$15,000.00) nonrefundable extension fee which will not be credited to the Purchase Price and which fee shall be returned to the Purchaser in the event of Seller's default.

8.2 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 inspection (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; and (ii) all property, if any, damaged or destroyed by Purchaser, its employees, agents and independent contractors to be repaired, restored and replaced to substantially the same conditions as prior to inspections or testing; provided, however, in no event shall Purchaser undertake any invasive or Phase II testing of the Property without first obtaining the prior written consent of Seller, which consent shall not be unreasonably withheld; however, Purchaser shall use commercially reasonable efforts not to 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.

8.3 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. Purchaser shall indemnify Seller for liens which may be filed against the Property by persons or entities employed or contracted by Purchaser to perform inspections of the Property.

8.4 Notwithstanding anything contained herein to the contrary, prior to Purchaser's performing any inspections upon the Property, Purchaser shall procure, maintain and furnish the Seller with a certificate evidencing commercial general liability insurance against claims for bodily injury, death or property damage occurring in, on or about the Land, in an amount of at least One Million and 00/100 Dollars (\$1,000,000.00) for each occurrence and Two Million and 00/100 Dollars (\$2,000,000.00) in the general aggregate. The liability policy shall name Seller as additional insured but only with respect to liability caused in whole or in part by Purchaser's acts or omissions, or the acts or omissions of those acting on Purchaser's behalf in the performance

of Purchaser's ongoing operations on the Land. The policy shall be issued by an insurance company authorized to do business in Florida, and rated A-, VIII by AM Best.

8.5 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 Purchaser's indemnity of Seller pursuant to this Paragraph 8 shall survive the Closing or any earlier termination of this Agreement for a period of one (1) year.

9. **The Closing.** The closing of title hereunder ("Closing") shall take place at the offices of Escrow Agent, 1323 SE Third Avenue, Fort Lauderdale, Florida 33316 ("Closing Location") commencing at such time as may be mutually agreed to by the Parties on the date that is thirty (30) days from the later of (a) the date on which Purchaser delivers Notice of Suitability for the Property, or (b) expiration of the Entitlement Approval Period, as hereinafter defined and as the same may be extended in accordance with Paragraph 18. Notwithstanding the foregoing, if Closing is scheduled to occur on any date from September 15 through September 30, it shall automatically be extended to the next Permitted Closing Day in October, and if Closing is scheduled to occur on any date from December 18 through January 5, it shall automatically be extended to the next Permitted Closing Day in January. For purposes of this Section 9, a Permitted Closing Day shall mean a Tuesday, Wednesday or Thursday that is a business day.

10. **Prorations and Adjustments.**

10.1 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.

10.2 Seller 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.

10.3 The provisions of this Paragraph 10 shall survive the Closing.

11. **Brokerage.** The Parties hereto each represent that other than the Purchaser's broker, Michael Christopher with Realty Masters Advisors, LLC, 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.** Purchaser shall be obligated to pay Purchaser's brokerage commission at Closing. 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 salesman 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.**

12.1 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.

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

13. **Documents to be Delivered.**

13.1 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:

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

(b) A standard No-Lien, Parties in Possession and FIRPTA Affidavit executed by Seller which shall be in recordable form and otherwise satisfactory to the Title Company in order to delete the standard printed exceptions relating to mechanic's liens and parties-in-possession.

(c) An affidavit requested by the Title Company as may be necessary to insure the gap between the effective date of the Commitment to and through the date of the recordation of the deed.

(d) A general assignment of rights against third-parties in substantially the form attached hereto as Exhibit "D".

13.2 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.

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

14. **Assignment.** Purchaser shall not assign this Agreement without first obtaining the prior written consent of Seller, which consent may be granted or withheld in the Seller's sole and absolute discretion. Notwithstanding the foregoing, Purchaser shall have the right and authority to assign this Agreement and all of its rights hereunder without the prior written consent of Seller to an entity owned or controlled in whole or part by Purchaser, including Forestar Group, Inc., and any such assignee (the "Assignee") shall be entitled to all of the rights and powers of Purchaser hereunder, provided that Purchaser: (i) gives Seller written notice of such assignment at or prior to the Closing Date; (ii) delivers to Seller at or prior to Closing an instrument evidencing such assignment and (iii) Assignee assumes all of Purchaser's obligations under this Agreement in writing.

