

5.1. Not applicable.

6. **Independent Contractor.** Consultant, in the performance of this Agreement, shall be and act as an independent contractor. Consultant understands and agrees that it and all of its employees shall not be considered officers, employees, agents, partner, or joint venture of the District, and are not entitled to benefits of any kind or nature normally provided employees of the District and/or to which District's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. Consultant shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, social security and income taxes with respect to Consultant's employees. In the performance of the work herein contemplated, Consultant is an independent contractor or business entity, with the sole authority for controlling and directing the performance of the details of the work, District being interested only in the results obtained.
7. **Materials.** Consultant shall furnish, at its own expense, all labor, materials, equipment, supplies and other items necessary to complete the services to be provided pursuant to this Agreement, except as follows: No exceptions.
8. **Performance of Services.**
 - 8.1. **Standard of Care.** Consultant represents that Consultant has the qualifications and ability to perform the Services in a professional manner, without the advice, control or supervision of District. Consultant's services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of its profession for services to California community college districts.

Consultant shall carefully study and compare all documents, findings, and other instructions and shall at once report to District, in writing, any error, inconsistency, or omission that Consultant or its employees may discover. Consultant shall have responsibility for discovery of errors, inconsistencies, or omissions.
 - 8.2. **Meetings.** Consultant and District agree to participate in regular meetings on at least a monthly basis to discuss strategies, timetables, implementations of services, and any other issues deemed relevant to the operation of Consultant's performance of Services.
 - 8.3. **District Approval.** The work completed herein must meet the approval of the District and shall be subject to the District's general right of inspection and supervision to secure the satisfactory completion thereof.
 - 8.4. **New Project Approval.** Consultant and District recognize that Consultant's Services may include working on various projects for District. Consultant shall obtain the approval of District prior to the commencement of a new project.
9. **Originality of Services.** Except as to standard generic details, Consultant agrees that all technologies, formulae, procedures, processes, methods, writings, ideas, dialogue, compositions, recordings, teleplays and video productions prepared for, written for, or submitted to the District and/or used in connection with this Agreement, shall be wholly original to Consultant and shall not be copied in whole or in part from any other source, except that submitted to Consultant by District as a basis for such services.
10. **Copyright/Trademark/Patent.** Consultant understands and agrees that all matters produced under this Agreement shall become the property of District and cannot be used without District's express written permission. District shall have all right, title and interest in

said matters, including the right to secure and maintain the copyright, trademark and/or patent of said matter in the name of the District. Consultant consents to use of Consultant's name in conjunction with the sale, use, performance and distribution of the matters, for any purpose and in any medium.

11. **Audit.** Consultant shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of Consultant transacted under this Agreement. Consultant shall retain these books, records, and systems of account during the Term of this Agreement and for five (5) years thereafter. Consultant shall permit the District, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the Services covered by this Agreement. Audit(s) may be performed at any time, provided that the District shall give reasonable prior notice to Consultant and shall conduct audit(s) during Consultant's normal business hours, unless Consultant otherwise consents.

12. Termination.

12.1. **For Convenience by District.** District may, at any time, with or without reason, terminate this Agreement and compensate Consultant only for services satisfactorily rendered to the date of termination. Written notice by District shall be sufficient to stop further performance of services by Consultant. Notice shall be deemed given when received by the Consultant or no later than three days after the day of mailing, whichever is sooner.

12.2. **For Convenience by Consultant.** Consultant may, upon thirty (30) days' notice, with or without reason, terminate this Agreement. Upon this termination, District shall only be obligated to compensate Consultant for services satisfactorily rendered to the date of termination. Written notice by Consultant shall be sufficient to stop further performance of services to District. Consultant acknowledges that this sixty (60) day notice period is acceptable so that the District can attempt to procure the Services from another source.

12.3. **For Cause by District.** District may terminate this Agreement upon giving of written notice of intention to terminate for cause. Cause shall include:

12.3.1. material violation of this Agreement by the Consultant; or

12.3.2. any act by Consultant exposing the District to liability to others for personal injury or property damage; or

12.3.3. Consultant is adjudged a bankrupt, Consultant makes a general assignment for the benefit of creditors or a receiver is appointed on account of Consultant's insolvency.

Written notice by District shall contain the reasons for such intention to terminate and unless within three (3) calendar days after that notice the condition or violation shall cease, or satisfactory arrangements for the correction thereof be made, this Agreement shall upon the expiration of the three (3) calendar days cease and terminate. In the event of this termination, the District may secure the required services from another Consultant. If the expense, fees, and/or costs to the District exceed the cost of providing the service pursuant to this Agreement, the Consultant shall immediately pay the excess expense, fees, and/or costs to the District upon the receipt of the District's notice of these expense, fees, and/or costs. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to District.

13. **Indemnification.** To the furthest extent permitted by California law, Contractor shall defend, indemnify, and hold harmless the District, its Governing Board, agents, representatives, officers, consultants, employees, trustees, and volunteers (the "indemnified parties") from any and all claims arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of the Contractor. The District shall have the right to accept or reject any legal representation that Contractor proposes to defend the indemnified parties.

14. **Insurance.**

14.1. The Consultant shall procure and maintain at all times it performs any portion of the Services the following insurance with minimum limits equal to the amount indicated below.

Type of Coverage	Minimum Requirement
Commercial General Liability Insurance , including Bodily Injury, Personal Injury, Property Damage, Advertising Injury, and Medical Payments Each Occurrence General Aggregate	\$ 1,000,000 \$ 2,000,000
Automobile Liability Insurance - Any Auto Each Occurrence General Aggregate	\$ 1,000,000 \$ 1,000,000
Professional Liability	1,000,000
Workers Compensation	Statutory Limits
Employer's Liability	1,000,000

14.1.1. **Commercial General Liability and Automobile Liability Insurance.** Commercial General Liability Insurance and Any Auto Automobile Liability Insurance that shall protect the Consultant, the District, and the State from all claims of bodily injury, property damage, personal injury, death, advertising injury, and medical payments arising performing any portion of the Services. (Form CG 0001 and CA 0001, or forms substantially similar, if approved by the District.)

14.1.2. **Workers' Compensation and Employers' Liability Insurance.** Workers' Compensation Insurance and Employers' Liability Insurance for all of its employees performing any portion of the Services. In accordance with provisions of section 3700 of the California Labor Code, the Consultant shall be required to secure workers' compensation coverage for its employees. If any class of employee or employees engaged in performing any portion of the Services under this Agreement are not protected under the Workers' Compensation Statute, adequate insurance coverage for the protection of any employee(s) not otherwise protected must be obtained before any of those employee(s) commence performing any portion of the Services.

14.1.3. **Professional Liability (Errors and Omissions).** Professional Liability Insurance as appropriate to the Consultant's profession, coverage to continue through completion of construction plus two (2) years thereafter.

14.2. **Proof of Carriage of Insurance.** The Consultant shall not commence performing any portion of the Services until all required insurance has been obtained and certificates indicating the required coverage have been delivered in duplicate to the District and approved by the District. Certificates and insurance policies shall include the following:

- 14.2.1. A clause stating: "This policy shall not be canceled or reduced in required limits of liability or amounts of insurance until notice has been mailed to the District, stating date of cancellation or reduction. Date of cancellation or reduction shall not be less than thirty (30) days after date of mailing notice."
 - 14.2.2. Language stating in particular those insured, extent of insurance, location and operation to which insurance applies, expiration date, to whom cancellation and reduction notice will be sent, and length of notice period.
 - 14.2.3. An endorsement stating that the District and its Governing Board, agents, representatives, employees, trustees, officers, consultants, and volunteers are named additional insured under all policies except Workers' Compensation Insurance, Professional Liability, and Employers' Liability Insurance. An endorsement shall also state that Consultant's insurance policies shall be primary to any insurance or self-insurance maintained by District. An endorsement shall also state that there shall be a waiver of any subrogation.
 - 14.2.4. All policies except the Professional Liability, Workers' Compensation Insurance, and Employers' Liability Insurance Policies shall be written on an occurrence form.
- 14.3. **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the District.
15. **Assignment.** The obligations of the Consultant pursuant to this Agreement shall not be assigned by the Consultant.
16. **Compliance with Laws.** Consultant shall observe and comply with all rules and regulations of the governing board of the District and all federal, state, and local laws, ordinances and regulations. Consultant shall give all notices required by any law, ordinance, rule and regulation bearing on conduct of the Work as indicated or specified. If Consultant observes that any of the Work required by this Contract is at variance with any such laws, ordinance, rules or regulations, Consultant shall notify the District, in writing, and, at the sole option of the District, any necessary changes to the scope of the Work shall be made and this Contract shall be appropriately amended in writing, or this Contract shall be terminated effective upon Consultant's receipt of a written termination notice from the District. If Consultant performs any work that is in violation of any laws, ordinances, rules or regulations, without first notifying the District of the violation, Consultant shall bear all costs arising therefrom.
17. **Certificates/Permits/Licenses.** Consultant and all Consultant's employees or agents shall secure and maintain in force such certificates, permits and licenses as are required by law in connection with the furnishing of Services pursuant to this Agreement.
18. **Employment with Public Agency.** Consultant, if an employee of another public agency, agrees that Consultant will not receive salary or remuneration, other than vacation pay, as an employee of another public agency for the actual time in which services are actually being performed pursuant to this Agreement.
19. **Anti-Discrimination.** It is the policy of the District that in connection with all work performed under Contracts there be no discrimination against any employee engaged in the work because of race, color, ancestry, national origin, religious creed, physical disability, medical condition, marital status, sexual orientation, gender, or age and therefore the Consultant agrees to comply with applicable Federal and California laws including, but not limited to the California Fair Employment and Housing Act beginning with Government Code

Section 12900 and Labor Code Section 1735 and District policy. In addition, the Consultant agrees to require like compliance by all of its subcontractor(s).

20. **No Rights in Third Parties.** This Agreement does not create any rights in, or inure to the benefit of, any third party except as expressly provided herein.
21. **District's Evaluation of Consultant and Consultant's Employees and/or Subcontractors.** The District may evaluate the Consultant in any way the District is entitled pursuant to applicable law. The District's evaluation may include, without limitation:
- 21.1. Requesting that District employee(s) evaluate the Consultant and the Consultant's employees and subcontractors and each of their performance.
- 21.2. Announced and unannounced observance of Consultant, Consultant's employee(s), and/or subcontractor(s).
22. **Limitation of District Liability.** Other than as provided in this Agreement, District's financial obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event, shall District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement for the services performed in connection with this Agreement.
23. **Confidentiality.** The Consultant and all Consultant's agents, personnel, employee(s), and/or subcontractor(s) shall maintain the confidentiality of all information received in the course of performing the Services. Consultant understands that student records are confidential and agrees to comply with all state and federal laws concerning the maintenance and disclosure of student records. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement.
24. **Notice.** Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served, and received if given in writing and either personally delivered or deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by overnight delivery service, or facsimile transmission, addressed as follows:

District:

Solano Community College District
360 Campus Lane, Suite 200
Fairfield, California 94534
ATTN: Leigh Sata, Executive Bonds Manager
Fax: (707) 646-7703

Consultant:

JRDV Architects
The Cathedral Building
Broadway and Telegraph
PO Box 70126, California 94612
ATTN: Ed McFarlan, Principal in Charge
Fax: (510) 835-1984

Any notice personally given or sent by facsimile transmission shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the business day next following delivery thereof to the overnight delivery service. Any notice given by mail shall be effective three (3) days after deposit in the United States mail.

25. **Integration/Entire Agreement of Parties.** This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This Agreement may be amended or modified only by a

written instrument executed by both Parties.

26. **California Law.** This Agreement shall be governed by and the rights, duties and obligations of the Parties shall be determined and enforced in accordance with the laws of the State of California. The Parties further agree that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in the county in which the District's administrative offices are located.
27. **Waiver.** The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.
28. **Severability.** If any term, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.
29. **Provisions Required By Law Deemed Inserted.** Each and every provision of law and clause required by law to be inserted in this Contract shall be deemed to be inserted herein and this Contract shall be read and enforced as though it were included therein.
30. **Authority to Bind Parties.** Neither party in the performance of any and all duties under this Agreement, except as otherwise provided in this Agreement, has any authority to bind the other to any agreements or undertakings.
31. **Attorney Fees/Costs.** Should litigation be necessary to enforce any terms or provisions of this Agreement, then each party shall bear its own litigation and collection expenses, witness fees, court costs and attorney's fees.
32. **Captions and Interpretations.** Paragraph headings in this Agreement are used solely for convenience, and shall be wholly disregarded in the construction of this Agreement. No provision of this Agreement shall be interpreted for or against a party because that party or its legal representative drafted such provision, and this Agreement shall be construed as if jointly prepared by the Parties.
33. **Calculation of Time.** For the purposes of this Agreement, "days" refers to calendar days unless otherwise specified.
34. **Signature Authority.** Each party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each Party has been properly authority and empowered to enter into this Agreement.
35. **Counterparts.** This Agreement and all amendments and supplements to it may be executed in counterparts, and all counterparts together shall be construed as one document.
36. **Incorporation of Recitals and Exhibits.** The Recitals and each exhibit attached hereto are hereby incorporated herein by reference.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date indicated below.

Dated: December 19, 2013

Dated: _____, 20__

Solano Community College District

JRDV Architects

By: _____

By: _____

Print Name: Jowel C. Laguerre, Ph.D.

Print Name: Ed McFarlan

Print Title: Superintendent-President

Print Title: Principal in Charge

Information regarding Consultant:

License No.: _____

Employer Identification and/or
Social Security Number

Address: _____

Telephone: _____

Facsimile: _____

E-Mail: _____

NOTE: Section 6041 of the Internal Revenue Code (26 U.S.C. 6041) and Section 1.6041-1 of Title 26 of the Code of Federal Regulations (26 C.F.R. 1.6041-1) requires the recipients of \$600.00 or more to furnish their taxpayer information to the payer. In order to comply with these requirements, the District requires the Contractor to furnish the information requested in this section.

Type of Business Entity:

- ____ Individual
- ____ Sole Proprietorship
- ____ Partnership
- ____ Limited Partnership
- ____ Corporation, State: _____
- ____ Limited Liability Company
- ____ Other: _____

WORKERS' COMPENSATION CERTIFICATION

Labor Code Section 3700 in relevant part provides:

Every employer except the State shall secure the payment of compensation in one or more of the following ways:

- By being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this State.
- By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing satisfactory proof to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to its employees.

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the Work of this Contract.

Date: _____

Name of Consultant: _____

Signature: _____

Print Name and Title: _____

(In accordance with Article 5 – commencing at Section 1860, Chapter 1, part 7, Division 2 of the Labor Code, the above certificate must be signed and filed with the District prior to performing any Work under this Contract.)

ROOFING PROJECT CERTIFICATION

This form shall be executed by all architects, engineers, or roofing consultants who provide professional services related to the repair or replacement of a roof of a public school where the project is for repair of more than 25% of the roof or that has a total cost more than \$21,000 ("roofing project") and submitted to the District prior to the time professional services are engaged.

Certification of: Architect Engineer
 Roofing Consultant Other _____

I, _____ [Name], _____ [Name of Firm], certify that I have not offered, given, or agreed to give, received, accepted, or agreed to accept, any gift, contribution, or any financial incentive whatsoever to or from any person in connection with the roofing project contract. As used in this certification, "person" means any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.

Furthermore, I, _____ [Name], _____ [Name of Firm], certify that I do not have, and throughout the duration of the contract, I will not have, any financial relationship in connection with the performance of this contract with any architect, engineer, roofing consultant, materials manufacturer, distributor, or vendor that is not disclosed below.

I, _____ [Name], _____ [Name of Firm], have the following financial relationships with an architect, engineer, roofing consultant, materials manufacturer, distributor, or vendor, or other person in connection with the following roofing project contract(s) [provide Name and Address of Building, and Contract Date and Number]:

By my signature below, I hereby certify that, to the best of my knowledge, the contents of this disclosure are true, or are believed to be true. I further certify on behalf of the Firm that I am aware of section 3000 et seq. of the California Public Contract Code, and the sections referenced therein regarding the penalties for providing false information or failing to disclose a financial relationship in this disclosure. I further certify that I am authorized to make this certification on behalf of the Firm.

