

STATE OF GEORGIA,
COUNTY OF: _____

SPC File No. _____

OPTION FOR THE PURCHASE OF TENANCY-IN-COMMON INTEREST

THIS OPTION FOR THE PURCHASE OF TENANCY-IN-COMMON INTEREST, hereinafter referred to as this "Agreement", is made and entered into as of the _____ day of _____, 20__, by and between _____, whose address for purposes of this Agreement is _____. Party of the First Part, herein referred to as "Seller", and the **STATE OF GEORGIA**, acting by and through its **DEPARTMENT OF COMMUNITY AFFAIRS**, Party of the Second Part, herein referred to as "Purchaser", whose address for purposes of this Agreement is ATTENTION: _____.

WITNESSETH THAT:

WHEREAS, Seller, for itself and, if applicable, as the lead local authority pursuant to O.C.G.A. § 36-91-102(b), has submitted a Governor's Water Supply Program Application to the Georgia Environmental Finance Authority for the purpose of securing funding for a portion of a certain water supply project, hereinafter defined as the "Project," by State Direct Investment in the Project; and

WHEREAS, pursuant to the procedures of the Governor's Water Supply Program Project Selection System, the Georgia Environmental Finance Authority has (a) evaluated and scored the Project, (b) analyzed the financial viability of the Project and (c) considered all other factors and criteria affecting and determining the award of funding for a portion of the Project by State Direct Investment and has awarded funding for the Project in an amount not to exceed the amount set forth in Exhibit D, hereinafter defined as the "Award;" and

WHEREAS, Seller is the owner of certain real property comprising the site of the Project, herein defined as the "Project Site," and desires to convey and sell to Purchaser a certain undivided interest as a tenant-in-common, hereinafter defined as the "Property Interest," in and to the Project Site, as such Property Interest is more particularly described and referenced herein; and

WHEREAS, Purchaser desires to acquire and purchase the Property Interest.

NOW, THEREFORE, for and in consideration of the payment by Purchaser to Seller of the sum of TEN DOLLARS (\$10.00), for which Purchaser will receive a credit at the Closing, the foregoing premises, the mutual covenants and agreements set forth herein and other good and valuable consideration, all of which both parties respectively agree constitutes sufficient consideration received at or before the execution hereof, the parties do hereby agree as follows:

1.
DEFINITIONS

In addition to any other terms whose definitions are fixed and defined by this Agreement, each of the following defined terms, when used in this Agreement, will have the meanings set forth in this provision numbered 1 unless otherwise expressly provided.

1.1 "Agreement" means this Option for the Purchase of Tenancy-In-Common Interest and all exhibits attached hereto.

1.2 "Award" means the amount of eligible funding by State Direct Investment in the Project, as more particularly set forth in Exhibit D.

1.3 "Closing" means the consummation of the purchase and sale contemplated by this Agreement by the deliveries required under the provision numbered 10.

1.4 "Closing Date" means the time and date, established under the provision numbered 10, when the purchase and sale contemplated by this Agreement is to be consummated.

1.5 "Date hereof" means the date appearing in the first sentence of this Agreement.

1.6 "Day", "month" and "year" means calendar day, calendar month and calendar year.

1.7 "Environment" means navigable waters, waters of the contiguous zone, ocean waters, natural resources, surface waters, ground water, drinking water supply, land surface, subsurface strata, ambient air, both inside and outside of buildings and structures, and plant and animal life on earth.

1.8 "Environmental Law(s)" mean all applicable federal, state, county, municipal, administrative or other laws, ordinances, rules, regulations and requirements or common law doctrines pertaining to environmental, health, safety or ecological conditions, along with any regulations, orders, binding written interpretations or policies promulgated or issued thereunder. As used in conjunction with "Environmental Law(s)," "Hazardous Material" means (a) any "hazardous substance", "hazardous waste" or "hazardous material" defined as such in (or for purposes of) any Environmental Law; (b) petroleum, including any fraction thereof, and any petroleum product; (c) mold, radon, asbestos or any other potentially harmful indoor pollutant; and (d) any other substance, regardless of physical form, that is subject to any law or common law doctrine regulating or imposing obligations, liability or standards of conduct concerning the protection of human health, plant life, animal life, natural resources or property; provided that "Hazardous Material" shall not be deemed to include substances customarily used in the operation of the Project, kept in such quantities as are customarily found in operations similar to the Project; provided the same are used, stored and disposed of in all respects in accordance with all laws regulating the same

1.9 "Hazardous Substance" means any substance or material (a) identified in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14) and as set forth in Title 40, Code of Federal Regulations, Part 302, as the same may be amended from time to time; (b) identified or regulated under the Georgia Hazardous Site Response Act, O.C.G.A. § 12-8-90 et. Seq.; (c) determined to be toxic, a pollutant or contaminant, under any federal, state or local statute law, ordinance, rule, or regulation, under common law, or pursuant to a judicial or administrative order or decision; (d) petroleum and petroleum products and distillates; (e) asbestos, radon, mold, or any other potentially harmful indoor air pollutants; (f) polychlorinated biphenyls; and (g) such other materials, substances or waste which are otherwise dangerous, hazardous, harmful or deleterious to human health or the environment.