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

15.1 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 and the Title Company shall be unconditionally prepared to issue a standard ALTA owner's form title policy insuring good and marketable fee simple title to the Property with a liability limit in the amount of the Purchase Price at standard premium rates.

15.2 There has been no adverse change to the environmental condition of the Property as such condition was reflected in the environmental reports obtained by Purchaser during the Inspection Period. Notwithstanding the foregoing, in the event that there has been any adverse change to the environmental condition of the Property, the Purchaser may extend the Closing Date for a period not to exceed thirty (30) days for purposes of assessing the intervening issue.

15.3 All of Seller's warranties, representations and covenants contained in this Agreement shall be and remain true, correct, complete in all material respects and fully performed as of the Effective Date and through Closing.

15.4 Purchaser shall have obtained all Entitlements for the Approved Use in accordance with Paragraph 18.

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) business 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, including Seller's failure to cause the Closing Conditions to be satisfied at Closing, 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 to Purchaser (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; or

(c) to take 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.

16.4 The provisions of this Paragraph 16 shall survive Closing.

17. **Condemnation or Eminent Domain.** 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.

18. **Entitlement Approval Period.**

18.1 Purchaser shall have Two Hundred Eighty Four (284) days from the Inspection Completion Date (the "Entitlement Approval Period") within which to obtain from all applicable governmental authorities having jurisdiction over the Property, including, without limitation, Broward County, City of Pembroke Pines and the State of Florida (and their respective agencies) (collectively and as applicable, the "Governing Jurisdiction") a final, non-appealable zoning of the Land to a land use designation acceptable to Purchaser, including Land Use Plan Map Amendments (as hereinafter defined), and a zoning classification necessary to support density and construction of fee simple town homes together with all final, non-appealable approvals for the construction of the same together with related infrastructure, amenities, drainage, utilities, including water and sewer capacity (the "Anticipated Use"), including without limitation site plan approvals, zoning approvals, variances, curb cut approvals, engineering approvals, Army Corps of Engineers, South Broward Drainage District, South Florida Water Management District, Broward County Environmental Engineering and Permitting Division and/or other drainage or wetland permits, and other Federal, State and municipal approvals and permits that Purchaser deems, in its sole and absolute discretion, necessary or desirable for the development of the Property (collectively the "Entitlements"), so that the Purchaser can obtain a land disturbance permit for the Property upon acquisition of the Property. Purchaser shall use commercially reasonable efforts to pursue the Entitlements and shall provide Seller with quarterly progress reports detailing Purchaser's efforts to obtain the Entitlements. Seller shall fully cooperate with Purchaser in connection with Purchaser's efforts to obtain all such permits and approvals, including, without limitation, executing such applications or such other documents and instruments and attending such meetings with governmental authorities as may be reasonably necessary to allow Purchaser to process Entitlements in its name or in the name of the Seller. If Purchaser has proceeded with commercially reasonable efforts and in good faith towards obtaining the Entitlements, Purchaser shall have the right to extend the Entitlement Approval Period for three (3), ninety (90) day periods by delivery of written notice to Seller of its election to so extend on or before the expiration of the Entitlement Approval Period, which delivery shall be accompanied by an extension fee in the sum of Fifty Thousand and 00/100 Dollars (\$50,000.00) per extension, which extension fee shall be non-refundable except in the event of an uncured Seller default and shall not be credited towards the Purchase Price. In the event that Purchaser shall fail to timely obtain the necessary Entitlements, and provided Purchaser has exercised good faith efforts to obtain same, Purchaser shall have the option upon written notice to Seller, prior to the expiration of the Entitlement Approval Period (as may be extended hereby), to waive the obtaining of said Entitlements or terminate this Agreement, in which event the Deposit shall be disbursed as provided herein. Purchaser's failure to timely notify Seller of Purchaser's election shall be deemed an election to terminate this Agreement. Should Purchaser timely elect to terminate this Agreement, or be deemed to terminate this Agreement, the Deposit shall be disbursed as provided herein and neither Party shall have any further obligation to the other with the exception of the Surviving Obligations. In the event that the Purchaser Delivers the Notice of Suitability as provided for in Section 8, the sum of Twenty-Five Thousand and 00/100 Dollars (\$25,000.00) of the Deposit shall be nonrefundable to Purchaser, except in the event of Seller's default. Upon City Commission Transmittal to Broward County of the Land-Use Plan Map Amendment (first reading), an additional Twenty Five Thousand and 00/100 Dollars (\$25,000.00) (a total cumulative sum of Fifty Thousand and 00/100 Dollars (\$50,000.00)) of the Deposit shall be nonrefundable to Purchaser, except in the event of Seller's default. Upon the Board of County Commissioners'