Date: _____

Proper Name of Firm: _____

Signature: _____

Print Name: _____

Title: _____

EXHIBIT "A"
DESCRIPTION OF SERVICES TO BE PERFORMED BY CONSULTANT

Consultant's entire Proposal is **not** made part of this Agreement. Proposal includes two separate scope of work proposals from JRDV architects, dated December 6, 2013.

The first scope of work is related to the purchase of the property related to the Jimmy Doolittle Center joint venture with the District. The proposed property will be purchased by the Doolittle Center, who hold the option to purchase. The purchase requires a significant amount of due diligence which this architect is uniquely suited for, as the designers hired by the Museum to create a vision for the site and to review the property documents. This additional scope is done on behalf of the District only and protects the District as the architect will work as a sole agent of the District.

The second scope of work is related to pre-planning activities for the Jimmy Doolittle Center joint venture project. The scope of work will allow the architect to better understand the functional requirements of the District's planned Aeronautics program at the Nut Tree airport and Corporate Training Center, as is the first step to creating a project program. This architect is uniquely suited to provide this scope of work, having completed the preliminary vision documents for the museum.

See attached scope letters from the architect.



December 6, 2013

Leigh Sata, Executive Bonds Manager
Solano Community College
360 Campus Lane, Suite 201
Fairfield, CA 94534

**RE: Review of Due Diligence Material - for Joint Development
for Jimmy Doolittle Center and Solano Community College
Aeronautics Program at the Nut Tree Campus**

Dear Leigh:

It is a pleasure to continue to work with Solano Community College to assist in realizing the Joint Development for Jimmy Doolittle Center and Solano Community College Aeronautics Program at the Nut Tree Campus. This proposal is to perform a preliminary review of Due Diligence materials provided by the Jimmy Doolittle Foundation that relate to the purchase of Parcels 3 and 5 of "The Nut Tree Development" Filed in Book 50 of Parcel Maps at Page 1, Solano County Records.

SCOPE OF SERVICES

These services will include a preliminary review of the easement and land restrictions that are provided in Due Diligence document that has been provided to JRDV. The preliminary review will focus on potential restrictions that may encumber the development of these parcels as defined in the preliminary joint development master plan produced by JRDV. JRDV will produce a report that represents these findings in the sole judgement of JRDV. This report will be a preliminary review and will not be a definitive ruling on restrictions or encumbrances.

JRDV
Urban International
The Cathedral Building
Broadway and Telegraph
P.O. Box 70126
Oakland, CA 94612
USA
+1 510 295 4392 T
+1 510 835 1984 F

www.jrdv.com

COMPENSATION

JRDV will work on a Time and Materials basis up to a maximum of 40 hours. The hourly rate for these services will be \$210.00 per hour. This work will be completed no later than March 31, 2014.

We look forward to working with you on this project.

Sincerely,

JRDV ARCHITECTS



Edward McFarlan, Principal

Approved For:
JRDV ARCHITECTS, INC.



Edward McFarlan, Principal

Accepted By:
SOLANO COMMUNITY COLLEGE

Leigh Sata, Executive Bond Manager



December 6, 2013

Leigh Sata, Executive Bonds Manager
Solano Community College
360 Campus Lane, Suite 201
Fairfield, CA 94534

RE: Preliminary Feasibility and Scoping Study for the Temporary Aeronautics Location for the Joint Development for Jimmy Doolittle Center and Solano Community College Aeronautics Program at the Nut Tree Campus

Dear Leigh:

It is a pleasure to continue to work with Solano Community College to assist in realizing the Joint Development for Jimmy Doolittle Center and Solano Community College Aeronautics Program at the Nut Tree Campus.

SCOPE OF SERVICES

This proposal is to perform a feasibility and scoping study for the temporary expansion location of Solano Community Colleges Aeronautics Program. JRDV will attend meetings and perform site visits to determine a preliminary space needs program and assess the feasibility of the temporary location. This plan will be reviewed and approved by the Community College representatives. JRDV will create a preliminary space plan and adapt this program to the proposed existing facility.

JRDV
Urban International
The Cathedral Building
Broadway and Telegraph
P.O. Box 70126
Oakland, CA 94612
USA
+1 510 295 4392 T
+1 510 835 1984 F
www.jrdv.com

JRDV will create a report that will include the following elements:

- Summary of the proposed aeronautics program elements,
- Preliminary Space Plan for the temporary program facility

- Illustrated Site Plan
- Summary of Site Opportunities and Constraints

COMPENSATION

JRDV will work on a Time and Materials basis up to a maximum of 80 hours. The hourly rate for these services will be \$210.00 per hour. This work will be completed no later than March 31, 2014.

We look forward to working with you on this project.

Sincerely,

JRDV ARCHITECTS



Edward McFarlan, Principal

Approved For:
JRDV ARCHITECTS, INC.



Edward McFarlan, Principal

Accepted By:
SOLANO COMMUNITY COLLEGE

Leigh Sata, Executive Bond Manager

SOLANO COMMUNITY COLLEGE DISTRICT
GOVERNING BOARD AGENDA ITEM

TO: Members of the Governing Board
SUBJECT: CONTRACT AWARD TO GATES AND ASSOCIATES FOR
VACAVILLE CENTER AND ANNEX CROSSWALK
CONNECTION LANDSCAPE DESIGN
REQUESTED ACTION: APPROVAL

SUMMARY:

Board approval is requested for award of professional services contract to Gates and Associates to provide full landscape design services for the crosswalk area between the existing Vacaville Center and the Vacaville Annex building. The Consultant will provide a landscape design connecting the Annex and the main Center campus, addressing the crosswalk between existing arrival sidewalk and building entry, planting and irrigation design for walkway and entry zone at the Center. The scope of work includes schematic design, construction documents and construction administration phase.

This contract is for a total fee of \$24,655.

Government Code: Board Policy: Estimated Fiscal Impact: Measure Q Funds \$24,655

SUPERINTENDENT'S RECOMMENDATION: APPROVAL DISAPPROVAL
 NOT REQUIRED TABLE

Leigh Sata
Executive Bonds Manager

PRESENTER'S NAME

360 Campus Lane, Suite 201
Fairfield, CA 94534

ADDRESS

(707) 863-7855

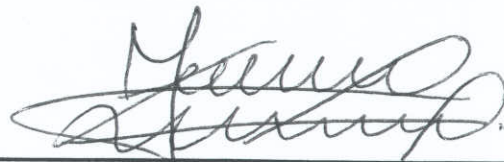
TELEPHONE NUMBER

Administration

ORGANIZATION

December 6, 2013

DATE SUBMITTED TO
SUPERINTENDENT-PRESIDENT



JOWEL C. LAGUERRE, Ph.D.
Superintendent-President

December 6, 2013

DATE APPROVED BY
SUPERINTENDENT-PRESIDENT

**INDEPENDENT CONSULTANT AGREEMENT FOR PROFESSIONAL SERVICES
Landscape Design Services**

This Independent Consultant Agreement for Professional Services ("Agreement") is made and entered into as of the 18th day of December, 2013 by and between the Solano Community College District, ("District") and Gates and Associates ("Consultant"), (together, "Parties").

NOW, THEREFORE, the Parties agree as follows:

1. **Services.** The Consultant shall provide Landscape Design Services as further described in **Exhibit "A,"** attached hereto and incorporated herein by this reference ("Services").
2. **Term.** Consultant shall commence providing services under this Agreement on December 19, 2013 and will diligently perform as required and complete performance by June 30, 2015, unless this Agreement is terminated and/or otherwise cancelled prior to that time.
3. **Submittal of Documents.** The Consultant shall not commence the Services under this Agreement until the Consultant has submitted and the District has approved the certificate(s) and affidavit(s), and the endorsement(s) of insurance required as indicated below:

<u> X </u>	Signed Agreement
<u> X </u>	Workers' Compensation Certification
<u> X </u>	Insurance Certificates and Endorsements
<u> X </u>	W-9 Form
<u> </u>	Other: _____

4. **Compensation.** District agrees to pay the Consultant for services satisfactorily rendered pursuant to this Agreement a total fee not to exceed Twenty Four Thousand Six Hundred Fifty Five Dollars, (\$24,655.00). District shall pay Consultant according to the following terms and conditions:
 - 4.1. Payment for the Work shall be made for all undisputed amounts based upon the delivery of the work product as determined by the District. Payment shall be made within thirty (30) days after the Consultant submits an invoice to the District for Work actually completed and after the District's written approval of the Work, or the portion of the Work for which payment is to be made. The schedule of deliverable Services to be produced is as follows:
 - 4.1.1. Schematic Design Documents
 - 4.1.2. Construction Documents
 - 4.1.3. Construction Administration Phase (including bidding phase)
 - 4.2. The Services shall be performed at the hourly billing rates and/or unit prices referenced in consultant's proposed to the district dated December 6, 2013. If hourly billing applies, the itemized invoice shall reflect the hours spent by the Consultant in performing its Services pursuant to this Agreement.
 - 4.3. If Consultant works at more than one site, Consultant shall invoice for each site separately.
5. **Expenses.** District shall not be liable to Consultant for any costs or expenses paid or incurred by Consultant in performing services for District, with the exception of approved reimbursable allowance up to \$2,500 (included in the total fee).

6. **Independent Contractor.** Consultant, in the performance of this Agreement, shall be and act as an independent contractor. Consultant understands and agrees that it and all of its employees shall not be considered officers, employees, agents, partner, or joint venture of the District, and are not entitled to benefits of any kind or nature normally provided employees of the District and/or to which District's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. Consultant shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, social security and income taxes with respect to Consultant's employees. In the performance of the work herein contemplated, Consultant is an independent contractor or business entity, with the sole authority for controlling and directing the performance of the details of the work, District being interested only in the results obtained.
7. **Materials.** Consultant shall furnish, at its own expense, all labor, materials, equipment, supplies and other items necessary to complete the services to be provided pursuant to this Agreement.:
8. **Performance of Services.**
 - 8.1. **Standard of Care.** Consultant represents that Consultant has the qualifications and ability to perform the Services in a professional manner, without the advice, control or supervision of District. Consultant's services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of its profession for services to California community college districts.

Consultant shall carefully study and compare all documents, findings, and other instructions and shall at once report to District, in writing, any error, inconsistency, or omission that Consultant or its employees may discover. Consultant shall have responsibility for discovery of errors, inconsistencies, or omissions.
 - 8.2. **Meetings.** Consultant and District agree to participate in regular project meetings to discuss strategies, timetables, implementations of services, and any other issues deemed relevant to the operation of Consultant's performance of Services.
 - 8.3. **District Approval.** The work completed herein must meet the approval of the District and shall be subject to the District's general right of inspection and supervision to secure the satisfactory completion thereof.
 - 8.4. **New Project Approval.** Consultant and District recognize that Consultant's Services may include working on various projects for District. Consultant shall obtain the approval of District prior to the commencement of a new project.
9. **Originality of Services.** Except as to standard generic details, Consultant agrees that all technologies, formulae, procedures, processes, methods, writings, ideas, dialogue, compositions, recordings, teleplays and video productions prepared for, written for, or submitted to the District and/or used in connection with this Agreement, shall be wholly original to Consultant and shall not be copied in whole or in part from any other source, except that submitted to Consultant by District as a basis for such services.
10. **Copyright/Trademark/Patent.** Consultant understands and agrees that all matters produced under this Agreement shall become the property of District and cannot be used without District's express written permission. District shall have all right, title and interest in

said matters, including the right to secure and maintain the copyright, trademark and/or patent of said matter in the name of the District. Consultant consents to use of Consultant's name in conjunction with the sale, use, performance and distribution of the matters, for any purpose and in any medium.

11. **Audit.** Consultant shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of Consultant transacted under this Agreement. Consultant shall retain these books, records, and systems of account during the Term of this Agreement and for five (5) years thereafter. Consultant shall permit the District, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the Services covered by this Agreement. Audit(s) may be performed at any time, provided that the District shall give reasonable prior notice to Consultant and shall conduct audit(s) during Consultant's normal business hours, unless Consultant otherwise consents.

12. Termination.

12.1. **For Convenience by District.** District may, at any time, with or without reason, terminate this Agreement and compensate Consultant only for services satisfactorily rendered to the date of termination. Written notice by District shall be sufficient to stop further performance of services by Consultant. Notice shall be deemed given when received by the Consultant or no later than three days after the day of mailing, whichever is sooner.

12.2. **For Convenience by Consultant.** Consultant may, upon sixty (60) days notice, with or without reason, terminate this Agreement. Upon this termination, District shall only be obligated to compensate Consultant for services satisfactorily rendered to the date of termination. Written notice by Consultant shall be sufficient to stop further performance of services to District. Consultant acknowledges that this sixty (60) day notice period is acceptable so that the District can attempt to procure the Services from another source.

12.3. **For Cause by District.** District may terminate this Agreement upon giving of written notice of intention to terminate for cause. Cause shall include:

12.3.1. material violation of this Agreement by the Consultant; or

12.3.2. any act by Consultant exposing the District to liability to others for personal injury or property damage; or

12.3.3. Consultant is adjudged a bankrupt, Consultant makes a general assignment for the benefit of creditors or a receiver is appointed on account of Consultant's insolvency.

Written notice by District shall contain the reasons for such intention to terminate and unless within three (3) calendar days after that notice the condition or violation shall cease, or satisfactory arrangements for the correction thereof be made, this Agreement shall upon the expiration of the three (3) calendar days cease and terminate. In the event of this termination, the District may secure the required services from another Consultant. If the expense, fees, and/or costs to the District exceed the cost of providing the service pursuant to this Agreement, the Consultant shall immediately pay the excess expense, fees, and/or costs to the District upon the receipt of the District's notice of these expense, fees, and/or costs. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to District.

13. **Indemnification.** To the furthest extent permitted by California law, Contractor shall defend, indemnify, and hold harmless the District, its Governing Board, agents, representatives, officers, consultants, employees, trustees, and volunteers (the "indemnified parties") from any and all claims arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of the Contractor. The District shall have the right to accept or reject any legal representation that Contractor proposes to defend the indemnified parties.

14. **Insurance.**

14.1. The Consultant shall procure and maintain at all times it performs any portion of the Services the following insurance with minimum limits equal to the amount indicated below.

Type of Coverage	Minimum Requirement
Commercial General Liability Insurance , including Bodily Injury, Personal Injury, Property Damage, Advertising Injury, and Medical Payments Each Occurrence General Aggregate	\$ 1,000,000 \$ 2,000,000
Automobile Liability Insurance - Any Auto Each Occurrence General Aggregate	\$ 1,000,000 \$ 2,000,000
Professional Liability	\$ 1,000,000
Workers Compensation	Statutory Limits
Employer's Liability	\$ 1,000,000

14.1.1. **Commercial General Liability and Automobile Liability Insurance.**

Commercial General Liability Insurance and Any Auto Automobile Liability Insurance that shall protect the Consultant, the District, and the State from all claims of bodily injury, property damage, personal injury, death, advertising injury, and medical payments arising performing any portion of the Services. (Form CG 0001 and CA 0001, or forms substantially similar, if approved by the District.)

14.1.2. **Workers' Compensation and Employers' Liability Insurance.**

Workers' Compensation Insurance and Employers' Liability Insurance for all of its employees performing any portion of the Services. In accordance with provisions of section 3700 of the California Labor Code, the Consultant shall be required to secure workers' compensation coverage for its employees. If any class of employee or employees engaged in performing any portion of the Services under this Agreement are not protected under the Workers' Compensation Statute, adequate insurance coverage for the protection of any employee(s) not otherwise protected must be obtained before any of those employee(s) commence performing any portion of the Services.

14.1.3. **Professional Liability (Errors and Omissions).**

Professional Liability Insurance as appropriate to the Consultant's profession, coverage to continue through completion of construction plus two (2) years thereafter.

