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BOARD OF EDUCATION
Special Meeting - Monday, August 28, 2023 - 5:00 PM
Wayzata Public Schools District Office
210 County Road 101 North
Plymouth, Minnesota 55447

Minutes of Special Meeting Meeting

A Special Meeting Meeting of the Board of Education of Wayzata Public Schools was held Monday, August 28, 2023, beginning at 5:00 PM in the Wayzata Public Schools District Office 210 County Road 101 North Plymouth, Minnesota 55447.

1. CALL TO ORDER/ROLL CALL	2
2. APPROVAL OF AGENDA AND CONSENT AGENDA ITEMS	3
A. Human Resource Services	
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3. ADMINISTRATIVE REPORTS AND RECOMMENDATIONS	
A. Finance and Operations	
1. Purchase Agreement	8
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Board of Education
Regular Meeting – August 28, 2023

AGENDA SECTION: Call to Order

ITEM: Roll Call Attendance

COMMENTS BY: Sarah Johansen, Board Chair

	PRESENT	ABSENT
Milind Sohoni	_____	_____
Linda Cohen	_____	_____
Heidi Kader	_____	_____
Bonita Lucky	_____	_____
Cheryl Polzin	_____	_____
Sheila Prior	_____	_____
Sarah Johansen	_____	_____
Chace Anderson, ex-officio	_____	_____



Board of Education
Regular Meeting – August 28, 2023

AGENDA SECTION: Approval of Agenda and Consent Agenda Items

ITEM: Approval of Agenda and Consent Agenda Items

COMMENTS BY: Sarah Johansen, Board Chair

Consent Agenda items are considered to be routine in nature and will be enacted by one motion. There will be no separate discussion of these items unless a Board member or citizen so requests, in which event, the item will be removed as a Consent Agenda item and addressed. Consent Agenda items are as follows:

- A. Human Resource Recommendations
 - 1. Monthly Recommendations
 - 2. Pay Equity

Recommended Action: Approve the full agenda as presented, and the consent agenda items.

Motion by: _____ **ROLL CALL** Passed: _____

Second by: _____ Failed: _____

Abstentions: _____

HUMAN RESOURCES RECOMMENDATIONS - Consent Agenda - August 28, 2023

EMPLOYMENT

Name	Position	Location	Start Date
Marina Krasnoperova	Wayzata Café	Gleason Lake	9/5/2023
Zoriana Mykhailiuk	Wayzata Café	Central Middle	9/5/2023
Nataliia Kovalevska	Wayzata Café	Central Middle	9/5/2023
Patricia Talamine	Wayzata Café	Kimberly Lane	9/5/2023
Anu Tom	Wayzata Café	North Woods	9/5/2023
Cynthia Capaul	Wayzata Café	Central Middle	9/5/2023
Rosangela DeSouza	Wayzata Café	High School	9/5/2023
Linda Brown	Wayzata Café	Birchview	9/5/2023
Mehak Gautam	Wayzata Café	Sunset Hill	9/5/2023
Yukimi Yen	Wayzata Café	Greenwood	9/5/2023
Krishna Kurra	Wayzata Café	Greenwood	9/5/2023
Debra Simmons	Administrative Professional	High School	8/28/2023
Kira Engler	Paraprofessional	Kimberly Lane	9/5/2023
Sushma Vanakudari	Wayzata Kids	Greenwood	8/28/2023
Megan Haan	Wayzata Kids	Meadow Ridge	8/28/2023
Milton Jackson	Paraprofessional	Early Learning School	9/5/2023
Samuel Hasledalen	Paraprofessional	Sunset Hill	9/5/2023
Heidi Smith	Paraprofessional	High School	9/5/2023
Jessica Stockman	Paraprofessional	Central Middle	9/5/2023
Maria Boomer	Paraprofessional	Birchview	9/5/2023
Christine Jagerson	Paraprofessional	Early Learning School	9/5/2023
Lisa Scheurman	Paraprofessional	Greenwood	9/5/2023
Kayjuana Imani	Paraprofessional	Meadow Ridge	9/5/2023
Tiffany Bastiaens	Paraprofessional	Gleason Lake	9/5/2023
Sarah Berggreen	Preschool	Early Learning School	8/24/2023
Nani Sunshine	Preschool	Oakwood	8/29/2023
Denise Cropp	Paraprofessional	Plymouth Creek	9/5/2023
Calem Eugene	Wayzata Kids	Meadow Ridge	8/28/2023
Calem Eugene	Paraprofessional	North Woods	9/5/2023
Beugen, Samantha	Paraprofessional	North Woods	9/5/2023

