

RESOLUTION AUTHORIZING EXECUTION OF AGREEMENT
REGARDING THE TRANSFER OF TITLE TO BLOCK 322, LOT 1
(UNION AVENUE SCHOOL) PURSUANT TO ORDINANCE

No. ____ of 2013

WHEREAS, the City of Margate City by Ordinance Number of 2012 has authorized the acceptance of title to that property being situate in the City of Margate City and commonly known as the Union Avenue School property, Block 322, Lot 1, as shown on the City of Margate City tax map; and

WHEREAS, an Agreement (Contract For the Sale of Property) has been created on behalf of the Board of Education and the City of Margate City so as to provide for terms and conditions of the transfer of title; and

WHEREAS, the Governing Body of the City of Margate City desires to implement the aforesaid contract for sale of property;

NOW, THEREFORE BE IT RESOLVED, by the Board of Commissioners of the City of Margate, County of Atlantic and State of New Jersey that the Mayor execute, on behalf of the City of Margate City, the aforesaid contract for sale of real estate.

Date:

I, **THOMAS HILTNER, Municipal Clerk** for the **City of Margate City**, County of Atlantic, State of New Jersey, do hereby certify that the foregoing Resolution was duly adopted at a regular meeting of the **Margate Board of Commissioners** held this . day of _____, 2013 and in witness whereof I have hereunder set my hand and official seal on this date of _____
_____ 2013.

Thomas D. Hiltner, City Clerk

CONTRACT FOR SALE OF PROPERTY

This Contract for Sale of Property is made and executed as of the 13th day of December, 2012 by and among the Board of Education of the City of Margate City ("Seller"), and the City of Margate City, ("Buyer").

The words "Buyer" and "Seller" include all buyers and all sellers listed above, including their heirs, personal representatives, successors and assigns.

1. **Purchase Agreement.** Seller agrees to sell and convey and Buyer agrees to buy and acquire the following described property and rights:

- a. Real property comprised of (i) two tracts of land located in the City of Margate City, County of Atlantic, State of New Jersey, which together are known as Lots 1 through 24, Block 33 as shown on Plan of Margate Park, filed as Map #596 in the Atlantic City Clerk's Office, and being commonly known as Block 322 Lot 1 on the Tax Maps of the City of Margate City, being approximately 80,000 square feet, all as more fully described on Exhibit A attached to a made a part of this Contract; (ii) all buildings on and improvements to said land, and (iii) all of the Seller's rights related to the land and improvements (collectively, the "Real Property"). The Real Property is commonly known as 9001 Winchester Avenue, Margate, New Jersey 08402.
- b. Solar photovoltaic system servicing the Real Property (the "Solar System"), including all panels and equipment comprising the Solar System; and
- c. All of Seller's right, title and interest in and to the solar renewable energy credit certificates related to the Solar System ("SRECs").

The Real Property, the Solar System and the SRECs are sometimes collectively referred to herein as the "Property."

2. **Purchase Price.** The purchase price for the Property is One and 00/100 Dollar (\$1.00)
3. **Payment of Purchase Price.** Buyer will pay the purchase price in full at Closing in cash or Buyer's check.

4. **Time and Place of Closing.** Closing will be held on or before the 31st day of January, 2013 at Ten O'clock A.M., or prior to such date if both Buyer and Seller agree in writing. Closing will be held at the offices of the Seller, or at such place as may be agreed upon by the parties.

5. **Closing Costs.** Buyer will pay for the cost of drawing of the deed, realty transfer fee, if any, all searches, title insurance and other conveyancing expenses, including title insurance company settlement charges, if any.

6. **Adjustments at Closing.** Buyer and Seller agree to adjust water, sewer and other similar charges for periodic items as applicable, as of the Closing date.