14.2. **Proof of Carriage of Insurance.** The Consultant shall not commence performing any portion of the Services until all required insurance has been obtained and certificates indicating the required coverage have been delivered in duplicate to the District and approved by the District. Certificates and insurance policies shall include the following:

- 14.2.1. A clause stating: "This policy shall not be canceled or reduced in required limits of liability or amounts of insurance until notice has been mailed to the District, stating date of cancellation or reduction. Date of cancellation or reduction shall not be less than thirty (30) days after date of mailing notice."
 - 14.2.2. Language stating in particular those insured, extent of insurance, location and operation to which insurance applies, expiration date, to whom cancellation and reduction notice will be sent, and length of notice period.
 - 14.2.3. An endorsement stating that the District and its Governing Board, agents, representatives, employees, trustees, officers, consultants, and volunteers are named additional insured under all policies except Workers' Compensation Insurance, Professional Liability, and Employers' Liability Insurance. An endorsement shall also state that Consultant's insurance policies shall be primary to any insurance or self-insurance maintained by District. An endorsement shall also state that there shall be a waiver of any subrogation.
 - 14.2.4. All policies except the Professional Liability, Workers' Compensation Insurance, and Employers' Liability Insurance Policies shall be written on an occurrence form.
- 14.3. **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the District.
15. **Assignment.** The obligations of the Consultant pursuant to this Agreement shall not be assigned by the Consultant.
16. **Compliance with Laws.** Consultant shall observe and comply with all rules and regulations of the governing board of the District and all federal, state, and local laws, ordinances and regulations. Consultant shall give all notices required by any law, ordinance, rule and regulation bearing on conduct of the Work as indicated or specified. If Consultant observes that any of the Work required by this Contract is at variance with any such laws, ordinance, rules or regulations, Consultant shall notify the District, in writing, and, at the sole option of the District, any necessary changes to the scope of the Work shall be made and this Contract shall be appropriately amended in writing, or this Contract shall be terminated effective upon Consultant's receipt of a written termination notice from the District. If Consultant performs any work that is in violation of any laws, ordinances, rules or regulations, without first notifying the District of the violation, Consultant shall bear all costs arising therefrom.
17. **Certificates/Permits/Licenses.** Consultant and all Consultant's employees or agents shall secure and maintain in force such certificates, permits and licenses as are required by law in connection with the furnishing of Services pursuant to this Agreement.
18. **Employment with Public Agency.** Consultant, if an employee of another public agency, agrees that Consultant will not receive salary or remuneration, other than vacation pay, as an employee of another public agency for the actual time in which services are actually being performed pursuant to this Agreement.
19. **Anti-Discrimination.** It is the policy of the District that in connection with all work performed under Contracts there be no discrimination against any employee engaged in the work because of race, color, ancestry, national origin, religious creed, physical disability, medical condition, marital status, sexual orientation, gender, or age and therefore the Consultant agrees to comply with applicable Federal and California laws including, but not limited to the California Fair Employment and Housing Act beginning with Government Code

Section 12900 and Labor Code Section 1735 and District policy. In addition, the Consultant agrees to require like compliance by all of its subcontractor(s).

20. **No Rights in Third Parties.** This Agreement does not create any rights in, or inure to the benefit of, any third party except as expressly provided herein.

21. **District's Evaluation of Consultant and Consultant's Employees and/or Subcontractors.** The District may evaluate the Consultant in any way the District is entitled pursuant to applicable law. The District's evaluation may include, without limitation:

21.1. Requesting that District employee(s) evaluate the Consultant and the Consultant's employees and subcontractors and each of their performance.

21.2. Announced and unannounced observance of Consultant, Consultant's employee(s), and/or subcontractor(s).

22. **Limitation of District Liability.** Other than as provided in this Agreement, District's financial obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event, shall District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement for the services performed in connection with this Agreement.

23. **Confidentiality.** The Consultant and all Consultant's agents, personnel, employee(s), and/or subcontractor(s) shall maintain the confidentiality of all information received in the course of performing the Services. Consultant understands that student records are confidential and agrees to comply with all state and federal laws concerning the maintenance and disclosure of student records. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement.

24. **Notice.** Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served, and received if given in writing and either personally delivered or deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by overnight delivery service, or facsimile transmission, addressed as follows:

District:

Solano Community College District
C/O Kitchell CEM
360 Campus Lane, Suite 203
Fairfield, California 94534
ATTN: Ines Zildzic

Consultant:

Gates and Associates.
2671 Crow Canyon Rd.
San Ramon, CA 94583
ATTN: David Gates, Principal

Any notice personally given or sent by facsimile transmission shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the business day next following delivery thereof to the overnight delivery service. Any notice given by mail shall be effective three (3) days after deposit in the United States mail.

25. **Integration/Entire Agreement of Parties.** This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This Agreement may be amended or modified only by a

written instrument executed by both Parties.

26. **California Law.** This Agreement shall be governed by and the rights, duties and obligations of the Parties shall be determined and enforced in accordance with the laws of the State of California. The Parties further agree that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in the county in which the District's administrative offices are located.
27. **Waiver.** The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.
28. **Severability.** If any term, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.
29. **Provisions Required By Law Deemed Inserted.** Each and every provision of law and clause required by law to be inserted in this Contract shall be deemed to be inserted herein and this Contract shall be read and enforced as though it were included therein.
30. **Authority to Bind Parties.** Neither party in the performance of any and all duties under this Agreement, except as otherwise provided in this Agreement, has any authority to bind the other to any agreements or undertakings.
31. **Attorney Fees/Costs.** Should litigation be necessary to enforce any terms or provisions of this Agreement, then each party shall bear its own litigation and collection expenses, witness fees, court costs and attorney's fees.
32. **Captions and Interpretations.** Paragraph headings in this Agreement are used solely for convenience, and shall be wholly disregarded in the construction of this Agreement. No provision of this Agreement shall be interpreted for or against a party because that party or its legal representative drafted such provision, and this Agreement shall be construed as if jointly prepared by the Parties.
33. **Calculation of Time.** For the purposes of this Agreement, "days" refers to calendar days unless otherwise specified.
34. **Signature Authority.** Each party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each Party has been properly authority and empowered to enter into this Agreement.
35. **Counterparts.** This Agreement and all amendments and supplements to it may be executed in counterparts, and all counterparts together shall be construed as one document.
36. **Incorporation of Recitals and Exhibits.** The Recitals and each exhibit attached hereto are hereby incorporated herein by reference.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date indicated below.

Dated: _____, 20__

Dated: _____, 20__

Solano Community College District

Gates and Associates

By: _____

By: _____

Print Name: JOWEL C. LAGUERRE, Ph.D.

Print Name: David Gates

Print Title: Superintendent-President

Print Title: Principal

Information regarding Consultant:

License No.:

:
Employer Identification and/or
Social Security Number

Address: Gates and Associates
2671 Crow Canyon Rd.
San Ramon, CA 94583

Telephone:

Facsimile:

Type of Business Entity:

- Individual
- Sole Proprietorship
- Partnership
- Limited Partnership
- Corporation, State: California
- Limited Liability Company
- Other: _____

NOTE: Section 6041 of the Internal Revenue Code (26 U.S.C. 6041) and Section 1.6041-1 of Title 26 of the Code of Federal Regulations (26 C.F.R. 1.6041-1) requires the recipients of \$600.00 or more to furnish their taxpayer information to the payer. In order to comply with these requirements, the District requires the Contractor to furnish the information requested in this section.

WORKERS' COMPENSATION CERTIFICATION

Labor Code Section 3700 in relevant part provides:

Every employer except the State shall secure the payment of compensation in one or more of the following ways:

- By being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this State.
- By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing satisfactory proof to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to its employees.

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the Work of this Contract.

Date: _____

Name of Consultant: _____

Signature: _____

Print Name and Title: _____

(In accordance with Article 5 – commencing at Section 1860, Chapter 1, part 7, Division 2 of the Labor Code, the above certificate must be signed and filed with the District prior to performing any Work under this Contract.)

_EXHIBIT "A"
DESCRIPTION OF SERVICES TO BE PERFORMED BY CONSULTANT

Consultant's entire Proposal is **not** made part of this Agreement. Consultant will provide the following scope of services: Full landscape design services for the crosswalk area between the existing Vacaville Center and the Vacaville Annex building. The Consultant will provide a landscape design connecting the Annex and the main Center campus, addressing the crosswalk between existing arrival sidewalk and building entry, planting and irrigation design for walkway and entry zone at the Center. The scope of work includes schematic design, construction documents and construction administration phase. Consultant will provide bidding phase assistance, and will make three (3) site visits to the site during construction. Compensation for Services by each phase will be as outlined in the consultant proposal dated December 6, 2013.

SOLANO COMMUNITY COLLEGE DISTRICT
GOVERNING BOARD AGENDA ITEM

TO: Members of the Governing Board
SUBJECT: CONTRACT AWARD TO SCHOOL SPECIALTY
EDUCATION ESSENTIALS FOR FURNITURE AND
EQUIPMENT COORDINATION SERVICES FOR
BUILDING 100 ADJUNCT FACULTY CENTER PROJECT
REQUESTED ACTION: APPROVAL

SUMMARY:

Board approval is requested for award of professional services contract to Specialty Education Essentials for furniture and equipment planning and procurement coordination service for Building 100 Adjunct Faculty Center project. Consultant will provide space planning services that will include a layout of the needed furniture, provide guidance of selection of new furniture, coordination of vendor quotes, procurement, installation and delivery coordination.

This contract is for a total fee of \$27,430.

Government Code: Board Policy: Estimated Fiscal Impact: Measure Q Funds \$27,430

SUPERINTENDENT'S RECOMMENDATION: APPROVAL DISAPPROVAL
 NOT REQUIRED TABLE

Leigh Sata
Executive Bonds Manager

PRESENTER'S NAME

360 Campus Lane, Suite 201
Fairfield, CA 94534

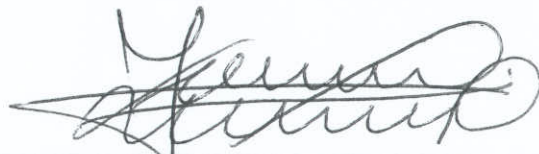
ADDRESS

(707) 863-7855

TELEPHONE NUMBER

Administration
ORGANIZATION

December 6, 2013
DATE SUBMITTED TO
SUPERINTENDENT-PRESIDENT



JOWEL C. LAGUERRE, Ph.D.
Superintendent-President

December 6, 2013
DATE APPROVED BY
SUPERINTENDENT-PRESIDENT

**INDEPENDENT CONSULTANT AGREEMENT FOR PROFESSIONAL SERVICES
Space Planning and Furniture Coordination Services**

This Independent Consultant Agreement for Professional Services ("Agreement") is made and entered into as of the 18th day of December, 2013 by and between the Solano Community College District, ("District") and School Specialty Education Essentials ("Consultant"), (together, "Parties").

NOW, THEREFORE, the Parties agree as follows:

1. **Services.** The Consultant shall provide Space Planning and Furniture Coordination Services as further described in **Exhibit "A,"** attached hereto and incorporated herein by this reference ("Services").
2. **Term.** Consultant shall commence providing services under this Agreement on December 19, 2013 and will diligently perform as required and complete performance by June 1, 2014, unless this Agreement is terminated and/or otherwise cancelled prior to that time.
3. **Submittal of Documents.** The Consultant shall not commence the Services under this Agreement until the Consultant has submitted and the District has approved the certificate(s) and affidavit(s), and the endorsement(s) of insurance required as indicated below:

<u> X </u>	Signed Agreement
<u> X </u>	Workers' Compensation Certification
<u> X </u>	Insurance Certificates and Endorsements
<u> X </u>	W-9 Form
<u> </u>	Other: _____

4. **Compensation.** District agrees to pay the Consultant for services satisfactorily rendered pursuant to this Agreement a total fee not to exceed Twenty Seven Thousand Four Hundred Thirty Dollars, (\$27,430.00). District shall pay Consultant according to the following terms and conditions:
 - 4.1. Payment for the Work shall be made for all undisputed amounts based upon the delivery of the work product as determined by the District. Payment shall be made within thirty (30) days after the Consultant submits an invoice to the District for Work actually completed and after the District's written approval of the Work, or the portion of the Work for which payment is to be made. The schedule of deliverable Services to be produced is as follows:
 - 4.1.1. Space plan for Building 100 adjunct faculty area showing furniture layouts
 - 4.1.2. Outline of furniture type and cost to be utilized for Building 100 adjunct faculty area
 - 4.2. The Services shall be performed at the unit prices for furniture and equipment and percentage completed. If hourly billing applies, the itemized invoice shall reflect the hours spent by the Consultant in performing its Services pursuant to this Agreement.
 - 4.3. If Consultant works at more than one site, Consultant shall invoice for each site separately.
5. **Expenses.** District shall not be liable to Consultant for any costs or expenses paid or incurred by Consultant in performing services for District.
6. **Independent Contractor.** Consultant, in the performance of this Agreement, shall be and

act as an independent contractor. Consultant understands and agrees that it and all of its employees shall not be considered officers, employees, agents, partner, or joint venture of the District, and are not entitled to benefits of any kind or nature normally provided employees of the District and/or to which District's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. Consultant shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, social security and income taxes with respect to Consultant's employees. In the performance of the work herein contemplated, Consultant is an independent contractor or business entity, with the sole authority for controlling and directing the performance of the details of the work, District being interested only in the results obtained.

7. **Materials.** Consultant shall furnish, at its own expense, all labor, materials, equipment, supplies and other items necessary to complete the services to be provided pursuant to this Agreement.:

8. **Performance of Services.**

8.1. **Standard of Care.** Consultant represents that Consultant has the qualifications and ability to perform the Services in a professional manner, without the advice, control or supervision of District. Consultant's services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of its profession for services to California community college districts.

Consultant shall carefully study and compare all documents, findings, and other instructions and shall at once report to District, in writing, any error, inconsistency, or omission that Consultant or its employees may discover. Consultant shall have responsibility for discovery of errors, inconsistencies, or omissions.

8.2. **Meetings.** Consultant and District agree to participate in regular project meetings to discuss strategies, timetables, implementations of services, and any other issues deemed relevant to the operation of Consultant's performance of Services.

8.3. **District Approval.** The work completed herein must meet the approval of the District and shall be subject to the District's general right of inspection and supervision to secure the satisfactory completion thereof.

8.4. **New Project Approval.** Consultant and District recognize that Consultant's Services may include working on various projects for District. Consultant shall obtain the approval of District prior to the commencement of a new project.

9. **Originality of Services.** Except as to standard generic details, Consultant agrees that all technologies, formulae, procedures, processes, methods, writings, ideas, dialogue, compositions, recordings, teleplays and video productions prepared for, written for, or submitted to the District and/or used in connection with this Agreement, shall be wholly original to Consultant and shall not be copied in whole or in part from any other source, except that submitted to Consultant by District as a basis for such services.

10. **Copyright/Trademark/Patent.** Consultant understands and agrees that all matters produced under this Agreement shall become the property of District and cannot be used without District's express written permission. District shall have all right, title and interest in said matters, including the right to secure and maintain the copyright, trademark and/or patent of said matter in the name of the District. Consultant consents to use of Consultant's

name in conjunction with the sale, use, performance and distribution of the matters, for any purpose and in any medium.

11. **Audit.** Consultant shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of Consultant transacted under this Agreement. Consultant shall retain these books, records, and systems of account during the Term of this Agreement and for five (5) years thereafter. Consultant shall permit the District, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the Services covered by this Agreement. Audit(s) may be performed at any time, provided that the District shall give reasonable prior notice to Consultant and shall conduct audit(s) during Consultant's normal business hours, unless Consultant otherwise consents.

12. Termination.

12.1. **For Convenience by District.** District may, at any time, with or without reason, terminate this Agreement and compensate Consultant only for services satisfactorily rendered to the date of termination. Written notice by District shall be sufficient to stop further performance of services by Consultant. Notice shall be deemed given when received by the Consultant or no later than three days after the day of mailing, whichever is sooner.

