

WEST VALLEY-MISSION COMMUNITY COLLEGE DISTRICT
AGREEMENT FOR PURCHASE AND SALE OF CARLSON HOUSE
AS PERSONAL PROPERTY

TO _____ [Insert Name]

This Agreement for Purchase and Sale of Carlson House as Personal Property ("Agreement") is entered into as of _____, _____, by and between the West Valley-Mission Community College District, a California community college district ("DISTRICT"), and _____, a California _____ ("PURCHASER"), (collectively, "the Parties").

WHEREAS, the DISTRICT is the owner of a house, commonly known as the Carlson House ("BUILDING"), which is situated on the campus of West Valley College, located at 14000 Fruitvale Avenue, Saratoga, CA 95070, near the corner of Fruitvale Avenue and Allendale Avenue; and

WHEREAS, the BUILDING is not required for school purposes and is not satisfactory or not suitable for school use; and

WHEREAS, the DISTRICT wishes to sell the BUILDING as personal property while the DISTRICT retains all property rights to the lands and property on which the BUILDING is situated ("Land" or "Site"); and

WHEREAS, Education Code section 81450 authorizes the DISTRICT to sell through a public auction personal property belonging to the DISTRICT to the highest responsible bidder; and

WHEREAS, after providing public notice and allowing potential purchasers to inspect the BUILDING, the DISTRICT conducted an auction of the BUILDING, and PURCHASER was the highest responsible bidder; and

WHEREAS, DISTRICT desires to sell to PURCHASER and PURCHASER desires to buy the BUILDING in AS-IS condition, and in the condition presently found, despite any defects or damage to the BUILDING which may exist, pursuant to the terms and conditions stated herein.

NOW, THEREFORE, for good and valuable consideration, the Parties agree as follows:

1. Price and Payment. DISTRICT agrees to sell and PURCHASER agrees to buy the BUILDING for the valuable consideration of _____ Dollars (\$_____) ("Purchase Price"). PURCHASER has deposited the Purchase Price paid in the form of cash, a cashier's check or a certified check with the DISTRICT.

2. Effective Date and Term. This Agreement shall be effective upon execution by all of the Parties. This Agreement shall terminate within six (6) months of the Removal Date, defined in section 4 below.

3. Deposit. PURCHASER has deposited with the DISTRICT the additional sum of Ten Thousand Dollars (\$10,000.00), in the form of cash, a cashier's check, a certified check, or a bond or letter of credit acceptable to the DISTRICT as a penalty to be retained by DISTRICT if the PURCHASER fails to remove the BUILDING and debris ("Deposit"). If the PURCHASER removes the BUILDING and any debris by the Removal Date, the Deposit shall be refundable with interest at the rate earned by the DISTRICT in the account in which the Deposit is kept and the Deposit shall be returned to the PURCHASER no later than three (3) business days after the removal of the BUILDING and debris by the PURCHASER. If the PURCHASER does not remove the BUILDING and debris by the Removal Date, the Deposit shall be nonrefundable and the DISTRICT may apply the Deposit toward the cost of the demolition and removal of the BUILDING and debris or toward any other lawful purpose in the DISTRICT's sole discretion.

4. Transfer Date and Removal Date; Bill of Sale.

(i) DISTRICT agrees to sell and PURCHASER agrees to buy and take title to the BUILDING. The sale shall occur three (3) business days after the Effective Date ("Transfer Date"). The DISTRICT shall provide PURCHASER with a Bill of Sale, in the form attached as Exhibit "A."

(ii) PURCHASER agrees to remove the BUILDING from its current location at the Site within six (6) months of the Effective Date of this Agreement ("Removal Date").

5. No Occupancy. PURCHASER agrees and warrants that it will not occupy the BUILDING prior to the removal of the BUILDING from DISTRICT property.

6. PURCHASER's Waiver of Claims to Rights in Land. PURCHASER waives all claims to any rights in the Land on which the BUILDING is currently situated. **This Agreement is for the sale of personal property and not real property.** This provision shall survive termination of this Agreement.

