

STATE OF GEORGIA
CITY OF DUNWOODY

RESOLUTION 2016-XX-XX

**A RESOLUTION AUTHORIZING THE PURCHASE OF PROPERTY LOCATED AT
4800 ASHFORD DUNWOODY ROAD FROM JHJ 4800 ASHFORD, LLC AND
RCB 4800 ASHFORD, LLC**

WHEREAS: The Mayor and City Council are charged with providing for the health, safety and welfare of the citizens of the City; and

WHEREAS: As part of the Mayor and City Council's role is to provide for additional recreation, park space and green space in the City, as well space for conducting of the City's Administrative, Legislative and Judicial business; and

WHEREAS: The Mayor and City Council desire to purchase available property located at 4800 Ashford Dunwoody Road, Tax Parcel No. 18-363-05-011, for the agreed upon price of \$8,250,000, for the purpose of government and public use within the City, specifically the functions of City Hall; and

WHEREAS: The City of Dunwoody has conducted appropriate due diligence and environmental study on the property as required by law.

NOW THEREFORE BE IT RESOLVED by the Mayor and City Council for the City of Dunwoody that the City hereby authorizes the purchase and acquisition of the approximately 3.261 acres of Property and the existing 44,992 square foot building located at 4800 Ashford Dunwoody Road from JHJ 4800 Ashford, LLC and RCB 4800 Ashford, LLC, as described in **Exhibit A**, for the price of \$8,250,000 and hereby authorizes the Mayor, City Manager and City Attorney to execute all necessary documents and notices to effect same.

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to hire a Program Manager to perform the due diligence on the property, including but not limited to inspections, structural integrity, conditions of mechanicals, including roof and overall space study leading to a final design of City Hall.

BE IT FURTHER RESOLVED that the Purchase and Sale Agreement attached hereto and incorporated herein as **Exhibit B** is hereby ratified and approved as the legal contract for the purchase of said property and deemed to be effective from the moment of its execution by the Mayor and in accordance with its terms.

SO RESOLVED AND EFFECTIVE, this ____ day of _____, 2016.

Approved:

Denis L. Shortal, Mayor

#7.

STATE OF GEORGIA
CITY OF DUNWOODY

RESOLUTION 2016-XX-XX

Attest:

Sharon Lowery, City Clerk (Seal)

EXHIBIT A**PROPERTY DESCRIPTION**

All that tract or parcel of land lying and being in Land Lots 350 and 363, 18th District, DeKalb County, Georgia, being more particularly described as follows:

Begin at a rebar marking the intersection of Land Lots 349, 350, 363, and 364 of said district; thence North 12 degrees 09 minutes 03 seconds East a distanced of 583.21 feet to a rebar, thence North 89 degrees 02 minutes 24 seconds a distance of 264.15 feet to a rebar on the Westerly right of way line of Ashford Dunwoody Road (100 foot right of way); thence South 00 degrees 57 minutes 36 seconds East along said right of way line a distance of 353.98 feet to a rebar; thence South 26 degrees 45 minutes 53 seconds West a distance of 54.38 feet to a rebar marking the intersection of said Westerly right of way line with the Northerly right of way line of Ashford Gables Drive (variable width private right of way); thence along said Northerly right of way line the following courses: South 88 degrees 09 minutes 00 seconds West a distance of 96.71 feet to a rebar, said point marking the point of curvature of a circular curve to the left having a radius of 215.42 feet and a central angle of 51 degrees 17 minutes 00 seconds; thence along said curve an arc distance of 192.81 feet (Chord: South 62 degrees 30 minutes 31 seconds West, 188.44 feet) to a rebar; thence South 24 degrees 48 minutes 59 seconds West a distance of 76.64 feet to a rebar, said point marking the point of curvature of a circular curve to the right having a radius of 31.42 feet and a central angle of 51 degrees 17 minutes 00 seconds; thence along said curve an arc distance of 28.12 feet (Chord South 62 degrees 30 minutes 30 seconds West 27.19 feet) to a rebar; thence South 88 degrees 09 minutes 00 seconds West a distance of 49.92 feet to a rebar; thence leaving said right of way line North 05 degrees 27 minutes 57 seconds West a distance of 0.83 feet to the Point of Beginning. Containing 3.261 acres, more or less.

#7.

STATE OF GEORGIA
CITY OF DUNWOODY

RESOLUTION 2016-XX-XX

EXHIBIT B

PURCHASE AND SALE AGREEMENT

PURCHASE AND SALE AGREEMENT
4800 ASHFORD DUNWOODY ROAD

This **PURCHASE AND SALE AGREEMENT** (this "**Agreement**"), is made and entered into this 3rd day of May, 2016 (the "**Effective Date**"), by and between JHJ 4800 Ashford, LLC and RCB 4800 Ashford, LLC (collectively "**Seller**"), and the City of Dunwoody, Georgia ("**Purchaser**").

ARTICLE I

SALE AND PURCHASE OF THE PROPERTY

1.01 **Agreement to Sell and Convey.** Seller hereby agrees to sell and convey or cause to convey to Purchaser, and Purchaser hereby agrees to purchase from Seller, subject to the terms and conditions hereinafter set forth, (a) those certain, tracts or parcels of land lying and being situated in DeKalb County, Georgia, and being more particularly described on **Exhibit "A"** attached hereto and made a part hereof for all purposes (collectively, the "**Land**"), and (b) all of Seller's right, title and interest, if any, in and to all rights, privileges, easements and benefits specifically appurtenant to the Land or any portion thereof (collectively, the "**Appurtenant Rights**"), all subject to the "**Permitted Exceptions**" (as hereinafter defined). The Land and Appurtenant Rights are collectively referred to herein as the "**Property**".

1.02 **Purchase Price.** The purchase price (the "**Purchase Price**") to be paid by Purchaser for the Property is EIGHT MILLION TWO HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$8,250,000.00). The Purchase Price shall be paid by delivery of immediately available federal funds to the Escrow Agent (as hereinafter defined), for disbursement to Seller at the Closing (as hereinafter defined) in accordance with wiring instructions provided by Seller.

1.03 **Earnest Money Deposit.** Purchaser shall deliver, within three (3) business days after the execution of this Agreement, to Specialized Title Services, Inc. as escrow agent ("**Escrow Agent**"), an earnest money deposit in the amount of FIFTY THOUSAND AND NO/100 DOLLARS (\$50,000.00) (together with all interest thereon, the "**Escrow Deposit**"). The Escrow Deposit shall be invested by Escrow Agent in a federally-insured interest bearing account, and all interest earned with respect thereto shall be added to the Escrow Deposit. The Escrow Deposit shall be held and disbursed by Escrow Agent in accordance with the terms of this Agreement. Whenever the Escrow Deposit is by the terms hereof to be disbursed by Escrow Agent, Seller and Purchaser agree promptly to execute and deliver such notice or notices as shall be necessary or, in the opinion of Escrow Agent, appropriate to authorize Escrow Agent to make such disbursement. At the Closing, the Escrow Deposit shall be paid to Seller and applied to the Purchase Price. If the Escrow Deposit is not delivered to Escrow Agent within one (1) business day following the execution of this Agreement, Seller shall have the right to terminate this Agreement by written notice delivered to Purchaser and upon any such termination, this Agreement shall be of no further force or effect and neither party shall have any further rights, duties or obligations hereunder other than those obligations that expressly survive the termination of this Agreement. The Escrow Deposit shall be non-refundable to Purchaser unless Purchaser terminates this Agreement in accordance with any right to terminate expressly granted to Purchaser by the terms of this Agreement.