1.10 "Herein", "hereof", "hereunder" and other terms of like or similar import, will be deemed to refer to this Agreement as a whole, and not to any particular provision hereof, unless expressly indicated otherwise.

1.11 "Indemnified Parties" shall mean Purchaser, the State of Georgia, the State Tort Claims Trust Fund, the State Authority Operational Liability Fund, the State Insurance and Hazard Reserve Fund, the State Employee Broad Form Liability Fund, and their officers, employees, directors and agents; and "Indemnified Party" shall mean any one of the Indemnified Parties.

1.12 "Letter of Intent" or "LOI" means that certain Letter of Intent executed by Seller and Purchaser under date of _____.

1.13 "Marketable" title means title which is in fact good and marketable and which is shown by the record to be marketable. Marketability will be determined in accordance with Georgia law as supplemented by the Title Standards of the State Bar of Georgia.

1.14 "Option" means the irrevocable, sole and exclusive right granted by Seller to Purchaser pursuant to the terms of this Agreement.

1.15 "Permitted Title Exceptions" means those Title Defects subject to which Purchaser agrees to accept title to the Property Interest and which are set forth in Exhibit B attached hereto, incorporated herein, and by this reference made a part hereof.

1.16 "Property Interest" means an undivided real property interest as a tenant-in-common in and to the Project Site.

1.17 "Project" means the Project referenced and described in the LOI.

1.18 "Project Site" means the tract of land more particularly described in Exhibit A.

1.19 "Purchase Price" means the amount which Purchaser agrees to pay to Seller, and Seller agrees to accept from Purchaser, for the Property Interest as provided in the provision numbered 5.

1.20 "Release" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, storing, escaping, leaching, dumping, discarding, burying, abandoning, or disposing into the Environment.

1.21 "Threat of Release" shall mean a substantial likelihood of a Release which requires action to prevent or mitigate damage to the Environment which may result from such Release.

1.22 "Title Defect" means any lien, encumbrance, security interest or title, charge, reservation, lease, tenancy, easement, right-of-way, use, encroachment, restrictive covenant, condition, limitation, special assessment and any other burden, right, or privilege, including matters revealed by a physical inspection of the Project Site and matters of survey, which could or would be considered exceptions or objections to Seller's fee simple title to the Project Site.

2.
GRANT OF OPTION

Seller hereby grants unto Purchaser the irrevocable, sole and exclusive Option to purchase the Property Interest upon the terms and conditions set forth herein.

3.
TERM OF OPTION

The term of the Option will begin on the date hereof and will end at 5:00 o'clock p.m., prevailing legal time in Atlanta, Georgia on _____, 20__.

4.
EXERCISE OF OPTION

4.1 Exercise. Purchaser may exercise the Option at any time during the term of the Option by giving notice thereof to Seller in the manner hereinafter provided. Upon the exercise of the Option by Purchaser, this Agreement will automatically constitute a contract between Seller and Purchaser for the sale and purchase of the Property Interest upon the terms and conditions set forth herein. **SELLER HEREBY ACKNOWLEDGES THAT PURCHASER MAY NOT EXERCISE THE OPTION UNTIL PURCHASER HAS BEEN AUTHORIZED TO DO SO BY THE STATE PROPERTIES COMMISSION.**

4.2 Failure to Exercise the Option. If Purchaser does not exercise the Option before the end of the term of the Option, this Agreement will end, and neither party will have any further obligation hereunder.

5.
PURCHASE PRICE

The Purchase Price is _____, but in no event shall exceed the amount of the Award.

6.
PLAT OF SURVEY

A plat of boundary line survey of the Project Site will be prepared at the expense of Seller and a copy of such plat of survey shall be delivered by Seller to Purchaser at Closing. Such plat of survey shall be prepared in accordance with the requirements of the State Properties Commission.