7. Removal Plan. At least ten (10) days prior to the Removal Date, PURCHASER and DISTRICT shall develop a removal plan to address access to the Site and the BUILDING which will minimize disruption of DISTRICT operations. DISTRICT shall provide PURCHASER with a Right of Entry to allow PURCHASER access to the Site.

8. Removal of BUILDING and Condition of Site.

(i) PURCHASER agrees to remove and transport the entire BUILDING from the Site at PURCHASER's sole cost. The foundation of the BUILDING shall be considered a part of the BUILDING and shall be removed along with all other portions of the BUILDING pursuant to this Agreement. The basement shall not be considered a part of the BUILDING.

(ii) Removal of the BUILDING shall be performed in compliance with all Federal, State, and local laws, regulations and ordinances applicable to such removal, without limitation. PURCHASER shall be solely responsible for all such compliance and for the costs thereof.

(iii) Within two (2) business days after the removal of the BUILDING, the PURCHASER shall have cleaned up and removed all debris, both from Site and the DISTRICT's other property, which debris was left or caused by the PURCHASER's removal of the BUILDING and the PURCHASER shall leave the DISTRICT's property in the condition it was in prior to the removal of the BUILDING, with the exception of the portion of the Site within the footprint of the BUILDING.

(iv) PURCHASER shall not be required to fill in any holes in the ground left by removal of the BUILDING itself.

9. As-Is Purchase. PURCHASER shall acquire the BUILDING in its "As-Is" condition, assume all risks, and shall be responsible for any defects in the BUILDING, whether patent or latent, including, without limitation, the physical, environmental and general condition of the BUILDING, and the existence of any contamination and Hazardous Materials located in or as part of the BUILDING. DISTRICT makes no representation or warranty concerning the physical, environmental, or other condition of the BUILDING and specifically disclaims all representations or warranties of any nature concerning the BUILDING made by the DISTRICT and its employees, agents and representatives.

10. Removal of Items from BUILDING. Prior to the Transfer Date, DISTRICT may remove from the BUILDING all items not affixed to the BUILDING.

11. Utilities. DISTRICT shall disconnect all utilities from the BUILDING prior to the Transfer Date.

12. Licenses and Permits. PURCHASER agrees to obtain and pay for each license or permit associated with and required for the removal and transport of the BUILDING from the DISTRICT's Land, including, without limitation, all licenses or permits as may be required to transport the BUILDING on public roadways and the moving or disconnecting of power or other utilities for that purpose.

13. Insurance.

(i) Public Liability and Property Damage. At all times on and after the Transfer Date through the period of removal of the BUILDING and cleanup of debris, PURCHASER shall maintain in full force and effect a suitable policy or policies of comprehensive general liability and property damage insurance, insuring against all bodily injury, property damage, personal injury, and other loss or liability caused by or connected with PURCHASER's use and access to DISTRICT property, the ownership, transport and removal of the BUILDING, and the cleanup of debris at the Site under this Agreement. Such insurance shall be in amounts not less than \$1,000,000 each occurrence and \$2,000,000 aggregate.

(ii) Automobile Liability. PURCHASER also agrees to maintain in full force and effect with regard to any owned, hired, and non-owned vehicles which PURCHASER brings onto DISTRICT property a suitable policy or policies of automobile liability insurance for both bodily injury and property damage with a combined single limit of \$1,000,000 per occurrence.

(iii) Workers' Compensation. PURCHASER shall also maintain, in full force and effect throughout the term of this Agreement, Workers' Compensation insurance in accordance with the laws of California, and employers' liability insurance with a limit of not less than \$1,000,000 per employee and \$1,000,000 per occurrence.

(iv) Notice; Additional Named Insureds. All insurance required under this Agreement shall be issued by a company or companies lawfully authorized to do business in California as admitted carriers. DISTRICT shall be designated as an additional named insured. Upon delivering this fully executed Agreement to the DISTRICT and prior to the Transfer Date, PURCHASER shall also provide DISTRICT with Certificates of Insurance.