1.04 **Inspection Period.**

(a) Purchaser shall have until the date which is ninety (90) days after the Effective Date (the "**Inspection Period**") within which to make all inspections and investigations required by Purchaser with respect to the Property and that are permitted hereunder. If, within the Inspection Period, Purchaser determines in its sole and absolute discretion that it does not desire to purchase the Property for any reason, Purchaser shall have the right to terminate this Agreement by written notice delivered to Seller and Escrow Agent at or prior to 5:00 p.m., Atlanta, Georgia time on the final day of the Inspection Period. Upon such termination under this Section 1.04(a), the Escrow Deposit shall be returned to Purchaser and this Agreement shall be of no further force or effect and neither party shall have any further rights, duties or obligations hereunder other than those obligations that expressly survive the termination of this Agreement. If Purchaser fails to deliver written notice of Purchaser's election to terminate this Agreement to Seller and the Escrow Agent prior to 5:00 p.m. Atlanta, Georgia time on the final day of the Inspection Period, then Purchaser shall have no further right to terminate this Agreement pursuant to this Section

1.04(a). If this Agreement terminates for any reason, Purchaser shall promptly return and/or deliver to Seller (or destroy) all Property Information (hereinafter defined) and copies thereof. Additionally, if this Agreement terminates for any reason, and only if Seller so requests, then Purchaser shall deliver to Seller copies of all third party reports, investigations and studies, other than Purchaser's internal economic analyses and matters subject to attorney-client privilege (collectively, the "**Reports**") prepared for Purchaser in connection with its due diligence review of the Property; provided, however, Purchaser makes no representation or warranty whatsoever, including any representation to Seller as to the accuracy of the Property Information and the Reports. This Section 1.04(a) shall survive the termination of this Agreement.

(b) Upon reasonable prior notice to Seller, which such notice may be delivered telephonically and by email to Ryan Goldstein (404-964-8814; rgoldstein@rg-re.com), Purchaser and its agents, consultants and representatives shall be entitled to enter upon the Property for the purpose of testing, inspecting, and surveying the Property prior to Closing. Purchaser must obtain Seller's prior written approval of the scope and method of any environmental testing or investigation (other than a Phase I environmental assessment) and for any inspection which would alter the physical condition of the Property, prior to Purchaser's commencement of such inspections, testing or examination. As to any inspection as to which Seller's approval is required, such determination may be made in Seller's sole and absolute discretion. Prior to entry upon the Property, Purchaser shall obtain and deliver to Seller (or cause Purchaser's consultant entering the Property) a certificate of insurance, evidencing commercial general liability insurance coverage with combined single limits of not less than \$1,000,000 from a reputable insurance provider licensed to issue such insurance in the State of Georgia. Purchaser shall indemnify Seller and shall hold harmless and defend Seller, to the extent permitted by law, from and against any and all claims, demands, causes of action, damages, liabilities, costs and expenses (collectively, "Indemnified Claims"), including, without limitation, reasonable attorneys' fees and court costs actually incurred without regard to O.C.G.A. § 13-1-11(a) (2), the provisions of which are hereby waived by each party hereto, which are asserted against, suffered or incurred by Seller as a result of any inspection, testing or examination of the Property by Purchaser or its agents, consultants or representatives; provided, however, Purchaser's indemnity and hold harmless obligations under this Section 1.04 shall not apply to the mere discovery of a pre-existing environmental or physical condition or other condition at the Property. Purchaser shall obtain from each consultant, contractor, or other third party independent entity working on behalf of Purchaser an indemnification covenant running in favor of Seller. Such covenant shall include all Indemnified Claims arising from the indemnitor's due diligence activities with respect to the Property. Purchaser shall deliver a copy of each indemnification covenant to Seller prior to the indemnitor's entry onto the Property. Purchaser further agrees that it shall be solely responsible for any and all costs associated with the inspections described in this Section 1.04 and agrees to promptly discharge any liens that are filed against the Property as a result of such inspections performed by or at the request of Purchaser (and the foregoing shall not be deemed to allow or permit the filing of any liens against the Property and claiming through Purchaser, which are expressly prohibited hereunder). Promptly following each such inspection, Purchaser shall restore the Property to the same condition as existed prior to such inspections, subject to casualty or other unrelated third party damage. The obligations of Purchaser under this Section 1.04(b) shall survive the Closing and any termination of this Agreement.

(c) PURCHASER ACKNOWLEDGES AND AGREES THAT, EXCEPT AS EXPRESSLY PROVIDED IN AND AS LIMITED BY SECTION 4.01 BELOW, SELLER HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES (OTHER THAN THE LIMITED WARRANTY OF TITLE TO BE MADE IN THE DEED, AS DEFINED BELOW), PROMISES, COVENANTS, AGREEMENTS OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, EITHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, CONCERNING OR WITH RESPECT TO THE PROPERTY, INCLUDING, WITHOUT LIMITATION, AS TO (i) THE VALUE, NATURE, QUALITY OR CONDITION OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, THE WATER, SOIL AND GEOLOGICAL CONDITIONS THEREOF, (ii) THE INCOME TO BE DERIVED FROM THE PROPERTY, (iii) THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH PURCHASER OR ANY TENANT MAY CONDUCT THEREON, (iv) THE COMPLIANCE OF OR BY THE PROPERTY OR ITS OPERATION WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY, OR WITH ANY DECLARATION, RECIPROCAL EASEMENT AGREEMENT, BY-LAWS OR OTHER