12.2. **For Convenience by Consultant.** Consultant may, upon sixty (60) days notice, with or without reason, terminate this Agreement. Upon this termination, District shall only be obligated to compensate Consultant for services satisfactorily rendered to the date of termination. Written notice by Consultant shall be sufficient to stop further performance of services to District. Consultant acknowledges that this sixty (60) day notice period is acceptable so that the District can attempt to procure the Services from another source.

12.3. **For Cause by District.** District may terminate this Agreement upon giving of written notice of intention to terminate for cause. Cause shall include:

12.3.1. material violation of this Agreement by the Consultant; or

12.3.2. any act by Consultant exposing the District to liability to others for personal injury or property damage; or

12.3.3. Consultant is adjudged a bankrupt, Consultant makes a general assignment for the benefit of creditors or a receiver is appointed on account of Consultant's insolvency.

Written notice by District shall contain the reasons for such intention to terminate and unless within three (3) calendar days after that notice the condition or violation shall cease, or satisfactory arrangements for the correction thereof be made, this Agreement shall upon the expiration of the three (3) calendar days cease and terminate. In the event of this termination, the District may secure the required services from another Consultant. If the expense, fees, and/or costs to the District exceed the cost of providing the service pursuant to this Agreement, the Consultant shall immediately pay the excess expense, fees, and/or costs to the District upon the receipt of the District's notice of these expense, fees, and/or costs. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to District.

13. **Indemnification.** To the furthest extent permitted by California law, Contractor shall defend, indemnify, and hold harmless the District, its Governing Board, agents, representatives, officers, consultants, employees, trustees, and volunteers (the "indemnified parties") from any and all claims arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of the Contractor. The District shall have the right to accept or reject any legal representation that Contractor proposes to defend the indemnified parties.

14. **Insurance.**

14.1. The Consultant shall procure and maintain at all times it performs any portion of the Services the following insurance with minimum limits equal to the amount indicated below.

Type of Coverage	Minimum Requirement
Commercial General Liability Insurance , including Bodily Injury, Personal Injury, Property Damage, Advertising Injury, and Medical Payments Each Occurrence General Aggregate	\$ 1,000,000 \$ 2,000,000
Automobile Liability Insurance - Any Auto Each Occurrence General Aggregate	\$ 1,000,000 \$ 2,000,000
Professional Liability	\$ 1,000,000
Workers Compensation	Statutory Limits
Employer's Liability	\$ 1,000,000

14.1.1. **Commercial General Liability and Automobile Liability Insurance.** Commercial General Liability Insurance and Any Auto Automobile Liability Insurance that shall protect the Consultant, the District, and the State from all claims of bodily injury, property damage, personal injury, death, advertising injury, and medical payments arising performing any portion of the Services. (Form CG 0001 and CA 0001, or forms substantially similar, if approved by the District.)

14.1.2. **Workers' Compensation and Employers' Liability Insurance.** Workers' Compensation Insurance and Employers' Liability Insurance for all of its employees performing any portion of the Services. In accordance with provisions of section 3700 of the California Labor Code, the Consultant shall be required to secure workers' compensation coverage for its employees. If any class of employee or employees engaged in performing any portion of the Services under this Agreement are not protected under the Workers' Compensation Statute, adequate insurance coverage for the protection of any employee(s) not otherwise protected must be obtained before any of those employee(s) commence performing any portion of the Services.

14.1.3. **Professional Liability (Errors and Omissions).** Professional Liability Insurance as appropriate to the Consultant's profession, coverage to continue through completion of construction plus two (2) years thereafter.

14.2. **Proof of Carriage of Insurance.** The Consultant shall not commence performing any portion of the Services until all required insurance has been obtained and certificates indicating the required coverage have been delivered in duplicate to the District and approved by the District. Certificates and insurance policies shall include the following:

- 14.2.1. A clause stating: "This policy shall not be canceled or reduced in required limits of liability or amounts of insurance until notice has been mailed to the District, stating date of cancellation or reduction. Date of cancellation or reduction shall not be less than thirty (30) days after date of mailing notice."
 - 14.2.2. Language stating in particular those insured, extent of insurance, location and operation to which insurance applies, expiration date, to whom cancellation and reduction notice will be sent, and length of notice period.
 - 14.2.3. An endorsement stating that the District and its Governing Board, agents, representatives, employees, trustees, officers, consultants, and volunteers are named additional insured under all policies except Workers' Compensation Insurance, Professional Liability, and Employers' Liability Insurance. An endorsement shall also state that Consultant's insurance policies shall be primary to any insurance or self-insurance maintained by District. An endorsement shall also state that there shall be a waiver of any subrogation.
 - 14.2.4. All policies except the Professional Liability, Workers' Compensation Insurance, and Employers' Liability Insurance Policies shall be written on an occurrence form.
- 14.3. **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the District.
15. **Assignment.** The obligations of the Consultant pursuant to this Agreement shall not be assigned by the Consultant.
16. **Compliance with Laws.** Consultant shall observe and comply with all rules and regulations of the governing board of the District and all federal, state, and local laws, ordinances and regulations. Consultant shall give all notices required by any law, ordinance, rule and regulation bearing on conduct of the Work as indicated or specified. If Consultant observes that any of the Work required by this Contract is at variance with any such laws, ordinance, rules or regulations, Consultant shall notify the District, in writing, and, at the sole option of the District, any necessary changes to the scope of the Work shall be made and this Contract shall be appropriately amended in writing, or this Contract shall be terminated effective upon Consultant's receipt of a written termination notice from the District. If Consultant performs any work that is in violation of any laws, ordinances, rules or regulations, without first notifying the District of the violation, Consultant shall bear all costs arising therefrom.
17. **Certificates/Permits/Licenses.** Consultant and all Consultant's employees or agents shall secure and maintain in force such certificates, permits and licenses as are required by law in connection with the furnishing of Services pursuant to this Agreement.
18. **Employment with Public Agency.** Consultant, if an employee of another public agency, agrees that Consultant will not receive salary or remuneration, other than vacation pay, as an employee of another public agency for the actual time in which services are actually being performed pursuant to this Agreement.
19. **Anti-Discrimination.** It is the policy of the District that in connection with all work performed under Contracts there be no discrimination against any employee engaged in the work because of race, color, ancestry, national origin, religious creed, physical disability, medical condition, marital status, sexual orientation, gender, or age and therefore the Consultant agrees to comply with applicable Federal and California laws including, but not limited to the California Fair Employment and Housing Act beginning with Government Code Section 12900 and Labor Code Section 1735 and District policy. In addition, the Consultant

agrees to require like compliance by all of its subcontractor(s).

20. **No Rights in Third Parties.** This Agreement does not create any rights in, or inure to the benefit of, any third party except as expressly provided herein.

21. **District's Evaluation of Consultant and Consultant's Employees and/or Subcontractors.** The District may evaluate the Consultant in any way the District is entitled pursuant to applicable law. The District's evaluation may include, without limitation:

21.1. Requesting that District employee(s) evaluate the Consultant and the Consultant's employees and subcontractors and each of their performance.

21.2. Announced and unannounced observance of Consultant, Consultant's employee(s), and/or subcontractor(s).

22. **Limitation of District Liability.** Other than as provided in this Agreement, District's financial obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event, shall District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement for the services performed in connection with this Agreement.

23. **Confidentiality.** The Consultant and all Consultant's agents, personnel, employee(s), and/or subcontractor(s) shall maintain the confidentiality of all information received in the course of performing the Services. Consultant understands that student records are confidential and agrees to comply with all state and federal laws concerning the maintenance and disclosure of student records. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement.

24. **Notice.** Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served, and received if given in writing and either personally delivered or deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by overnight delivery service, or facsimile transmission, addressed as follows:

District:

Solano Community College District
C/O Kitchell CEM
360 Campus Lane, Suite 203
Fairfield, California 94534
ATTN: Ines Zildzic

Consultant:

School Specialty
15875 State Highway 16
Capay, CA 95607
ATTN: Kevin Campbell

Any notice personally given or sent by facsimile transmission shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the business day next following delivery thereof to the overnight delivery service. Any notice given by mail shall be effective three (3) days after deposit in the United States mail.

25. **Integration/Entire Agreement of Parties.** This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both Parties.

26. **California Law.** This Agreement shall be governed by and the rights, duties and obligations of the Parties shall be determined and enforced in accordance with the laws of the State of California. The Parties further agree that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in the county in which the District's administrative offices are located.
27. **Waiver.** The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.
28. **Severability.** If any term, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.
29. **Provisions Required By Law Deemed Inserted.** Each and every provision of law and clause required by law to be inserted in this Contract shall be deemed to be inserted herein and this Contract shall be read and enforced as though it were included therein.
30. **Authority to Bind Parties.** Neither party in the performance of any and all duties under this Agreement, except as otherwise provided in this Agreement, has any authority to bind the other to any agreements or undertakings.
31. **Attorney Fees/Costs.** Should litigation be necessary to enforce any terms or provisions of this Agreement, then each party shall bear its own litigation and collection expenses, witness fees, court costs and attorney's fees.
32. **Captions and Interpretations.** Paragraph headings in this Agreement are used solely for convenience, and shall be wholly disregarded in the construction of this Agreement. No provision of this Agreement shall be interpreted for or against a party because that party or its legal representative drafted such provision, and this Agreement shall be construed as if jointly prepared by the Parties.
33. **Calculation of Time.** For the purposes of this Agreement, "days" refers to calendar days unless otherwise specified.
34. **Signature Authority.** Each party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each Party has been properly authority and empowered to enter into this Agreement.
35. **Counterparts.** This Agreement and all amendments and supplements to it may be executed in counterparts, and all counterparts together shall be construed as one document.
36. **Incorporation of Recitals and Exhibits.** The Recitals and each exhibit attached hereto are hereby incorporated herein by reference.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date indicated below.

Dated: _____, 20__

Dated: _____, 20__

Solano Community College District

School Specialty

By: _____

By: _____

Print Name: JOWEL C. LAGUERRE, Ph.D.

Print Name: Kevin Campbell

Print Title: Superintendent-President

Print Title: Account Manager

Information regarding Consultant:

License No.:

:

Employer Identification and/or
Social Security Number

Address: 15875 State Highway 16
Capay, CA 95607

Telephone: 1-530-908-3871

Facsimile: 1-530-796-4271

Type of Business Entity:

- Individual
- Sole Proprietorship
- Partnership
- Limited Partnership
- Corporation, State: California
- Limited Liability Company
- Other: _____

NOTE: Section 6041 of the Internal Revenue Code (26 U.S.C. 6041) and Section 1.6041-1 of Title 26 of the Code of Federal Regulations (26 C.F.R. 1.6041-1) requires the recipients of \$600.00 or more to furnish their taxpayer information to the payer. In order to comply with these requirements, the District requires the Contractor to furnish the information requested in this section.

WORKERS' COMPENSATION CERTIFICATION

Labor Code Section 3700 in relevant part provides:

Every employer except the State shall secure the payment of compensation in one or more of the following ways:

- By being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this State.
- By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing satisfactory proof to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to its employees.

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the Work of this Contract.

Date: _____

Name of Consultant: _____

Signature: _____

Print Name and Title: _____

(In accordance with Article 5 – commencing at Section 1860, Chapter 1, part 7, Division 2 of the Labor Code, the above certificate must be signed and filed with the District prior to performing any Work under this Contract.)

EXHIBIT "A"
DESCRIPTION OF SERVICES TO BE PERFORMED BY CONSULTANT

Consultant's entire Proposal is **not** made part of this Agreement. Consultant will provide the following scope of services: Space planning, project management, procurement and installation coordination services for Building 100 adjunct area/print shop project. The consultant will provide a space plan that includes a detailed furniture layout for each adjunct space in the building. The Consultant shall provide a detailed list of furniture to be procured based on College building users and District representative review and approval.

SOLANO COMMUNITY COLLEGE DISTRICT
GOVERNING BOARD AGENDA ITEM

TO: Members of the Governing Board
SUBJECT: CONTRACT AWARD TO COMPASS ENERGY SOLUTIONS FOR ENERGY EFFICIENCY PROJECTS ASSESSMENT AND SCOPE DEVELOPMENT SERVICES
REQUESTED ACTION: APPROVAL

SUMMARY:

Board approval is requested for award of professional services contract to Compass Energy Solutions to provide energy efficiency projects assessment and scope development. The Consultant will provide support to District in identification of effective energy efficient projects, complete an audit and provide a scope of work to be utilized during project implementation phases.

This contract is for a total fee of \$ 20,000.

Government Code: Board Policy: Estimated Fiscal Impact: Measure Q Funds \$20,000

SUPERINTENDENT'S RECOMMENDATION: APPROVAL DISAPPROVAL
 NOT REQUIRED TABLE

Leigh Sata
Executive Bond Manager

PRESENTER'S NAME

360 Campus Lane, Suite 201
Fairfield, CA 94534

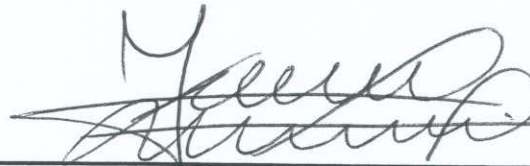
ADDRESS

(707) 863-7855

TELEPHONE NUMBER

Administration
ORGANIZATION

December 6, 2013
DATE SUBMITTED TO
SUPERINTENDENT-PRESIDENT



JOWEL C. LAGUERRE, Ph.D.
Superintendent-President

December 6, 2013
DATE APPROVED BY
SUPERINTENDENT-PRESIDENT

**INDEPENDENT CONSULTANT AGREEMENT FOR PROFESSIONAL SERVICES
Assessment and Scope Development Services**

This Independent Consultant Agreement for Professional Services ("Agreement") is made and entered into as of the 18th day of December, 2013 by and between the Solano Community College District, ("District") and Compass Energy Solutions ("Consultant"), (together, "Parties").

NOW, THEREFORE, the Parties agree as follows:

1. **Services.** The Consultant shall provide Assessment and Scope Development Services as further described in **Exhibit "A,"** attached hereto and incorporated herein by this reference ("Services").
2. **Term.** Consultant shall commence providing services under this Agreement on July 30, 2012 and will diligently perform as required and complete performance by December 30, 2013, unless this Agreement is terminated and/or otherwise cancelled prior to that time.
3. **Submittal of Documents.** The Consultant shall not commence the Services under this Agreement until the Consultant has submitted and the District has approved the certificate(s) and affidavit(s), and the endorsement(s) of insurance required as indicated below:

<u> X </u>	Signed Agreement
<u> X </u>	Workers' Compensation Certification
<u> X </u>	Insurance Certificates and Endorsements
<u> X </u>	W-9 Form
<u> </u>	Other: _____

4. **Compensation.** District agrees to pay the Consultant for services satisfactorily rendered pursuant to this Agreement a total fee not to exceed Thirty Four Thousand (\$34,000.00). District shall pay Consultant according to the following terms and conditions:
 - 4.1. Payment for the Work shall be made for all undisputed amounts based upon the delivery of the work product as determined by the District. Payment shall be made within thirty (30) days after the Consultant submits an invoice to the District for Work actually completed and after the District's written approval of the Work, or the portion of the Work for which payment is to be made. The schedule of deliverable Services to be produced is as follows:
 - 4.1.1. Audit report of existing buildings on all three campus sites in order to determine the most effective energy efficient projects.
 - 4.1.2. Provide findings and recommendations and finalize the Scope of Work along with cost information and savings to be used in project implementation phase (s).
 - 4.2. The Services shall be performed at the hourly billing rates and total billing fee as referenced in the consultant and district Letter of Intent. If hourly billing applies, the itemized invoice shall reflect the hours spent by the Consultant in performing its Services pursuant to this Agreement.
 - 4.3. If Consultant works at more than one site, Consultant shall invoice for each site separately.
5. **Expenses.** District shall not be liable to Consultant for any costs or expenses paid or incurred by Consultant in performing services for District.

