

WAYZATA PUBLIC SCHOOLS

Independent School District 284
Wayzata, Minnesota

BOARD OF EDUCATION

Special Meeting - December 15, 2014 - 4:00 PM
District Administration Building

AGENDA

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|--|----|
| 1. Call to Order & Roll Call | 3 |
| 2. Administration | |
| 3. Human Resource Services | |
| 4. Finance and Business | |
| A. Approve Purchase Agreement for Purchase of Land | 4 |
| B. Approve Third Party Agreement for Sale of Land | 17 |
| C. Resolution Providing for Open Enrollment Non-Resident Agreement 2015-2016 | 23 |
| 5. Adjourn | 25 |

WAYZATA PUBLIC SCHOOLS

Independent School District 284
Wayzata, Minnesota

MISSION

Our Core Purpose:

The mission of Wayzata Public Schools is to ensure a world-class education that prepares each and every student to thrive today and excel tomorrow in an ever-changing global society.

VISION

What We Intend to Create and Experience:

The vision of Wayzata Public Schools is to be a model of excellence where all students discover their unique talents, develop a love and tenacity for learning and demonstrate confidence and capacity for success through:

Exceptional Student Learning, Experiences and Relationships:

- High achievement by each and every student—no exceptions, no excuses;
- Content-rich, rigorous and personalized education;
- Meaningful relationships with teachers, staff, mentors and peers in a welcoming, nurturing and safe environment.

Community Trust, Confidence and Partnership:

- Comprehensive learning opportunities meeting diverse learner needs and community aspirations;
- Committed to being the first choice for students and families;
- Maintaining the highest levels of satisfaction and pride by staff, parents and community.

Operational Excellence:

- Attraction, development and retention of exemplary, creative and valued employees;
- Effective and efficient use of time and human, financial and physical resources;
- Culture of continuous improvement and responsive innovation;
- High performing district governance, management and partnerships.

WAYZATA PUBLIC SCHOOLS
Independent School District 284
Wayzata, Minnesota

BOARD OF EDUCATION
Special Meeting – December 15, 2014

AGENDA SECTION: 1. Call to Order

ITEM: Call to Order/Roll Call Attendance

COMMENTS BY: Linda Cohen, Board Chair

School Board Chair, Ms. Linda Cohen, will call the meeting to order.

	<u>Present</u>	<u>Absent</u>
Ms. Linda A. Cohen	_____	_____
Ms. Andrea Cuene	_____	_____
Ms. Sarah Johansen	_____	_____
Mr. Jay A. Hesby	_____	_____
Mr. Chris McCullough	_____	_____
Ms. Carter G. Peterson	_____	_____
Ms. Cheryl Polzin	_____	_____
Dr. Chace B. Anderson, Ex Officio	_____	_____

WAYZATA PUBLIC SCHOOLS
Independent School District 284
Wayzata, Minnesota

BOARD OF EDUCATION
Special Board Meeting- December 15, 2014

AGENDA SECTION: SUPERINTENDENT’S REPORTS AND RECOMMENDATIONS

ITEM: Finance and Business Services

COMMENTS BY: Jim Westrum, Exec. Director of Finance and Business

Resolution Approving the Purchase Agreement for the Purchase of Land

Whereas; Voters approved the issuance of bonds to construct a new elementary building in February 2014 and;

Whereas; the District administration has located a suitable piece of land and agreed upon acceptable terms and conditions; and;

Whereas; the District’s legal counsel has reviewed the purchase agreement to acquire the land, and; Whereas; on November 24, 2014 the Board authorized Chace B. Anderson, Superintendent and James R. Westrum, Executive Director of Finance to enter into a purchase agreement;

Whereas; both parties will satisfy pre-requisite terms and conditions required prior to the actual closing.

Now therefore be it resolved that the Administration recommends that the School Board approve the purchase agreement for land for the new elementary building and affirm the authorization of Chace B. Anderson, Superintendent and James R. Westrum, Executive Director of Finance as authorized signers on the purchase agreement.

RECOMMENDED ACTION The Administration is recommending the School Board approve the purchase agreement presented and affirms the authorized signers.

Motion by: _____ ROLL CALL Passed _____

Second by: _____ VOTE Failed _____

**PURCHASE AGREEMENT
CR47 AND LAWDALE LANE**

THIS PURCHASE AGREEMENT (this "**Agreement**") is made as of the 11th day of December, 2014 (the "**Effective Date**"), by and between Scherber Investment Limited Partnership, a Minnesota Limited Partnership, located at 305 Lakeview Avenue, Tonka Bay, MN, 55331 ("**Seller**") and Independent School District 284, a Minnesota independent school district, located at 210 County Road 101 North, Plymouth, MN 55447 ("**Buyer**").