transmittal to the State of Florida of the Land-Use Plan Map Amendment (first reading), an additional Fifty Thousand and 00/100 Dollars (\$50,000.00) (a total cumulative sum of One Hundred Thousand and 00/100 Dollars (\$100,000.00)) of the Deposit shall be nonrefundable to Purchaser, except in the event of Seller's default. Upon the Board of County Commissioners' adoption of the Land-Use Plan Map Amendment (second reading), an additional Seventy-Five Thousand Dollars (\$75,000.00) (a total cumulative sum of One Hundred Seventy-Five Thousand and 00/100 Dollars (\$175,000.00)) of the Deposit shall be nonrefundable to Purchaser, except in the event of Seller's default. Upon the City of Pembroke Pines' adoption of the Land-Use Plan Map Amendment (second reading), an additional Seventy-Five Thousand and 00/100 Dollars (\$75,000.00) (a total cumulative sum of Two Hundred Fifty Thousand and 00/100 Dollars (\$250,000.00)) of the Deposit shall be nonrefundable to Purchaser, except in the event of Seller's default. Following final, non-appealable zoning approval from the Governing Jurisdiction, an additional Two Hundred Fifty Thousand and 00/100 Dollars (\$250,000.00) (a total cumulative sum of Five Hundred Thousand and 00/100 Dollars (\$500,000.00)) of the Deposit shall be nonrefundable to Purchaser, except in the event of Seller's default. Upon issuance of Final Site Plan Approval, and additional Three Hundred Fifty Thousand and 00/100 Dollars (\$350,000.00) (a total cumulative sum of Eight Hundred Fifty Thousand and 00/100 Dollars (\$850,000.00)) of the Deposit shall be nonrefundable to Purchaser, except in the event of Seller's default.

18.2 As used herein, "Land Use Plan Map Amendments" means the written, final and irrevocable approval by the Governing Jurisdiction approving Amendments to the Broward County and City of Pembroke Pines Land Use Plan Maps to a designation acceptable to Purchaser to permit the Anticipated Use, on terms and conditions acceptable to Purchaser.

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 and Entitlement Approval Periods.

21. Notices. All notices of request, demand and other communications hereunder shall be addressed to the parties as follows unless the address is changed by the party by like notice given to the other parties:

As to Seller:

Superintendent of Schools
The School Board of Broward County Florida
600 Southeast Third Avenue -10th floor
Fort Lauderdale, FL 33301

[THIS SPACE LEFT INTENTIONALLY BLANK]

With a copy to: Director of Facility Planning and Real Estate
The School Board of Broward County Florida
600 Southeast Third Avenue - 8th floor
Fort Lauderdale, FL 33301
Telephone No: (754) 321-2177
Telecopier No: (754) 321-2179
E-Mail: chris.akagbosu@browardschools.com

With a copy to: Office of the General Counsel
The School Board of Broward County Florida
600 Southeast Third Avenue -11th floor
Fort Lauderdale, FL 33301
Telephone No: (754) 321-2050
Telecopier No: (754) 321-2705

With a copy to: Joseph M. Balocco, Jr., Esq.
Joseph M. Balocco, Jr. P.A.
1323 SE Third Avenue
Fort Lauderdale, FL 33316
Telephone No: (954) 764-0005
Telecopier No: (954) 764-1478
E-Mail: jbaloccojr@balocolaw.com

As to Purchaser: D.R. Horton, Inc.
Attn.: Rafael J. Roca
Division President
6123 Lyons Road
Coconut Creek, FL 33073
Telephone No: (954) 949-3015
Telecopier No: (817) 928-6179
E-Mail: rroca@drhorton.com