6. **Independent Contractor.** Consultant, in the performance of this Agreement, shall be and act as an independent contractor. Consultant understands and agrees that it and all of its employees shall not be considered officers, employees, agents, partner, or joint venture of the District, and are not entitled to benefits of any kind or nature normally provided employees of the District and/or to which District's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. Consultant shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, social security and income taxes with respect to Consultant's employees. In the performance of the work herein contemplated, Consultant is an independent contractor or business entity, with the sole authority for controlling and directing the performance of the details of the work, District being interested only in the results obtained.
7. **Materials.** Consultant shall furnish, at its own expense, all labor, materials, equipment, supplies and other items necessary to complete the services to be provided pursuant to this Agreement.:
8. **Performance of Services.**
 - 8.1. **Standard of Care.** Consultant represents that Consultant has the qualifications and ability to perform the Services in a professional manner, without the advice, control or supervision of District. Consultant's services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of its profession for services to California community college districts.

Consultant shall carefully study and compare all documents, findings, and other instructions and shall at once report to District, in writing, any error, inconsistency, or omission that Consultant or its employees may discover. Consultant shall have responsibility for discovery of errors, inconsistencies, or omissions.
 - 8.2. **Meetings.** Consultant and District agree to participate in regular meetings on at least a monthly basis to discuss strategies, timetables, implementations of services, and any other issues deemed relevant to the operation of Consultant's performance of Services.
 - 8.3. **District Approval.** The work completed herein must meet the approval of the District and shall be subject to the District's general right of inspection and supervision to secure the satisfactory completion thereof.
 - 8.4. **New Project Approval.** Consultant and District recognize that Consultant's Services may include working on various projects for District. Consultant shall obtain the approval of District prior to the commencement of a new project.
9. **Originality of Services.** Except as to standard generic details, Consultant agrees that all technologies, formulae, procedures, processes, methods, writings, ideas, dialogue, compositions, recordings, teleplays and video productions prepared for, written for, or submitted to the District and/or used in connection with this Agreement, shall be wholly original to Consultant and shall not be copied in whole or in part from any other source, except that submitted to Consultant by District as a basis for such services.
10. **Copyright/Trademark/Patent.** Consultant understands and agrees that all matters produced under this Agreement shall become the property of District and cannot be used without District's express written permission. District shall have all right, title and interest in

said matters, including the right to secure and maintain the copyright, trademark and/or patent of said matter in the name of the District. Consultant consents to use of Consultant's name in conjunction with the sale, use, performance and distribution of the matters, for any purpose and in any medium.

11. **Audit.** Consultant shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of Consultant transacted under this Agreement. Consultant shall retain these books, records, and systems of account during the Term of this Agreement and for five (5) years thereafter. Consultant shall permit the District, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the Services covered by this Agreement. Audit(s) may be performed at any time, provided that the District shall give reasonable prior notice to Consultant and shall conduct audit(s) during Consultant's normal business hours, unless Consultant otherwise consents.

12. **Termination.**

12.1. **For Convenience by District.** District may, at any time, with or without reason, terminate this Agreement and compensate Consultant only for services satisfactorily rendered to the date of termination. Written notice by District shall be sufficient to stop further performance of services by Consultant. Notice shall be deemed given when received by the Consultant or no later than three days after the day of mailing, whichever is sooner.

12.2. **For Convenience by Consultant.** Consultant may, upon sixty (60) days notice, with or without reason, terminate this Agreement. Upon this termination, District shall only be obligated to compensate Consultant for services satisfactorily rendered to the date of termination. Written notice by Consultant shall be sufficient to stop further performance of services to District. Consultant acknowledges that this sixty (60) day notice period is acceptable so that the District can attempt to procure the Services from another source.

12.3. **For Cause by District.** District may terminate this Agreement upon giving of written notice of intention to terminate for cause. Cause shall include:

12.3.1. material violation of this Agreement by the Consultant; or

12.3.2. any act by Consultant exposing the District to liability to others for personal injury or property damage; or

12.3.3. Consultant is adjudged a bankrupt, Consultant makes a general assignment for the benefit of creditors or a receiver is appointed on account of Consultant's insolvency.

Written notice by District shall contain the reasons for such intention to terminate and unless within three (3) calendar days after that notice the condition or violation shall cease, or satisfactory arrangements for the correction thereof be made, this Agreement shall upon the expiration of the three (3) calendar days cease and terminate. In the event of this termination, the District may secure the required services from another Consultant. If the expense, fees, and/or costs to the District exceed the cost of providing the service pursuant to this Agreement, the Consultant shall immediately pay the excess expense, fees, and/or costs to the District upon the receipt of the District's notice of these expense, fees, and/or costs. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to District.

13. **Indemnification.** To the furthest extent permitted by California law, Contractor shall defend, indemnify, and hold harmless the District, its Governing Board, agents, representatives, officers, consultants, employees, trustees, and volunteers (the "indemnified parties") from any and all claims arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of the Contractor. The District shall have the right to accept or reject any legal representation that Contractor proposes to defend the indemnified parties.

14. **Insurance.**

14.1. The Consultant shall procure and maintain at all times it performs any portion of the Services the following insurance with minimum limits equal to the amount indicated below.

Type of Coverage	Minimum Requirement
Commercial General Liability Insurance , including Bodily Injury, Personal Injury, Property Damage, Advertising Injury, and Medical Payments	
Each Occurrence	\$ 1,000,000
General Aggregate	\$ 2,000,000
Automobile Liability Insurance - Any Auto	
Each Occurrence	\$ 1,000,000
General Aggregate	\$ 2,000,000
Professional Liability	\$ 1,000,000
Workers Compensation	Statutory Limits
Employer's Liability	\$ 1,000,000

14.1.1. **Commercial General Liability and Automobile Liability Insurance.**

Commercial General Liability Insurance and Any Auto Automobile Liability Insurance that shall protect the Consultant, the District, and the State from all claims of bodily injury, property damage, personal injury, death, advertising injury, and medical payments arising performing any portion of the Services. (Form CG 0001 and CA 0001, or forms substantially similar, if approved by the District.)

14.1.2. **Workers' Compensation and Employers' Liability Insurance.**

Workers' Compensation Insurance and Employers' Liability Insurance for all of its employees performing any portion of the Services. In accordance with provisions of section 3700 of the California Labor Code, the Consultant shall be required to secure workers' compensation coverage for its employees. If any class of employee or employees engaged in performing any portion of the Services under this Agreement are not protected under the Workers' Compensation Statute, adequate insurance coverage for the protection of any employee(s) not otherwise protected must be obtained before any of those employee(s) commence performing any portion of the Services.

14.1.3. **Professional Liability (Errors and Omissions).**

Professional Liability Insurance as appropriate to the Consultant's profession, coverage to continue through completion of construction plus two (2) years thereafter.

14.2. **Proof of Carriage of Insurance.** The Consultant shall not commence performing any portion of the Services until all required insurance has been obtained and certificates indicating the required coverage have been delivered in duplicate to the District and approved by the District. Certificates and insurance policies shall include the following:

- 14.2.1. A clause stating: "This policy shall not be canceled or reduced in required limits of liability or amounts of insurance until notice has been mailed to the District, stating date of cancellation or reduction. Date of cancellation or reduction shall not be less than thirty (30) days after date of mailing notice."
 - 14.2.2. Language stating in particular those insured, extent of insurance, location and operation to which insurance applies, expiration date, to whom cancellation and reduction notice will be sent, and length of notice period.
 - 14.2.3. An endorsement stating that the District and its Governing Board, agents, representatives, employees, trustees, officers, consultants, and volunteers are named additional insured under all policies except Workers' Compensation Insurance, Professional Liability, and Employers' Liability Insurance. An endorsement shall also state that Consultant's insurance policies shall be primary to any insurance or self-insurance maintained by District. An endorsement shall also state that there shall be a waiver of any subrogation.
 - 14.2.4. All policies except the Professional Liability, Workers' Compensation Insurance, and Employers' Liability Insurance Policies shall be written on an occurrence form.
- 14.3. **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the District.
15. **Assignment.** The obligations of the Consultant pursuant to this Agreement shall not be assigned by the Consultant.
16. **Compliance with Laws.** Consultant shall observe and comply with all rules and regulations of the governing board of the District and all federal, state, and local laws, ordinances and regulations. Consultant shall give all notices required by any law, ordinance, rule and regulation bearing on conduct of the Work as indicated or specified. If Consultant observes that any of the Work required by this Contract is at variance with any such laws, ordinance, rules or regulations, Consultant shall notify the District, in writing, and, at the sole option of the District, any necessary changes to the scope of the Work shall be made and this Contract shall be appropriately amended in writing, or this Contract shall be terminated effective upon Consultant's receipt of a written termination notice from the District. If Consultant performs any work that is in violation of any laws, ordinances, rules or regulations, without first notifying the District of the violation, Consultant shall bear all costs arising therefrom.
17. **Certificates/Permits/Licenses.** Consultant and all Consultant's employees or agents shall secure and maintain in force such certificates, permits and licenses as are required by law in connection with the furnishing of Services pursuant to this Agreement.
18. **Employment with Public Agency.** Consultant, if an employee of another public agency, agrees that Consultant will not receive salary or remuneration, other than vacation pay, as an employee of another public agency for the actual time in which services are actually being performed pursuant to this Agreement.
19. **Anti-Discrimination.** It is the policy of the District that in connection with all work performed under Contracts there be no discrimination against any employee engaged in the work because of race, color, ancestry, national origin, religious creed, physical disability, medical condition, marital status, sexual orientation, gender, or age and therefore the Consultant agrees to comply with applicable Federal and California laws including, but not limited to the California Fair Employment and Housing Act beginning with Government Code

Section 12900 and Labor Code Section 1735 and District policy. In addition, the Consultant agrees to require like compliance by all of its subcontractor(s).

20. **No Rights in Third Parties.** This Agreement does not create any rights in, or inure to the benefit of, any third party except as expressly provided herein.
21. **District's Evaluation of Consultant and Consultant's Employees and/or Subcontractors.** The District may evaluate the Consultant in any way the District is entitled pursuant to applicable law. The District's evaluation may include, without limitation:
- 21.1. Requesting that District employee(s) evaluate the Consultant and the Consultant's employees and subcontractors and each of their performance.
 - 21.2. Announced and unannounced observance of Consultant, Consultant's employee(s), and/or subcontractor(s).
22. **Limitation of District Liability.** Other than as provided in this Agreement, District's financial obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event, shall District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement for the services performed in connection with this Agreement.
23. **Confidentiality.** The Consultant and all Consultant's agents, personnel, employee(s), and/or subcontractor(s) shall maintain the confidentiality of all information received in the course of performing the Services. Consultant understands that student records are confidential and agrees to comply with all state and federal laws concerning the maintenance and disclosure of student records. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement.
24. **Notice.** Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served, and received if given in writing and either personally delivered or deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by overnight delivery service, or facsimile transmission, addressed as follows:

District:

Solano Community College District
C/O Kitchell CEM
360 Campus Lane, Suite 203
Fairfield, California 94534
ATTN: Ines Zildzic

Consultant:

Compass Energy Solutions
1401 Huguenot Road Suite 204
Midlothian, VA 23113

ATTN: Johnny Mattice

Any notice personally given or sent by facsimile transmission shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the business day next following delivery thereof to the overnight delivery service. Any notice given by mail shall be effective three (3) days after deposit in the United States mail.

25. **Integration/Entire Agreement of Parties.** This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This Agreement may be amended or modified only by a

written instrument executed by both Parties.

26. **California Law.** This Agreement shall be governed by and the rights, duties and obligations of the Parties shall be determined and enforced in accordance with the laws of the State of California. The Parties further agree that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in the county in which the District's administrative offices are located.
27. **Waiver.** The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.
28. **Severability.** If any term, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.
29. **Provisions Required By Law Deemed Inserted.** Each and every provision of law and clause required by law to be inserted in this Contract shall be deemed to be inserted herein and this Contract shall be read and enforced as though it were included therein.
30. **Authority to Bind Parties.** Neither party in the performance of any and all duties under this Agreement, except as otherwise provided in this Agreement, has any authority to bind the other to any agreements or undertakings.
31. **Attorney Fees/Costs.** Should litigation be necessary to enforce any terms or provisions of this Agreement, then each party shall bear its own litigation and collection expenses, witness fees, court costs and attorney's fees.
32. **Captions and Interpretations.** Paragraph headings in this Agreement are used solely for convenience, and shall be wholly disregarded in the construction of this Agreement. No provision of this Agreement shall be interpreted for or against a party because that party or its legal representative drafted such provision, and this Agreement shall be construed as if jointly prepared by the Parties.
33. **Calculation of Time.** For the purposes of this Agreement, "days" refers to calendar days unless otherwise specified.
34. **Signature Authority.** Each party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each Party has been properly authority and empowered to enter into this Agreement.
35. **Counterparts.** This Agreement and all amendments and supplements to it may be executed in counterparts, and all counterparts together shall be construed as one document.
36. **Incorporation of Recitals and Exhibits.** The Recitals and each exhibit attached hereto are hereby incorporated herein by reference.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date indicated below.

Dated: _____, 20__

Dated: _____, 20__

Solano Community College District

Compass Energy Solutions

By: _____

By: _____

Print Name: JOWEL C. LAGUERRE, Ph.D.

Print Name: Johnny Mattice

Print Title: Superintendent-President

Print Title: Director

Information regarding Consultant:

License No.:

: Employer Identification and/or
Social Security Number

Address: **Compass Energy Solutions**
1401 Huguenot Road Suite 204
Midlothian, VA 23113

Telephone: 916- 216-6739

NOTE: Section 6041 of the Internal Revenue Code (26 U.S.C. 6041) and Section 1.6041-1 of Title 26 of the Code of Federal Regulations (26 C.F.R. 1.6041-1) requires the recipients of \$600.00 or more to furnish their taxpayer information to the payer. In order to comply with these requirements, the District requires the Contractor to furnish the information requested in this section.

Type of Business Entity:

- Individual
- Sole Proprietorship
- Partnership
- Limited Partnership
- Corporation, State: California
- Limited Liability Company
- Other: _____

WORKERS' COMPENSATION CERTIFICATION

Labor Code Section 3700 in relevant part provides:

Every employer except the State shall secure the payment of compensation in one or more of the following ways:

- By being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this State.
- By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing satisfactory proof to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to its employees.

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the Work of this Contract.

Date: _____

Name of Consultant: _____

Signature: _____

Print Name and Title: _____

(In accordance with Article 5 – commencing at Section 1860, Chapter 1, part 7, Division 2 of the Labor Code, the above certificate must be signed and filed with the District prior to performing any Work under this Contract.)

_EXHIBIT "A"
DESCRIPTION OF SERVICES TO BE PERFORMED BY CONSULTANT

Consultant's entire Proposal is **not** made part of this Agreement. This is an agreement for Consultant to provide an investment grade audit (IGA). This assessment will be presented to the District for review. Consultant will make a recommendation on the most cost effective, energy efficient projects. Once Consultant's findings and recommendations meet the Solano CCD financial criteria, Consultant will finalize the Scope of Work and its associated costs and savings. Consultant will secure all applicable rebates both gas and electric and any other available grants and dollars to maximize cost effectiveness. Consultant will provide various low cost finance options for the overall energy efficiency project implementation effort. Consultant will coordinate with PG&E to evaluate the points of service at Solano CCD and metering requirements.

SOLANO COMMUNITY COLLEGE DISTRICT
GOVERNING BOARD AGENDA ITEM

TO: Members of the Governing Board
SUBJECT: PROPERTY PURCHASE FUNDING CONTRACT FOR THE
NEW SCCD AERONAUTICS HANGER AT NUT TREE
AIRPORT
REQUESTED ACTION: APPROVAL

SUMMARY:

On October 2, 2013, the Board was presented with a Memorandum of Understanding outlining the District's intent to jointly own and operate the Jimmy Doolittle Center (JDC), SCCD Aeronautics program and Corporate Training Center. On December 4, the Board was informed that a separate contract was required to protect the District in the acquisition of real property located in Vacaville, which will be purchased by the JDC on behalf of both institutions. The "funding contract" will require the JDC to register the agreement with the city of Vacaville, effectively placing a "lien" on the property until final the final lot lines are agreed to and a transfer of title is complete; within 90 days.