7.
COVENANTS AND WARRANTIES

7.1 Covenants. Seller hereby covenants and agrees with Purchaser as follows:

- 7.1.1 At all times prior to the Closing, Seller will perform and discharge all obligations imposed upon Seller under all laws, ordinances, rules, regulations or orders of court affecting the Property Interest or the Project Site or the ownership or maintenance thereof.
- 7.1.2 Except as may be approved in writing by Purchaser for the purpose of facilitating financing for the acquisition, construction and implementation of the Project by Seller, Seller will not lease, encumber, transfer or assign or enter into any agreement to lease, encumber, transfer or assign the Property Interest or any interest therein.
- 7.1.3 At all times prior to the Closing, Purchaser, acting through its officers, employees, independent contractors and authorized representatives, will have the right to enter upon the Project Site for the purpose of making inspections, surveys, soil tests and such other tests as Purchaser may deem necessary or desirable. Purchaser shall be responsible for any damage during such entries to the extent authorized by the Georgia Tort Claims Act, O.C.G.A. §50-21-20 et seq.

7.2 Warranties. To induce Purchaser to exercise the Option, Seller makes the following warranties, upon which Purchaser will be entitled to rely without independent investigation and verification, and each of which will be deemed to be material to this Agreement:

- 7.2.1 To Seller's best knowledge, Seller is vested with good and marketable and insurable fee simple title to the Project Site, free and clear of all Title Defects except the Permitted Title Exceptions. Marketability is to be determined in accordance with Georgia law as supplemented by the Title Standards of the State Bar of Georgia.
- 7.2.2 Seller has the full right, power and authority to enter into this Agreement and to execute the terms and provisions hereof.

- 7.2.3 There are no actions, suits or proceedings, at law or in equity, filed in any court against Seller or of which Seller has notice, which affect the title to or any portion of the Property Interest or the Project Site nor any actions or proceedings pending in or before any federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality, either domestic or foreign, which affect the Property Interest or the Project Site, including but not limited to, water, sewage, street paving or power improvements, health, pollution, hazardous materials use, or environmental protection, and Seller has no knowledge of any threatened or pending governmental proceedings which would impair or curtail the full and free access to the Project Site from public streets, roads or other rights-of-way.
- 7.2.4 Upon request of Purchaser, Seller will cause an appropriate environmental audit to be conducted of the Project Site and will provide a copy to Purchaser at no expense to Purchaser. To the best of Seller's actual knowledge, and subject to any reservations in Exhibit C, Seller herein warrants that:
- (a) the Project Site has been in the past and is now in compliance in all material respects with all applicable Environmental Laws (except as noted on Exhibit C); and
 - (b) Seller has obtained all environmental, health and safety permits, licenses and approvals necessary for the operation of the Project Site; all such permits, licenses and approvals are in effect; and Seller is in compliance in all material respects with all terms and conditions thereof (except as noted on Exhibit C);
 - (c) Seller has not received any notification, whether direct or indirect, pursuant to any Environmental Laws that the Project Site, or any portion thereof, are or may be related to or subject to any investigation or evaluation by any governmental authority or other person as to whether any Remedial Action is or may be needed to respond to a Release or threaten Release of Hazardous Substance into the Environment; or any fine or penalty should be levied on, or proceeding commenced, related to or arising from any past operation of the Project Site (except as noted on Exhibit C);
 - (d) To the knowledge of Seller, based on reasonable investigation, there has not been a Release or threatened Release of Hazardous Substances into the Environment for which the Purchaser may become responsible;

(e) There is not now at, on or in the Environment of the Project Site: (a) any generation, treatment, recycling, storage or disposal of any Hazardous Substance; (b) any underground storage tank, surface impoundment, lagoon or other containment facility (past or present) for the temporary or permanent storage, treatment or disposal of Hazardous Substances; (c) any landfill or solid waste disposal area; (d) any asbestos-containing material as defined by the Toxic Substances Control Act; (e) any polychlorinated biphenyls (PCB) used in hydraulic oils, electrical transformers or other equipment; or (f) any Release or threatened Release of Hazardous Substance to the Environment in form or quantity requiring Remedial Action under Environmental Laws (except as noted on Exhibit C).

(f) To the knowledge of the Seller, there is no basis or reasonably anticipated basis for any action, suit, claim, penalty, fine, investigation or proceeding with respect to any Environmental Law, or obligation to remediate conditions under Environmental Laws (except as noted on Exhibit C).

(g) Seller acknowledges that Purchaser does not have actual or constructive notice or knowledge of the present or past existence of any matter addressed in this Section 7.2.4.

