

ORDINANCE NO. 2024-43

ORDINANCE AUTHORIZING THE EXECUTION OF AN AGREEMENT OF SALE BY AND BETWEEN THE STATE OF NEW JERSEY DEPARTMENT OF TREASURY AND THE CITY OF VINELAND FOR CERTAIN PROPERTY KNOWN AS 860 NORTH ORCHARD ROAD, BLOCK 2101, LOT 53.

WHEREAS, the State of New Jersey is the owner of certain land and improvements located at 860 North Orchard Road, Block 2101, Lot 53 formerly known as the Vineland Developmental Center West Campus (the "Property") which has been vacant and unused for several years causing the buildings to become unusable; and

WHEREAS, the Property consists of approximately 60 acres of land in close proximity to the Vineland Industrial Park and the Route 55 Interchange; and

WHEREAS, the City of Vineland is in need of additional land for future industrial development and the size and location of the Property is conducive to the intent of the City to develop it for industrial use; and

WHEREAS, the State offered the Property for sale in accordance with N.J.S.A. 52:31-1.1 et seq. and the City entered into negotiations with the State for the acquisition of the Property; and

WHEREAS, the State has agreed to sell and the City has interest in acquiring the Property for the cost of \$1.00 plus any net proceeds after the deduction of all costs incurred by the City in the clean-up, demolition, construction of roads and other costs associated with the development of the Property for industrial purposes as is more fully set forth in an Agreement for the Sale of State property attached hereto and made a part hereof, subject to any non-material changes as approved by the City Solicitor; and

WHEREAS, as a condition of the sale, and as more fully set forth in the attached contract, the State will require the City to accept all responsibility for the environmental condition of the Property post-closing; and

WHEREAS, the City has performed extensive investigations into the potential contamination and adverse issues with the Property including environmental testing, topographical surveys and standard geotechnical testing suggesting there are some environmental concerns with the Property; and

WHEREAS, the City will be performing additional environmental testing to further investigate the environmental concerns with the Property during the due diligence period set forth in the Agreement of Sale; and

WHEREAS, the attached Agreement of Sale requires the State to fully cooperate with the City in obtaining grants and other financial assistance that may be available to address any environmental conditions post-closing without accepting any liability for such conditions.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Vineland that the Mayor and Clerk are authorized to execute any and all documents necessary for the acquisition of land and improvements known as 860 North Orchard Road, Block 2101, Lot 53, including the Agreement of Sale as attached hereto and made a part hereof, subject to such non-material changes as recommended by the City Solicitor.

This Ordinance shall take effect upon adoption and publication according to law.

Passed first reading: July 23, 2024

Passed final reading: August 13, 2024

Approved by the Mayor:

President of Council eaa

Anthony Fanucci, Mayor arf

ATTEST:

City Clerk kp

AGREEMENT FOR THE SALE OF STATE PROPERTY

RPR 17-01

THIS AGREEMENT, (the “Agreement”) made this _____ day of _____, 202___, (the “Effective Date”) between the STATE OF NEW JERSEY (the “State”) acting by and through the Department of Treasury, Division of Property Management and Construction, having its office at 33 West State Street, 9th Floor, P.O. Box 229, Trenton, New Jersey 08625-0229, and the City of Vineland (the “Purchaser”), having its office at 640 East Wood Street, PO Box 1508, Vineland, New Jersey 08362-1508.