With a copy to: Nelson Mullins Broad and Cassel
Attn: Jennifer Lawton Marquina
Lynn Financial Center
1905 NW Corporate Blvd, Suite 310
Boca Raton, FL 33431
Telephone No: (561) 218-8863
Telecopier No: (561) 218-8985
E-Mail: Jennifer.lawton@nelsonmullins.com

With a copy to: D.R. Horton, Inc.
Charbel J. Barakat
Chief Counsel, Florida Region
12602 Telecom Drive

Tampa, FL 33637
Phone: 407-850-3027
Fax: 866-829-0570
E-mail: cbarakat@drhorton.com

As to Escrow Agent:

Joseph M. Balocco, Jr., P.A.
1323 SE Third Avenue
Fort Lauderdale, FL 33316
Attention: Joseph M. Balocco, Jr., Esq.
Telephone No: (954) 764-0005
Telecopier No: (954) 764-1478
E-Mail: jbaloccojr@balocolaw.com

Notice shall be in writing, mailed certified mail, return receipt requested, postage prepaid or via overnight courier such as Federal Express 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 telephonic communication reduced to written form (i.e., telecopier) or Federal Express, but shall only be deemed to have been given when received. Notwithstanding any other provision herein, Purchaser may serve the Notice of Suitability upon Seller by any means of electronic transmission, or by any of any of the means described in above.

22. **Effective Date.** The "Effective Date" shall mean the last day upon which the Agreement becomes fully executed by Seller and the Purchaser (including Purchaser's corporate ratification as required by Section 42 of this Agreement) and approved by Seller, and Seller notifies Purchaser in writing of such approval. The Seller shall notify the Purchaser of approval of the Agreement no later than fifteen (15) days from the date that the Board approves same. 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. The term "business day" shall mean Monday through Friday, excluding days on which federally-chartered or banks chartered by the state in which the Property is located are closed for business. If the day for any action under this Agreement falls on a day other than a business day, the day for the action shall automatically be extended until the next business day.

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.** Once executed by Purchaser, this constitutes an offer to purchase the Property upon the terms and conditions set forth herein. **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.** 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/Severability.** 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. If any provision of this Agreement shall be declared invalid or unenforceable by laws applicable thereto, or unenforceable as to certain parties, then the performance of such provision shall be excused by the parties hereto and the remaining provisions of this Agreement shall remain in full force and effect.

36. **Joint Preparation.** Both parties have been represented by counsel in the drafting and negotiation of this Agreement. 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. **Waiver of Jury Trial.** PURCHASER AND SELLER EACH AGREE TO WAIVE A TRIAL BY JURY IN ANY DISPUTE ARISING OUT OF THIS AGREEMENT.

39. **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.

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 AND IN THE CLOSING DOCUMENTS TO BE DELIVERED IN CONNECTION WITH THE CLOSING OF THIS TRANSACTION. 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.** PURCHASER HEREBY RELEASES SELLER AND ANY SERVICER, AGENT, REPRESENTATIVE, MANAGER, AFFILIATE, OFFICER, PARTNER, SHAREHOLDER OR EMPLOYEE OF SELLER (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 CONSTRUCTION DEFECTS, ANY ERRORS OR OMISSIONS IN THE DESIGN OR CONSTRUCTION OF THE PROPERTY AND ANY ENVIRONMENTAL CONDITIONS AT, IN, ON OR UNDER THE PROPERTY, AND PURCHASER WILL NOT LOOK TO SELLER OR ANY SELLER RELATED PARTY IN CONNECTION WITH THE FOREGOING FOR ANY REDRESS OR RELIEF. THE PROVISIONS OF THIS PARAGRAPH SHALL SURVIVE CLOSING OR THE EARLIER TERMINATION OF THIS AGREEMENT

42. **Corporate Ratification.** NOTWITHSTANDING ANY OTHER PROVISION HEREIN, NEITHER THIS AGREEMENT NOR ANY AMENDMENT HERETO SHALL BE A VALID, BINDING OR ENFORCEABLE OBLIGATION OF PURCHASER UNLESS AND UNTIL SUCH DOCUMENT IS RATIFIED IN WRITING BY ONE OF THE FOLLOWING EXECUTIVE OFFICERS OF PURCHASER: DONALD R. HORTON, DAVID V. AULD, MICHAEL J. MURRAY, BILL W. WHEAT OR PAUL ROMANOWSKI. The ratification of this Agreement by any of the Authorized Officers on behalf of Purchaser, may be accomplished by electronic signature using DocuSign or other similar technology. The Purchaser shall cause the Agreement to be ratified as provided herein, prior to December 18, 2018.