(h) Purchaser shall have the right, but not the obligation, to conduct, at its own cost and expense, Environmental Assessments as necessary to identify the existence of actual or potential sources of liability in the Environment of the Project Site. Seller herein authorizes Purchaser, its agents and contractors to enter the Project Site for the purpose of conducting said Environmental Assessments and agrees to provide Purchaser with all information in Seller's possession or within Seller's knowledge, based on reasonable inquiry, concerning the prior use(s) of the Project Site. If, based upon information obtained from any assessment or any other information available, Purchaser determines, within Purchaser's sole discretion, that Purchaser is not willing to expose Purchaser to the risk of the actual or potential liability of the Environment of the Project Site, Purchaser shall have the option of:

(1) Terminating this Agreement prior to Closing by giving written notice of its election to do so; or

(2) Notifying Seller that Purchaser will purchase all, some or none of the Property Interest at a proportionally reduced Purchase Price, to be additionally reduced by the actual cost of remediation.

- 7.2.5 There are no taxes, assessments or liens of any type whatsoever, arising out of or in connection with the Property Interest or the Project Site or Seller's use thereof which are presently due and payable.
- 7.2.6 There are no easements, deeds, covenants, agreements or restrictions of any nature whatsoever which may now or hereafter limit access to the Project Site from any adjoining public way or interfere with Purchaser's use of the Property Interest.
- 7.2.7 The Project Site has vehicular access to a public road.
- 7.2.8 The Georgia law prohibiting certain public officials and employees of the State of Georgia from transacting business with certain state agencies (O.C.G.A. Title 45, Chapter 10, Article 2) has not and will not be violated in any respect by the execution of this Agreement and the closing of the sale and purchase contemplated hereunder. Seller further warrants that Seller has not participated in any "step" or "strawman" transactions or any other actions designed or intended to artificially inflate the value of the Property Interest.
- 7.2.9 Seller will take, or cause to be taken, all action necessary to cause the warranties made in this Agreement to remain true and correct in all respects from the date hereof through the Closing Date and will refrain from taking any action which would cause or threaten to cause any such warranties to become incorrect or untrue at any time during said period.

8.

RISK OF LOSS AND DAMAGE

8.1 Risk of Loss. Pending exercise of the Option by Purchaser and thereafter through and including the Closing Date, the risk of loss will remain with and be assumed by Seller.

8.2 Damage. In the event the Project Site or a portion thereof, is destroyed or damaged by fire or other casualty prior to the Closing, then Purchaser, at its option, may elect between the following remedies:

- 8.2.1 To cancel this Agreement, whereupon the parties will have no further obligation hereunder; or
- 8.2.2 To close the purchase and sale contemplated under this Agreement, whereupon Seller, at the Closing, will transfer and assign to Purchaser all of Seller's right, title and interest in and to a proportional amount of the insurance proceeds received or to be received on account of such damage or destruction. Seller will promptly notify Purchaser of the occurrence of any damage or destruction of the Project Site and of the amount of insurance proceeds to be paid if such amount has been determined prior to

the Closing. Purchaser will make its election on or before the twentieth (20th) day following the date upon which Purchaser receives written notice from Seller of the occurrence of such damage or destruction and the amount of insurance proceeds to be paid, and the Closing Date may be postponed by Purchaser, if necessary, to allow Purchaser the full twenty (20) day period.

9.

TITLE EXAMINATION

9.1 Securing of Title Insurance Commitment. Following Purchaser's exercise of the Option, Purchaser will have a period of sixty (60) days within which to examine the title to the Property Interest and to secure a commitment in writing, from an American Land Title Association title insurer of Purchaser's choice, for the issuance of an owner's policy of title insurance, committing to insure, at its standard rates or less, Purchaser and the title to be conveyed by Seller to Purchaser pursuant to this Agreement, free and clear of all Title Defects, except the Permitted Title Exceptions.

9.2 Curing of Title Defects and Fulfillment of Requirements. Upon receipt by Purchaser of the said commitment for title insurance (hereinafter sometimes referred to as the "commitment"), Purchaser will promptly provide a copy of said commitment to Seller and will simultaneously advise Seller which, if any, of the Title Defects set forth in the commitment as exceptions thereto, Purchaser will waive. Seller acknowledges that Purchaser has no obligation to waive any such Title Defects. Seller hereby covenants affirmatively that Seller will, within a period of thirty (30) days following Seller's receipt of the copy of the commitment, take such action and incur such expense as will be necessary to cure all Title Defects not waived by Purchaser. The cure of such Title Defects will be evidenced by the elimination of exceptions therefore from the commitment by one or more endorsements thereto.