7. **Condition of the Property.**

- a. Except as provided in Section 8, the Seller makes no representations or warranties concerning any of the Property. Buyer acknowledges that it has received all information that it considers

necessary or appropriate for deciding whether to acquire the Property. Buyer acknowledges that it has had ample opportunity to conduct a due diligence investigation concerning the condition of the Property, and Buyer represents that (i) it has tested, investigated, evaluated and analyzed the condition of the Property in such manner and to such extent as Buyer deemed appropriate and prudent (ii) it has evaluated and fully understands all risks of the decision to purchase the Property (iii) in formulating its decision to acquire the Property, the Buyer has relied solely upon its own advisors and experts and the investigations reference in (i) above, and not upon any representations or warranties made by Seller except those expressly provided in this Agreement.

b. The Parties acknowledge that City has occupied the Real Property and utilized the Solar System since on or about November 1, 2012 under that certain Occupancy and Use Agreement dated November 1, 2012, executed by and binding upon the Parties. The Real Property and the Solar System shall be transferred to City in the condition as it exists on the Closing Date. This means that the Real Property and the Solar System are being sold "AS IS, WHERE IS" as of the Closing Date. Seller shall not be liable to Buyer for any loss or damage arising out of the condition of the Real Property or the Solar System, including with respect to any environmental conditions affecting the Real Property and any requirements that the Real Property be remediated. Buyer assumes all such liability and Buyer hereby releases Seller from all such liability.

c. Buyer will indemnify and hold Seller harmless from and against any and all loss, cost, damage and expense (including reasonable attorneys fees) (collectively "Loss") suffered or incurred by Seller in connection with any claim, demand, suit, action or proceeding instituted by any third party (including any governmental agency), which Loss arises out of or relates to the condition of the Real Property and the Solar System, whether existing prior to or after Closing.

d. This Section 7 shall survive Closing.

8. **Quality of Title.** The transfer of ownership of the Property will be free of all claims and rights of others. Title to the Real Property shall be good, marketable title of record, and insurable as such, at regular rates, by any reputable title insurance company of Buyer's choice licensed to do business in the State of New Jersey. Notwithstanding the foregoing, the Real Property shall be transferred subject to all easements, conditions and restrictions in the public records.

9. **Deliveries at Closing.** At Closing,

a. Seller shall deliver to Buyer a bargain and sale deed with covenants against grantor's acts conveying the Real Property.

b. Buyer shall deliver the Purchase Price to the Seller and shall pay all closing costs.

c. The Parties shall deliver such Affidavits of Consideration, Residency Certificates, and Affidavits of Title as is required by law or customarily provided in transactions of this nature.

d. Seller will deliver to the Buyer a bill of sale conveying the Solar System and all of Seller's rights, title and interest in and to the SRECs, and any other instruments of sale, transfer and assignment, as may be reasonably required or necessary to transfer, assign and convey to Buyer as of the Closing, good and marketable title to the Solar System and Seller's rights with respect to the SRECs.

10. **Further Assurance.** The parties agree that they will, at any time and from time to time after the Closing, upon the reasonable request of the other, take or cause to be taken such further action, and execute

and deliver or cause to be executed and delivered all such further documents and instruments as may be reasonably required for the transfer and delivery of the Property.

11. **Seller Storage Space.**

- a. Buyer hereby grants to Seller, as of the Closing date, a fully paid up license to use a room within the building located on the Real Property (the "Building") for storage of Seller's property ("Storage Room"). Seller shall not use the Storage Room to store any hazardous materials.
- b. The Storage Room shall consist of approximately 1000 square feet, and Buyer shall use its best efforts to provide the Storage Room on the first floor of the Building. In the event Buyer determines, in its good faith, reasonable judgment, that Buyer needs the Storage Space for its own business purposes, and provided that (i) Buyer provides substitute, equivalent space ("Substitute Space") for Seller's use on Buyer's property elsewhere on the Island, within the City of Margate City, (ii) the Substitute Space shall be provided without cost to Seller, (iii) the Substitute Space shall be located such that the elevation of the Substitute Space shall be at least as high as the current Storage Room and (iv) provided that Buyer gives Seller sixty (60) days prior written notice of its intent to so utilize the Storage Room, Seller agrees to vacate the Storage Room, and at its option will move its property to the Substitute Space. In such event, the terms of this Section 11 shall apply to the Substitute Space.
- c. Buyer shall have no liability to Seller for loss or damage to Seller's property stored in the Storage Room except to the extent that such loss or damage is caused by the intentional acts of Buyer. Seller shall have no liability to Buyer for any loss or damage to the Property except to the extent that such loss or damage is caused by the willful misconduct of the Seller.
- d. Seller may terminate the license granted hereunder at any time. The license granted hereunder shall terminate in the event of and upon the Closing of a sale of the Real Property by the Buyer. Buyer will notify Seller of its intent to sell the Real Property at least ninety (90) days prior to the closing of such sale.
- e. This Section 11 shall survive Closing.