W I T N E S S E T H:

WHEREAS, the State is the owner of the property located at 860 North Orchard Road in the City of Vineland, Cumberland County, New Jersey which consists of approximately 60± acres of land and improvements situated on Block 2101, Lot 53 upon which the former Vineland Developmental Center West Campus was located, (the “Property”); and

WHEREAS, the Property has been offered for sale pursuant to the provisions of N.J.S.A. 52:31-1.1 et seq.; and

WHEREAS, the State did declare the Property and all other improvements thereon, to be surplus to the needs of the State; and

WHEREAS, the sale and conveyance of the Property was approved by the State House Commission on October 20, 2016; and

WHEREAS, the Property is a part of a larger parcel consisting of approximately 67.69 acres (the “Entire Parcel”); and

WHEREAS, as set forth on Exhibit A attached hereto, there is a learning center (the “Learning Center”) and a cemetery (the “Cemetery”) that are a part of the Entire Parcel; and

WHEREAS, the State granted to the Purchaser a license dated August 7, 2020 and a second license dated October 13, 2021 for the limited purpose of conducting due diligence environmental testing, including but not limited to topographical surveys and standard geotechnical testing (the “Environmental Licenses”); and

WHEREAS, in accordance with the provisions of N.J.S.A. 52:31-1.1 et seq., the State and the Purchaser hereby wish to confirm their agreement to sell, convey, purchase and accept the Property according to the terms and conditions as more fully set forth below.

NOW THEREFORE, for and in consideration of the mutual covenants hereinafter contained, the parties hereto agree as follow:

1. **Agreement to Sell.** The State shall sell and convey to the Purchaser and the Purchaser shall buy and accept from the State, all of the Property as shown and described on Exhibit B hereof. The sale and conveyance of the Property is expressly subject to the State subdividing the Entire Parcel so as to legally separate both the Learning Center and the Cemetery from the Property as set forth in Section 25 hereof. The subdivision will take place on or before closing of title.

2. **Purchase Price/Conveyance(s)/Net Proceeds.**

A. Purchaser shall pay the State, as and for the purchase price for the Property at the Closing (as hereinafter defined), the sum of ONE (\$1.00) DOLLAR (the "Closing Purchase Price"). The Purchaser acknowledges that other than the requirements set forth in this Agreement, this transaction is not contingent upon or subject to the Purchaser taking any action including obtaining financing to consummate this transaction.

B. The Purchaser represents that it will develop the Property as an industrial park. The Purchaser will perform any desired demolition of the existing improvements, undertake all necessary environmental remediation required by the New Jersey Department of Environmental Protection and install all utilities, roads and other basic infrastructure required and necessary for the Property in order to convey all of the industrial lots to third party(ies). Any and all costs directly incurred with the demolition, remediation and all infrastructure installations are collectively referred to as the "Purchaser's Deductible Costs." Excluded from Purchaser's Deductible Costs are all costs due to any environmental conditions that first occur or otherwise arise at the Property following the date of the Deed (as hereinafter defined).

C. Following the Closing, Purchaser will have the right to (a) transfer legal ownership of the Property or any part thereof or (b) enter into any transaction by which third parties at any time after the date of the Deed shall be entitled to use, such as by way of ground leases, easements and similar transactions involving all or any portion of the Property thereof (hereinafter collectively referred to as the "Conveyance").

D. Upon the date that the Purchaser makes a Conveyance of the last available industrial lot to a third party, the State shall be entitled to receive all of the Net Proceeds (as hereinafter defined) received by the Purchaser from the Conveyance of all of the industrial lots within the industrial park. In the event the Purchaser determines to retain one or more of the industrial lots, the obligation of the Purchaser to account for the Net Proceeds herein shall arise upon the date of the last Conveyance of an industrial lot to a third party.

- i. "Compensation" shall mean (a) the purchase price for any Conveyance, (b) rent for a Conveyance, (c) the proceeds from other governmental entities including but not limited to, the New Jersey Green Acres or other open space programs for a Conveyance and (d) all other proceeds payable to the Purchaser such as a land swap, naming rights or the provision of management or other services given as consideration for a Conveyance.
- ii. "Net Proceeds" shall mean any and all Compensation received by the Purchaser as consideration for all of the conveyances less the Purchaser Deductible Costs.
- iii. Within thirty (30) days of the consummation of the last Conveyance as set forth above, the Purchaser shall provide the State with (a) true copies of all approved payment voucher packages including but not limited to invoices, purchase orders and copies of checks in support of the Purchaser Deductible Costs incurred and closing statements and any other appropriate documents confirming the Net Proceeds and (b) an accounting showing in sufficient detail whether the Net Proceeds from the sum of all of the Conveyances exceeds the sum of all of the Purchaser Deductible Costs requiring a payment to be made by the Purchaser to the State in accordance with the procedure set forth herein.