9.3 Subsequent Title Examination. Purchaser will have the right to examine the title from time to time subsequent to Purchaser's initial title examination and to give Seller notice of any additional Title Defects (hereinafter referred to as "Additional Title Defects") which may appear of record or of which Purchaser may otherwise acquire knowledge. Purchaser's notice to Seller of any such Additional Title Defects may be in the form of a copy of an endorsement to the commitment. Seller hereby covenants affirmatively to take such actions and to incur such expense as will be necessary to cure such Additional Title Defects so that the same will not constitute an exception in the policy of title insurance. Seller will have until the expiration of said thirty (30) day period and such additional time as Purchaser may permit, within which to cure such Additional Title Defects; provided, however, that Seller will have not less than ten (10) days within which to cure such Additional Title Defects, with a corresponding postponement of the Closing Date, if necessary, to accommodate said ten (10) day period. Purchaser's rights under this provision extend to any Additional Title Defects which may be discovered after closing for which discovery was delayed by reason of any delay in the official indexing or reporting of filing of real property records in the records of the Clerk of the Superior Court.

9.4 Action By Purchaser And Assistance By Seller. Nothing in this Agreement will prohibit Purchaser from undertaking to cure any Title Defects or to satisfy any commitment requirements in an effort to facilitate the Closing. Seller further hereby covenants affirmatively that, upon request by Purchaser, Seller will assist Purchaser in all reasonable ways to cure any Title Defects and to fulfill such commitment requirements. Such action by Seller will include, but will not be limited to, the execution, and/or cancellation and delivery of all such documents as Purchaser will reasonably request or as the title insurer will require in the commitment. Purchaser will have the same thirty (30) day period within which to cure any Title Defects and to satisfy those commitment requirements which Purchaser has elected to cure and to satisfy, as well as such additional period as Purchaser will deem necessary. Purchaser may, by notice to Seller, postpone the Closing Date to allow Purchaser such additional period; provided however, that Purchaser will not postpone the Closing Date for more than sixty (60) days, unless Seller will agree in writing to such further postponement, and provided further that Purchaser will have no affirmative obligation to undertake to cure any Title Defects or to satisfy such commitment requirements or to continue in any attempts so to do, once undertaken.

9.5 Failure To Cure Title Defects Or To Fulfill Requirements. If Seller fails to cure the Title Defects not waived by Purchaser, or if Purchaser has undertaken and been unable to cure such Title Defects, or if Seller cannot or will not fulfill the commitment requirements and Purchaser is unable or elects not to do so, all within the periods hereinabove set forth, then Purchaser, by written notice to Seller, may elect among the following remedies:

- (a) To waive any remaining, uncured Title Defects and to purchase the Property Interest subject thereto; or
- (b) To cancel this Agreement, in which event neither party hereto will have any further obligation hereunder; or
- (c) Neither to waive the uncured Title Defects nor to cancel this Agreement, but to pursue Purchaser's remedies against Seller for breach hereof, at law and/or in equity.

10. THE CLOSING

10.1 Closing Date. The Closing Date will be on or before the ninetieth (90th) day following Purchaser's exercise of this Option, unless postponed as hereinabove provided or by Purchaser upon written notice to Seller; provided however, that Purchaser will not extend closing by more than sixty (60) days without the consent of Seller. The Closing Date, and the time and place of the Closing, will be designated by Purchaser, and notice thereof will be given to Seller not less than one (1) day prior to the designated Closing Date. Purchaser will designate the attorney who will conduct the Closing (hereinafter referred to as the "Closing Attorney"), and the said Closing Attorney will represent Purchaser at the Closing.

10.2 Closing Costs. Prior to or at the Closing, Seller and Purchaser will respectively pay the following costs:

10.2.1 Expenses of Seller. Seller will pay the following expenses:

- (a) Fees of the Seller's attorneys;
- (b) Costs for filing and recording of the deed of conveyance and any other documents or instruments which Purchaser deems necessary or desirable to place of record;
- (c) Any obligation for real estate brokers' fees or finders' fees incurred with respect to the Property Interest;
- (d) The amount of 120% of the reasonable estimates of costs for environmental remediation to be accomplished pursuant to paragraph 7.2.4 above shall be held in escrow by the closing attorney until such remediation is accomplished and the actual cost of remediation established.
- (e) The costs and expenses of any survey obtained by Seller; and
- (f) All other costs actually incurred by Seller.

10.2.2 Expenses of Purchaser. Purchaser will pay the following expenses:

- (a) Fees and expenses of Purchaser's attorney;
- (b) Premiums for any title insurance; and
- (c) Any other costs and expenses actually incurred by Purchaser.