The value of SCCD's portion of the contract is \$836,480, representing 52.28% of the value of the undeveloped land. Funding is Measure Q.

Government Code: Board Policy: Estimated Fiscal Impact: Measure Q Funds \$836,480

SUPERINTENDENT'S RECOMMENDATION:

APPROVAL DISAPPROVAL
 NOT REQUIRED TABLE

Leigh Sata
Executive Bonds Manager

PRESENTER'S NAME

360 Campus Lane, Suite 201
Fairfield, CA 94534

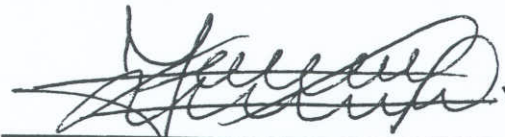
ADDRESS

(707) 863-7855

TELEPHONE NUMBER

Administration
ORGANIZATION

December 6, 2013
DATE SUBMITTED TO
SUPERINTENDENT-PRESIDENT



JOWEL C. LAGUERRE, Ph.D.
Superintendent-President

December 6, 2013
DATE APPROVED BY
SUPERINTENDENT-PRESIDENT

PROPERTY ACQUISITION FUNDING AGREEMENT
By and between
SOLANO COMMUNITY COLLEGE DISTRICT
And
JIMMY DOOLITTLE AIR AND SPACE MUSEUM EDUCATION FOUNDATION

This Property Acquisition Funding Agreement ("Agreement") is entered into this ____ day of December, 2013 (the "Effective Date"), by and between the Solano Community College District ("SCC") and the Jimmy Doolittle Air and Space Museum Education Foundation, a California nonprofit corporation ("Doolittle"). SCC and Doolittle may be referred to individually as "Party" or collectively as the "Parties."

I. RECITALS

WHEREAS, SCC and Doolittle entered into that certain Memorandum of Understanding, dated October 17, 2013 ("MOU"), for the joint planning and construction of facilities that will allow shared classrooms, lecture theatres, flight simulators, and aviation education; and

WHEREAS, the MOU provides that the Parties will jointly fund the acquisition of an approximately 11.42 acre parcel of real property more particularly described and depicted in Exhibits "A" and "B" hereto ("Property"), pursuant to an existing option to buy ("Option") held by Doolittle pursuant to that certain Option Agreement by and between Doolittle and CT Stocking LLC, a California limited liability company ("CT Stocking"), dated as of January 14, 2013 ("Option Agreement"); and

WHEREAS, Doolittle exercised the Option on November 19, 2013, and is required to close the acquisition of the Property ("Option Purchase") on or before December 31, 2013; and

WHEREAS, the MOU more specifically provides that (1) Doolittle, the Option holder, will acquire the Property directly from CT Stocking; (2) Within ten (10) days of Doolittle opening escrow, SCC shall deposit an amount into said escrow equal to the cost of the portion of the Property that will subsequently be transferred by Doolittle to SCC; (3) Doolittle shall use the amount deposited by SCC together with the proceeds from a separate escrow account to pay the balance of the purchase price for the Property; and (4) Following the Property acquisition and, completion of a lot line adjustment to form two new parcels, Doolittle will immediately convey to SCC its portion of the Property at no further costs; and

WHEREAS, the Parties desire to memorialize additional parameters concerning SCC's deposit of its share of the Property acquisition costs.

II. AGREEMENT

In consideration of the promises and of the mutual obligations and agreements herein contained, the Parties hereby agree as follows:

A. PROPERTY ACQUISITION.

1. Exercise of Doolittle Option: The Parties acknowledge and agree that Doolittle holds an exclusive option to acquire the Property. More particularly, Section 12.3 of the Option Agreement specially provides that the rights thereunder cannot be assigned or

transferred. As a result, Doolittle is the only entity that can exercise the Option and acquire the Property. However, as provided in the MOU, the Parties agree that Doolittle shall make the Option Purchase with joint funds contributed by Doolittle and SCC.

2. Property Interest Allocation:

(a) Subject to Section 6 below, the Parties agree and acknowledge that following the Option Purchase, and subsequent to the Lot Line Adjustment (as defined below), Doolittle will retain and hold fee title to a parcel of land which represents 47.72% of the total value of the Property ("Doolittle Parcel"), and Doolittle will transfer to SCC fee title to a parcel of land which represents 52.28% of the total value of the Property ("SCC Parcel").

(b) "Pro Rata Share" or "Pro Rata Basis" means 47.72% as to Doolittle and 52.28% as to SCC.

(c) As provided for in the MOU, and as will be outlined in more definitive agreements, the Doolittle and SCC Parcels shall be subject to reciprocal easements and joint use agreements as negotiated between the Parties.

3. Property Value: The purchase price for the Property under the Option Agreement is One Million Five Hundred Thousand and No/100 Dollars (\$1,500,000), plus option costs (incurred and paid by Doolittle) in the amount of One Hundred Thousand and No/100 Dollars (\$100,000), for a total consideration of One Million Six Hundred Thousand Dollars (\$1,600,000) ("Option Purchase Price"). The Option Purchase Price shall be allocated among the Parties based on each Party's Pro Rata Share of the Property.

4. Property Acquisition Funding:

(a) Within five (5) days of the Effective Date, SCC shall deposit into the escrow established for the Option Purchase ("Option Escrow") at Placer Title Company (Escrow No. 504-19472) located at 21 Town Square Plaza, 2nd Floor, Vacaville, CA 95688 ("Escrow Holder" or "Title Company") the total sum of Eight Hundred Thirty-Six Thousand Four Hundred Eighty and No/100 Dollars (\$836,480.00), which amount reflects SCC's Pro Rata Share of the Option Purchase Price. Doolittle shall deposit the balance of the Option Purchase Price prior to the close of the Option Escrow ("Option Close of Escrow").

(b) The Parties agree to pay each Party's Pro Rata Share of the closing, recording, title and escrow costs associated with the Option Purchase. Prior to the Option Close of Escrow, each Party shall deposit its Pro Rata Share of the estimated closing, recording, title and escrow costs in connection with the Option Purchase, including, without limitation, the owner's policy of title insurance obtained by Doolittle in connection with the Option Purchase. All real property taxes and assessments shall be paid by SCC and Doolittle, on a Pro Rata Basis, as of the Option Close of Escrow and on a going forward basis until the SCC Parcel Close of Escrow (as defined below).

(c) Doolittle acknowledges and agrees that any and all amounts deposited by SCC are for the sole and exclusive purpose of acquiring the Property (including without limitation closing, recording, title, escrow and other costs associated with the acquisition of the Property by Doolittle). Doolittle shall not use these funds for any other purpose, and any attempt to do so shall result in an immediate termination of this Agreement and the MOU, together with any other remedies available to SCC under the law.

(d) Subsequent to the Option Close of Escrow, Doolittle shall not voluntarily create any further encumbrances upon the Property (including the SCC Parcel) except as consented to by SCC in writing.

5. Memorandum of Agreement: In order to protect the interests of SCC prior to Doolittle's conveyance of the SCC Parcel to SCC, the Parties agree that upon the transfer of the Property to Doolittle, SCC may cause to be recorded a Memorandum of Agreement ("MOA") to evidence Doolittle's obligation to convey the SCC Parcel to SCC. The MOA may remain recorded as an encumbrance on the Property in the Official Records of Solano County ("County") until such time as the SCC Parcel is lawfully conveyed to SCC, following which, SCC shall deliver to Doolittle any documents necessary to remove the MOA as an encumbrance against title to the Property.

6. Lot Line Adjustment: Doolittle and SCC acknowledge that the SCC Parcel is not a separate legal parcel at the time of entering into this Agreement, and therefore cannot be conveyed to SCC unless and until a lot line adjustment is processed with, and approved by, the County, and recorded in the Official Records of the County. Doolittle and SCC shall, subject to the terms of this Agreement, use Reasonable Efforts (as defined below) to process with the County, obtain approval, and record in the Official Records of the County immediately prior to the SCC Parcel Transfer (as defined below), a lot line adjustment, the effect of which is to create the SCC Parcel as a separate legal parcel so that the SCC Parcel, upon approval and recordation of the Lot Line Adjustment, can be legally conveyed to SCC at the SCC Parcel Close of Escrow (as defined below) in compliance with the California Subdivision Map Act (the "Lot Line Adjustment"). The Lot Line Adjustment shall configure the Doolittle Parcel and the SCC Parcel based on each Party's Pro Rata Share of the total value of the Property. "Reasonable Efforts" means good faith, commercially reasonable efforts to accomplish the intended task. Reasonable Efforts does not mean or include actions or undertakings which would: (a) result in the relinquishment or compromise of material rights or entitlements of either Party; (b) result in out-of-pocket cost or expense to either party materially in excess of those costs or expenses which would normally and customarily be incurred in the course of accomplishing such task; (c) create additional, material liability on the part of either Party or any of its affiliates, or cause either Party or any of its affiliates to assume additional, material liability; or (d) require the filing of a cause of action or institution of legal proceedings against any third party.

NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, IT IS AN ABSOLUTE, NON-WAIVABLE CONDITION PRECEDENT TO THE SCC PARCEL TRANSFER THAT THE LOT LINE ADJUSTMENT BE COMPLETE, AND THAT THE SCC PARCEL AND DOOLITTLE PARCEL EACH BE A SEPARATE LEGAL PARCEL IN COMPLIANCE WITH THE CALIFORNIA SUBDIVISION MAP ACT (THE "LOT LINE ADJUSTMENT CONDITION").

The Parties shall use Reasonable Efforts to complete the Lot Line Adjustment on or before the date that is ninety (90) days from the Option Close of Escrow ("Lot Line Adjustment Completion Date"). If the Lot Line Adjustment is not complete on or before the date that is ninety (90) days from the Option Close of Escrow, and so long as the Parties are making good-faith efforts to diligently pursue the Lot Line Adjustment to completion, either Party may extend, by written notice to the other Party, the Lot Line Adjustment Completion Date by thirty (30) days. If the Lot Line Adjustment is not complete by the Lot Line Adjustment Completion Date (as the same may be extended), Doolittle will transfer title to Parcel 55 (as indicated on Exhibits "A" and "B") to SCC within ten (10) business days of the Lot Line Adjustment Completion Date (as the same may be extended).

All costs and expenses associated with the Lot Line Adjustment shall be borne by the Parties on a Pro Rata Basis.

7. Transfer of SCC Parcel:

(a) Subject to Section 6 above, Doolittle acknowledges and agrees that following the Option Purchase, it shall convey to SCC fee title to the SCC Parcel ("SCC Parcel Transfer").

(b) SCC acknowledges that the City of Vacaville must consent to the SCC Parcel Transfer, pursuant to the terms of that certain Reciprocal Parking Easement Agreement ("RPEA"), dated June 1, 2011 and recorded August 28, 2011 as Document No. 201100057345 in the Official Records of Solano County ("RPEA Assignment Condition").

(c) As soon as reasonably practicable after the satisfaction of the RPEA Assignment Condition, and the satisfaction of the Lot Line Adjustment Condition, Doolittle shall convey the SCC Parcel to SCC together with all easements, rights of way, and appurtenances related thereto, pursuant to the terms of this Section 7. SCC shall open an escrow ("SCC Parcel Escrow") with Escrow Holder as soon as reasonably practicable after the satisfaction of the RPEA Assignment Condition and the Lot Line Adjustment Condition. The close of escrow ("SCC Parcel Close of Escrow") shall take place at the offices of the Escrow Holder as soon as reasonably practicable thereafter.

(d) SCC acknowledges that it has performed its own due diligence with respect to the Property and has satisfied itself as to the condition of the Property. SCC acknowledges that SCC has been provided with the same documents and materials as Doolittle has been provided in connection with the Option Purchase, including without limitation the Preliminary Report for the Property, dated November 14, 2013, as updated ("Preliminary Report"), the Natural Hazards Disclosures dated November 20, 2013, and the documents and materials listed on Exhibit "D" hereto. SCC further acknowledges that it has had the same opportunity to physically investigate the condition of the Property as Doolittle has been provided.

(e) SCC shall take title to the SCC Parcel at the SCC Parcel Close of Escrow subject to (1) current, non-delinquent real property taxes and assessments, (2) all title exceptions shown on the Preliminary Report or otherwise of record, (3) title exceptions created by SCC or its agents, (4) matters affecting title to the SCC Parcel disclosed in writing to SCC or known by SCC, and (5) any new exceptions approved by SCC, or deemed approved by SCC (collectively, "Approved Exceptions").

(f) Doolittle and SCC shall pay, on a Pro Rata Basis, all documentary transfer taxes assessed at the SCC Parcel Closing as well as the premium for SCC's owner's policy of title insurance (on substantially the same terms as those obtained by Doolittle in connection with the Option Purchase) in the amount of SCC's Pro Rata Share of the Option Purchase Price. All escrow fees and recording fees shall be borne by SCC and Doolittle on a Pro Rata Basis. Subsequent to the Option Close of Escrow, each Party shall pay such Party's Pro Rata Share of all the costs, expenses and liabilities associated with all encumbrances and obligations on or relating to the Property, including, without limitation, the encumbrances and obligations listed on Exhibit "C" hereto.

(g) EXCEPT AS MAY OTHERWISE BE EXPRESSLY STATED IN THIS AGREEMENT, DOOLITTLE HAS NOT MADE, DOES NOT MAKE, AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS, OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT, OR FUTURE, OF, AS TO, CONCERNING, OR WITH RESPECT TO THE PROPERTY (INCLUDING THE SCC PARCEL). TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE TRANSFER OF THE SCC PARCEL AS PROVIDED FOR HEREIN IS MADE ON AN "AS IS, WHERE IS" CONDITION AND BASIS WITH ALL FAULTS, AND DOOLITTLE HAS NO OBLIGATION TO MAKE REPAIRS, REPLACEMENTS, ALTERATIONS OR IMPROVEMENTS TO THE PROPERTY OR THE SCC PARCEL. EXCEPT AS MAY OTHERWISE BE EXPRESSLY STATED HEREIN, SUCH "AS-IS" CONDITION INCLUDES, WITHOUT LIMITATION, AS TO THE PRESENCE OR ABSENCE OF HAZARDOUS MATERIALS, TOXIC SUBSTANCES, WASTE MATERIALS OR OTHER SIMILARLY DESIGNATED SUBSTANCES OR MATERIALS (INCLUDING, WITHOUT LIMITATION, OIL AND OTHER PETROLEUM PRODUCTS), AT, ON, UNDER OR ADJACENT TO THE PROPERTY (INCLUDING THE SCC PARCEL). SCC ASSUMES THE RISK OF ADVERSE PHYSICAL CONDITIONS OR ENVIRONMENTAL CONDITIONS AFFECTING THE PROPERTY (INCLUDING THE SCC PARCEL) AND/OR ITS USE, WHICH SCC FAILED TO DISCOVER AS A RESULT OF ITS INVESTIGATIONS. SCC FURTHER ACKNOWLEDGES AND AGREES THAT SUCH "AS-IS" CONDITION EXTENDS TO LATENT AND PATENT DEFECTS AND CONDITIONS. TO THE MAXIMUM EXTENT PERMITTED BY LAW, SCC WAIVES ANY AND ALL STATUTORY RIGHTS FOR THE BENEFIT OF SCC WITH RESPECT TO LATENT AND PATENT DEFECTS AND CONDITIONS AFFECTING THE PROPERTY (INCLUDING THE SCC PARCEL).