PRIVATE EASEMENTS, RESTRICTIONS, RULES OR COVENANTS APPLICABLE TO THE PROPERTY, (v) THE HABITABILITY, SUITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY, (vi) THE MANNER OR QUALITY OF THE CONSTRUCTION OR MATERIALS, IF ANY, INCORPORATED INTO THE PROPERTY, (vii) THE MANNER, QUALITY, STATE OF REPAIR OR LACK OF REPAIR OF THE PROPERTY, (viii) COMPLIANCE WITH ANY ENVIRONMENTAL LAWS (HEREINAFTER DEFINED) OR PROTECTION, POLLUTION OR LAND USE LAWS, RULES, REGULATIONS, ORDERS OR REQUIREMENTS, INCLUDING THE EXISTENCE IN OR ON THE PROPERTY OF HAZARDOUS MATERIALS (HEREINAFTER DEFINED), (ix) THE PROPERTY INFORMATION (HEREINAFTER DEFINED), OR (x) ANY OTHER MATTER WITH RESPECT TO THE PROPERTY. ADDITIONALLY, NO PERSON ACTING ON BEHALF OF SELLER IS AUTHORIZED TO MAKE, AND BY PURCHASER'S EXECUTION HEREOF, PURCHASER ACKNOWLEDGES THAT NO PERSON HAS MADE ANY REPRESENTATION, AGREEMENT, STATEMENT, WARRANTY, GUARANTY OR PROMISE REGARDING THE PROPERTY OR THE TRANSACTION CONTEMPLATED HEREIN, EXCEPT AS EXPRESSLY PROVIDED IN AND AS LIMITED BY SECTION 4.01 BELOW; AND NO SUCH REPRESENTATION, WARRANTY, AGREEMENT, GUARANTY, STATEMENT OR PROMISE, IF ANY, MADE BY ANY PERSON ACTING ON BEHALF OF SELLER SHALL BE VALID OR BINDING UPON SELLER, EXCEPT AS EXPRESSLY PROVIDED IN AND AS LIMITED BY SECTION 4.01 BELOW. PURCHASER FURTHER ACKNOWLEDGES AND AGREES THAT PURCHASER HAS BEEN PROVIDED WITH AN ADEQUATE OPPORTUNITY TO INSPECT THE PROPERTY, PURCHASER IS RELYING SOLELY ON ITS OWN INVESTIGATION OF THE PROPERTY AND NOT ON ANY INFORMATION PROVIDED OR TO BE PROVIDED BY SELLER. PURCHASER AGREES TO ACCEPT THE PROPERTY AT THE CLOSING AND WAIVE AND RELEASE ALL OBJECTIONS, SUITS, CAUSES OF ACTION, DAMAGES, LIABILITIES, LOSSES, DEMANDS, PROCEEDINGS, EXPENSES AND CLAIMS AGAINST SELLER (INCLUDING, BUT NOT LIMITED TO, ANY RIGHT OR CLAIM OF CONTRIBUTION) ARISING FROM OR RELATED TO THE PROPERTY OR TO ANY HAZARDOUS MATERIALS ON THE PROPERTY, EXCEPT AS EXPRESSLY PROVIDED IN AND AS LIMITED BY SECTION 4.01 BELOW. PURCHASER FURTHER ACKNOWLEDGES AND AGREES THAT ANY INFORMATION PROVIDED OR TO BE PROVIDED BY OR ON BEHALF OF SELLER WITH RESPECT TO THE PROPERTY WAS OBTAINED FROM A VARIETY OF SOURCES AND THAT SELLER HAS NOT MADE ANY INDEPENDENT INVESTIGATION OR VERIFICATION OF SUCH INFORMATION AND MAKES NO REPRESENTATIONS AS TO THE ACCURACY, TRUTHFULNESS OR COMPLETENESS OF SUCH INFORMATION, EXCEPT AS EXPRESSLY PROVIDED OTHERWISE IN AND AS LIMITED BY THIS AGREEMENT. EXCEPT AS EXPRESSLY PROVIDED IN AND AS LIMITED BY SECTION 4.01 BELOW, SELLER IS NOT LIABLE OR BOUND IN ANY MANNER BY ANY ORAL OR WRITTEN STATEMENT, REPRESENTATION OR INFORMATION PERTAINING TO THE PROPERTY, OR THE OPERATION THEREOF, FURNISHED BY ANY REAL ESTATE BROKER, CONTRACTOR, AGENT, EMPLOYEE, SERVANT OR OTHER PERSON. PURCHASER HEREBY CONFIRMS AND AGREES THAT IT HAS NOT RELIED, AND SHALL NOT HEREAFTER RELY, ON ANY REPRESENTATIONS OR WARRANTIES PURPORTEDLY MADE OR TO BE MADE BY OR ON BEHALF OF SELLER OTHER THAN AS EXPRESSLY SET FORTH IN THIS AGREEMENT AND THE LIMITED WARRANTY OF TITLE TO BE CONTAINED ON THE DEED. PURCHASER FURTHER ACKNOWLEDGES AND AGREES THAT TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE SALE OF THE PROPERTY AS PROVIDED FOR HEREIN IS MADE ON AN "AS IS, WHERE IS" BASIS WITH ALL FAULTS, EXCEPT AS EXPRESSLY PROVIDED IN AND AS LIMITED BY SECTION 4.01 BELOW. IT IS UNDERSTOOD AND AGREED THAT THE PURCHASE PRICE FOR THE PROPERTY HAS BEEN ADJUSTED BY PRIOR NEGOTIATION TO REFLECT THAT ALL OF THE PROPERTY IS SOLD BY SELLER AND PURCHASED BY PURCHASER SUBJECT TO THE FOREGOING. THE PROVISIONS OF THIS SECTION 1.04(c) SHALL SURVIVE THE CLOSING OR ANY TERMINATION OF THIS AGREEMENT.

For the purposes of this Agreement, "**Environmental Law**" means any current legal requirement, law, rule, regulation or ordinance (whether federal, state or local) in effect now or at the Closing Date and pertaining to (a) the protection of health, safety, and the indoor or outdoor environment, (b) the conservation, management, protection or use of natural resources and wildlife, (c) the protection or use of source water and groundwater, (d) the management, manufacture, possession, presence, use, generation, transportation, treatment, storage, disposal, release, threatened release, abatement, removal, remediation or handling of, or exposure to, any Hazardous Material (as defined below) or (e) pollution (including any release to air, land, surface water, and groundwater); and includes, without limitation,

the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 USC §§9601 *et seq.*, Solid Waste Disposal Act, as amended by the Resource Conservation Act of 1976 and Hazardous and Solid Waste Amendments of 1984, 42 USC §§6901 *et seq.*, Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977, 33 USC §§1251 *et seq.*, Clean Air Act of 1966, as amended, 42 USC §§7401 *et seq.*, Toxic Substances Control Act of 1976, 15 USC §§2601 *et seq.*, Hazardous Materials Transportation Act, 49 USC App. §§1801, Occupational Safety and Health Act of 1970, as amended, 29 USC §§651 *et seq.*, Oil Pollution Act of 1990, 33 USC §§2701 *et seq.*, Emergency Planning and Community Right-to-Know Act of 1986, 42 USC App. §§11001 *et seq.*, National Environmental Policy Act of 1969, 42 USC §§4321 *et seq.*, Safe Drinking Water Act of 1974, as amended by 42 USC §§300(f) *et seq.*, and any similar, implementing or successor law, any amendment, rule, regulation, order or directive, issued thereunder.

For the purposes of this Agreement, "**Hazardous Material**" means any hazardous or toxic substance as defined in or regulated by any Environmental Law in effect at the pertinent date or dates.

(d) Notwithstanding anything contained herein to the contrary, if Purchaser elects to terminate this Agreement for any reason and is entitled to receive a refund of the Escrow Deposit pursuant to the terms hereof, the Escrow Agent shall first disburse to Seller the sum of ONE HUNDRED AND NO/100 DOLLARS (\$100.00) as independent consideration for Seller's performance under this Agreement, which sum shall be retained by Seller in all instances.

(e) As used herein, "**Property Information**" collectively refers to any title insurance policies (or title insurance commitments, if applicable), surveys, environmental site assessments, geological or soil studies, zoning reports, zoning letters, tax bills and assessments and other materials which (i) Seller has obtained from third-party providers or other third-party sources, (ii) are not subject to attorney-client privilege or similar legal privilege and are not proprietary materials integral to Seller's business plans, economic projections, sales strategies or marketing plans and (iii) are in Seller's possession. If not already made available to Purchaser prior to the Effective Date, Seller shall, within five (5) business days after the Effective Date, make available for Purchaser's examination the Property Information by posting electronic copies of such materials to an Internet-based electronic data room or file sharing site (such as "dropbox") and by providing to Purchaser the applicable access code or similar information necessary to access such data room or file sharing site. Except as may be otherwise expressly set forth in this Agreement, Seller has no obligation to provide any other materials to Purchaser or to obtain, commission or prepare any books, records, files, reports or studies of any kind or nature. PURCHASER ACKNOWLEDGES AND AGREES THAT SELLER MAKES NO REPRESENTATION OR WARRANTY OF ANY NATURE WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO THE OWNERSHIP, ENFORCEABILITY, ACCURACY, ADEQUACY OR COMPLETENESS OR OTHERWISE OF ANY OF THE PROPERTY INFORMATION OR ANY OTHER MATERIALS DELIVERED OR OTHERWISE MADE AVAILABLE TO PURCHASER (other than any representations and warranties of Seller expressly set forth in this Agreement or in any document to be executed and delivered by Seller to Purchaser at the Closing, and in such case, subject to the terms, limitations and conditions of this Agreement). The foregoing sentence shall survive the Closing or any earlier termination of this Agreement, as applicable.