- iv. In the event the State disputes the payment voucher package, closing statements or the accounting provided by the Purchaser, the State shall notify the Purchaser in writing within fifteen (15) days of the State's receipt of same. Thereafter, the State and the Purchaser shall proceed with all due diligence and good faith to resolve any such dispute. Upon resolution of any such dispute, or if there is no dispute, upon the State's acceptance of the payment voucher package, closing statements and accounting provided by the Purchaser, the Purchaser shall make the payment required hereunder within thirty (30) days of the earlier of the State's acceptance of the payment voucher package or such resolution by the parties.

3. **The Closing.** The consummation of the transaction contemplated by this Agreement (the "Closing") shall take place at the offices of the State on or before _____, (the "Closing Date"). The following shall take place at the Closing:

A. The State shall execute and deliver to the Purchaser a Bargain and Sale Deed without covenants (the "Deed") for the Property, such Deed to be made subject to the title matters as to which conveyance is to be accepted by the Purchaser hereunder. The obligation of the Purchaser to deliver to the State any Net Proceeds arising from subsequent conveyances post-Closing as set forth in Section 2B hereof shall expressly survive the closing of title and will be incorporated into the Deed.

B. The Purchaser shall pay to the State the Closing Purchase Price subject to any applicable adjustments as of the Closing Date for rental income, real estate taxes, utilities including but not limited to oil, gas, water, sewer and electric charges. The Purchaser will pay all recording fees and realty transfer taxes incidental to the conveyance of title.

C. The parties shall execute and deliver to each other a closing statement affidavit of consideration, Seller's residency certificate/exemption form and any other instruments required to be delivered under any provisions of this Agreement, or reasonably requested by the attorney for either party or the Title Company in connection with this transaction.

4. **Condition of Title.**

A. Title to the Property shall be good and marketable, insurable at regular rates. Notwithstanding the foregoing, the Purchaser expressly acknowledges that the Property is being sold and conveyed "as is", "where is" and "with all faults" and the Purchaser agrees to purchase and accept the Property subject to the following, which shall not be deemed to be title defects rendering title to the Property unmarketable, but instead shall constitute permitted exceptions:

- i. Zoning ordinances and other applicable governmental regulations and requirements;
- ii. Rights of the public and adjoining owners in highways, streets, roads and lanes bounding or running through or adjacent to the Property;
- iii. Retaining walls and other walls, bushes, trees, hedges, fences and the like extending from or onto the Property;
- iv. Any portion of the Property lying in the bed of any public street;

- v. Rights and easements relating to the operation, and maintenance of utility lines, wires, cables, pipes, poles, distribution boxes and other such equipment in, on, through, over, or under the Property;
- vi. All notices of violation of law or municipal ordinances, orders or requirements now or prior to the Closing issued by any governmental department, agency or regulatory authority;
- vii. Liens for unpaid but not past due taxes, assessments, water charges and sewer rents;
- viii. Such liens, easements, restrictions, conditions or other encumbrances known to the State and disclosed to the City of Vineland as of the Effective Date;
- ix. Rights of all tenants or other occupants at the Property;
- x. Standard conditions and exceptions to title insurance contained in the currently effective ALTA Owner's Standard Form B Title Insurance Policy; and
- xi. Such state of facts which a survey and/or physical inspection of the Property disclosed at or prior to the sale or may be disclosed prior to or at the Closing.