RECITALS

A. Scherber Investment Limited Partnership ("**Seller**") is the owner of certain real property (the "**Land**") located in Plymouth, MN, Hennepin County Property ID number **0611822130005**.

B. Seller has entered into a purchase agreement (the "**GWS Agreement**"), dated February 12, 2013, for the sale of the Land to GWS Land Development of Plymouth, LLC (hereafter "**GWS**").

C. GWS and Buyer have entered into a separate agreement (the "**Third Party Agreement**") pursuant to which they have agreed that Buyer will enter into and perform this Agreement for the purchase of part of the Land from Seller, subject to the conditions stated herein and with the cooperation of GWS and GWS will release the Property from the provisions of the GWS Agreement.

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the parties agree as follows:

1. **PURCHASE AND SALE.** Subject to the terms and conditions of this Agreement, and for and in consideration of the mutual promises, agreements and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Seller agrees to sell to Buyer, and Buyer agrees to purchase from Seller all of the following (hereinafter referred to as "**Property**"):
 - (a) That certain real property consisting of approximately 21.8 (+/-) gross acres of land (the "**School Land**"), approximately depicted on **Exhibit A** attached hereto. GWS or Seller will plat the School Land depicted on Exhibit A into a lot or outlot prior to closing, subject to Buyer's approval and substantially consistent with the boundaries depicted in Exhibit A (the Land less the School Land is herein referred to as the "**GWS Land**").
2. **PURCHASE PRICE.** The purchase price ("**Purchase Price**") of the Property shall be Four Million Two Hundred Thousand Dollars (\$4,200,000.00) payable as follows: By wire transfer of immediate available funds, subject to customary adjustments and pro rations.

3. SURVEY. GWS has agreed to provide Buyer with an ALTA survey of the property as described in the Third Party Agreement.
4. DUE DILIGENCE; ACCESS AND INDEMNIFICATION. After the execution of this Agreement, Buyer shall have access to the property for a period of 120 days (the “**Due Diligence Period**”) to investigate site conditions of the Property. Such due diligence investigation shall include but not be limited to such matters as environmental conditions, soil conditions, physical condition, zoning, title, pending assessments, litigation pending against the Property, and access to the Property. Seller shall allow Buyer and Buyers’ agents access to the Property without charge and at all reasonable times for the purpose of investigation, surveying, planning and testing, provided that Buyer or Buyers’ agents shall make a reasonable effort to identify themselves to any occupants of the Property at the time of entering onto the Property. Buyer shall pay all costs and expenses of such investigation and testing and shall indemnify, defend and hold Seller and the Property harmless from all costs and liabilities, including but not limited to mechanics’ liens caused by the activities of Buyer or Buyers’ agents, contractors or subcontractors. Buyer shall further repair and restore any damage to the Property caused by or occurring during such testing and return the Property to substantially the same condition as existed prior to such entry. Prior to the Closing date, Buyer shall not construct or cause the construction of any improvements on the Property, nor allow the filing of any mechanic’s lien(s) against Property.
5. COOPERATION WITH GWS. Seller and Buyer shall indemnify and hold one another harmless from any terms of their agreements with GWS and each acknowledge that the other may have to provide GWS with consideration to facilitate the closing of Property and neither party shall have any claim to consideration the other provides GWS, provided that such consideration does not affect the sale of the Property.
6. PLATTING. It is understood and agreed that Buyer intends to develop the Property for purposes benefitting Buyer, including but not limited to school buildings, play fields, roads to access the neighboring property owned by Buyer, and, prior to closing, it may become necessary to seek government approvals to subdivide the Property into lots and blocks, outlots, and dedicated streets and easements. In the event that Buyer is not in default of any of the terms contained in this Agreement, Seller agrees to join with Buyer or GWS in any petition to rezone the subject property and agrees to execute all applications, owner consents, documents and agreements as required by various governmental entities to effectuate such development. Seller shall fully cooperate with Buyer and GWS to achieve final plat approval from the City of Plymouth and other governmental and regulating authorities.
7. CLOSING DATE. The closing date shall be on or before the date which is fifteen (15) days after the recording of the final plat for the Land (“**Closing Date**”) If the Land has not been subdivided prior to June 30, 2015, this Agreement may be cancelled and considered null and void at the written election of Buyer, or Buyer may elect to extend the Closing Date further to a date not later than December 31, 2015, if Buyer reasonably

believes that the platting process is proceeding and can be completed by December 15, 2015.

8. COMMISSION. Buyer and Seller represent that neither party is represented by a Broker in this transaction and that no real estate commissions are due any third party as a result of this transaction. Seller and Buyer agree to hold each other harmless from any claims from third parties relating to commissions due for the purchase and both shall indemnify, hold harmless and defend the other from or against any such commissions or claims therefore.