1.05 Exchange Clause. Seller and Purchaser acknowledge that it is the intention of the Seller to effect the transaction contemplated in this Agreement by means of an exchange of property of like-kind so as to qualify for the non-recognition of gain in accordance with the provisions of Section 1031 of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations promulgated thereunder. Notwithstanding anything herein to the contrary, Seller shall have the right to assign Seller's interest in this Agreement without Purchaser's consent to such person or entity as Seller may designate to serve as a "Qualified Intermediary", within the meaning of Treasury Regulation Section 1.1031(k)-1(g)(4), for the sole purpose of enabling Seller to effect such an Exchange; provided, however, that notwithstanding any such assignment, Seller shall not be released from any of Seller's obligations, liabilities or indemnities under this Agreement. Purchaser shall cooperate in all reasonable respects with Seller to effect such an Exchange; provided, however, that Seller's ability to consummate such an Exchange shall not be a condition to the obligations of the Seller under this Agreement and Purchaser does not warrant and shall not be responsible for any of the tax consequences to Seller with respect to the transactions contemplated hereunder; and Purchaser shall not be required to incur any additional cost or expense as a result of such Exchange.

1.06 **Tenant Relocation.** Seller agrees to relocate by January 1, 2017 existing tenants in the Property allowing the Purchaser to buildout and occupy for its use a minimum of 25,247 square feet of space. Seller agrees to relocate by May 1, 2017 additional tenant space allowing the purchaser to buildout and occupy for its use a minimum of 5,195 square feet. The total square footage available to Purchaser by May 1, 2017 shall be 30,442 square feet. Seller and Purchaser will mutually agree during the Inspection Period the specific tenants to be relocated and the amount of an Earnest Money Deposit or any other consideration, if any, from the Seller that guarantees that the tenant relocations occur on or before January 1, 2017 and May 1, 2017 respectively. At Buyer's sole discretion and with prior written notice from the Buyer during the Due Diligence Period, Seller agrees to pay the cost of relocating ("**Relocation Costs**") tenants from the Property. The Relocation Costs will not exceed \$250,000. Buyer and Seller agree to amend this Purchase and Sale Agreement that increases the Purchase Price by the dollar amount of the mutually agreed upon Relocation Costs. At Closing, the Purchase Price will include the Relocation Costs as described above. Buyer and Seller agree to escrow all Relocation Costs that will be disbursed after the Closing Date.

1.07 **Ratification by City of Dunwoody.** The approval and enforceability of this Agreement shall be subject to the Approval of the Agreement by the Mayor and Council of the City of Dunwoody, Georgia. Should the Mayor and Council fail to approve this Agreement, this Agreement shall be of no further force or effect and neither party shall have any further rights, duties or obligations hereunder. The Purchaser shall place the approval of the Agreement before the Mayor and Council of the City of Dunwoody no later than ninety days after the Effective Date.

1.08 **Consideration.** In the event that this Agreement is terminated by Purchaser pursuant to any right of termination set forth herein, other than Default of the Seller, Purchaser shall pay Seller One Hundred Dollars (\$100.00).

ARTICLE II

TITLE COMMITMENT; SURVEY; PERMITTED EXCEPTIONS

2.01 **Preliminary Title Report.** Purchaser may in its discretion obtain from a title insurance company selected by Purchaser ("**Title Company**") a title insurance commitment issued by Title Company with respect to the Property (the "**Title Commitment**"). Purchaser shall deliver written notice to Seller prior to the date that is seven (7) days before the expiration of the Inspection Period (the "**Notice Deadline**"); and such notice being called the "**Objection Notice**") of any objections of Purchaser to any matters encumbering title to the Property as set forth in the Title Commitment. If Purchaser timely objects to any title matters in the Objection Notice, Seller may (but shall not be obligated), at Seller's sole cost and expense, undertake to eliminate or modify all unacceptable matters described in the Objection Notice to the reasonable satisfaction of Purchaser. In the event Seller has not satisfied such objections within ten (10) days after its receipt of the Objection Notice (such ten (10) day period being called the "**Cure Period**"), Purchaser may, at its option and as its sole remedy, either (a) accept title to the Property subject to the objections raised by Purchaser, without any adjustment in the Purchase Price, in which event such objections shall be deemed to be waived by Purchaser for all purposes, or (b) terminate this Agreement by written notice delivered to Title Company and Seller prior to 5:00 p.m., Atlanta, Georgia time, on the date which is five (5) days after the last day of the Cure Period, in which event the Escrow Deposit shall be promptly returned to Purchaser by Title Company and this Agreement shall be of no further force or effect, except for the obligations that expressly survive the termination of this Agreement. If Seller has not responded to Purchaser's objections by the end of the Cure Period, Seller shall be deemed to have given notice to Purchaser on the last day of the Cure Period that Seller does not intend to cure any of Purchaser's objections. If Seller provides to Purchaser written notice that Seller does not intend to cure any such title objections, then the Cure Period shall be deemed to terminate on the date of Purchaser's receipt of such notice. If Purchaser fails to deliver the Objection Notice to Seller prior to the Notice Deadline, Purchaser shall be conclusively deemed to have approved the condition of the title to the Property as set forth in the Title Commitment, and all matters set forth therein shall be included within the Permitted Exceptions (as hereinafter defined), except as provided below in Section 2.04.

2.02 Survey. If Purchaser desires to obtain a survey of the Property (the "Survey"), Purchaser shall obtain such Survey at its sole cost and expense and deliver a copy of same to Seller and Title Company upon delivery of an Objection Notice prior to the Notice Deadline. Any matters which are disclosed in the Survey and to which Purchaser objects on or before the Notice Deadline ("Survey Objections") shall be deemed title objection matters subject to the procedures and provisions of Section 2.01 above.

2.03 No Additional Encumbrances. So long as this Agreement remains in effect, Seller shall not grant, convey or assign any easement, interest, title or estate in or to any portion of the Property which would survive the Closing.

2.04 Permitted Exceptions. The Property shall be conveyed to Purchaser subject only to (i) taxes and assessments for the year in which the Closing occurs and subsequent years, (ii) any and all matters of record, the easements, exceptions, restrictions and other encumbrances described in the Title Commitment and Survey (or either of them) to the extent Seller does not agree to cure them pursuant to Section 2.01 and (iii) if a Survey is not obtained by Purchaser, any and all matters that would be shown by a visual inspection and/or accurate survey of the Property to the extent Seller does not agree to cure them pursuant to Section 2.02 (collectively, the "Permitted Exceptions"); provided, however, that the Permitted Exceptions shall not include (a) any deeds to secure debt, mortgages and other monetary encumbrances granted by Seller, (b) any monetary lien against the Property caused by Seller, or (c) any encumbrance on the Property created by Seller in violation of Section 2.03 hereof, regardless of whether Purchaser objects to any of such matters. Those matters described in the immediately preceding sentence are collectively referred to herein as the "Mandatory Cure Items." Any Mandatory Cure Item for which a pay-off letter has been obtained and payment is made at Closing in accordance with such pay-off letter and the exception for which in the Title Commitment has been deleted by the Title Company's agent shall be deemed cured and shall cease to be a title objection.