B. The Purchaser shall have the right, at its sole cost and expense, to have the title to the Property examined by a reputable title company authorized to do business in the State of New Jersey within forty-five (45) days of the "Effective Date." The Purchaser shall deliver a copy of the report of title within five (5) days of Purchaser's receipt of such title report to the State's attorney but in no event later than the above forty-five (45) day period, together with written notice of any encumbrance, interest, or exception of title disclosed by the title report that would render title unmarketable pursuant to Section 4A hereof. Purchaser's failure to obtain a title report or its failure to set forth in its notice to Seller any title question relating to the marketability of the Property, shall be deemed a waiver of each such title question or possible claim. If such marketable, insurable title cannot be conveyed by the State, the Purchaser shall have the option of taking such title as the State can convey without any abatement in the Closing Purchase Price or declaring this Agreement null and void, without any further obligation on behalf of either party.

5. **Survey.** The State, at its sole cost and expense shall obtain a survey of the Property together with a metes and bounds description. The State shall provide Purchaser with a copy of the survey and metes and bounds description by no later than thirty (30) days prior to the Closing.

6. **Possession.** The State shall deliver possession of the Property to the Purchaser at Closing in the state of condition that it existed as of the date of this Agreement.

7. **Representations and Warranties Limited.**

A. The Purchaser agrees that the Purchaser is not relying on any representation or warranty of the State or any agent, employee, representative, director or officer of the State, and that the Purchaser is buying and accepting the Property "as-is" subject to all faults and without any expressed or implied warranties of any kind, including, but not limited to (i) materials, workmanship, good and workmanlike construction, design, condition, habitability, (ii) fitness for a particular purpose, (iii) merchantability, (iv) environmental condition of the Property, (v) absence of hazardous substances or present or past existence of underground storage tanks (vi) geological conditions, (vii) existence of

wetlands, stream (surface or underground) body of water, flood prone area, flood plain, flood way or special flood hazard, including without limitation, subsidence, subsurface conditions, water table, underground water reservoirs, limitations regarding the withdrawal of water and earthquake faults and the resulting damage of past and/or future earthquakes, (vii) soil conditions including the existence of instability, past soil repairs, soil additions or conditions of soil fill or susceptibility to landslides or the sufficiency of the undershoring, (viii) availability of any utilities to the Property or any portion thereof, (ix) zoning to which the Property or any portion thereof may be subject, (x) usages of adjoining Property, (xi) access to the Property or any portion thereof, (xii) the value, compliance with the plans and specifications, size, location, age, use, design, quality, description, suitability, structural integrity, operation, title to or physical or financial condition of the Property or any portion thereof or any income, expenses, charges, liens, encumbrances, rights or claims affecting or pertaining to the Property or any part thereof, (xiii) the condition or use of the Property or compliance of the Property with any or all past, present or future federal, state or local ordinances, rules, regulations or laws, building or fire or zoning ordinances, codes or other similar laws, (xiv) the presence or absence of natural resource damages, (x) the existence or non-existence of any other matter or condition affecting the stability or integrity of the Property, (xvi) the potential for further development of the Property, (xvii) the existence of vested land use, zoning or building entitlements of the Property or (xviii) tax consequences.