(e) Other than fraud or willful concealment by Doolittle, SCC, and anyone claiming by, through, or under SCC, hereby waives its right to recover from and fully and irrevocably releases Doolittle, its affiliates, and its and their partners, managers, officers, directors, shareholders, trustees, beneficiaries, agents, representatives, employees and all of their respective successors and assigns (collectively, the "Released Parties," and each a "Released Party") from any and all claims that SCC may now have or hereafter acquire against any of the Released Parties for any claims, costs, loss, liability, damage, expenses, demand, action or cause of action arising from or related to (i) entry onto the Property (including the SCC Parcel) and activities on the Property (including the SCC Parcel) by SCC or its representatives prior to the SCC Parcel Close of Escrow, and (ii) conditions on, under, adjacent to or affecting the Property (including the SCC Parcel), including, without limitation, environmental conditions, unless and to the extent caused by the gross negligence or willful misconduct of any of the Released Parties. This release includes claims of which SCC is presently unaware or which SCC does not presently suspect to exist which, if known by SCC, would materially affect SCC's release to Doolittle. SCC specifically waives the provision of California Civil Code section 1542, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR EXPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

In this connection, and to the extent permitted by law, SCC hereby agrees and acknowledges that factual matters now unknown to SCC may have given or may hereafter give rise to causes of action, claims, demands, debts, controversies, damages, costs, losses, liabilities and expenses which are presently unknown, unanticipated and unsuspected. SCC further agrees that the waiver and release herein have been negotiated and agreed upon in light of that realization and that SCC nevertheless hereby intends to release, discharge, and

acquit the Released Parties from any such unknown causes of action, claims, demands, debts, controversies, damages, costs, losses, liabilities and expenses.

SCC Initials

Doolittle Initials

(f) Each Party's obligation to close the SCC Parcel Escrow shall be conditioned upon the other Party having performed its obligations under this Agreement requiring performance prior to the SCC Parcel Close of Escrow and the satisfaction of the Lot Line Adjustment Condition and the RPEA Assignment Condition. Either Party may waive any condition to the SCC Parcel Close of Escrow in its favor, at its discretion, in writing (except any condition that the SCC Parcel or any portion thereof constitute a legal parcel, which may not be waived).

B. FUTURE AGREEMENTS. The Parties acknowledge and agree that this Agreement is the first in a series of agreements between the Parties. The Parties will use Reasonable Efforts to negotiate the following additional agreements in the coming months:

1. *Partial Assignment of Reciprocal Parking Easement Agreement* with respect to the partial assignment of the RPEA from Doolittle to SCC and the partial assumption of the RPEA from Doolittle by SCC; and
2. *Reciprocal Easement Agreement* between the Parties memorializing shared use, operation and maintenance of certain common outdoor areas and land improvements (parking, roadways, etc.); and
3. *Shared Use and Operation Agreement* between the Parties memorializing the shared use, operation and maintenance of certain SCC and Doolittle facilities (buildings and structures);
4. Such other agreements as may be necessary to fulfill the purposes of this Agreement and/or the MOU.

C. TERMINATION. This Agreement will automatically terminate upon the any of the following events:

1. Doolittle's failure to close the Option Purchase; or
2. Any attempt by Doolittle to voluntarily transfer, assign or otherwise encumber the SCC Parcel *except* as contemplated in this Agreement and/or the MOU or otherwise approved by SCC.

In the event of a termination based on either Paragraph C(1) or C(2) above, Doolittle shall immediately return all monies deposited by SCC, together with any earned interest. Failure to return all SCC funds shall subject Doolittle to immediate legal action and SCC shall have available to it any and all rights available to it at law to enforce these termination provisions.

D. ASSIGNMENT. Neither Party shall voluntarily assign or encumber its interest in this Agreement without the prior written consent of the other Party.

E. NOTICES. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested, or sent by overnight carrier to the following addresses:

SCC: Dr. Jowel C. Laguerre, Ph.D.
Superintendent-President
Solano Community College District
4000 Suisun Valley Road
Fairfield, CA 94534-3197
Office: (707) 864-7112

With a copy to: Clarissa R. Canady
Dannis Woliver Kelley
Legal Counsel
71 Stevenson Street
San Francisco, CA 94105
Office: (415) 543-4111

Doolittle: Brian McInerney
President/CEO
Jimmy Doolittle Center
1111 Webster Street
Fairfield, CA 94533
Office: (415) 847-1423

With a copy to: John DiGiusto
General Counsel
1 Jelly Belly Lane
Fairfield, CA 94534
Office: (707) 428-2800

F. MISCELLANEOUS.

1. Modification; Integration; Conflicts. It is agreed and understood that this Agreement and the MOU contain all agreements, promises and understandings between SCC and Doolittle, and no verbal or oral agreements, promises or understandings shall or will be binding upon either Party, and any addition, variation or modification to this Agreement shall be void and ineffective unless made in writing and signed by the Parties hereto. To the extent of any conflict between this Agreement and the MOU, this Agreement shall prevail.

2. Applicable Law. This Agreement and the performance hereof shall be governed, interpreted, construed and regulated by the laws of the State of California.

3. Binding Effect. This Agreement, and each and every covenant and condition herein, shall extend to the heirs, personal representatives, successors and assigns of the Parties hereto.

4. Interpretation of Agreement. The language of all the parts of this Agreement shall be construed simply and according to its fair meaning, and this Agreement shall never be construed either for or against either Party.

5. Severability. If any portion of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, then such portion shall be deemed modified to the extent necessary in such court's opinion to render such portion enforceable and, as so modified, such portion and the balance of this Agreement shall continue in full force and effect.

6. Captions. The captions of the paragraphs of this Agreement are for convenience of reference only and shall not affect the interpretation of this Agreement or limit or amplify any of its terms or provisions.

7. Alternative Dispute Resolution. All claims, disputes or controversies arising out of, or in relation to the interpretation, application or enforcement of this Agreement may, but are not required to be decided through mediation as the first method of resolution. If this method proves unsuccessful, nothing in this section shall be construed to prevent either Party from bringing a legal action to resolve any such claim, dispute or controversy.

8. Waiver of Rights. Any waiver at any time by either Party hereto of its rights with respect to a breach or default, or any other matter arising in connection with this Agreement, shall not be deemed to be a waiver with respect to any other breach, default or matter.

9. Counterparts. This Agreement may be executed in counterparts, each of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, SCC and Doolittle have duly executed this Agreement on the day and year set forth above.

Doolittle: JIMMY DOOLITTLE CENTER

By: _____
Brian McInerney
President

SCC: SOLANO COMMUNITY COLLEGE DISTRICT

By: _____
Dr. Jowel C. Laguerre, Ph.D.
President-Superintendent

EXHIBIT "A"
PROPERTY DESCRIPTION

EXHIBIT "B"
PROPERTY MAP

EXHIBIT "C"

PROPERTY ENCUMBRANCES

The following items represent the estimated liquidated and contingent financial obligations associated with the Property and/or its development:

- **Vacaville RDA Reimbursement:** The reimbursement obligation to the Vacaville Redevelopment Agency in the amount of \$718,000 for the reimbursement of a share of infrastructure improvements allocated by the City of Vacaville to the Valentine parcels.
- **Bond Balance Due:** The unpaid bond balance encumbering the entire property in connection with the Nut Tree Assessment District. This was estimated to be approximately \$146,000 in June 2012.
- **Indemnification Obligation:** Responsibility for the indemnification obligation in the reciprocal parking agreement (Section 4.5(a)) and the obligation to construct parking for the benefit of parcels 4, 8 and 9 related to the 1.0M+ cash reserve currently in escrow.
- **Tree Removal:** The obligation to cut down the trees located adjacent to the county airport property, estimated cost to be \$200,000 or more (Mitigation and Monitoring Plan Section 4.8).
- **Taxiway:** Uncertain cost of making the taxiway to the Nut Tree airport operational for the benefit of both parties.
- **Extension of Nut Tree Road:** The cost of extending Nut Tree Road along the balance of the Valentine Property that would front Nut Tree Road.
- **Extension of Waterline:** Potential cost of extending non-potable water line from the pump at the irrigation canal to be used for landscaping.
- **Lighting District Assessment:** The costs of the Nut Tree Lighting and Landscaping District of approximately \$12,000 per year.

EXHIBIT "D"

DUE DILIGENCE MATERIALS PROVIDED SCC

1	Note on former Aviation fueling station
2	1956 Irrigation Pipeline Right-of-Way
3	1971 Easement for Lighting of Trees
4	1977 Avigation Easement for Clear Zone
5	1983 Redevelopment Project Area
6	1986 Avigation Easement
7	1987 Avigation Easement
8	Various maps, including some recorded parcel maps
9	2000 Drainage Easement Agreement
10	2000 Declaration of use Restrictions (Nut Tree parcels)
11	2002 Nut Tree Ranch Development Project (Mit. Monitoring Prog)
12	Nut Tree Airport – Inventory of Existing Conditions
13	2004 Easement for Sanitary Sewer Line
14	2004 Subsequently filed Easement for Sanitary Sewer Line
15	2004 Easement Grant Deed
16	2010 VV City rpt. to Council on Former NT Stadium Benefit District
17	2010 VV City Res. mitigated negative declaration/approving Nut Tree Ranch Policy Plan Amendment/NT Planned Dev.Mst.Plan Mod.
18	2010 Property Exchange Agreement by VV, VV Redev. Agency & CT Stocking, LLC & Summary of VV Land Exchange in June 2011
19	2011 Internal CT Stocking LLC memo on analysis of Title Condition
20	2011 Chicago Title Policy-3.5 million issued in favor of CT-Stocking, LLC
21	June 2011- Reciprocal Parking Easement Agreement
22	June 2011 – Mst. Quitclaim, Release/Termination of Rights/Obligations Agr
23	June 2011 – Grand Deed (related to item #18)
24	June 2011 – Grant of Access easement in favor of CT-Stocking, LLC
25	June 2011 – Substituted Trustee and Full Reconveyance
26	Sept. 2012 – Preliminary Title Report prepared by Placer Title Co.
27	Sept. 2012 – VV City Res. NT Sol.Irr.Pump Stat. Ben.Dist. (SID)
28	September 2012 – Engineers Report - SID
29	Airport Compatibility Standards
30	Hawkins land Surveying Contract
31	

 EVERETT

SOLANO COMMUNITY COLLEGE DISTRICT
GOVERNING BOARD AGENDA ITEM

TO: Members of the Governing Board
SUBJECT: PROPERTY PURCHASE CONTRACT – 1400, 1401, 1500,
1501 SONATA DRIVE, VALLEJO, CA 94591
REQUESTED ACTION: APPROVAL

SUMMARY:

The Board is presented with a contract for the purchase of real property located at 1400, 1401, 1500 and 1501 Sonata Drive in Vallejo, CA. The property is located adjacent to the existing Vallejo Center and is connected by ramp to the existing Center. The property is over 6 acres in size and is an ideal location for future development by the District. The purchase of this property will allow the District to expand in the existing Vacaville location over time, rather than have to seek a new and/or larger piece of land elsewhere.

The cost of the property is \$4,800,000 with a \$100,000 donation to the District’s Foundation included, for a net cost to the District of \$4,700,000. The purchase is subject to standard due diligence and appraisal.

The property will be purchased with Measure Q funds.

Government Code: Board Policy: Estimated Fiscal Impact: Measure Q Funds \$4,700,000

SUPERINTENDENT’S RECOMMENDATION: APPROVAL DISAPPROVAL
 NOT REQUIRED TABLE

Leigh Sata
Executive Bonds Manager

PRESENTER’S NAME

360 Campus Lane, Suite 201
Fairfield, CA 94534

ADDRESS

(707) 863-7855

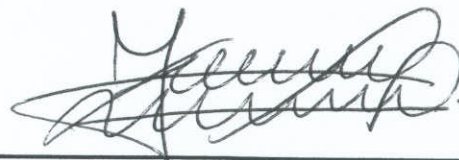
TELEPHONE NUMBER

Administration

ORGANIZATION

December 6, 2013

DATE SUBMITTED TO
SUPERINTENDENT-PRESIDENT



JOWEL C. LAGUERRE, Ph.D.
Superintendent-President

December 6, 2013

DATE APPROVED BY
SUPERINTENDENT-PRESIDENT

**AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY AND
JOINT ESCROW INSTRUCTIONS OF BUYER AND SELLER**

BETWEEN

SYMPHONY ASSETPool XV LLC.
("SELLER")

and

SOLANO COMMUNITY COLLEGE DISTRICT

("BUYER")

Dated: December 3, 2013

**AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY
AND JOINT ESCROW INSTRUCTIONS OF BUYER AND SELLER**

THIS AGREEMENT is made this third day of December, 2013, by and between Symphony Asset Pool XV LLC, a Delaware limited liability company (hereinafter "Seller"), and the Solano Community College District ("Buyer"), a public school district of the State of California.

RECITALS

WHEREAS, Seller owns property situated in the City of Vallejo and County of Solano County, and is more commonly known as: 1400, 1401, 1500, 1501 Sonata Dr, Vallejo, CA 94591, APN #'s: 0183-091-060, 0183-091-070, 0183-101-040, 0183-101-050, 0183-091-030, 0183-091-040, 0183-101-020, 0183-101-030, 0183-101-060 – totaling approximately 6.28 acres combined, as described and depicted more specifically in **Exhibits A and B** hereto ("Real Property"); and

WHEREAS, Buyer desires to acquire the Real Property and Seller desires to sell said Real Property on and subject to the terms and conditions contained herein.

OPERATIVE PROVISIONS

NOW THEREFORE, in consideration of the covenants and agreements hereinafter set forth, Seller and Buyer agree as follows:

ASSETS PURCHASED

Seller hereby agrees to sell and convey to Buyer and Buyer agrees to purchase from Seller, subject to the terms and conditions set forth herein, the following:

1.1 The Real Property described in **Exhibits A and B**, including all mineral and subsurface rights, if any, and all improvements located thereon;

1.2 All rights, privileges and easements appurtenant to the Real Property, (all of which are collectively referred to as the "Appurtenances").

1.3 The Real Property and the Appurtenances are hereinafter collectively referred to as the "Property."

TERMS

1.4 Price.

- a. Purchase Price: The purchase price ("Purchase Price") for the Property, subject to the conditions outlined in Sections 3.1(a) (Clear Title), shall be Four Million Eight Hundred Thousand Dollars and 00/100 (\$4,800,000.00).
- b. Foundation Donation: Seller shall make a donation to the Solano Community College Education Foundation in the amount of One Hundred Thousand Dollars and 00/100 cents (\$100,000.00), which amount shall be paid directly from the proceeds of the escrow account at close of escrow ("Foundation Donation").

1.5 Terms. The Purchase Price shall be paid as follows:

- a. Deposit. Within ten (10) days of execution of this Agreement, Buyer shall deposit the sum of Seventy Five Thousand Dollars and 00/100 (\$75,000.00) (the "Deposit") in escrow with First American Title Insurance Company, 100 Spear Street, Suite 1600, San Francisco, California Attention: Heather Kucala (the "Escrow Holder"). The Deposit shall be held in an interest bearing account and the interest accruing thereon shall be held for the account of Buyer.

- b. Balance of Purchase Price. Within three (3) days prior to close of escrow Buyer shall deposit with the Escrow Holder, for delivery to Seller at the close of escrow, the balance of the Purchase Price in immediately available funds.
- c. Payment of Balance Upon Closing. At the close of escrow ("Closing" or "Closing Date"), the Deposit and the balance of the Purchase Price, less any amount owed to Buyer in accordance with the terms of this Agreement and less the Foundation Donation, shall be paid by Escrow Holder to or at the direction of Seller on account of the Purchase Price.
- d. Closing Costs. At least three (3) days prior to the Closing Date, Buyer shall deposit or cause to be deposited with Escrow Holder, in cash or a certified, bank cashier's or treasury check made payable to Escrow Holder or a confirmed wire transfer of funds, the amount of Escrow Holder's estimate of Buyer's closing costs, pro-rations and charges payable pursuant to this Agreement.
- e. Grant Deed. At least fifteen (15) days after the opening of escrow, Seller shall deposit a Grant Deed described herein into escrow, which Grant Deed shall be provided by the Escrow Holder.
- f. Preliminary Title Report. Within ten (10) days after the opening of escrow, Escrow Holder shall deliver to Buyer a Preliminary Title Report ("Report") for the Real Property accompanied by legible copies of all documents referred to in the Report along with plotted easements.