9. TITLE. Within 30 days after execution of this Agreement, Seller shall provide Buyer, at Seller's expense, a title commitment (the "**Commitment**") from Custom Home Builders Title ("**Title Company**") for a standard owner's policy of title insurance, including all name searches and a search for special assessments, and including legible copies of all documents referenced in Schedule B of the Commitment as an exception to title. Buyer shall have 30 days from receipt of both the Commitment and Survey (from GWS) as provided in section 3) to review, approve or object to the status of the title to the Property, and to review, approve or object to any matters disclosed on the Survey, including gaps, overlaps, encroachments, conflicts in boundary line, or other matters which adversely affect either (i) marketability of Seller's title or (ii) Buyer's proposed development of the Property. Any matter to which Buyer does not object in writing within said 30 days shall be deemed waived and those matters shall be Permitted Encumbrances. Buyer shall have no obligation to object to any mortgages or other liens, the release of all of which will be provided by Seller at Closing. Seller shall not be obligated to update the Commitment prior to the Closing date; any such updates to be obtained at Buyer's sole cost and expense. Additionally, Buyer shall pay for any owner's or mortgagee's title insurance policy.

Seller shall have 30 Business Days after notice of any written objection to title to eliminate or cure the same, and if Seller is unable or unwilling to do so, Buyer, at its option, by a written notice to Seller may elect to a) cancel this Purchase Agreement and any Earnest money paid shall promptly be refunded or b) accept title with the matter objected to, constituting a Permitted Encumbrance ("**Permitted Encumbrance**" or "**Permitted Encumbrances**"), taking the Property "as is" and subject to all Permitted Encumbrances.

In the event of cancellation under this Section, this Agreement shall thereupon become null and void and have no further force and effect. Any exceptions to title Buyer accepts or waives shall be deemed to be "Permitted Encumbrances."

10. REPRESENTATIONS OF SELLER. Seller hereby represents, to Buyer as follows:
 - (a) Seller is fee owner of the Property with full authority to sell and transfer the property to Buyer, subject only to the rights of GWS under the GWS Agreement.

- (b) There is no action or proceeding pending against Seller or any part of the Property that, if determined adversely as to Seller, or the Property, would have a material adverse effect on title to the Property, or that could interfere with the consummation of the transaction contemplated by this Agreement, and, to the best of Seller's knowledge, no such action or proceeding is contemplated or threatened by any party.
- (c) To the best of Seller's knowledge there are no Hazardous Materials (as defined under any federal, state, or local law or ordinance) that have been stored, released, removed from, or placed, held, located or disposed of, on, under or at the Property or any part thereof, and, to the best of Seller's knowledge, no part of the Property has even been used as a treatment, storage or disposal site for any such Hazardous Materials.
- (d) To the best of Seller's knowledge, there are no unrecorded contracts, leases, easements or other agreement, or claim of any third party, affecting the use, title, occupancy or development of the Property, and no person, firm, entity has any right of first refusal, option or other right to acquire all or part of the Property, except for the GWS Agreement.
- (e) Each and every material undertaking and material obligation of Seller under this Agreement shall be performed by Seller timely when due.
- (f) To the best of Seller's knowledge, Seller has made proper disclosures to Buyer, as required by law, as to all wells, private sewer systems, and aboveground or underground storage tanks located upon the Property.

If Seller obtains any information prior to Closing that would affect or change any of the foregoing representations or warranties, Seller will give Buyer prompt written notice of such change. The notice will include a detailed explanation of the nature of the matter and the representation or warranty affected and/or changed. If there is any such change, then Seller shall not be in default hereunder, but Buyer shall have the option to terminate this Agreement by giving written notice thereof to Seller within twenty (20) days of receipt of Seller's notice, and thereafter neither party shall have any further rights or obligations under this Agreement.

11. CONTINGENCIES. Buyer's obligation to close the transaction described herein is and shall be contingent upon Buyer determining in Buyer's discretion that Buyer is satisfied with matters disclosed or discovered in Buyer's due diligence investigation and analysis of the Property. If the foregoing contingency has not been satisfied or waived by Buyer within the Due Diligence Period, then this Agreement may be terminated at Buyer's option, and upon written notice of termination within said time period the parties shall execute a Cancellation of Purchase Agreement and neither party shall have any further rights or obligations with respect to this Agreement or the Property. Buyer shall have the right to waive unilaterally any contingency and proceed to close. If Buyer fails to notify

Seller within the 120 day Due Diligence Period that the contingency is not satisfied, the contingency shall be deemed satisfied or waived.