B. Upon expiration of the Due Diligence Period as set forth in Section 9 *infra*, the Purchaser declares that it has been provided ample opportunity to examine and investigate the character and quality of the Property and the documentation provided by the State relating to the Property and the condition thereof as set forth in Section 7A hereof and that the Purchaser has determined (i) that the physical condition of the Property, whether known or unknown, disclosed or undisclosed, is acceptable to the Purchaser, and (ii) that the existence of hazardous substances or environmental conditions at, under or on the Property, whether known or unknown, disclosed or undisclosed, are acceptable to the Purchaser. The Purchaser agrees to indemnify and hold the Releasees harmless from and against all claims of responsibility and liability regarding the condition or utility of the Property. The “Releasees” shall mean the State and the State’s officers, employees, agents, representatives, successors and assigns. In this regard, the Purchaser further acknowledges that any and all information of any type with respect to the Property which the Purchaser has received or may receive from the State or any of its employees or agents, was furnished by the State on the express condition that (i) the Purchaser make an independent verification of the accuracy of any and all such information, and (ii) all such information was being furnished without any warranty whatsoever. The Purchaser shall not assert any liability against the State or its agents, employees for furnishing such information or the failing to assert any information related to or in connection with the Property or the condition thereof. Upon Closing, the Purchaser shall also assume the risk of changes in applicable laws and regulations relating to past, present and future environmental conditions on, under or at the Property. It is expressly understood and agreed to by the Purchaser that the State shall not be obligated to make any alterations, repairs or improvements to the Property. It is further expressly understood and agreed that the State has no duty and shall have no duty to disclose any condition affecting the Property, whether such condition is apparent or latent, or known to the Purchaser or the State.

C. Upon Closing, the Purchaser shall also assume the risk of changes in applicable laws and regulations relating to past, present and future environmental conditions on, under or at the Property. It is expressly understood and agreed to by the Purchaser that the State shall not be obligated to make any alterations, repairs or improvements to the Property.

D. The provisions of this Section 7 shall survive the Closing.

8. **Condition of Property.** The sale of the Property shall not require the State to (i) make or pay for any repair, replacement, reconstruction or renovation of any improvement or condition situated on or existing at the Property; (ii) demolish, remove or dispose of any improvement or condition existing at the Property; or (iii) to abate any hazardous substances or remediate any environmental conditions existing at the Property.

9.0 **Right of Entry.** The State agrees to permit the Purchaser and its agents and consultants a non-exclusive right to enter the Property on and after the Effective Date, upon reasonable notice, for the purpose of conducting pre-closing inspections of the Property (the “Permitted Activities”), at the sole cost and expense of the Purchaser, but subject to the terms and conditions set for in this Section 9. The Purchaser acknowledges that Purchaser (i) has previously been granted the right to enter onto the Property for environmental due diligence testing pursuant to the Environmental Licenses; and requires further entry onto the Property for any additional due diligence environmental testing prior to the Closing.

9.1 All Permitted Activities conducted by or on behalf of the Purchaser shall comply with all laws, statutes, regulations, ordinances, codes and other requirements of governmental authorities applicable thereto, including, but not limited to, all federal and state environmental statutes and regulations regarding pollutants, contaminants, solid waste and hazardous waste, materials and/or substances.

9.2 The Purchaser shall coordinate the performance of all Permitted Activities so as not to materially and adversely affect any activities or operations being conducted on the Property by the State, any tenants of the State, or their respective employees, agents or invitees.

9.3 The Purchaser shall not create or suffer the creation or attachment of any construction, mechanics’ or other liens and encumbrances on the Property as the result of the performance of any Permitted Activities by or on behalf of the Purchaser. In the event that any such lien or encumbrance shall attach to the Property before the Closing Date, the Purchaser shall cause the lien or encumbrance to be discharged at its sole cost and expense. This obligation shall survive closing.

9.4 Prior to entry upon the Property and commencement of any Permitted Activities, the Purchaser shall provide proof reasonably satisfactory to the State that all Permitted Activities performed or to be performed by or on behalf of the Purchaser are protected against claims for personal injury (including death) and property damage under one or more policies of public liability insurance having a combined single limit of not less than \$1.0 million dollars per claim and in the aggregate, and under which the State is named as an additional insured. Any such policy (ies) shall be on an occurrence basis and not a claims made basis, and shall be issued by an insurance company licensed to do business in the State of New Jersey. In addition, Purchaser hereby agrees to indemnify and hold the State harmless against any claims and/or costs arising out of or in connection with Purchaser’s activities under this Section.

9.5 Any test results or reports issued in connection with the Permitted Activities shall be provided to the State by Purchaser at no cost to the State.