10.3 Prorated Items. The following items will be prorated at the Closing:

10.3.1 Taxes And Assessments. All ad valorem taxes and assessments for the year in which the Closing occurs, which on the Closing Date are or may become liens on the Property Interest, will be prorated as of the Closing Date. Likewise, if on the Closing Date the Property Interest, or any part thereof, will be or will have been the subject of an assessment or assessments which are or may become payable in installments, of which the first installment is then a charge or lien, or has been paid, then for purposes of this Agreement all the unpaid installments of any such assessment, including those which are to become due and payable after the delivery of Seller's deed of conveyance to Purchaser, will be deemed to be due and payable and to be liens on the Property Interest affected thereby and will be prorated. If the amount of the ad valorem taxes or assessments payable for the year in which the Closing occurs is not ascertainable at the time of the Closing, then the parties will prorate the said taxes and

assessments on the basis of the amount of the tax bill or assessment for the previous year. Seller's prorated share of the said ad valorem taxes and assessments will be deducted from the Purchase Price and retained by Purchaser, and Purchaser will assume the obligation for the payment thereof for the year in which the Closing is held. If the actual ad valorem tax bill or other actual charges and assessments for the year of the Closing are more than the sums which were prorated at the Closing, Purchaser will be solely responsible for payment of the difference. If the actual ad valorem tax bill or other actual charges and assessments are less than the sums which were prorated at the Closing, the benefit will inure to Purchaser without obligation to reimburse Seller for any portion of the overage. If Seller has already paid such taxes and assessments for the year in which the Closing is held, Purchaser's prorated share of such taxes and assessments will be added to the Purchase Price and paid to Seller at the Closing.

10.4 Deliveries At Closing. At the Closing, Seller and Purchaser will each deliver to the other the following:

10.4.1 Delivery by Purchaser to Seller. At the Closing, Purchaser will tender to Seller the Purchase Price in the manner set forth in the provision numbered 10.5 below.

10.4.2 Delivery by Seller to Purchaser. At the Closing, Seller will properly execute and deliver to Purchaser the following:

(a) A deed of conveyance in the form approved by Purchaser, naming as Grantee therein the STATE OF GEORGIA, acting by and through its DEPARTMENT OF COMMUNITY AFFAIRS, and conveying to Purchaser good, marketable and insurable title to the Property Interest, free and clear of all Title Defects, except the Permitted Title Exceptions and any Title Defects which Purchaser has waived by written notice to Seller. Marketability will be determined in accordance with Georgia law and the State Bar of Georgia Title Standards.

(b) An owner's affidavit executed by Seller or the appropriate representative of Seller in a form satisfactory to Purchaser and sufficient to enable Purchaser to have deleted from its policy of title insurance any exception for unfiled mechanics' and materialmens' liens and to permit the issuance at the Closing of the title insurance policy referenced in the provision numbered 9.1 hereof.

- (c) Such resolutions or other documents as Purchaser will reasonably request to evidence and to confirm Seller's power and authority to execute and deliver this Agreement and all of the agreements, instruments and documents contemplated herein to be executed and delivered by Seller.
- (d) State of Georgia Real Estate Transfer Tax Declarations in the form required by Georgia law.
- (e) If applicable, cancelled originals of all notes or other evidence of indebtedness for which the Property Interest were pledged or deeded as security and quitclaim deeds executed by and releasing all the interest in and claims to the Property Interest of any lenders or mortgagees.
- (f) All other quitclaims, releases, agreements, affidavits and other documents, all appropriately executed, necessary to enable Purchaser to comply with all commitment requirements and to have deleted from its policy of title insurance all exceptions for Title Defects, except the Permitted Title Exceptions and any Title Defects which Purchaser has waived by written notice to Seller, or otherwise necessary to enable Purchaser to consummate the purchase and sale contemplated by this Agreement.
- (g) Any applicable IRS forms such as Forms 1099 and 8283.

10.4.3 Other Documents. In addition to all documents, instruments and agreements expressly provided for herein, Purchaser and Seller will execute such other documents as may be reasonably required by counsel for either party to effectuate the purposes of this Agreement.

10.5 Payment of the Purchase Price. At the Closing, Purchaser will tender to Seller its check, which will be neither a cashier's check nor a certified check, payable to Seller in the amount of the Purchase Price, or at the sole option of the Purchaser, wire to the escrow account of the Closing Attorney the amount of the Purchase Price. If by check, at or prior to the Closing, Seller will endorse the said check to be payable to the escrow or trust account of the closing attorney. The closing attorney will prepare and issue checks drawn on the said escrow or trust account as necessary for the payment of the expenses of Seller referenced in the provisions numbered 10.2.1 (b) and (c) above and any other expenses of Seller as necessary in order to fulfill the requirements of the title insurance commitment referenced above or as provided herein. The closing attorney will deduct the sum of those expenses, as well as the amount of any credit to which Purchaser is entitled, from the sum of the Purchase Price and will prepare and issue to Seller a check drawn on the escrow or trust account of the closing attorney or, upon the

written instruction of Seller, issue a wire order to the account of Seller's choice and at Seller's cost, in an amount equal to the difference between these two sums.