Buyer's obligation to close is further conditioned upon:

- (a) The representations and warranties of Seller contained in this Agreement must be true now and must be true on the Closing Date in all material respects as if made on the Closing Date.
- (b) Title shall have been found acceptable, or made acceptable, in accordance with the requirements and terms of Section 9 above.
- (c) Seller shall not be in default under the provisions of this Agreement.
- (d) There shall have been no material adverse change in the Property or rights associated with the Property since the expiration of the Due Diligence Period.
- (e) Buyer shall be able to obtain owner's and lender's title policies at closing in form (including endorsements reasonably requested by Buyer) reasonably acceptable to Buyer.
- (f) GWS shall have complied with all of its obligations under the Third Party Agreement.
- (g) Buyer and GWS shall have agreed to the provisions of the Closing Agreement as described in Sections 6 of the Third Party Agreement.

12. TAXES/ASSESSMENTS. Seller shall pay all special assessments, whether deferred, levied or pending as of the full execution of this Agreement. Seller to pay any taxes due as a result of a deferral; such as Green Acres or Open Space. Real estate taxes payable in the year of the Closing shall be prorated to the date of Closing.

13. CLOSING DOCUMENTS.

- (a) At Closing, Seller shall execute and deliver to Buyer, or cause GWS to execute and deliver to Buyer, the following documents:
 - (i) A general warranty deed (the "**Deed**"), conveying marketable fee simple title to the Property subject only to the Permitted Encumbrances.
 - (ii) Seller's abstract of title to the Property if such is in Seller's possession.
 - (iii) The originals of all records, contracts or other documents pertaining to ownership and maintenance of the Property as may be currently in Seller's possession.

- (iv) Evidence, reasonably satisfactory to Buyer and the Title Insurer, of authority of any person or persons executing instruments for or on behalf of Seller.
 - (v) A standard form Affidavit of Seller.
 - (vi) A non-foreign affidavit, properly executed, containing such information as is required by Internal Revenue Code Section 1445(b)(2) and its regulations.
 - (vii) A certificate to the effect that the warranties of Seller contained in this Agreement are true, correct and complete in all material respects as of the Closing Date.
 - (viii) A well certificate as required by law.
 - (ix) If the Real Property contains or contained a storage tank, an affidavit with respect thereto, as required by Minn. Stat. § 116.48.
 - (x) A quit claim deed from GWS.
 - (xi) Settlement statement.
 - (xii) Any other items or documents affecting the conveyance and sale of the Property that may be reasonably requested by Buyer or the Title Insurer, or that may be necessary to carry out the purpose and intent of this Agreement.
- (b) At Closing, Buyer shall deliver to Seller the following:
- (i) The Purchase Price, as provided in Section 2 above.
 - (ii) Settlement statement.
 - (iii) A Certificate of Real Estate Value, as required by Minnesota Law.
 - (iv) Any other items or documents affecting the conveyance and sale of the Property that may be reasonably requested by Seller, are otherwise set forth in this Agreement, or that may be necessary to carry out the purpose and intent of this Agreement.

14. CLOSING COSTS. Buyer shall be responsible for all premiums required for the issuance of the title policy or policies, mortgage registration tax, recording fees and one half of the closing fees charged by Title Insurer. Seller shall be responsible for payment of the state deed tax, cost of issuing the title insurance commitment and one half of the closing fee charged by Title Insurer.

15. DEFAULT.

- (a) If Seller, through no fault of Buyer, defaults in Seller's material obligations hereunder, Buyer may, by notice to Seller, (i) terminate this Purchase Agreement, in which event all earnest money paid hereunder, if any, shall immediately be delivered to Buyer, or (ii) avail itself of an action for specific performance, provided that such action must be commenced within six (6) months following the date the cause of action arises.
- (b) If Buyer shall default in the performance of any of its obligations hereunder, then Seller shall be entitled, as its sole and exclusive remedy, to terminate this Agreement pursuant to Minn. Stat. §559.21. Upon such termination, no party hereto shall have any further claim against the other hereunder, it being understood that buyer's liability, if any, for failure to close on this Agreement shall be limited solely to the forfeiture of the Deposit under the Third Party Agreement. Nothing herein shall relieve Buyer of any obligation to indemnify or hold Seller harmless as stated herein.
- (c) In the event this Purchase Agreement is terminated, Buyer and Seller agree to execute a Cancellation of Purchase Agreement.

16. TAX-FREE EXCHANGE. Intentionally Omitted.

17. WELL DISCLOSURE. Seller certifies that Seller knows of no wells on the Property.

18. SEWAGE TREATMENT SYSTEM. Seller certifies there are no individual sewage treatment systems on or serving the Property.

19. WAIVER OF DISCLOSURES. Intentionally omitted.

20. METHAMPHETAMINE DISCLOSURE. To the best of Seller's knowledge, methamphetamine production has not occurred on the Property.

