

**RESOLUTION OF BOARD OF EDUCATION FOR
HOMER CENTRAL SCHOOL DISTRICT**

WHEREAS, the Homer Central School District (the “*District*”) owns that certain parcel of real property located on Academy Street, Town of Truxton, County of Cortland, State of New York known as the Hartnett Elementary School (the “*Property*”); and

WHEREAS, the Homer Central School District Board of Education (the “*Board*”) previously determined because of, among other things, the continued decline in enrollment across the District that closing the Property was in the best interests of the District and the Property was closed on July 1, 2015;

WHEREAS, on September 22, 2015, the Board authorized the District to enter into that certain Listing Agreement for Sale of New York Real Property with Absolute Auctions & Realty, Inc. (“*Auctioneer*”) for purposes of auctioning the Property via an online internet auction (the “*Auction*”);

WHEREAS, through the Auction, Truxton Alumni & Community Supporters, Inc. (the “*Purchaser*”) has offered to purchase the Property from the District for the purchase price of \$51,000.000 (the “*Purchase Price*”) and has submitted a Contract for Purchase & Sale of New York Real Estate dated as of October 29, 2015 (the “*Contract*”);

WHEREAS, the District desires to sell the Property to the Purchaser upon the terms and conditions as set forth in the Contract attached hereto as Exhibit A.

NOW, THEREFORE BE IT RESOLVED by the Board that:

1. The Board reaffirmed that the Property is not currently needed for District purposes and selling the Property is in the best interests of the District.
2. The Purchase Price represents the best price/value possible for the Property based upon current market conditions.
3. The Board determines that the terms and conditions of the Contract are most beneficial to the District, representing the overall best price/value available for the Property.
4. The District’s execution of the Contract in substantially the same form here is hereby approved.
5. The President of the Board, and/or members of the Board, as appropriate or as otherwise required by law, are hereby authorized, empowered and directed to execute and deliver such documents and take all such action on behalf of the District as may be deemed necessary, appropriate or advisable to carry out the intent or purposes of the foregoing resolutions.
6. The execution, delivery and performance by the President of the Board, and/or the members of the Board, as appropriate or as otherwise required by law, for and on

behalf of the District, of all such further instruments and documents required in connection with the sale of the Property, each in form and substance approved by the President, and/or the members of the Board, as appropriate or as otherwise required by law, his or her signature thereon being conclusive evidence of such approval, are hereby in all respects approved, adopted and authorized by and on behalf of the District.

7. The foregoing resolutions shall remain in full force and effect until a copy of a subsequent resolution revoking or amending them, duly certified by the proper officers of the Board, shall be made by the Board.
8. This resolution shall be effective immediately.

Moved by: _____ Seconded by: _____

Aye _____ Nay _____ Absent _____

Accepted November 10, 2015

Homer, New York

EXHIBIT A

CONTRACT FOR PURCHASE & SALE OF NEW YORK REAL ESTATE

This is a legally binding contract. If not fully understood, we recommend that all parties to the contract consult an attorney before signing.

Date: October 29, 2015

This is a Purchase and Sale agreement, provided at the auction sale herein referenced. By signing below, purchaser acknowledges the terms and conditions for purchase are incorporated herein and same are legally binding, it being the intent of the parties that the obligation of purchaser arising from the "Terms and Conditions" and this Purchase and Sale Contract, shall be deemed one and the same.

1. IDENTIFICATION OF PARTIES TO THE CONTRACT

A. SELLER

Homer Central School District
80 South West Road
Homer, NY 13077
Attn: Ms. Nancy Ruscio, Superintendent
Tel: 607-749-7241

(even though the word "Seller" is singular, it refers to each and all of those who sign below as Seller).

B. PURCHASER

Truxton Alumni and Community Supporters
6169 Dawson Road, Cortland, NY 13045

(even though the word "Purchaser" is singular, it refers to each and all of those who sign below as Purchaser).