ARTICLE III

CLOSING

3.01 Closing Date. The consummation of the transactions contemplated by this Agreement (the "Closing") shall take place in the offices of Escrow Agent prior to 2:00 p.m. Atlanta, Georgia time on or before the date that is thirty (30) days after the end of the Inspection Period (such date of Closing being called the "Closing Date"). The exact Closing Date shall be determined by Purchaser by giving Seller notice not less than ten (10) days prior to such selected Closing Date; if Purchaser fails to give Seller such ten (10) day advance notice of the Closing Date, then the Closing Date shall be Friday, September 30, 2016. The Closing shall be conducted as an "escrow" or "mail away" closing and each party shall deliver into escrow with Escrow Agent executed Closing documents and other Closing deliveries required to be delivered by such party hereunder, and Purchaser shall deposit in escrow with Escrow Agent necessary funds, so that all documents may be released and delivered out of escrow and Purchase Price proceeds disbursed by Escrow Agent at Closing upon satisfaction of the conditions to Closing under this Agreement.

3.02 Seller's Rights and Obligations at Closing. At the Closing, Seller shall execute and deliver to Escrow Agent the following:

(a) A limited warranty deed (the "Deed") conveying to Purchaser all of Seller's right, title and interest in and to the Land, subject only to the Permitted Exceptions and the Dedication Covenant;

(b) If the legal description of the Land as determined by the Survey differs from the legal description attached to the Deed, and if such survey legal description is reasonably acceptable to Seller, then at the request of Purchaser, a quitclaim deed of the current legal description, subject to the Dedication Covenant;

(c) A Bill of Sale conveying all of Seller's right, title, and interest in and to the personal property described on Exhibit "B" attached hereto and made a part hereof;

(d) A certification of non-foreign status of Seller pursuant to Section 1445 of the Internal Revenue Code of 1986, as amended;

(e) An affidavit of residence, affidavit of gain or certificate exemption sufficient under applicable Georgia law to exempt the transaction hereunder from the withholding requirements of O.C.G.A. § 48-7-128 and applicable regulations or otherwise providing for the calculation of applicable withholding on any gain hereunder in accordance with such statutory and regulatory requirements;

(f) A Seller's affidavit;

(g) A closing statement summarizing or itemizing, as applicable, the adjustments, prorations and disbursements to be made at the Closing in accordance with this Agreement (the "**Closing Statement**");

(h) Such organizational and authority documents of Seller as Title Company may reasonably require in connection with issuing an owner's policy of title insurance in favor of Purchaser at the Closing;

(i) A commercial real estate broker's affidavit or lien waiver executed by Seller's Broker (as defined below in Section 7.01) sufficient under applicable Georgia law to discharge the Property from any lien rights of Seller's Broker with respect to this Agreement and the sale of the Property to be consummated hereunder.

3.03 Purchaser's Rights and Obligations at Closing. Contemporaneously with the performance by Seller of its obligations set forth in Section 3.02 above, Purchaser shall do the following at the Closing:

(a) Pay to Seller (or cause Escrow Agent to pay to Seller) the Purchase Price as provided in Section 1.02 above, net of any prorations or adjustments in accordance with the terms of this Agreement;

(b) Execute and deliver to Escrow Agent the Closing Statement;

(c) Execute and deliver the Deed and any quitclaim deed from Seller;

(d) Deliver such organizational and authority documents of Purchaser as Title Company may reasonably require in connection with the Closing; and

(e) A commercial real estate broker's affidavit or lien waiver executed by Purchaser's Broker (as defined below in Section 7.01) sufficient under applicable Georgia law to discharge the Property from any lien rights of Purchaser's Broker with respect to this Agreement and the sale of the Property to be consummated hereunder.

3.04 Closing Costs. Seller shall pay at Closing the transfer tax payable upon recording the Deed, the cost of curing or releasing any Mandatory Cure Items, the cost of curing or releasing any other title or survey objections which Seller elects to cure under Section 2.01 or Section 2.02 hereof and any commission due to Purchaser's Broker. Purchaser shall pay all costs for recording the Deed, the cost of cancelling any service contracts with respect to the Property, all fees and premiums to Title Company for insuring Purchaser's title at Closing, the cost of any Survey, the costs and fees of any inspections, assessments and examinations by or on behalf of Purchaser with respect to the Property, and any intangible recording tax and financing costs with respect to any loan obtained by Purchaser. The escrow fees of the Escrow Agent shall be shared and paid equally by Seller and Purchaser. Except as provided in Section 7.11 below, each of Seller and Purchaser shall pay its own legal fees in connection with this Agreement.

3.05 Prorations. The following items shall be prorated between Seller and Purchaser at Closing (with Purchaser deemed to be holding title on the Closing Date):

(a) All ad valorem and other real estate taxes with respect to the Property (collectively, the "**Taxes**") shall be prorated as of 12:01 a.m. on the Closing Date. If the Closing shall occur before the tax rate is fixed for the then current tax year, the apportionment of the Taxes shall be made upon the basis of the tax bill for the

immediately preceding tax year applied to the latest assessed valuation of the Property. If the Land is part of a larger tax parcel, then ad valorem taxes attributable to the Land shall be allocated on a per acre basis. The ad valorem and other real estate tax prorations and assessments shall be final as of the Closing Date.

(b) Any periodic assessments or fees charged to the Property under any declaration, reciprocal easement agreement or similar instrument shall be prorated at Closing between the parties based on their respective periods of ownership of the Property during the billing period to which such assessments or fees apply.

(c) This Section 3.05 shall not merge with the Deed and shall survive the Closing.

3.06 Service Contracts. Purchaser shall have no obligation to assume any agreements with third party contractors providing services to the Property, and no such agreement shall constitute a Permitted Exception.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES

4.01 Representations and Warranties of Seller. Seller hereby represents and warrants to Purchaser, both as of the Effective Date and as of the Closing Date, to Seller's knowledge, as follows:

(a) Seller is a Georgia limited liability corporation. Seller has all requisite power and authority, and has taken all actions required by its organizational documents to authorize it to execute and deliver this Agreement. The individual executing this Agreement and any other documents and instruments executed by Seller pursuant hereto has the legal power, right, and authority to bind Seller to the terms and conditions hereof and thereof.

(b) Seller is not a "foreign person" as that term is defined in Section 1445 of the Internal Revenue Code of 1986, as amended, and any applicable regulations promulgated thereunder.

(c) Seller has not (i) made a general assignment for the benefit of creditors, (ii) filed any voluntary petition in bankruptcy or suffered the filing of an involuntary petition by Seller's creditors, (iii) suffered the appointment of a receiver to take possession of all, or substantially all, of Seller's assets, (iv) suffered the attachment or other judicial seizure of all, or substantially all, of Seller's assets or (v) admitted in writing its inability to pay its debts as they come due.

(d) Seller has not entered into an agreement or option for the sale of the Land, which agreement or option remains pending, other than this Agreement.

(e) Seller has not received any written notice from any municipal, county, state or any other governmental agency or body, of any zoning, fire, health, environmental or building violation with respect to the Land, or of any violation of laws, ordinances, statutes or regulations relating to pollution or environmental standards on the Land, which have not been corrected;

(f) Seller has not been served with any pleadings in any action or proceeding against Seller or the Land, including condemnation proceedings, which challenges or impairs Seller's ability to execute or perform its obligations under this Agreement;

All references in this Agreement to "knowledge of Seller," "Seller's knowledge" or words of like effect shall refer only to the actual, conscious knowledge, without any obligation of due inquiry or investigation, of Ryan Goldstein (the "Seller Knowledge Party"), and no others, as of the date such representation and warranty is made. Seller represents and warrants to Purchaser that the Seller Knowledge Party is an officer of Seller or of a member or members of Seller with direct responsibility for asset management of the Property. The Seller Knowledge Party has not performed, and is not obligated to perform, any investigation or review of any files or other information in the possession of Seller or its agents, or to make any inquiry of any persons, or to take any other action in connection with the representations and warranties of Seller set forth in this Agreement. The terms "knowledge of Seller,"

"Seller's knowledge" or words of like effect shall not be construed, by imputation or otherwise, to refer to the knowledge of any affiliate of Seller, or to any other partner, member, shareholder, beneficial owner, director, officer, agent, manager, representative, employee, attorney or consultant of Seller, Seller's direct or indirect beneficial owners or any of their respective affiliates, or to impose on the individual named above any duty to investigate the matter to which such actual knowledge, or the absence thereof, pertains. For purposes of this Section 4.01, notice by publication or recordation or other means of constructive or imputed notice does not constitute "notice" to Seller. Purchaser acknowledges that the Seller Knowledge Party is named solely for the purpose of defining and narrowing the scope of Seller's knowledge and not for the purpose of imposing any liability on or creating any duties running from such individual to Purchaser. Purchaser shall not bring any action of any kind against the Seller Knowledge Parties, or either of them, related to or arising out of the representations and warranties made in this Agreement, the documents delivered at Closing or otherwise. The provisions of this grammatical paragraph shall survive the Closing or any earlier termination of this Agreement, as applicable, without any limitation on the period of such survival.