9.6 Purchaser may cancel this Agreement on or before the conclusion of the Due Diligence Period by providing written notice that it is not satisfied with the results of the environmental testing. All inspections performed by the Purchaser shall be made within one hundred and eighty (150)-days of the Effective Date (the “Due Diligence Period”). Any extension of the Due Diligence period will be at the sole discretion of the State.

10. **Environmental Conditions.**

A. Any required or desired further investigation, delineation, abatement of hazardous substances and remediation of environmental conditions at the Property post-Closing shall be performed by the Purchaser at its sole cost and expense in compliance with, as applicable, all federal, state or local laws, statutes, ordinances, regulations and/or the like including, without limitation (to the extent applicable): the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. section 9601 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. section 6901 et seq.), the Toxic Substances Control Act (15 U.S.C. section 2601 et seq.), the Clean Water Act (33 U.S.C. Section 1251 et seq.), the Safe Drinking Water Act (42 U.S.C. section 300f et seq.), the Federal Clean Air Act (42 U.S.C. Section 7401 et seq.), the Industrial Site Recovery Act (N.J.S.A. 13:1K-6 et seq.), the Underground Storage of Hazardous Substances Act (N.J.S.A. 58:10A-21 et seq.), the Spill Compensation and Control Act (N.J.S.A. 58:10-23.11 et seq.), and the Water Pollution Control Act (N.J.S.A. 58:10A-1 et seq.). The term “hazardous substances” shall mean any hazardous, toxic or dangerous waste, substance or material, pollutant or contaminant as defined in the above federal, state or local laws, statutes, ordinances, regulations. **Notwithstanding the foregoing, the Seller agrees to fully cooperate with Purchaser in obtaining grants and other financial assistance that may be available to address any environmental conditions post-closing without accepting any liability for such conditions. Cooperation includes, but is not limited to, providing Purchaser with information, and executing and delivering and all documents that are reasonable and that will assist the purchaser in acquiring grants and other financial assistance. The foregoing requirement to cooperate with Purchaser’s efforts to obtain grants and other financial assistance shall survive closing and not merge into the deed.**

B. The delivery of the Deed pursuant to this Agreement shall be deemed to be full performance of the State’s obligations to abate hazardous substances or remediate environmental conditions at, under or on the Property. The delivery of the Deed by the State to the Purchaser shall further be deemed to be a complete, unqualified, irrevocable release by the Purchaser of the Releasees, for all time, matters and purposes whatsoever from any responsibility or liability to the Purchaser regarding any and all hazardous substances or environmental conditions that exist at, under or on the Property or arising from offsite activities of any one or more Releasees or any third party, or the condition migrated from or onto said Property and regardless of whether the claim or cause of action is hereafter created under common law or federal, state, county or municipal statute, ordinance or regulation including without limitation those statutes, ordinances and regulations relating to hazardous substances and/or waste and the use, generation, handling storage, disposal and/or remediation thereof, the closure or transfer of ownership of businesses or real property, flood plains, stream encroachment, wetlands and natural resource damages. Said release by the Purchaser of claims, matters or things enumerated herein, including those matters or claims of which the Purchaser is not aware shall apply to such claims, causes, matters, transactions, incidents, acts, omissions or things thereof, resulting from anything which has happened up to the Closing. The foregoing provisions shall survive the Closing and shall be incorporated into the Deed as a binding covenant from the Purchaser to the Releasees.

C. The covenants made by the Purchaser in this Section 10 are a material part of the consideration for the sale and conveyance of the Property. The Purchaser acknowledges that the State, in executing the sale and conveyance of the Property, relies upon these covenants by the Purchaser to abate any hazardous materials, remediate environmental conditions and release the State from claims. The provisions of this Section 10 shall survive the Closing.

11. **Assessments.** Special assessments for improvements, if any, shall be assumed by the Purchaser. There shall not be any allowance on account of the Closing Purchase Price if there is any

assessment for improvement regardless of whether such improvements have been completed on or before the date hereof or the Closing Date.