2. PROPERTY TO BE SOLD

The property which Seller is agreeing to sell and which Purchaser is agreeing to purchase is known as:

Hartnett Elementary School located at 6337 Academy Street, Town of Truxton, Cortland County, New York (Tax ID: 39.12-01-02.000)
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This property includes all Seller's rights and privileges, if any, to all land, water, streets, and roads annexed to, and on all sides of the property. The lot size of the property is approximately 4.90 acres. Purchaser acknowledges and agrees that the property is being sold as an "as is" "where is" condition and basis.

3. ITEMS INCLUDED IN SALE

The following, if located on the property at the time of signing of the contract, are included in the sale, "as is:"

- A. All buildings and improvements,
- B. Lighting, heating and plumbing fixtures,
- C. Window shades, venetian blinds, traverse rods, curtain rods,
- D. All wall to wall carpeting,
- E. Storm and screen doors and windows,
- F. Water softeners (if owned by Seller),
- G. All shrubbery, trees, and plants in the ground, and,
- H. Other items not listed above and which are included in the sale are listed here: N/A

4. ITEMS EXCLUDED FROM SALE

The following items are excluded from the sale: N/A

5. CONTINGENCIES

Notwithstanding anything to the contrary contained herein and without limiting the generality of the foregoing, closing hereunder is contingent upon: (i) Seller receiving written approval of the sale of the property under the terms and conditions stated herein by Seller's Board of Education; and (ii) Seller receiving approval of the qualified voters of the district for the sale of the property by Seller as required by the New York State Education Law.

6. BUYER'S PREMIUM

It is clearly understood and agreed to by both Purchaser and Seller that THE BUYER'S PREMIUM IS THAT PORTION OF THE COMMISSION WHICH IS BEING PAID BY PURCHASER. ABSOLUTE AUCTIONS & REALTY, INC. (the "Auctioneer/Broker") REPRESENTS ONLY SELLER. In the event Purchaser defaults, the funds held by the Auctioneer/Broker shall be retained to the extent of the full Buyer's Premium and the balance shall be remitted to Seller or its attorney. In the event Seller defaults, Auctioneer/Broker shall be authorized to retain the deposit Seller placed in escrow with Auctioneer/Broker pursuant to the terms and conditions of that separate Listing Agreement for Sale of New York Real Property between Seller and Auctioneer/Broker.

7. FORFEITURE PROVISIONS

Purchaser has heretofore deposited a sum of money at the auction as well as a 10% Buyer's Premium, which said sums are presently within a designated escrow account by the Auctioneer/Broker. Purchaser acknowledges that, in the event of default pursuant to the terms of this contract or a violation of the "Terms and Conditions" of the auction, the funds provided shall be forfeit and immediately released to the Auctioneer/Broker, as same represent liquidated damages. The foregoing shall not be construed as a penalty clause inasmuch as the terms and conditions for the auction identify this fact and inasmuch as the auction has already been conducted and Seller has committed to Purchaser. The parties hereto agree that it represents a fair, equitable and negotiated resolution to Seller's legitimate claim of default, and not a penalty.

8. PURCHASE PRICE

The Purchase Price is:

\$ 56,100.00 (Fifty Six Thousand One Hundred Dollars, U.S.)

9. METHOD OF PAYMENT

Purchaser shall pay the purchase price as follows:

A	\$ 51,000.00	Bid tendered at Auction.
B	\$ 5,100.00	Ten Percent (10%) Buyer's Premium. Purchaser agrees to pay this amount.
C	\$ 56,100.00	Total sale/purchase price which includes the Buyer's Premium. (A+B=C)
D	\$ 5,000.00	Paid as a "Cash/Bank Check/Guaranteed Funds" down payment with this contract at Auction.
F	\$ 0.00	To be paid as the remainder of the 10% Buyer's Premium by wire transfer to Broker's escrow account within twenty-four (24) hours of auction date.
	\$ 51,100.00	Balance due in Cash, Bank or Certified Check at closing. (C-D-E=F)

10. MORTGAGE EXPENSES

- A. Any mortgage recording tax, recording fee, expenses of drawing papers and any other expenses to be incurred in connection with procuring a mortgage shall be paid by Purchaser.
- B. Seller assumes all responsibilities regarding the filing of the required tax reporting forms with respect to the sale and transfer of this property.