[THIS SPACE INTENTIONALLY LEFT BLANK]

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

(Corporate Seal)

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

By: *Heather P. Brinkworth*
Heather P. Brinkworth, Chair

ATTEST:

Robert W. Runcie

Name: Robert W. Runcie
Title: Superintendent of Schools

Approved as to form and legal content:

Joseph M. Balocco, Jr.

Joseph M. Balocco, Jr., President
JOSEPH M. BALOCCO, JR., P.A.

Kathelyn M. Jacques-Adams

Kathelyn M. Jacques-Adams,
Assistant General Counsel
Office of the General Counsel

WITNESS:

MC
Michael Caputo

PURCHASER:
D.R. HORTON, INC.,
A Delaware Corporation

By: *RR*
Name: Rafael Roca, Division President
Title: Division President

Pursuant to Section 42 above, the undersigned hereby ratifies the Agreement on behalf of D.R. Horton, Inc.

Print Name: _____
Title: _____
Date: _____

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 07th day of Dec, 2018 by Rafael Roca, Division President, on behalf of of D.R. Horton, Inc. He is personally known to me or produced _____ (type of Identification) as identification and did take an oath.

My Commission Expires:

Kristen L. Northup
Signature - Notary Public
KRISTEN L. NORTHUP
Printed Name of Notary
FF 984600
Notary's Commission No.

(SEAL)



WITNESS:

[Signature]
Michael Caputo

PURCHASER:
D.R. HORTON, INC.,
A Delaware Corporation

By: [Signature]
Name: Rafael Roca, Division President
Title: Division President

Pursuant to Section 42 above, the undersigned hereby ratifies the Agreement on behalf of D.R. Horton, Inc.

[Signature]
Print Name: Bill W. Wheat
Title: Chief Financial Officer
Date: December 13, 2018

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 03rd day of December, 2018 by Rafael Roca, Division President, on behalf of D.R. Horton, Inc. He is personally known to me or produced _____ (type of Identification) as identification and did not first take an oath.

My Commission Expires:

[Signature]
Signature - Notary Public

KRISTEN L. NORTHUP
Printed Name of Notary

(SEAL)

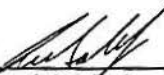


KRISTEN L. NORTHUP
MY COMMISSION # FF 664600
EXPIRES: June 20, 2020
Bonded Thru Budget Notary Services

Notary's Commission No.

The undersigned joins in this Agreement to acknowledge receipt of a wire in the amount of Two Million, One Hundred Two Thousand, Five Hundred and 00/100 Dollars (\$2,102,500.00) and to agree to hold same (subject to collection), in escrow, pursuant to the terms of Paragraph 3 of this Agreement.

JOSEPH M. BALOCCO, JR., P.A.

By: 

Joseph M. Balocco, Jr., President

Date: ^{December} ~~November~~ 6, 2018

INDEX OF EXHIBITS

EXHIBIT "A"	-	LEGAL DESCRIPTION
EXHIBIT "B"	-	PERMITTED ENCUMBRANCES
EXHIBIT "C"	-	SPECIAL WARRANTY DEED
EXHIBIT "D"	-	GENERAL ASSIGNMENT

EXHIBIT "A"

LEGAL DESCRIPTION

All of Parcel D of "PEMBROKE SHORES", according to the Plat thereof as recorded in Plat Book 157, Page 22 of the Public Records of Broward County, Florida; together with a portion of Parcel A-1 of said Plat described as follows:
BEGIN at the Northwest corner of said Parcel A-1; thence along the North line of said Parcel A-1 on a Plat bearing of North 89°39'58" East 11.30 feet; thence parallel with and 11.30 feet East of the West line of said Parcel A-1, also being the East line of said Parcel D, South 00°20'02" East 839.58 feet to a line parallel with and 50.00 feet North of the boundary of said Parcel A-1; thence along said parallel line, South 89°39'26" West 11.30 feet to the East line of said Parcel D; thence along said East line, North 00°20'02" West 839.58 feet to the POINT OF BEGINNING.
Said lands situate, lying and being in Broward County, Florida.