4.02 Representations and Warranties of Purchaser. Purchaser represents and warrants to Seller, both as of the Effective Date and as of the Closing Date, as follows:

(a) Purchaser is a legally chartered and recognized municipality incorporated by the Georgia General Assembly in the State of Georgia pursuant to Article IX, Section II, of the Constitution of the State of Georgia. The individual executing this Agreement and any other documents and instruments executed by Purchaser pursuant hereto have the legal power, right, and actual authority to bind Purchaser to the terms and conditions hereof and thereof.

(b) Purchaser has not (i) made a general assignment for the benefit of creditors, (ii) filed any voluntary petition in bankruptcy, (iii) suffered the appointment of a receiver to take possession of all, or substantially all, of Purchaser's assets, (iv) suffered the attachment or other judicial seizure of all, or substantially all, of Purchaser's assets, (v) admitted in writing its inability to pay its debts as they come due or (vi) made an offer of settlement, extension or composition to its creditors generally.

(c) All references in this Agreement to the "knowledge of Purchaser," "Purchaser's knowledge" or words of like effect shall refer only to the actual, conscious knowledge, without any obligation of due inquiry or investigation of the City Manager ("**Purchaser's Knowledge Party**"), and no others, as of the date such representation and warranty is made. Purchaser represents and warrants to Seller that the Purchaser Knowledge Party is an officer of Purchaser or of a member or members of Purchaser. The Purchaser Knowledge Party has not performed, and is not obligated to perform, any investigation or review of any files or other information in the possession of Seller or its agents, or to make any inquiry of any persons, or to take any other action in connection with the representations and warranties of Purchaser set forth in this Agreement. The term "knowledge of Purchaser," "Purchaser's knowledge" or words of like effect shall not be construed, by imputation or otherwise, to refer to the knowledge of any affiliate of Purchaser, or to any other officer, agent, manager, representative, employee, attorney or consultant of Purchaser, or to impose on the individual named above any duty to investigate the matter to which such actual knowledge, or the absence thereof, pertains. For purposes of this Section 4.02, notice by publication or recordation or other means of constructive or imputed notice does not constitute "notice" to Purchaser. Seller acknowledges that the Purchaser Knowledge Party is named solely for the purpose of defining and narrowing the scope of Purchaser's knowledge and not for the purpose of imposing any liability on or creating any duties running from such individual to Seller. Seller shall not bring any action of any kind against the Purchaser Knowledge Party related to or arising out of the representations and warranties made in this Agreement, the documents delivered at Closing or otherwise. The provisions of this grammatical paragraph shall survive the Closing or any earlier termination of this Agreement, as applicable, without any limitation on the period of such survival.

4.03 Survival. None of the representations and warranties of Seller under this Section 4.03 and Purchaser under Section 4.02 shall survive the Closing, unless otherwise expressly stated, but instead shall merge into the Deed at Closing. The provisions of this grammatical paragraph shall survive the Closing or any earlier termination of this Agreement, as applicable, without any limitation on the period of such survival.

ARTICLE V

CONDEMNATION

5.01 Condemnation. Seller shall deliver to Purchaser written notice received by Seller from any governmental entity or other party (other than Purchaser) having the power of eminent domain of any pending, proposed or threatened taking or condemnation of all or any material portion of the Property of which Seller receives notice prior to the Closing. If prior to the Closing, any taking or condemnation (other than by Purchaser) of all or any material portion of the Property is proposed or threatened, or if Seller or Purchaser receives notice that any such taking or condemnation (other than by Purchaser) is pending, then in such event, Purchaser shall have the right to terminate this Agreement by written notice delivered to Seller within ten (10) days after Purchaser receives notice of such pending, proposed or threatened taking or condemnation and upon such termination, the Escrow Deposit shall be refunded to Purchaser and this Agreement shall be of no further force or effect and neither party shall have any further rights, duties or obligations hereunder, except for the obligations that expressly survive the termination of this Agreement. If Purchaser does not elect to terminate this Agreement, then the Closing shall take place as provided in this Agreement without any offset against, or deduction from, the Purchase Price and there shall be assigned to Purchaser at the Closing all right, title and interest of Seller in and to all condemnation proceeds which may be paid or payable with respect to the Property and Seller shall pay over to Purchaser (or credit Purchaser at Closing) with any condemnation proceeds paid to Seller prior to the Closing. For the purposes of this Section 5.01, "material portion of the Property" shall mean a taking that would exceed twenty percent (20%) of the gross square footage of the Land.

ARTICLE VI

PROVISIONS WITH RESPECT TO DEFAULT

6.01 Default by Seller. If Seller defaults under the terms of this Agreement, including but not limited to, breaches its obligation to proceed to Closing and to close the transaction under this Agreement and if (x) such default remains uncured five (5) business days after Purchaser delivers notice of such default to Seller (provided, however, that no such notice shall be required with respect to a breach by Seller of its obligation to proceed to Closing and close the transaction under this Agreement on the scheduled Closing Date), and (y) Purchaser is not in breach hereunder beyond applicable notice and cure periods, Purchaser may, at its election and as its sole and exclusive remedy, either (a) terminate this Agreement and receive a refund of the Escrow Deposit from the Title Company, or (b) bring an action to enforce specific performance of this Agreement against Seller, provided that such action is commenced within sixty (60) days after the scheduled Closing Date and Purchaser deposits with the Title Company, on or before the scheduled Closing Date, the Purchase Price and all closing documents required under this Agreement from or to be executed by Purchaser. Notwithstanding anything herein to the contrary, Purchaser shall be deemed to have elected to terminate this Agreement if Purchaser fails to deliver to Seller written notice of its intent to file a claim or assert a cause of action for specific performance against Seller within ten (10) business days following the scheduled Closing Date or, having given such notice, fails to file a lawsuit asserting such claim or cause of action in the county in which the Property is located within sixty (60) days following the scheduled Closing Date. Except as otherwise specifically provided in and as limited by Section 4.01 of this Agreement, Purchaser specifically waives all other rights and remedies, including, without limitation, the right to actual, punitive, speculative, consequential or other damages and the right to file any lien, notice, petition, memorandum, lis pendens or other instrument in the real estate records of the appropriate county or otherwise.