12. **Risk of Loss.** The risk of loss or damage to the Property or any improvements situated on the Property shall be assumed by the State until the Closing Date at which point the risk of loss will shift to the Purchaser.

13. **Condemnation.** In the event that the entire Property or a substantial part thereof shall have been taken by eminent domain or shall be in the process of being so taken, on the Closing Date, either party shall have the option to terminate this Agreement on written notice to the other party. As employed herein, the term “a substantial part of the Property” shall be deemed to mean a part of the Property consisting of 10% or more of the total area of the Property. In such event this Agreement shall be null and void without any further obligations on behalf of either party.

14. **Violations.**

A. The Purchaser shall accept the Property subject to all notices of violation of law or municipal ordinances, orders or requirements issued by any governmental agency or authority now or prior to Closing. The State shall not be required to repair or otherwise comply with any violations affecting the Property, whether now existing or hereafter occurring.

B. The State shall have no obligation to deliver any certificate of occupancy or other like governmental permit in connection with the sale contemplated herein. In the event that a certificate of occupancy or other like governmental permit is required to transfer the Property or the improvements situated thereon, the Purchaser shall apply and pay for procuring same. If any governmental agency or authority requires the correction of physical conditions in connection with the issuance of such permit or as a condition of the transfer of the Property or any improvements situated thereon, the Purchaser shall pay the cost of correcting such conditions. The provisions of this Section 14 shall survive the Closing.

15. **Assignment.** It is expressly understood that this Agreement may not be assigned by the Purchaser and any purported assignment shall be void unless agreed to in writing by the State.

16. **Brokerage.** Each party represents to the other that, for purposes of N.J.S.A. 52:34-15, it did not deal with any real estate broker or salesman in connection with the sale of the Property. The Purchaser warrants that no person has been employed, directly or indirectly to solicit or secure this Agreement in violation of N.J.S.A. 52:34-15. The Purchaser shall indemnify the State and hold it harmless against and with respect to any claim for brokerage or other commissions relative to this Agreement or to this transaction. The provisions of this Section 16 shall survive the Closing.

17. **Damages.** In the event that the Purchaser fails to close title to the Property on the Closing Date for any reason whatsoever (unless the State is unable to deliver marketable title pursuant to Section 4B hereof, this Agreement is terminated due to a condemnation pursuant to Section 13 hereof or the subdividing of the Learning Center and Cemetery parcels from the Property are unable to occur, this Agreement shall be deemed to be automatically terminated.

18. **Notices.** All notices, requests, consents, approvals or other communications under this Agreement shall be in writing and mailed by certified mail, return receipt requested, postage prepaid, or delivered by a nationally recognized overnight courier service which obtains delivery receipts (e.g.,

Federal Express) or personal delivery. Notices may also be given by facsimile transmission weekdays (exclusive of State legal holidays) between the hours of 8:30 a.m. and 4:30 p.m. provided that any such transmission shall be promptly confirmed by any of the other permitted means of notice set forth above addressed to the following:

If to the State:

State of New Jersey
Department of Treasury
Division of Property Management & Construction
Office of Real Property Acquisition & Disposition
33 West State Street, 9th Floor
P.O. Box 229
Trenton, New Jersey 08625-0229

With copy to:

Tamara Loatman-Clark, DAG
State of New Jersey
Office of the Attorney General
Department of Law and Public Safety
Division of Law
25 Market Street
P.O. Box 106
Trenton, New Jersey 08625-0106

If to the Purchaser:

City of Vineland
640 East Wood Street
PO Box 1508
Vineland, NJ 08362-1508

Att: Sandra Forosisky, Director
of Economic Development

Either party may, by notice given as aforesaid, change its address for all subsequent notices. All notices hereunder shall be effective upon receipt or first attempted delivery.