11. SELLER'S TITLE

Seller will transfer to Purchaser all his right, title and interest in the property. Seller will convey title to Purchaser subject to any easements of record; existing restrictions, covenants, conditions of record; zoning and environmental protection laws in existence as of this date so long as the foregoing does not render title uninsurable. Seller will deliver title that any reputable title company will insure. Purchaser is responsible for ordering and paying for survey, title search and title insurance he desires.

12. DEED

The property shall be transferred from Seller to Purchaser by means of a bargain and sale deed with covenant against grantor's acts. The deed will be properly prepared and signed so that it will be accepted for recording by the County Clerk in the County in which the property is located. If Seller is transferring the property as an executor, administrator, trustee, committee or conservator, the deed usual to such cases shall be accepted.

13. NEW YORK STATE TRANSFER TAX.

Seller agrees to pay New York State Real Property Transfer Tax as set by law, except mansion tax to be paid by Purchaser.

14. TAX AND OTHER ADJUSTMENTS

The following shall be adjusted between Purchaser and Seller as of the date of possession.

- A. Rents, if any, as and when collected,
- B. Interest and mortgage escrow account, if any
- C. Taxes, sewer and water rents,
- D. Municipal assessment yearly installment, if any
- E. Fuel, if any

15. DATE AND PLACE OF TRANSFER OF TITLE

The transfer of title to the property from Seller to Purchaser will take place at the office of the lender's attorney if the Purchaser obtains a mortgage loan from a lending institution. Otherwise, the closing will be at the office of the attorney for Seller. The closing will be completed with title transferred within thirty (30) days following the satisfaction of the contingencies set forth above in paragraph 5, time is of the essence.

16. POSSESSION

The purchaser shall be granted possession of the property at closing, provided transfer of title has occurred. The Purchaser recognizes that possession of the property is subject to the rights of any tenants on the property.

17. DOWN PAYMENTS:

It is agreed that any payments made by Purchaser prior to transfer of title are to be deposited with the Selling broker. Down payment(s) will be held in an escrow account designated by the Auctioneer/Broker at which time broker shall apply the total payments to the brokerage fee due and any excess of down payment over and above the fee earned will go to Seller unless there has been a forfeiture or an agreed and written agreement for distribution of funds which is contrary to the form provided herein. Any interest earned on down payments will be the property of ABSOLUTE AUCTIONS & REALTY. If Purchaser fails to perform, the forfeiture provisions set forth in paragraph 7 shall apply to downpayment funds.

18. BROKER PARTICIPATION

The parties acknowledge that Auctioneer/Broker is acting as Seller's agent only. Purchaser represents that no agent representing Purchaser or any other such Broker will claim that they have procured this transaction unless a properly executed Broker Participation form is acknowledged by Auctioneer/Broker. In the event of any such claim outside of said Broker Participation form, Purchaser shall bear full responsibility for any such claim and hold harmless and indemnify Seller or Auctioneer/Broker therefrom.

19. REMEDIES UPON DEFAULT

In the event there is no forfeiture pursuant to paragraph 7 or 17 above, Seller shall have any other available remedy under New York law, including but not limited to, an action for damages, specific performance, declaratory judgment, injunctive relief, or any other recognizable claim. In the event of an action commenced in any court that possesses jurisdiction over the parties, Seller shall be entitled to recoup court fees, attorney fees, any costs associated with re-auctioning the property and/or re-marketing the property, and any other expenses reasonably related to Purchaser's default, from the defaulting party.

20. ENTIRE AGREEMENT

There are no representations made outside of the four corners of this contract, and the provisions herein made with respect to Purchaser's obligations are integrated and hereby incorporate the Terms and Conditions executed by Purchaser on the occasion of the auction. Purchaser acknowledges this property is transferred as is, and there are no warranties, guarantees or promises which shall survive title. By execution of this contract, Purchaser acknowledges it has had ample opportunity prior to

execution to inspect, review and observe and all conditions relative to the subject premises which would cause concern to a reasonable purchaser.