6.02 Default by Purchaser. In the event Purchaser fails to perform any of its obligations under Section 3.03 or fails to purchase the Property for any reason not specifically provided for in this Agreement, except for a default by Seller as provided in Section 6.01 above, and if (x) such default remains uncured five (5) business days after Seller delivers notice of such default to Purchaser (provided, however, that no such notice shall be required with respect to a breach by Purchaser of its obligation to proceed to Closing and close the transaction under this Agreement on the scheduled Closing Date), and Seller is not in breach hereunder beyond applicable notice and cure periods, Seller may, at its election and as its sole and exclusive remedy, terminate this Agreement and receive the Escrow Deposit from the Title Company. Seller and Purchaser agree that, in the event of such a Purchaser default, the Escrow Deposit is a reasonable estimate of Seller's damages in accordance with O.C.G.A. § 13-6-7, that such amount constitutes liquidated damages and not a penalty and that the specific amount of damages in the event of Purchaser's

failure to close the purchase of the Property as herein provided would be difficult to ascertain. The parties have agreed that Seller's actual damages, in the event of Purchaser's breach hereof, would be extremely difficult or impracticable to determine. Therefore, the parties acknowledge that the Escrow Deposit has been agreed upon, after negotiation, as the parties' reasonable estimate of Seller's damages. Seller hereby waives and covenants not to bring any action or suit, whether legal or equitable, against Purchaser for damages or other redress in the event of Purchaser's default under Section 3.03, and Purchaser agrees not to bring any action or suit, whether legal or equitable, against Seller or Escrow Agreement claiming that the Escrow Deposit is a penalty or anything other than agreed upon liquidated damages. Notwithstanding the foregoing, Purchaser's liability for any breach of this Agreement (other than with respect to Purchaser's obligation to purchase the Property in accordance with and subject to the terms and conditions hereof) shall not be limited in any respect, and Purchaser shall be fully liable for any such breach. The provisions of this Section 6.02 shall not limit or affect any of Purchaser's indemnities as provided in other Sections of this Agreement.

ARTICLE VII

MISCELLANEOUS

7.01 Brokerage Fees and Commissions. Purchaser hereby represents and warrants that it has not retained or hired a real estate broker, finder, commission salesperson or similar person or entity with respect to this Agreement or the proposed sale of the Property other than Colliers International – Atlanta, LLC, (License # H-664) ("**Purchaser's Broker**"). Seller hereby represents and warrants that, other than RG Real Estate, it has not retained or hired a real estate broker, finder, commission salesperson or similar person or entity with respect to this Agreement or the proposed purchase of the Property. Seller will pay RG Real Estate and Purchaser's Broker at Closing all brokerage commissions as follows: Two and a half percent (Purchaser's Broker); and One and half percent (RG Estate) of the Purchase Price based on a separate agreement between Seller, PG Real Estate, and Purchaser's Broker. If any other claims for brokerage commissions or fees are ever made against Seller or Purchaser in connection with this transaction, all such claims shall be handled and paid by the party whose commitments form the basis of such claims. Seller and Purchaser each agree to indemnify and hold harmless the other, to the extent permitted by law, from and against any and all such claims or demands with respect to any brokerage fees or agents' commissions or other compensation asserted by any person, firm, or corporation in connection with this Agreement or the transactions contemplated herein insofar as any such claim or demand is based upon a contract, engagement or commitment of the indemnifying party. Seller and Purchaser acknowledge that Purchaser's Broker has represented Purchaser and not Seller in this transaction. Seller and Purchaser also acknowledge that PG Real Estate has represented Seller and not Purchaser in this transaction. The covenants and indemnities contained herein shall expressly survive a termination of this Agreement or Closing.

7.02 Notices. All notices, demands and requests which may be given or which are required to be given by either party to the other under this Agreement, and any exercise of a right of termination provided by this Agreement, shall be in writing and shall be given (a) by personal delivery against receipt, (b) by deposit in the United States mail by certified or registered mail, return receipt requested, (c) by a nationally recognized overnight delivery service such as FedEx for overnight next business day delivery or (d) by email transmission in .pdf, provided that in the case of email transmission in .pdf, a copy of such notice is sent on the same day of such transmission by one of the other methods of giving notice set forth above in this Section 7.02. Such notice shall be deemed received (i) on the date personally delivered to the address indicated herein, as evidenced by written receipt therefor, whether or not actually received by the person to whom addressed; (ii) three (3) business days following deposit in the United States mail if by certified or registered mail, addressed to the intended recipient at the address indicated herein; (iii) one (1) business day following the day deposited into the custody of a nationally recognized overnight delivery service, addressed to such party at the address specified herein; or (iv) on the date of receipt by the receiving party's email account of such notice, provided that a copy thereof has also been sent as required above under this Section 7.02. Any such notice, demand or other communication shall be addressed as follows:

If to Seller: JHJ 4800 Ashford, LLC
Attn: John Hardy Jones
252 Smokerise Trace
Peachtree City, GA 30269
Email address: jhjones@johnhardyjones.com

RCB 4800 Ashford, LLC
Attn: Robert C. Baral
252 Smokerise Trace
Peachtree City, GA 30269
Email address: bob@rcbaral.com

With a Copy to: Mack Reynolds, Esq.
P. O. Box 100
Hogansville, GA 30230
Email address: mr@mackreynolds.com

Attn: Ryan Goldstein
President
RG Real Estate
4800 Ashford Dunwoody Road
Suite 210
Atlanta, GA 30338
Email address: rgoldstein@rg-re.com

:

If to Purchaser: City of Dunwoody
41 Perimeter Center East
Suite 250
Dunwoody, Georgia 30346
Attn: City Manager
e-mail address: eric.linton@dunwoodyga.gov

Any party hereto may, at any time by giving seven (7) days' notice to the other party hereto, designate any other address in substitution of the foregoing address to which such notice shall be given. Refusal to accept a properly addressed notice given in accordance with the terms hereof, or failure of delivery of a properly addressed and given notice on account of a change in address for which no notice was properly provided, shall be deemed effectively delivered on the date on which delivery was attempted.

7.03 Entire Agreement; Modification. This Agreement embodies and constitutes the entire understanding among the parties with respect to the transactions contemplated herein, and all prior or contemporaneous agreements, understandings, representations and statements, oral or written, is merged into this Agreement. Neither this Agreement nor any provision hereof may be waived, modified, amended, discharged or terminated except by an instrument in writing signed by the party against which the enforcement of such waiver, modification, amendment, discharge or termination is sought, and then only to the extent set forth in such instrument.

7.04 Headings. Descriptive headings are for convenience only and shall not control or affect the meaning or construction of any provision of this Agreement.

7.05 Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their successors and assigns.

7.06 Time of Essence. Time is of the essence of this Agreement and of each covenant and agreement that is to be performed at a particular time or within a particular period of time. However, if the final date of any period which is set out in any provision of this Agreement or the Closing Date falls on a day which is not a business day, then the time of such period or the Closing Date, as the case may be, shall be extended to the next business day. As used in this Agreement, "**business day**" means any day other than a Saturday, Sunday or day on which banks are legally required or authorized to be closed at their offices in the State of Georgia.

7.07 Counterparts; Signatures. This Agreement may be executed in a number of identical counterparts, each of which for all purposes is deemed an original, and all of which constitute collectively one agreement, but in making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart. Signature pages may be detached from any counterpart and attached to another identical counterpart without affecting the binding nature of this Agreement. Signatures to this Agreement may be transmitted via facsimile or scanned and e-mailed, and delivery thereby shall be deemed sufficient for all purposes to the same extent as would be the delivery of an original signature.

7.08 Assignment by Purchaser. Purchaser shall have the right to assign this Agreement without the prior written consent of Seller; but only if the consideration for such assignment is less than or equal to TEN AND NO/100 DOLLARS (\$10.00), and for no other consideration. Furthermore, any such assignee must assume all of the obligations of Purchaser under this Agreement, must make the same representations and warranties made by Purchaser under this Agreement and must comply with the terms of Section 7.16 below. In no event shall any Purchaser be released of its obligations under this Agreement in the event of any such assignment.