EXHIBIT "B"

PERMITTED ENCUMBRANCES

1. Ad valorem taxes for the year of Closing (to be prorated) and subsequent years.
2. Utility easements and rights-of-ways of record that do not materially affect Purchaser's intended use or the value of the Property.
3. Those exceptions deemed permitted in accordance with Paragraph 5 hereof.

EXHIBIT "C"

Prepared by:
JOSEPH M. BALOCCO, SR., ESQ.
JOSEPH M. BALOCCO, JR., P.A.
1323 SE Third Avenue
Fort Lauderdale, FL 33316

Return to:

SPECIAL WARRANTY DEED

THIS INDENTURE, made this ____ day of _____, 2018, 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: _____, 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. _____

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: Heather P. Brinkworth
Printed Name: Heather P. Brinkworth
Title: Chairperson

Witness 1

Printed name

Witness 2

Printed name

ATTEST:

Robert W. Runcie

Printed Name: Robert W. Runcie
Title: Superintendent of Schools

Approved as to form and legal content:

Printed Name: Kathelyn Jacques-Adams
Title: School Board Attorney

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this ___ day of _____, 20__ by Heather P. Brinkworth, Chairperson 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 who ___ has produced _____ for identification.

(SEAL)
My Commission Expires:
Notary Public

EXHIBIT "D"

GENERAL ASSIGNMENT

THIS GENERAL ASSIGNMENT (this "Assignment") is made as of the ____ day of _____, 20__, by _____, a _____ ("Seller"), to D.R. Horton Inc., a Delaware corporation ("Purchaser").

WHEREAS, of even date herewith, Seller has conveyed to Purchaser the land described in Exhibit "A" attached hereto (the "Land"), together with all improvements (the "Improvements") located thereon (the Land and Improvements are referred to herein collectively as the "Property"); and

WHEREAS, Seller and Purchaser intend that Seller also convey to Purchaser all of the Conveyed Property Rights (as hereinafter defined).

NOW, THEREFORE, Seller, for and in consideration of Ten and 00/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and confessed, hereby agrees as follows:

I. Seller has GRANTED, BARGAINED, SOLD, CONVEYED and ASSIGNED, and by these present does hereby GRANT, BARGAIN, SELL, CONVEY and ASSIGN to Purchaser all of Seller's right, title and interest in and to the following, but only to the extent same pertain to the Property ("Conveyed Property Rights"):

(a) all surveys, engineering, soils, seismic, geological, environmental, reports, studies and certificates and other technical descriptions;

(b) all warranties, guaranties and indemnities received from third parties, and all claims, demands and causes of action against third parties, but only to the extent they are for the benefit of, and applicable to, the Property or the owner thereof, including, without limitation, any warranties, guaranties, indemnities, contractual rights, claims, demands and causes of action pertaining to the development, construction, design or completion of the Property and/or the common areas, streets, utilities or other subdivision infrastructure;

(c) all licenses, permits, governmental approvals, utility commitments, utility rights (including rights to capacity or service), drainage and detention rights, development rights or other similar rights, inclusive of any prepaid impact fees, impact fee credits or other similar development credits;

(d) all rights under any plats (preliminary or final) of any portion of the Property or any rights-of-way abutting the Property or any portion thereof, including any boundary plats and any right-of-way plats, submitted, approved or recorded;

(e) all unpaid awards or proceeds, including awards in connection with insurance and any eminent domain taking; and

(f) all other rights, powers, privileges, options, or other benefits associated with, that pertain to, are attributable to, are appurtenant to, apply to, or which otherwise benefit the Property.

TO HAVE AND TO HOLD the Conveyed Property Rights unto Purchaser and Purchaser's successors and assigns forever.