21. MISCELLANEOUS PROVISIONS.

- (a) NOTICES. Any notice, consent, approval, waiver, or election that any party shall be required or permitted to make or give under this Agreement shall be in writing and shall be hand-delivered or sent by United States certified mail. Postage prepaid, and shall be effective when hand-delivered or deposited in the mail as aforesaid and addressed to the respective parties at the addresses below:

If to Seller: Scherber Investment Limited Partnership
Attn: Craig Scherber
305 Lakeview Avenue
Tonka Bay, MN 55331

With Copy to: GWS Land Development of Plymouth, LLC
Attn: Jake M. Walesch
10850 Old County Road 15
Suite 200
Plymouth, MN 55441

If to Buyer: Wayzata School District 284
Attn: Jim Westrum
Administration Building
210 County Road 101 North
Plymouth, MN 55447-4108

With copy to: Briggs and Morgan, P.A.
2200 IDS Center, 80 S. 8th Street
Minneapolis, MN 55402
Attention: James E. Nelson

With Copy to: GWS Land Development of Plymouth, LLC
Attn: Jake M. Walesch
10850 Old County Road 15
Suite 200
Plymouth, MN 55441

Either party may, from time to time, change the address to which notice shall be sent by like notice given to the other party hereto.

- (b) POSSESSION. Seller shall have possession of the property at closing.
- (c) ENTIRE AGREEMENT. This Agreement, together with the Exhibits hereto, constitute the entire agreement between Seller and Buyer, and there are no other covenants, agreements, promises, terms, provisions, conditions, undertakings, or understandings, either oral or written, between them concerning the Property other than those herein set forth. No subsequent agreement shall be binding upon Seller or Buyer unless in writing and signed by both Seller and Buyer.
- (d) BINDING EFFECT. All of the provisions of this Agreement are hereby made binding upon personal representatives, heirs, successors, and assigns of all parties hereto.
- (e) TIME OF ESSENCE. Time is of the essence of this Agreement.
- (f) SEVERABILITY OF PROVISIONS. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be valid under applicable law, but if any provision of this Agreement shall be invalid or prohibited hereunder, such provision shall be ineffective to the extent of such prohibition or

invalidation, which shall not invalidate the remainder of such provision or the remaining provisions of this Agreement.

- (g) COUNTERPARTS. This Agreement may be executed in counterparts. The execution by all of the parties hereto by each signing a counterpart of this Agreement shall constitute a valid execution and this Agreement and all of its counterparts so executed shall be deemed for all purposes to be a single document.
- (h) GOVERNING LAW. This Agreement shall be construed under and in accordance with the laws of the State of Minnesota.
- (i) SURVIVAL. The representations, warranties and covenants contained herein shall be effective on the date hereof and on the Closing date and shall not merge in the Deed or any other document and shall survive the Closing.
- (j) CONSTRUCTION. The parties acknowledge that each party and its counsel have reviewed and approved this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments or exhibits hereto.
- (k) BUSINESS DAYS. The term "**Business Day**" means Monday through Friday except legal holidays in the State of Minnesota. If the final day of any period or any date of performance under this Agreement falls on a day other than a Business Day, then the final day of the period or the date of performance shall be extended to the next Business Day.
- (l) ATTORNEY'S FEES. Each party will pay its own attorney's and other consultant fees, except that a party defaulting under this Agreement or any Closing Document will pay the reasonable attorney's fees and court costs incurred by the non-defaulting party to enforce its rights hereunder.
- (m) PROPERTY SOLD "AS IS". Except as specifically represented herein and without other exception, the Property and all other assets are sold "AS IS," "WHERE IS" and "WITH ALL FAULTS." Seller makes no representation or warranty to Buyer as to the physical condition of the Property except as Seller is required to disclose herein regarding hazardous waste and other required disclosures, the Buyer acknowledging that it is a sophisticated developer of land, and it has had sufficient time to inspect the Property and verify Buyer's intended use and development of the Property. **EXCEPT AS REQUIRED HEREIN, SELLER DISCLAIMS ANY AND ALL OTHER WARRANTIES WHATSOEVER WITH RESPECT TO THE PROPERTY, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.** Seller makes no representation or warranty as to


operative or proposed governmental laws and regulations (including, but not limited to, zoning, environmental and land use laws and regulations) to which the Property is or may become subject. Buyer acknowledges that it has entered into this Agreement on the basis of its own review and investigation of the physical attributes of the Property for its intended purposes, and of the applicability and effect of laws and regulations.

- (n) ACCEPTANCE; EFFECTIVE DATE. This Agreement is subject to acceptance by Seller on or before December 12, 2014, by Seller executing and delivering an executed counterpart copy of this Agreement, failing which this Agreement shall automatically become null and void and of no further force and effect, it being understood that this Agreement is Buyer's offer to purchase the Property until it is effectively accepted by Seller. Seller shall insert the date of his execution of this Agreement on the first line of the Agreement (which shall be the "Effective Date"), and shall on the date of execution deliver an executed counterpart copy to Buyer

IN WITNESS WHEREOF, this Purchase Agreement has been executed as of the date and year first above written.