1.6 Conveyance of Title. At the Closing, Seller shall convey to Buyer title to the Real Property in fee simple by recordation of the Grant Deed, clear of all monetary liens, deeds of trust and mortgages except the lien for real property taxes, if any, for the current

fiscal year not yet due, any assessments for the current fiscal year not yet due, and such exceptions to title as Buyer shall approve pursuant to Section 3.1.

1.7 Issuance of Title Insurance. Evidence of title to the Real Property shall be the issuance at Closing by First American Title Insurance Company (the "Title Company") of an CLTA owner's policy of title insurance in the full amount of the Purchase Price, insuring fee simple title to the Real Property in the condition required by Section 2.3 and containing such endorsements as Buyer shall require.

CONDITIONS TO CLOSE

1.8 Conditions to Buyer's Obligation. Buyer's obligation to purchase the Real Property under this Agreement is subject to the fulfillment of each of the following conditions, each of which shall be fulfilled or waived by the date 45 days after the effective date of this Agreement pursuant to paragraph 3.1(h)4. Below and is for the benefit of Buyer and any or all of which may be waived by Buyer in writing at its option:

- a. Delivery of Title with Permitted Exceptions. Title to the Real Property shall be conveyed to Buyer at Closing free and clear of encumbrances, any and all liens, any other items affecting title other than the following exceptions (collectively "Permitted Exceptions"):
- (1) a lien for non-delinquent taxes and assessments;
 - (2) any exceptions which the Report discloses that are accepted in writing by Buyer pursuant to 3.1(a.)(3) below; and
 - (3) the printed exceptions in the Title Policy.

Buyer shall have fifteen (15) days from receipt of title report ("Title Review Period") to approve, in writing, any exceptions appearing in the Report. If Buyer fails to either approve or disapprove any or all the exceptions in the Report within the Title Review Period, the Report will be deemed accepted and any title contingencies waived. If Buyer gives

Seller written notice that Buyer disapproves an item, Seller may elect, within five (5) days after receipt of such written notice, to cure any such disapproved item. Failure by Seller to provide such written notice to Buyer will be deemed an election by Seller not to cure any such disapproved item. If Seller elects or is deemed to have elected not to cure a disapproved item, Buyer shall have five (5) days thereafter either to waive its prior disapproval or to terminate this Agreement. In the event of an election by Buyer to terminate, the parties shall jointly pay any cancellation charges, the Deposit will be returned to Buyer, and Seller shall be released from its obligation under this Agreement of selling the Property to Buyer.

b. Issuance of an CLTA Policy of Title Insurance. Issuance of the Title Policy in the full amount of the Purchase Price for the Real Property with only those exceptions which are approved by Buyer pursuant to Paragraph 3.1(a.)above, accompanied by legible copies of all documents referred to in the Report.

c. Survey. Buyer may provide a survey of the Real Property to be paid for by Buyer prepared by a licensed surveyor or civil engineer in sufficient detail to provide for the issuance of the Title Policy, certified to Buyer and the Title Company in form satisfactory to Buyer without boundary, encroachment, or survey expectations which shall show the location of all easements and improvements ("Survey"). A copy of the Survey, if prepared, shall be provided to Seller and Title Company when complete.

d. Appraisal. Buyer shall have an appraisal of the Property which includes a residual land value for the Property at its highest and best use prepared within 30 days of execution of this Agreement. Buyer's obligation to purchase the Property shall be contingent upon the appraisal confirming that the Purchase Price represents either (1) the fair market value of the Property as currently entitled, or (2) the fair marker value of the Property when used for Buyer's intended use.

e. State and Local Regulatory Agencies' Approval. Unconditional acceptance and approval of Buyer's purchase of the Property for school site purposes by appropriate state and local regulatory agencies, including, but not limited to, the County of Solano, the State Community College Chancellor's Office - Facilities Division, the Division of State Architect and the Department of Toxic Substance Control.

f. Solano Community College Governing Board Acceptance of Purchase. Final acceptance and approval of any final inspections, reports, or analyses prepared by any of the regulatory agencies referred to in Section 3.1(d) or any other regulatory agency with any jurisdiction over the Property and its future development, including approval of requirements imposed by such agencies that Buyer remediate or remove hazardous substances on the Real Property.

g. Environmental Compliance by Buyer. Determination by Buyer that the Property complies with all federal, state and local environmental requirements applicable for use of the Property. Buyer shall have the right to have a Phase I Environmental Site Assessment prepared in accordance with the American Society for Testing and Materials standards. Any additional environmental testing or assessments, including without limitation intrusive testing must be approved by Seller prior to performance and Seller may withhold approval of such additional testing in its sole discretion. Any environmental assessment of the Real Property shall be performed at the expense of Buyer, and copies delivered to Seller at the time of delivery to Buyer.

h. Approval of Condition of Property. Final approval of the condition of the Property by Buyer, as follows:

1. Feasibility Review. Buyer shall analyze the feasibility of development of the Property by Buyer. Buyer shall be solely responsible for any and all costs incurred by Buyer in connection with its review and/or investigations of the Property.

2. Delivery of Property-Related Documents. Unless Seller is not in possession of the following, Seller shall, within fifteen (15) days of the execution of this Agreement, deliver to Buyer all documents and information related to the Property that are in the possession of Seller or Seller's agents, including any: (1) environmental documents on the Property; (2) copies of all documents evidencing interests not shown on the Title Report, if any; (3) permission for Buyer to discuss the Property with Seller's consultants; and (4) any existing leases and amendments relating to the Real Property. Buyer shall review and analyze the Project Documents to determine their individual and collective impact on the Property and its development by Buyer.

3. Studies and Investigations. Subject to the terms of this Agreement, Buyer shall conduct such independent investigations, studies and tests as it deems necessary or appropriate concerning Buyer's proposed use and/or the suitability of the Real Property for Buyer's intended purposes, including studies related to requirements or limitations imposed on the use of the Property.

4. Approval or Disapproval of Feasibility Studies. Buyer's obligation to consummate the purchase of the Property is conditioned upon delivery of the written approval of the Property to the Escrow Holder by Buyer. All conditions listed in this section 3.1 shall be approved or disapproved by Buyer within forty-five (45) days of the effective date of this Agreement by delivering written notice to Seller and Escrow by such date. In the event Buyer fails to deliver written notice by such date then Buyer shall be deemed to have approved all the conditions set forth in section 3.1.

1.9 a. Seller's Obligations.

1. Seller shall have timely performed all of the obligations required by the terms of this Agreement to be performed by Seller.

2. Seller shall not enter into any rental or other occupancy agreements for the Property after execution of this Agreement and during the escrow period.

b. Representations. To the best of each party's knowledge, all representations and warranties made by such party to the other in this Agreement shall be true and correct as of the Closing.

3.3 Condition of Property/Hazardous Material. Buyer is purchasing the Property "AS IS", "WHERE IS" and "WITH ALL FAULTS", without any representations, warranties or guaranties of any nature, express or implied, oral or written, past, present or future, regarding the Property, including without limitation as to the matters described in Buyer's due diligence contingency. Buyer is not entitled to rely, and agrees that it has not relied and will not rely, on any representations, warranties, promises, assurances or other statements relating to or affecting the Property, whether made verbally or in writing, and whether made before or after the Effective Date, and whether express or implied, made by Seller, or any of its agents, representatives or consultants, which are not expressly set forth in this agreement.

1.4 Release. Buyer hereby fully and forever releases and discharges Seller from any and all claims, rights, actions, damages, and/or liabilities, of any nature whatsoever, fixed or contingent, existing now or arising in the future, known or unknown, in any way relating to the Property, excluding only claims arising under this agreement. Buyer acknowledges Buyer may later learn of circumstances bearing upon the rights released in this agreement. Buyer specifically waives the rights afforded by Section 1542 of the California Civil Code which provides:

“A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him, must have materially affected his settlement with the debtor.”

_____ (Buyer's initials)

The Property is being sold “As-Is,” with no representations and/or warranties by the Seller concerning the condition of the Property.

1.5 Conditions to Benefit Parties

a. Conditions to Benefit Buyer. The conditions contained in Sections 3.1 are intended solely for the benefit of Buyer. If the Seller is unable to deliver title to the Real Property, and the Property as required herein, or the conditions described in Section 3.1 are not satisfied, Buyer shall have the right at its sole election within 45 days after execution of this Agreement, either to proceed with the purchase of the Property in accordance with the terms hereof, or, in the alternative, to terminate this Agreement and obtain a refund of the deposit plus all interest accrued thereon. In the event Buyer elects to terminate this

Agreement for the reasons provided herein, Buyer shall pay any title and escrow charges, and neither party shall have any further rights or obligations under this Agreement.

b. Conditions to Benefit Seller. Seller's Conditions to Close contained in paragraph 3.6 are for the benefit of Seller, and should Buyer fail to timely comply with the Seller's Conditions to Close, Seller may, in its sole discretion, terminate this Agreement and retain the Liquidated Damages as provided in Section 7. In the event Seller elects to terminate this Agreement for failure of Buyer to satisfy Seller's conditions to close as provided herein, Buyer shall pay any title and escrow charges.

1.6 Conditions to Seller's Obligation. For the benefit of Seller, the Closing shall be conditioned upon the occurrence and/or satisfaction of each of the following conditions (or Seller's written waiver thereof, it being agreed that Seller may waive any or all of such conditions):

a. Buyer's Obligations. Buyer shall have performed by the Closing, all of the obligations required by the terms of this Agreement to be performed by Buyer.

b. Buyer's Representations. All representations and warranties made by Buyer to Seller in this Agreement shall be true and correct as of the Closing.

ESTABLISHMENT OF ESCROW

1.7 Time to Open Escrow. Promptly after the execution of this Agreement, an escrow shall be opened to consummate the sale of the Property pursuant to this Agreement in accordance with further escrow instructions of Buyer and of Seller (the "Escrow Instructions"), which instructions shall be consistent with the terms of this Agreement.

1.8 Delivery of Agreement. Seller and Buyer shall open the escrow by delivering an executed counterpart of this Agreement to the Escrow Holder.

CLOSING

1.9 Closing Date. The Closing hereunder shall be held and delivery of all items to be made at the Closing under the terms of this Agreement shall be made at the offices of the Title Company not later than ninety (90) days following the execution of this Agreement, ("Closing Date"), unless Buyer and Seller agree in writing to extend the Closing Date.

1.10 Encumbrances. Except as specified in Section 2.3, the Seller shall pay in full any monetary liens, claims, or mortgages encumbering the Property not accepted by Buyer, if applicable. All real and personal property ad valorem taxes and special assessments, if any, whether payment in installments or not, including without limitation all supplementary taxes attributable to the period before the Closing Date for the calendar year in which the Closing occurs will be prorated to the Closing Date, based on the latest available tax rate and assessed valuation.

1.11 Recording and Other Fees and Costs. Buyer and Seller shall each pay its share of recording and all other fees and costs according to the industry standard in Solano County. If, as a result of no fault of Buyer or Seller, Escrow fails to close, Buyer and Seller shall share equally all of Escrow Holder's fees and other customary charges for document drafting, recording and miscellaneous charges. In the event this escrow fails to close through the fault of Seller, Seller shall pay any and all escrow costs and expenses in connection therewith, and Buyer shall be at no expense with respect to the same. In the event this escrow fails to close through the fault of Buyer, Buyer shall pay any and all escrow costs and expenses in connection therewith and Seller shall be at no expense with respect to the same.

REPRESENTATIONS AND WARRANTIES

1.12 Buyer Representations and Warranties. In consideration of Seller entering into this Agreement and as an inducement to Seller to sell the Property to Buyer, Buyer makes the following representations and warranties, each of which is material and is being relied upon by Seller (the continued truth and accuracy of which shall constitute a condition precedent to Seller's obligations hereunder):

a. Buyer Authority to Execute Agreement. Buyer is a public school district duly formed under the laws of the State of California, and this Agreement and the execution and delivery thereof by the persons designated below have been specifically authorized by Buyer. Buyer has the legal right, power and authority to enter into this Agreement, to consummate the transactions contemplated hereby.

b. Authority of Executing Officer. Each individual executing this Agreement on behalf of Buyer represents, for the benefit of Seller, that he or she is duly authorized to execute and deliver this Agreement on behalf of Buyer.

c. Expertise and Knowledge of Buyer. In purchasing the Property, Buyer has relied and will rely solely on (i) the expertise of Buyer and its agents, representatives and consultants, and (ii) the knowledge of Buyer and its agents, representatives and consultants, based on their own investigations and inspections of the Property.

d. Completion of Investigation. On or before the Closing date, Buyer and its agents, representatives and consultants will have conducted such inspections and investigations of the Property as Buyer deems necessary.

e. No Reliance on Seller. Buyer is not relying and will not rely on any representations, warranties, promises, assurances or other statements relating to or affecting the Property, whether made verbally or in writing, and whether made before or after the Effective Date, made by Seller, or any of its agents, representatives or

consultants, which are not expressly set forth in this agreement. This provision shall not affect Seller's obligation to disclose any and all documents in its possession regarding the Property.

f. Validity of Buyer's Representations and Warranties at Closing. The representations and warranties of Buyer set forth in this Agreement shall be true on and as of the Closing as if those representations and warranties were made on and as of such time.

1.13 Seller Representations and Warranties. In consideration of Buyer entering into this Agreement and as an inducement to Buyer to purchase the Property from Seller, Seller makes the following representations and warranties, each of which is material and is being relied upon by Buyer (the continued truth and accuracy of which shall constitute a condition precedent to Buyer's obligations hereunder):

a. Seller Authority to Execute Agreement. Seller warrants that the persons executing this Agreement are legally authorized to execute this Agreement and constitute all persons or entities with a legal interest in the Property necessary to convey clear title to a fee simple interest in the Real Property; that Seller has the legal right, power and authority to enter into this Agreement and to consummate the transactions contemplated hereby; the execution, delivery and performance of this Agreement have been duly authorized, and no other action by Seller is requisite to the valid and binding execution, delivery and performance of this Agreement, except as otherwise expressly set forth herein.

b. Validity of Seller's Representations and Warranties at Closing. The representations and warranties of the Seller set forth in this Agreement shall be true on and as of the Closing as if those representations and warranties were made on and as of such time.

c. Foreign Person. Seller warrants and represents that Seller is not, and will not be at the Closing, a "foreign person", within the meaning of section 1445 of the Internal Revenue Code of 1986, as amended. If required, Seller will deposit in Escrow concurrent with the deposit of the Grant Deed, Seller's notarized, completed affidavit to such effect, including a California Form 590.

d. Contracts. Seller warrants that at the Closing, there will be no contracts, licenses, commitments, or undertakings respecting maintenance of the Property or equipment on the Property, or the performance of services on the Property.

e. Mutual Indemnification. Seller shall indemnify Buyer and hold Buyer harmless from and against any and all claims, demands, liabilities, costs, expenses, penalties, damages and losses, including, without limitation, reasonable attorneys' fees, resulting from any misrepresentations or breach of warranty or breach of covenant made by Seller in this Agreement or in any document, certificate, or exhibit given or delivered to Buyer pursuant to or in connection with this Agreement. The indemnification provisions of this Section 6.3 shall survive the delivery of the Grant Deed and Easement Deeds and transfer of title or, if title is not transferred pursuant to this Agreement, any termination of this Agreement for a period of 6 months.

Buyer shall indemnify Seller and hold Seller harmless from and against any and all claims, demands, liabilities, costs, expenses, penalties, damages and losses, including, without limitation, reasonable attorneys' fees, resulting from any misrepresentations or breach of warranty or breach of covenant made by Buyer in this Agreement or in any document, certificate, or exhibit given or delivered to Seller pursuant to or in connection with this Agreement. The indemnification provisions of this Section 6.3 shall survive the delivery of the Grant Deed and Easement Deeds and transfer of title or, if title is not transferred pursuant to this Agreement, any termination of this Agreement for a period of 6 months.