(v) Contractor's Insurance. PURCHASER shall require its contractors to maintain the same insurance which is required of PURCHASER in this section and shall provide proof of insurance to the DISTRICT when PURCHASER enters into a contract with any contractor in connection with the moving of the Building. The DISTRICT shall be named as an additional insured on the insurance provided by the contractor.

14. Indemnification and Hold Harmless. PURCHASER shall indemnify, defend and hold harmless the DISTRICT, its officers, agents, volunteers, and employees ("Indemnified Parties") from any and all claims, actions, suits, legal or administrative orders or proceedings, demands, liability, loss, expense (including reasonable attorney's fees and other defense costs), or claims imposed for damages of any nature whatsoever, including, but not limited to, bodily injury, death, personal injury, property damage, and environmental cleanup, liability, and compliance costs occurring by reason of any existing conditions and any acts or omissions on the part of the PURCHASER and PURCHASER's own officers, agents, contractors, or employees, if any, under or in connection with any obligations of PURCHASER under this Agreement. Such indemnification shall include, and shall not be limited to all foreseeable and unforeseeable damages, fees, costs, losses and expenses, including any and all attorney's fees and consultant fees and investigation costs and expenses, directly or indirectly arising therefrom and including fines and penalties of any nature whatsoever, assessed, levied or asserted against any Indemnified Parties.

Additionally, PURCHASER shall be responsible for, and DISTRICT shall not be answerable or accountable in any manner for any loss or expense by reason of any damage or injury to person or property, or both, arising out of the acts of PURCHASER, its agents, officers, employees, guests or invitees, or any third person other than the DISTRICT, or resulting from PURCHASER's activities on DISTRICT property or from any cause whatsoever arising out of or in connection with this Agreement. PURCHASER shall indemnify and defend the Indemnified Parties against and will hold and save them and each of them harmless from any and all actions, claims, liens, damages to persons or properties, penalties, obligations or liabilities that may be asserted or claimed by any person, firm, association, entity, corporation, political

subdivision, or other organization arising out of or in connection with this Agreement, PURCHASER's ownership of BUILDING and PURCHASER's removal activities on the DISTRICT's property whether or not there is concurrent passive negligence on the part of DISTRICT, its agents, employees or officers, but excluding such actions, claims, damages to persons or property, penalties, obligations or liabilities arising from the gross negligence or willful misconduct of DISTRICT, and in connection therewith:

(i) Actions Filed. PURCHASER shall defend any action or actions filed in connection with any of said claims, liens, damages, penalties, obligations or liabilities, and will pay all costs and expenses, including attorneys' fees incurred in connection therewith.

(ii) Judgments Rendered. PURCHASER shall promptly pay any judgment rendered against PURCHASER or DISTRICT covering such claims, liens, damages, penalties, obligations and liabilities arising out of or in connection with this Agreement or any amendment thereto, and PURCHASER shall promptly pay any judgment rendered against PURCHASER or DISTRICT covering such claims, liens, damages, penalties, obligations and liabilities arising out of or in connection with any access of DISTRICT property or use or removal of the BUILDING referred to herein and agrees to save and hold DISTRICT harmless therefrom.

(iii) Costs, Expenses and Attorneys' Fees. In the event DISTRICT is made a party to any action or proceeding filed or prosecuted against PURCHASER for such damages or other claims 1) arising out of or in connection with this Agreement, or 2) arising out of or in connection with any access of DISTRICT property or use or removal of the BUILDING referred to herein, PURCHASER agrees to pay DISTRICT any and all costs and expenses incurred by them in such action or proceeding together with reasonable attorneys' and expert witness fees.

PURCHASER further agrees to indemnify, defend and hold harmless DISTRICT, its directors, officers and employees and each of them from any claim or cause of action arising out of or related to the legality or legal interpretation of this Agreement.