7.09 Prohibition on Recording Agreements. Purchaser agrees that neither this Agreement, a copy of this Agreement, nor any instrument describing or referring to this Agreement shall ever be filed of record until such time as a closing is successfully concluded and this Agreement is merged with the deed instruments, except if filed as part of the filing of litigation between the parties and in the event Purchaser records this Agreement, a copy of this Agreement or any instrument describing or referring to this Agreement, Seller, at Seller's option, may terminate this Agreement and receive immediate payment of the Escrow Deposit and may cause such recordation to be nullified by acting as Purchaser's attorney-in-fact for such purpose, which power of attorney is coupled with an interest and is irrevocable.

7.10 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Georgia, without reference to its choice of law principles.

7.11 Attorneys' Fees. Should either party hereto institute any action or proceeding in court to enforce this Agreement, the prevailing party in any such action or proceeding shall be entitled to receive from the non-prevailing party all reasonable attorneys' fees actually incurred and court costs in connection with such action or proceeding.

7.12 Reporting Person. Title Company is hereby designated as the "Reporting Person" pursuant to Section 6045 of the Internal Revenue Code and the Regulations promulgated thereunder.

7.13 Construction. The parties acknowledge and agree that the parties and their counsel have reviewed and equally participated in the drafting and negotiation of this Agreement and this Agreement will not be presumptively interpreted against either party.

7.14 Severability. If any provision of this Agreement is held to be invalid, illegal, or unenforceable by a court of competent jurisdiction, the invalid, illegal, or unenforceable provision will not affect any other provisions, and this Agreement will be construed as if the invalid, illegal, or unenforceable provision is severed and deleted from this Agreement.

7.15 Confidentiality. Subject to the responsibilities of the City under, and requirements of, the Georgia Open Records Act, O.C.G.A. Section 50-18-1, et. seq., Purchaser and the Purchaser's Parties shall hold in strictest confidence all data and information obtained with respect to the Property and/or Seller or its business, whether obtained before or after the execution and delivery of this Agreement, which has been designated Confidential

Information by the Seller, and shall not disclose the same to others; provided, however, that it is understood and agreed that (i) Purchaser may disclose such data and information to its members, partners, employees, consultants, attorneys, accountants, and advisors (collectively, the "**Purchaser Parties**") who may be involved in conducting the due diligence related to the transactions contemplated by this Agreement; provided that Purchaser advises such persons of the confidential nature of such information and in all events Purchaser shall be responsible for each such person's obligation to keep confidential the data and information provided to them pursuant to this Agreement, and (ii) Purchaser's and the Purchaser Parties' obligation to keep such information confidential shall terminate as of the earlier to occur of the consummation and closing of the transaction contemplated by this Agreement or the expiration of two (2) years after termination of this Agreement, Purchaser and the Purchaser Parties shall use Seller's confidential information only for purposes of evaluating whether to consummate the transactions contemplated by this Agreement, and for no other purposes. In the event of a breach or threatened breach by Purchaser and/or the Purchaser Parties of this Section 7.15, Seller shall be entitled to an injunction restraining Purchaser and/or the Purchaser Parties from disclosing, in whole or in part, such confidential information. Nothing herein shall be construed as prohibiting Seller from pursuing any other available remedy at law or in equity for such breach or threatened breach. The parties acknowledge that pursuant to Paragraph 1.07 above, this Agreement shall be made a public document via its presentation to the Mayor and Council of the City of Dunwoody in conjunction with the proposed ratification of the Agreement which may take place at any time during the first ninety (90) days following its execution.

7.16 Watch List. In the event that Purchaser or any assignee of Purchaser appears on the Specially Designated Nationals and Blocked Persons list maintained by the Office of Foreign Assets Control of the United States Department of the Treasury prior to Closing, Seller may, by written notice given to Purchaser at or before the Closing, terminate this Agreement. If Seller elects to terminate this Agreement pursuant to this Section 7.16, the Escrow Deposit shall be promptly returned to Purchaser by Escrow Agent and neither party shall have any further rights or obligations hereunder, except for the obligations that expressly survive the termination of this Agreement, all of which shall survive the Closing or, if the purchase and sale contemplated hereunder is not consummated, any termination of this Agreement.

7.17 Survival. This Article VII shall survive Closing or any termination of this Agreement without any limit on the period of such survival.

[Signatures begin on following page]

[SIGNATURE PAGE TO 4800 ASHFORD DUNWOODY ROAD PURCHASE AND SALE AGREEMENT]

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement as of the Effective Date.

SELLER:

JHJ 4800 Ashford, LLC

By: 

Name: John Hardy Jones

Title: Member

[SIGNATURES CONTINUE ON NEXT PAGE]

[SIGNATURE PAGE TO 4800 ASHFORD DUNWOODY ROAD PURCHASE AND SALE AGREEMENT]

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement as of the Effective Date.

SELLER:

RCB 4800 Ashford, LLC

By: _____

Name: Robert C. Baral

Title: Member

A handwritten signature in black ink, appearing to read 'Robert C. Baral', is written over the signature line and extends slightly into the name and title lines.

[SIGNATURES CONTINUE ON NEXT PAGE]

[SIGNATURE PAGE TO 4800 ASHFORD DUNWOODY ROAD PURCHASE AND SALE AGREEMENT]

PURCHASER:

CITY OF DUNWOODY, GEORGIA

By: _____

Name: Denis L. Shortal

Title: Mayor

Attest: _____



City Clerk

Approved as to Form and Substance: _____

Office of the City Attorney

[END OF SIGNATURES]

EXHIBIT A**PROPERTY DESCRIPTION**

All that tract or parcel of land lying and being in Land Lots 350 and 363, 18th District, DeKalb County, Georgia, being more particularly described as follows:

Begin at a rebar marking the intersection of Land Lots 349, 350, 363, and 364 of said district; thence North 12 degrees 09 minutes 03 seconds East a distance of 583.21 feet to a rebar, thence North 89 degrees 02 minutes 24 seconds a distance of 264.15 feet to a rebar on the Westerly right of way line of Ashford Dunwoody Road (100 foot right of way); thence South 00 degrees 57 minutes 36 seconds East along said right of way line a distance of 353.98 feet to a rebar; thence South 26 degrees 45 minutes 53 seconds West a distance of 54.38 feet to a rebar marking the intersection of said Westerly right of way line with the Northerly right of way line of Ashford Gables Drive (variable width private right of way); thence along said Northerly right of way line the following courses: South 88 degrees 09 minutes 00 seconds West a distance of 96.71 feet to a rebar, said point marking the point of curvature of a circular curve to the left having a radius of 215.42 feet and a central angle of 51 degrees 17 minutes 00 seconds; thence along said curve an arc distance of 192.81 feet (Chord: South 62 degrees 30 minutes 31 seconds West, 188.44 feet) to a rebar; thence South 24 degrees 48 minutes 59 seconds West a distance of 76.64 feet to a rebar, said point marking the point of curvature of a circular curve to the right having a radius of 31.42 feet and a central angle of 51 degrees 17 minutes 00 seconds; thence along said curve an arc distance of 28.12 feet (Chord South 62 degrees 30 minutes 30 seconds West 27.19 feet) to a rebar; thence South 88 degrees 09 minutes 00 seconds West a distance of 49.92 feet to a rebar; thence leaving said right of way line North 05 degrees 27 minutes 57 seconds West a distance of 0.83 feet to the Point of Beginning. Containing 3.261 acres, more or less.

EXHIBIT B**LIST OF PERSONAL PROPERTY**