21. BINDING CONTRACT

Purchaser and Seller agree that they, their heirs, legal representatives, successors and assigns will be bound under this contract. A signed facsimile of this document will represent a fully executed contract.

22. PURCHASER AGREES TO PAY ABSOLUTE AUCTIONS & REALTY, INC. A BUYER'S PREMIUM OF:

\$ 5,100.00 (Five Thousand One Hundred Dollars, U.S.) upon signing this agreement.

23. SELLER'S AGREEMENT TO PAY COMMISSION

Seller hereby accepts the above offer and agrees to sell the property on the terms and conditions set forth herein. Seller further agrees to pay Auctioneer/Broker a commission pursuant to the terms and conditions of that separate Listing Agreement for Sale of New York Real Property between Seller and Auctioneer/Broker.

24. NOTICES

All notices, demands and requests required under this Agreement shall be in writing. All such notices, demands and requests shall be deemed to have been properly given if delivered personally or sent by United States Registered or Certified Mail or by nationally recognized guaranteed overnight courier delivery service, postage prepaid, addressed to either party at the addresses set forth above in paragraph 1 and any other such address that either party may from time to time designate by written notice addressed to one another. Notices, demands and requests which shall be delivered by Registered or Certified Mail or by guaranteed overnight delivery upon Seller or Purchaser shall be deemed to be given at the time such notice, demand or request shall be mailed United States Registered or Certified Mail, postage prepaid, or deposited, postage prepaid, with any nationally recognized overnight courier.

25. GOVERNING LAW; VENUE.

This Agreement shall be interpreted, construed and enforced in accordance with and governed by the internal laws of the State of New York without reference to the principles of conflicts of laws. Each party hereby irrevocably consents to the exclusive jurisdiction of the courts of the County of Cortland and State of New York and of the federal courts located in the Northern District of New York for all purposes in connection with any action, suit or proceeding which arises out of or relates to this Agreement. To the fullest extent it may effectively do so under applicable law, each party hereby irrevocably waives and agrees not to assert, by way of motion, as a defense or otherwise, any claim that it is not subject to the jurisdiction of any such court, any objection which it may now or hereafter have to the laying of the venue of any such action, suit or proceeding brought in any such court and any claim that any such action, suit or proceeding brought in any such court has been brought in an inconvenient forum.

26. AMENDMENTS.

This Agreement may not be modified, amended or terminated nor may any of its provisions be waived except by an agreement in writing signed by the party against whom enforcement of any such modification, amendment, termination or waiver is sought, and then such modification, amendment, termination or waiver shall be effective only in the specific instance and for the specific purpose for which given.

27. FURTHER ASSURANCES.

Each party hereto shall, at any time and from time to time, execute, acknowledge where appropriate and deliver such further instruments and documents and take such other action as may be reasonably requested by the other party in order to carry out the intent and purpose of this Agreement. This paragraph shall survive the closing under this Agreement.

28. SUCCESSORS AND ASSIGNS.

Subject to the terms and conditions hereof, the covenants, agreements, terms, provisions and conditions contained in this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective distributees, legal representatives, successors and assigns.

29. COUNTERPARTS.

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute but one and the same instrument and shall be binding upon each of the undersigned as fully and completely as if all had signed the same instrument.

[No further text on this page. Signature page to follow.]

IN WITNESS WHEREOF, each of the parties hereto has caused its duly authorized representative execute this Agreement as of the date first above set forth.

Seller:

HOMER CENTRAL SCHOOL DISTRICT

Purchaser: TRUYTAN ADMIN & COMMUNITY SUPPORTS, INC.

[Insert Purchaser's Name]

By: _____
Name: _____
Title: _____

Date: _____

By: 
Name: PATRICIA DAWSON
Title: CHAIRMAN OF THE BOARD

Date: 10/29/2015

Seller's Attorney:

Harris Beach PLLC
99 Garnsey Road
Pittsford, NY 14534
Attn: Kevin L. Overton, Esq.
Email: koverton@harrisbeach.com
Tel: 585-419-8800
Fax: 585.419.8815

Purchaser's Attorney:

FRANCIS J. CASSULLO
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