SELLER:

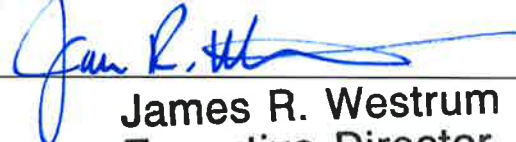
Scherber Investment Limited Partnership

By:  _____
Craig Scherber

Its:  _____

BUYER:

Independent School District 284

By:  _____
Its: **James R. Westrum**
Executive Director
Finance and Business

**EXHIBIT A
(PROPERTY DEPICTION)**

WAYZATA PUBLIC SCHOOLS
Independent School District 284
Wayzata, Minnesota

BOARD OF EDUCATION
Special Board Meeting- December 15, 2014

AGENDA SECTION: SUPERINTENDENT’S REPORTS AND RECOMMENDATIONS

ITEM: Finance and Business Services

COMMENTS BY: Jim Westrum, Exec. Director of Finance and Business

Resolution Approving the Third Party Agreement for the Sale of Land

Whereas, the District administration has located a suitable piece of land and agreed upon acceptable terms and conditions; and;

Whereas; the District Administration has suitable buyers for land currently owned by the district;

Whereas; the District’s legal counsel has reviewed the third party agreement to sell the land, and;

Whereas; on November 24, 2014 the Board authorized Chace B. Anderson, Superintendent and James R. Westrum, Executive Director of Finance to enter into a third party agreement;

Whereas; both parties will satisfy pre-requisite terms and conditions required prior to the actual closing.

Now therefore be it resolved that the Administration recommends that the School Board approve the third party agreement for sale of land and affirm Chace B. Anderson, Superintendent and James R. Westrum, Executive Director of Finance as authorized signers on the third party agreement.

RECOMMENDED ACTION The Administration is recommending the School Board approve the third party agreement for the sale of land as presented and affirms the authorized signers.

Motion by: _____ ROLL CALL Passed _____

Second by: _____ VOTE Failed _____

**THIRD PARTY AGREEMENT
CR47 AND LAWNDALE ELEMENTARY PROPERTY**

THIS AGREEMENT (this “**Agreement**”) is made as of the 5th day of December, 2014 (the “**Effective Date**”), by and between GWS Land Development of Plymouth, LLC located at 10850 Old County Road 15, Suite 200, Plymouth, MN 55441 (“**GWS**”) and Independent School District 284, a Minnesota independent school district, located at 210 County Road 101 North, Plymouth, MN 55447 (“**District**”).

RECITALS

A. Scherber Investment Limited Partnership (“**Seller**”) is the owner of certain real property (the “**Land**”) located in Plymouth, MN, Hennepin County Property ID number 0611822130005.

B. Seller and GWS have previously entered into a purchase agreement (the “**GWS Agreement**”) dated February 12, 2013, for the sale of the Land to GWS.

C. Seller and District have entered into a separate purchase agreement (the “**District Agreement**”) for the sale of a portion of the Land (the “**School Land**”) to District. (The Land less the School Land is herein referred to as the “**GWS Land**”).

D. This is the “**Third Party Agreement**” referenced in the District Agreement, pursuant to which GWS will perform certain activities in furtherance of the purchase of the School Land by District and the purchase of the balance of the Land by GWS.

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the parties agree as follows:

1. **PERFORMANCE OF PURCHASE AGREEMENTS.** Both GWS and the District agree that they will perform their obligations under the GWS Agreement and the District Agreement respectively.
2. **PLATTING.** GWS shall proceed with the necessary approvals in order the plat the Land, whereby the School Land will be a separate conveyable and insurable lot or outlot. The School Land as so platted shall be substantially as shown on Exhibit A to the School District Agreement, and shall be subject to the reasonable approval in writing of Buyer.
3. **SURVEY.** After completion of the preliminary plat, GWS shall provide District with a survey (herein and in the District Agreement, the “**Survey**”), prepared by a registered land surveyor. The Survey shall comply with the "Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys," as jointly established and adopted by ALTA and ACSM in 2011, and shall include items 4, 8, 18, and 19 of Table A thereof

and certified to Seller. The District shall reimburse GWS for their portion of the cost of the survey as determined by District.