This Indemnification and Hold Harmless set forth in this section shall survive termination of the Agreement.

15. Failure to Remove.

(i) In the event that PURCHASER fails to remove the BUILDING in its entirety from the DISTRICT's Site by the Removal Date, DISTRICT may demolish, remove, and dispose of the BUILDING and may use PURCHASER's Deposit to accomplish the demolition, removal and disposal of the BUILDING.

(ii) In the event that the PURCHASER fails to remove the BUILDING and debris, the DISTRICT shall not be required to return the Purchase Price or Deposit to the PURCHASER.

16. Site Restoration. DISTRICT shall be responsible for any necessary Site restoration after removal of the BUILDING from the Land including, but not limited to, securing

the Site as needed, filling any holes in the ground within the footprint of the BUILDING prior to removal, and grading the Site.

17. Compliance with Law. PURCHASER shall comply with all laws, ordinances, rules, and regulations applicable to the removal of the BUILDING.

18. Taxes, Charges and Assessments. PURCHASER shall pay all taxes, charges or assessments on or related to the BUILDING on and after the Transfer Date.

19. Third Party Relationships. Nothing contained in the Agreement shall create a contractual relationship with, or cause of action in favor of, any third party against the DISTRICT.

20. Time of Essence. Time is of the essence with respect to each of the terms, covenants and conditions of this Agreement.

21. Binding. This Agreement shall bind and inure to the benefit of the Parties hereto and to their respective successors, assigns, legatees, heirs and personal representatives.

22. Choice of Law and Venue. This Agreement shall be construed in accordance with the laws of the state of California. Venue shall be in Santa Clara County, California.

23. Amendment. Any Amendment or modification to this Agreement must be in writing and executed by the Parties hereto.

24. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute together one and the same instrument.

25. Authority. Each Party and the persons executing this Agreement warrant that they have the authority to execute and to enter into this Agreement.

26. Entire Agreement. This Agreement contains the sole and entire agreement and understanding of the Parties with respect to the entire subject matter hereof, and any and all prior discussions, negotiations, commitments and understandings related hereto are hereby merged herein. No representations, oral or otherwise, express or implied, other than those contained within this Agreement have been made by any Party hereto.

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year first above written.

DISTRICT:

WEST VALLEY-MISSION COMMUNITY COLLEGE
DISTRICT

Signature: _____

Typed or Printed Name: Edralin Maduli

Title: Vice Chancellor, Central Services

Date: _____

PURCHASER:

_____[Insert Name]

Signature: _____

Typed or Printed Name: _____

Title: _____

Date: _____

EXHIBIT A

BILL OF SALE

WEST VALLEY-MISSION COMMUNITY COLLEGE DISTRICT, a California community college district duly organized and validly existing under the Constitution and laws of the State of California (hereinafter "Seller"), in consideration of _____ Dollars (\$_____), the receipt whereof is hereby acknowledged, does hereby bargain, sell, transfer and deliver, without recourse, unto _____ (hereinafter "Buyer"), the following described personal property ("Personal Property"), to wit:

- A structure commonly known as the "Carlson House," currently located on the West Valley College campus at 14000 Fruitvale Avenue, Saratoga, CA 95070-5698, near the corner of Fruitvale Avenue and Allendale Avenue.

TO HAVE AND TO HOLD the same unto the said Buyer and Buyer's successors and assigns forever.

Seller hereby covenants and agrees to and with the Buyer and to the Buyer's successors and assigns that Seller is the owner of the above-described Personal Property, and that the Seller has a good right and title to sell the same.

The underlying real property is not sold.

IN WITNESS WHEREOF, the Seller has caused this Bill of Sale to be executed in its name by its duly authorized representative as of the date set forth below.

DATED: _____, 20__

WEST VALLEY-MISSION COMMUNITY
COLLEGE DISTRICT

By: Edralin Maduli

Its: Vice Chancellor, Central Services