12. **Use of Real Property and Future Proceeds.** The sale/purchase contemplated hereby is not subject to a condition, restriction or limitation by Seller upon Buyer's use of the Real Property. Buyer acknowledges the good will of the Seller in transferring the Real Property to the Buyer for nominal consideration and without any restrictions. In the event the Buyer sells the Real Property, then upon Seller's request that the Buyer allocate and pay to Seller a portion of the proceeds from such sale for Seller's use in the operation of the school district, and in recognition of Seller's good will, it is Buyers intent, in the spirit of good faith, to give utmost consideration to Seller's request. This Section 12 shall survive Closing.

13. **Default.** If either party fails to comply with any obligation under this Contract or the Agreement, the other party may pursue any legal or equitable action which is available.

14. **No Broker.** Neither Seller nor Buyer has dealt with any broker or other party entitled to claim a fee or commission in connection with or relating to this Contract or the transactions contemplated hereunder. Each party agrees to indemnify and hold the other harmless for any liability, cost, damage, expense or claim, including reasonable attorneys fees incurred by the other in connection with any misrepresentation contained in this paragraph.

15. **Parties Liable.** This Contract is binding upon all parties who sign it and all who succeed to their rights and responsibilities.

16. **Counterpart Signature.** This Agreement may be executed in one or more counterparts, each of which shall constitute an original Agreement but all of which together shall constitute one and the same instrument.

17. **Complete Contract.** This Contract constitutes the entire and only agreement between Buyer and Seller concerning the sale of the Property. This Contract replaces and cancels any previous agreements between Buyer and Seller whether oral or written concerning the sale of the Property. This Contract may not be changed without agreement in writing signed by both Buyer and Seller.

IN WITNESS WHEREOF, the parties have caused their hands and seals to be affixed to this Contract for Sale as of the date first above written.

Witness

The Board of Education of the City of Margate City

Print Name:

By:

Name
Title

Print Name:

By:

Name
Title

Witness

City of Margate City

Print Name:

By:

Name
Title

EXHIBIT A

Legal Description

All that certain lot, tract or parcel of land and premises situate, lying and being in the City of Margate, County of Atlantic, State of New Jersey, bounded and described as follows:

TRACT 1

Bounded on the South by Winchester Avenue; on the West by Vendome Avenue; on the North by Monmouth Avenue; and on the East by Union Avenue, excepting therefrom and thereout, Lot 17, Block 322, Margate City Tax Map, which Lot is not owned by the City of Margate City.

TRACT 2

BEGINNING in the Westerly line of Union Avenue 168 feet Southwardly of Monmouth Avenue; and extending thence

- (1) Westwardly, parallel with Monmouth Avenue, 80 feet; thence
- (2) Southwardly, parallel with Union Avenue, 41 feet; thence
- (3) Eastwardly, parallel with Monmouth Avenue, 80 feet to the Westerly line of Union Avenue; thence
- (4) Northwardly, along same, 41 feet to the place of BEGINNING.

The above Tracts 1 and 2 also being known as Lots 1 to 24 in Block 33 as shown on Plan of Margate Park, filed as Map #596 in the Atlantic City Clerk's Office.

FOR INFORMATION ONLY:

Commonly known as: 9001 Winchester Avenue
Margate, New Jersey 08402

Block 322 Lot 1 City of Margate