4. **ESCROW DEPOSIT.** Upon the execution of this Agreement and the District Agreement by all necessary parties, District shall deposit with Custom Home Builders Title (“Title”) the sum of Fifty Thousand Dollars (\$50,000.00) to be held and disbursed in accordance with this Agreement.
- (a) If the District Agreement closes, the Deposit shall be released and applied to the Purchase Price under the District Agreement.
 - (b) If the District Agreement is terminated due to Seller’s default under the District Agreement or GWS’s default under this Agreement, the Deposit shall be released to District.
 - (c) The Deposit shall be returned to the District if the District Agreement is terminated by District for any of the following reasons:
 - (i) Buyer’s investigation under paragraph 4 of the District Agreement discloses a material adverse physical condition of the School Land, including without limitation environmental or soils conditions; or
 - (ii) The failure of the specific conditions precedent enumerated in paragraphs (a) through (g) of Section 11 of the District Agreement.
 - (iii) The failure of the condition precedent identified in Section 6 of this Agreement.
 - (d) If the District Agreement is terminated by District for reasons other than as specifically stated herein, the Deposit shall be paid to GWS as liquidated damages to reimburse GWS for development expenses, as the sole and exclusive remedy of GWS under this Agreement.
 - (e) The parties will execute such confirming escrow agreements as required by Title to hold the Deposit. .
5. **CLOSING.** At the closing of the District Agreement:
- (a) GWS shall execute and deliver to Title:
 - (i) A quit claim deed to the District Land in order to disclaim any interest therein on the part of GWS.
 - (ii) A Memorandum of First Amendment to Purchase Agreement to the GWS Agreement acknowledging that that Agreement does not include the Property and making other conforming amendments, which shall be

recorded only if a Memorandum of Purchase Agreement has been recorded memorializing of record the GWS Agreement.

- (iii) Directions to Title to disburse the Escrow Funds to be applied to the purchase price under the District Agreement.
 - (iv) The Closing Agreement (see Section 6).
- (b) District shall execute and deliver to Title:
- (i) Directions to Title to disburse the Escrow Funds to be applied to the purchase price under the District Agreement.
 - (ii) The Closing Agreement (see Section 6).

6. **CLOSING AGREEMENT.** Prior to Closing on the District Land, District and GWS shall negotiate in good faith and incorporate their negotiations into an agreement specifying how the site shall be graded and how to mass grade the District land and GWS Land to benefit all parties. GWS and District will cooperate in providing the other with utilities and access to enable the future development of the Land. The execution of a binding agreement in these respects shall be a condition precedent to the parties' obligations under this Agreement and District's obligation to close on the District Agreement.

7. **NOTICES.** Any notice, consent, approval, waiver, or election that any party shall be required or permitted to make or give under this Agreement shall be in writing and shall be hand-delivered or sent by United States certified mail. Postage prepaid, and shall be effective when hand-delivered or deposited in the mail as aforesaid and addressed to the respective parties at the addresses below:

If to GWS: GWS Land Development of Plymouth, LLC
Attn: Jake M. Walesch
10850 Old County Road 15
Suite 200
Plymouth, MN 55441

If to Buyer: Wayzata School District 284
Attn: Jim Westrum
Administration Building
210 County Road 101 North
Plymouth, MN 55447-4108

With copy to: Briggs and Morgan, P.A.
2200 IDS Center, 80 S. 8th Street
Minneapolis, MN 55402

Attention: James E. Nelson

Either party may, from time to time, change the address to which notice shall be sent by like notice given to the other party hereto.

8. MISCELLANEOUS PROVISIONS.

- (a) ENTIRE AGREEMENT. This Agreement, together with the Exhibits hereto and together with the District Agreement to the extent applicable, constitute the entire agreement between GWS and District, and there are no other covenants, agreements, promises, terms, provisions, conditions, undertakings, or understandings, either oral or written, between them concerning the Property other than those herein set forth. No subsequent agreement shall be binding upon GWS or District unless in writing and signed by both Seller and Buyer.
- (b) BINDING EFFECT. All of the provisions of this Agreement are hereby made binding upon personal representatives, heirs, successors, and assigns of all parties hereto.
- (c) TIME OF ESSENCE. Time is of the essence of this Agreement.
- (d) SEVERABILITY OF PROVISIONS. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be valid under applicable law, but if any provision of this Agreement shall be invalid or prohibited hereunder, such provision shall be ineffective to the extent of such prohibition or invalidation, which shall not invalidate the remainder of such provision or the remaining provisions of this Agreement.
- (e) COUNTERPARTS. This Agreement may be executed in counterparts. The execution by all of the parties hereto by each signing a counterpart of this Agreement shall constitute a valid execution and this Agreement and all of its counterparts so executed shall be deemed for all purposes to be a single document.
- (f) GOVERNING LAW. This Agreement shall be construed under and in accordance with the laws of the State of Minnesota.
- (g) SURVIVAL. The representations, warranties and covenants contained herein shall be effective on the date hereof and on the Closing date and shall not merge in the Deed or any other document and shall survive the Closing.
- (h) CONSTRUCTION. The parties acknowledge that each party and its counsel have reviewed and approved this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments or exhibits hereto.