19. **Merger.** With the exception of the provisions of this Agreement which expressly survive Closing, the acceptance of the Deed by the Purchaser shall be deemed to be a full performance by the State, and shall discharge the State from all obligations.

20. **Further Assurances.** Each of the parties hereby agrees to execute, acknowledge, and deliver such other documents or instruments as the other may reasonably require from time to time to carry out the purposes of this Agreement including as may be required by the authorizing legislation if such legislation is required to be enacted to effectuate this transaction.

21. **Attorneys' Fees.** Each party shall pay its own attorneys fees in connection with the transaction addressed by this Agreement.
22. **No Recording.** The Purchaser shall not record this Agreement or a copy or memorandum thereof.
23. **Specific Performance.** In the event the Purchaser fails to comply with any of the provisions of the Agreement, then, in addition to all other legal remedies to which the State is entitled, the State shall have the right to specific performance.
24. **Limitation of State Liability.** The Purchaser agrees that nothing in this Agreement shall make the State or its employees of agents liable to pay any damages or costs for which it and/or they have no liability under the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq., and/or the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 et seq.
25. **Subdivisions.** The sale and conveyance of the Property to the Purchaser is expressly subject to and conditioned upon the subdivision of both the Learning Center and the Cemetery lots from the Entire Parcel in order to convey the Property hereunder to the Purchaser. In the event both subdivisions do not occur by the Closing Date then either the State or the Purchaser shall have the option, at their sole discretion, to either extend the Closing Date in increments of time necessary to carry through until both subdivisions are approved, or may cancel this Agreement, in which event this Agreement shall become null and void and neither party shall have any recourse against the other.
26. **Miscellaneous Provisions.** The parties further agree as follows:
- A. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns.
- B. This Agreement contains the entire Agreement between the parties with respect to N.J.S.A. 52:31-1.1 et seq. and the Property, and supersedes any prior or other agreements, understandings or communications, written or oral.
- C. No modification of this Agreement shall be effective unless expressed in a mutually executed written Agreement. Any purported modification which is not so expressed in a mutually executed written Agreement shall be void.
- D. The inapplicability or unenforceability of any provision of this Agreement shall not limit or impair the operation or validity of any other provision of this Agreement.
- E. The captions herein are for convenience and reference only and in no way define, limit or describe the scope or intent of this Agreement or affect any of the terms or provisions hereof. The parties agree that each party and its legal counsel has reviewed or has had an opportunity to review this Agreement and that the rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in any construction or interpretation of this Agreement.
- F. 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. Executed copies of this Agreement delivered by facsimile or by portable document format through electronic mail (including, without limitation, DocuSign) shall be binding upon the party executing and delivering the same as if it were an original.

G. The Effective Date of this Agreement shall be the date on which it is executed by all parties, or, if not executed simultaneously, the date on which it is executed by the last of the parties, which date shall be inserted at the top of the first page hereof.

H. This Agreement shall be governed by any and all applicable laws of the State of New Jersey, without reference to conflict of laws provisions.

I. The venue for any disputes arising under this transaction shall be the Superior Court of the State of New Jersey.

J. By signing below, the Purchaser represents and warrants that it has obtained all requisite power and authority needed to lawfully enter into this Agreement and consummate the transactions contemplated herein.

K. Purchaser represents that it has sufficient funds to pay the Closing Purchase Price and close title to this Property.

THIS PORTION INTENTIONALLY LEFT BLANK

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

WITNESS/ATTEST:

STATE:

STATE OF NEW JERSEY
Department of Treasury
Division of Property
Management & Construction

By: _____
Christopher Chianese, Director
Division of Property Management &
Construction

By: _____
Aaron Binder, Deputy State Treasurer

WITNESS/ATTEST:

PURCHASER:
CITY OF VINELAND

By: _____
Anthony Fanucci, Mayor

Approved as to Form:
Matthew J. Platkin
Attorney General of New Jersey

By: _____
Tamara L. Loatman-Clark, Deputy Attorney General