11.
DELIVERY OF POSSESSION

Unless otherwise approved in writing by Purchaser, Seller will sell and convey the Property Interest to Purchaser at the Closing. The Property Interest shall be delivered free and clear of any occupancy or claim to occupancy by any other person.

12.
CONTINGENCIES

The obligation of Purchaser to close the sale and purchase contemplated by this Agreement is subject to the following conditions:

12.1 Timely Performance by Seller. The timely and continuing performance by Seller of each and every covenant, agreement and obligation imposed upon Seller in this Agreement.

12.2 Truth and Accuracy. The truth and accuracy as of the date hereof and as of the Closing Date of each and every warranty made by Seller in this Agreement.

12.3 **APPROVAL OF STATE PROPERTIES COMMISSION. THE EXPRESS APPROVAL OF THE STATE PROPERTIES COMMISSION, FOR WHICH APPROVAL THE PURCHASER WILL EXERCISE GOOD FAITH EFFORTS TO SECURE, AND FOR WHICH SELLER AGREES TO COOPERATE AS NECESSARY IN THE APPROVAL PROCESS. PURCHASER WILL NOTIFY SELLER OF THE DECISION OF THE STATE PROPERTIES COMMISSION.**

12.4 Georgia Environmental Policy Act. Purchaser will exercise good faith efforts to secure administrative and substantive compliance and any necessary approvals pursuant to the Georgia Environmental Policy Act. However, should Purchaser determine that it will not be able to utilize the Property Interest for the purposes intended under conditions imposed pursuant to the Georgia Environmental Policy Act and the administrative processes thereunder, then Purchaser may, by written notice to Seller, terminate this Agreement prior to closing, and neither party shall thereafter have any further obligation hereunder.

13.
DEFAULT

If, following Purchaser's exercise of the Option, the sale and purchase of the Property Interest contemplated by this Agreement is not consummated on account of Seller's default hereunder, then Purchaser may elect between the following remedies:

- (a) To cancel this Agreement, whereupon Purchaser will be relieved of all liability hereunder; or
- (b) To seek specific performance of this Agreement against Seller.

Purchaser will also have the right to cancel this Agreement if any of Seller's representations or warranties made herein prove to be untrue in whole or in part, either as of the date hereof or subsequent thereto. Purchaser's rights of cancellation, as set forth in this provision numbered 13 will be in addition to and not in limitation of other provisions of this Agreement granting Purchaser the right to cancel this Agreement. In addition, whenever under this Agreement Purchaser will have the right to cancel the same, Purchaser may also avail itself of any and all remedies available to Purchaser at law or in equity under the laws of the State of Georgia, including but not limited to seeking appropriate damages and costs incurred.

14. BROKERAGE FEES

Seller represents and warrants that with respect to the Property Interest described herein and the subject matter hereof that any obligations of the Seller incurred by or for real estate brokers or agents for commissions or finders fees, whether disclosed or not, shall be the sole responsibility of the Seller. To the extent any such fees are owing, Seller shall immediately notify Purchaser as to the amount owed and the party to whom owed and Seller shall indemnify and hold Purchaser harmless from all such commissions and fees.

15. NOTICES

Purchaser or Closing Attorney may give oral notice of the Closing Date. All other notices to be given under and pursuant to this Agreement will be in writing and given by depositing the same in the United States Certified Mail with a request for the return of a receipt showing the name of the recipient and the date of delivery. Notices will be addressed to the party to be notified at the address first set forth hereinabove, and the date upon which such notice is delivered will be deemed the date thereof. Either party may, from time to time, by five (5) days' prior notice to the other party, specify a different address to which notices will be sent.

Rejection or refusal to accept a notice or inability to deliver a notice because of a changed address of which no notice was given will be deemed a delivery of the notice on the date when postmarked.

16. ASSIGNMENT

Except as herein provided, Seller will not transfer or assign all or any of its right, title or interest hereunder or delegate any of its duties or obligations hereunder without the prior written consent of Purchaser, which consent will not be unreasonably withheld. Purchaser may, without the consent of Seller, transfer or assign this Agreement or any of Purchaser's rights or duties

hereunder to another agency, department or authority of the State of Georgia without Seller's consent.

17.
RIGHTS CUMULATIVE

All rights, powers and privileges conferred hereunder will be cumulative and not restrictive of those given by law.