- (i) **BUSINESS DAYS.** If the final day of any period or any date of performance under this Agreement falls on a Saturday, Sunday, or legal holiday, then the final day of the period or the date of performance shall be extended to the next day that is not a Saturday, Sunday or legal holiday.
- (j) **ATTORNEY'S FEES.** Each party will pay its own attorney's and other consultant fees, except that a party defaulting under this Agreement or any Closing Document will pay the reasonable attorney's fees and court costs incurred by the non-defaulting party to enforce its rights hereunder.

IN WITNESS WHEREOF, this Purchase Agreement has been executed as of the date and year first above written.

SELLER:

GWS Land Development of Plymouth, LLC

By: _____

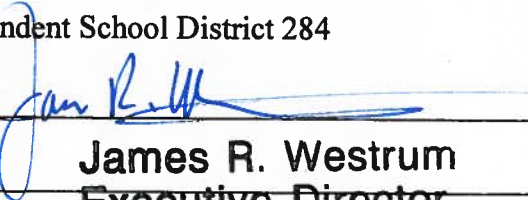


Its: Chief Manager

BUYER:

Independent School District 284

By: _____



Its: _____

James R. Westrum
Executive Director
Finance and Business

WAYZATA PUBLIC SCHOOLS

Independent School District 284
Wayzata, Minnesota

BOARD OF EDUCATION

Special Board Meeting- December 15, 2014

AGENDA SECTION: SUPERINTENDENT’S REPORTS AND RECOMMENDATIONS

ITEM: Finance and Business Services

COMMENTS BY: Jim Westrum, Exec. Director of Finance and Business

5. Resolution Providing for Open Enrollment Non-Resident Agreement for 2015-2016

According to Minnesota Statute 124D.03, Subdivision 2, A Board may, by resolution, limit the enrollment for nonresident pupils in its schools or program according to this section to a number not less than the lessor of:

- 1) One percent of the total enrollment at each grade level in the district; or
- 2) The number of district’s residents at that grade level enrolled in a non-resident district according to this section.

Open Enrollment Guidelines for 2015-2016

- Close open enrollment at grades 1-12
- Offer and accept enrollment to kindergarten students with a currently enrolled sibling. The 2015-2016 kindergarten students will be placed at an elementary school that has anticipated capacity.
- If the required minimum number of open enrolled kindergarten students is not met with siblings, then a lottery will be executed to reach the minimum number of satisfy the 1% of open enrolled students per grade requirement;

RECOMMENDED ACTION: Approve the recommendation to close open enrollment for 2015-2016 in grades 1-12 and limit open enrollment in kindergarten to siblings of currently enrolled students and lottery, if needed to meet the required minimum

Motion by: _____ ROLL CALL Passed _____

Second by: _____ VOTE Failed _____

RESOLUTION PROVIDING FOR OPEN-ENROLLMENT NON-RESIDENT AGREEMENT FOR 2015-2016

WHEREAS, in accordance to Minnesota Statute 124D.03, Subdivision 2, A Board may, by resolution, limit the enrollment for nonresident pupils in its schools or program according to this section to a number not less than the lessor of:

- One percent of the total enrollment at each grade level in the district;
- The number of district residents at that grade level enrolled in a non-resident district according to this section;

RECITAL, the administration recommends the following open enrollment guidelines for school year 2015-2016:

- Close open enrollment at grades 1-12
- Accept and offer enrollment to kindergarten students with a currently enrolled sibling. The 2015-2016 kindergarten students will be placed at an elementary school that has anticipated capacity.
- If the required minimum number of open enrolled students is not met with siblings, then a lottery will be executed to reach the minimum number to satisfy the 1% of open enrolled students per grade requirement.

NOW, THEREFORE, BE IT RESOLVED by the School Board of Independent School District No. 284, City of Wayzata, State of Minnesota, as follows:

1. Approve the recommendation to close open enrollment for 2015-2016 in grades 1-12 and limit open enrollment in kindergarten to siblings.

WITNESS MY HAND officially as such recording officer this ____ day of December, 2014.

School District Clerk

WAYZATA PUBLIC SCHOOLS
Independent School District 284
Wayzata, Minnesota

BOARD OF EDUCATION
Special Meeting – December 15, 2014

AGENDA SECTION: 5. Adjourn

ITEM: _____

COMMENTS BY: Linda Cohen, Board Chair

This agenda item brings closure to the school board meeting.

RECOMMENDED ACTION: Call the meeting to a close.

Motion by: _____ Yes _____ Passed _____

No _____ Failed _____

Abstentions: _____