2. This Assignment shall be binding on Seller, its successors and assigns, and shall inure to the benefit of Purchaser, its successors and assigns.

3. This Assignment does not constitute an assumption of any liability or obligation by Purchaser, nor shall it be deemed to impose on Purchaser any liability or obligation. This Assignment is made WITHOUT RECOURSE. Furthermore, Seller assigns the Conveyed Property Rights only to the extent they may exist and in fact be assignable, and without any representation or warranty whatsoever.

4. Seller and Purchaser will each cooperate with each other, their employees, and agents to facilitate the purpose and intent of this Assignment including, without limitation, the providing of information and documentation that may be reasonably required for the enforcement of the rights and interests assigned hereby.

5. This Assignment may be executed in several counterparts, each of which shall be fully effective as an original and all of which together shall constitute one and the same instrument.

EXECUTED as of the date first above written.

Seller:

Purchaser:

D.R. Horton, Inc.

By:

Name: _____

Title: _____

Date:

By:

Date: _____

NOTE: EXHIBIT ONLY – DO NOT EXECUTE.

Timeline for the Sale and Relocation of Educational Programs at the South Area Portable Annex Site

Sale of South Area Portable Annex Site

May 8, 2018	Board Vote to Surplus the South Area Portable Annex Site
June 22, 2018	Release of Request For Proposal
September 5, 2018	Selection of Winning Bidder and Award By School Board
December 18, 2018	School Board Action to Consider/Approve the Agreement of Sale and Purchase
March 5, 2019	School Board Action to Consider/Approve the First Amendment to Agreement of Sale and Purchase
December 20, 2018 – February 20, 2020	Inspection and Governmental Approval Period / Closing of Transaction

Note: Please note both Inspection and Governmental Approval Periods may be extended upon buyer's request. However, such extension will only be granted upon payment of a predetermined extension fee called for in Agreement. It should be noted, granting of any extension for the Inspection and Governmental Approval Periods/Closing will impact and further extend the timeline depicted above.

Construction of Permanent Capacity at Flanagan Charles HS

4 th Quarter 2018 – 4 th Quarter 2019	Construction of Permanent Capacity
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Note: Timeline was provided by the Office of Facilities and Construction (OFC), recent communication from OFC indicates that the 4th Quarter will be in December 2019.

Relocation of CSS from South Area Portable Annex Site to Flanagan Charles High School:

June 2018 – December 2018	Site Visit to Ascertain Condition of Pertinent Portables
December 2018 – February 2019	Cost Estimate and Timeline for Repairs of Pertinent Portables
Spring & Summer Breaks 2019	If Necessary Repair Pertinent Portables
1 st Quarter of 2019 – 2 nd Quarter of 2019	Conduct Spot Survey (Workshop & Board Item) to Enable Eventual Assignment of Pertinent Portables to CSS
3 rd Quarter of 2019	Separation of Parcel Containing Portables to Further Enable Assignment of the Parcel to CSS
December 23, 2019 – December 31, 2019	CSS move to Flanagan Charles HS (Must be before January 18, 2020 which is the current estimated closing date for the property)

Note: 1. Ultimately, the Funding for the relocation of CSS to Flanagan Charles HS will come from the proceeds received from the sale of the South Area Portable Annex Site. However, the initial funding source will be from Capital Funds.
2. Community School South (CSS)

Timeline for the Sale and Relocation of Educational Programs at the South Area Portable Annex Site

Relocation of ESOL from South Area Portable Annex Site to Pine Lakes Elementary School:

Completed	Site Visit to Ascertain Modular Conditions / Stake Holder Meeting
July 2018 – August 2019	Planning and Meetings. Upon Funding Availability Bids, Selection of Contractor and Award, Engineering Drawing to Enable the Start of Construction for the Parking. Internal staff will Perform the Following Building and Site Improvements (fencing, lighting, restroom, signage, data/phone, electric and sidewalk) at the Property
September 2019 – October 2019	ESOL move to Pine Lakes ES

Note: 1. Timeline is contingent upon funding availability for above building/site improvements; but unforeseen events could affect the timeline depicted above.

2. English for Speakers of other Languages (ESOL)
3. Timeline was provided by the Office of Facilities and Construction.