18.
NON WAIVER

No failure of Purchaser to exercise any right or power given to Purchaser under this Agreement, or to insist upon strict compliance by Seller with the provisions of this Agreement, and no custom or practice of Seller or Purchaser at variance with the terms and conditions of this Agreement, will constitute a waiver of Purchaser's right to demand exact and strict compliance by Seller with the terms and conditions of this Agreement.

19.
CONTINUITY

Each of the provisions of this Agreement, specifically including, but not limited to the Option herein granted, will be binding upon and inure to the benefit and detriment of Purchaser and Seller and the heirs, devisees, legatees, legal representatives, successors and assigns of Purchaser and Seller.

20.
DATE FOR PERFORMANCE

If the time period by which any right, option or election provided under this Agreement must be exercised, or by which any act required hereunder must be performed, or by which the Closing must be held, expires on a Saturday, Sunday or legal holiday, then such time period will be automatically extended through the close of business on the next regularly scheduled business day.

21.
TIME OF THE ESSENCE

All time limits stated herein are of the essence of this Agreement.

22.
EXHIBITS

Each and every exhibit referred to or otherwise mentioned in this Agreement is attached to this Agreement and is and will be construed to be made a part of this Agreement by such reference or other mention at each point at which such reference or other mention occurs, in the

same manner and with the same effect as if each exhibit were set forth in full and at length every time it is referred to or otherwise mentioned.

23.
SEVERABILITY

If any one or more of the provisions contained herein will for any reason be held by any court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability will not affect any other provision hereof, and this Agreement will be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

24.
SURVIVAL

All provisions of this Agreement will survive the Closing and will not be merged into the documents executed and delivered by the parties at the Closing.

25.
CAPTIONS

The brief headings or titles preceding each provision hereof are for purposes of identification and convenience only and should be completely disregarded in construing this Agreement.

26.
GEORGIA AGREEMENT

This Agreement will be governed, construed under, performed and enforced in accordance with the laws of the State of Georgia.

27.
COUNTERPARTS

This Agreement is executed in two (2) counterparts which are separately numbered but each of which is deemed an original of equal dignity with the other and which is deemed one and the same instrument as the other.

28.
NO THIRD PARTY BENEFICIARIES

Nothing herein shall be construed as conferring upon or giving to any person, other than the parties hereto, any rights or benefits under or by reason of this Agreement.

29.
SPECIAL STIPULATIONS

The Special Stipulations set forth on Exhibit C to this Agreement are incorporated by reference and made a part of this Agreement. Insofar as such Special Stipulations conflict with any other provisions of this Agreement, such Special Stipulations will override such conflicting provision.

30.
ENTIRE AGREEMENT

This Agreement implements pertinent provisions of the LOI and together with the LOI, supersedes all prior negotiations, discussion, statements and agreements between Seller and Purchaser with regard to the purchase of the Property Interest by Purchaser, and further constitutes the full, complete and entire agreement between Seller and Purchaser with respect thereto; no member, officer, employee or agent of Seller or Purchaser has authority to make or has made, any statement, agreement, representation or contemporaneous agreement, oral or written, in connection herewith, amending, supplementing, modifying, adding to, deleting from, or changing the terms and conditions of this Agreement. No modification of or amendment to this Agreement will be binding on either party hereto unless such modification or amendment will be properly authorized, in writing, properly signed by both Seller and Purchaser and incorporated in and by reference made a part hereof.

31.
EXECUTION

The individual(s) executing this Agreement on behalf of Seller represent and warrant to Purchaser that such individuals have personal knowledge of the matters stated in this Agreement, and if Seller is a corporation, partnership, government or other legal entity, the individual(s) represent and warrant that they are authorized to execute this Agreement on behalf of Seller.

IN WITNESS WHEREOF, Seller has caused these presents to be duly signed, sealed and delivered on the day, month and year first above written.

SELLER:

By:

_____(Seal)

Name:

Title:

Attest:

(SEAL AFFIXED HERE)

Signed, sealed and delivered
in our presence:

Unofficial Witness

Official Witness, Notary Public

My Commission Expires: _____.

(Notary Public Seal Affixed Here)

LIST OF EXHIBITS

EXHIBIT:

A	Project Site
A-1	Copy of Drawing or Survey of Project Site
B	Title Commitment
C	Special Stipulations
D	Award

DRAFT

EXHIBIT A
PROJECT SITE

DRAFT

EXHIBIT A-1

PLAT OR DRAWING OF PROJECT SITE

DRAFT

EXHIBIT B

TITLE INSURANCE COMMITMENT

(To be supplied upon completion.)

DRAFT

EXHIBIT C

SPECIAL STIPULATIONS

DRAFT

EXHIBIT D

AWARD

DRAFT