CONTRACT MODIFICATION

Name	Position	Location	Modification	Date
		4		

LEAVE OF ABSENCE

Name	Position	Location	Leave Date

RESIGNATION

Name	Position	Location	Resign Date
Mia Smith	Teacher - SPSVC	Gleason Lake	8/9/2023
Christopher Larson	Teacher - Vocal Music	Central Middle	8/13/2023
Tremayne Jackson	Paraprofessional	Central Middle	8/16/2023
Maria Lehtola	Wayzata Café	High School	8/22/2023
Jessica Naze	Teacher - SPSVC	High School	8/11/2023
Audrey Evilsizer	Wayzata Kids	Birchview	8/18/2023
Heidi Palm	Wayzata Kids	Birchview	8/23/2023
Stacey Horton	Paraprofessional	Birchview	8/24/2023

RETIREMENT

Name	Position	Location	Retirement Date
Rhonda Hullinger	Teacher - 4th Grade	Oakwood	8/15/2023

EXTRA ASSIGNMENTS

Name	Position	Location	Assignment	Date
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Board of Education
Special Session – August 28, 2023

AGENDA SECTION: Approval of Agenda and Consent Agenda Items

ITEM: Pay Equity Implementation Report

COMMENTS BY: Stacie Vos, Executive Director of Human Resource Services

As required by Minnesota Statute, a Pay Equity Implementation Report must be submitted to the Department of Employee Relations. Once approved, a copy of the report will be sent to each exclusive representative and also the public library.

Recommended Action: Recommend School Board approval of the 2023 Pay Equity Implementation Report.

Motion by: _____

Passed: _____

Second by: _____

Failed: _____

Abstentions: _____

Compliance Report

Jurisdiction: ISD No. 284 - Wayzata
 210 County Road 101 N.
 P.O. Box 660
 Wayzata, MN 55391

Report Year: 2023
 Case: 1 - 2023 DATA (Private (Jur Only))

Contact: Stacie Vos

Phone: (763) 745-5014

E-Mail: stacie.vos@wayzataschools.org

The statistical analysis, salary range and exceptional service pay test results are shown below. Part I is general information from your pay equity report data. Parts II, III and IV give you the test results.

For more detail on each test, refer to the Guide to Pay Equity Compliance and Computer Reports.

I. GENERAL JOB CLASS INFORMATION

	Male Classes	Female Classes	Balanced Classes	All Job Classes
# Job Classes	37	123	12	172
# Employees	112	1448	66	1626
Avg. Max Monthly Pay per employee	6648.13	10179.20		9823.56

II. STATISTICAL ANALYSIS TEST

A. Underpayment Ratio = 60.81081 *

	Male Classes	Female Classes
a. # At or above Predicted Pay	22	41
b. # Below Predicted Pay	15	82
c. TOTAL	37	123
d. % Below Predicted Pay (b divided by c = d)	40.54	66.67

*(Result is % of male classes below predicted pay divided by % of female classes below predicted pay.)

B. T-test Results

Degrees of Freedom (DF) = 1558	Value of T = -11.252
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a. Avg. diff. in pay from predicted pay for male jobs = -32

b. Avg. diff. in pay from predicted pay for female jobs = 4339

III. SALARY RANGE TEST = 100.46 (Result is A divided by B)

A. Avg. # of years to max salary for male jobs = 6.03

B. Avg. # of years to max salary for female jobs = 6.00

IV. EXCEPTIONAL SERVICE PAY TEST = 104.85 (Result is B divided by A)

A. % of male classes receiving ESP = 94.59 *

B. % of female classes receiving ESP = 99.19

*(If 20% or less, test result will be 0.00)



BOARD OF EDUCATION
Regular Meeting - August 14, 2023

AGENDA SECTION: Administrative Reports & Recommendations - Finance &

ITEM: Operations

COMMENTS BY: Execution of Purchase Agreement - 1903 Wayzata Blvd,

The district administration has identified a property consisting of a 21,800 square foot building located at 1903 Wayzata Boulevard, Wayzata, MN 55391 that would become the district's new administrative offices.

The current District Administration Building is being repurposed to become the new location for the Wayzata Transition Program for the 2023-2024 school year. The district's long-term goal has been to find a facility where our district leadership team members and administrative staff can be co-located for maximum efficiency and effectiveness, freeing up the space for student instruction. Currently, WPS administrative team members are housed in multiple locations throughout the district in spaces that could be used for student instructional spaces.

The Board determined that the Purchase Agreement and acquisition of the Property contemplated would serve the District's facility needs and would be economically advantageous to the taxpayers of the District.

Legal counsel recommends that the school board authorize the Superintendent and/or Executive Director of Finance and Operations, on behalf of the district, to execute all closing documents related to the property and close the purchase of the property.

Recommended Action: Approve the resolution for Authorizing the Superintendent and/or Executive Director of Finance and Operations to execute the Closing Documents and close the purchase of the Property.

ROLL CALL

Motion by: _____

Passed:

Second by: _____

Failed:

Abstentions:

WAYZATA PUBLIC SCHOOLS

Independent School District 284
Wayzata, Minnesota

BOARD OF EDUCATION

Special Meeting – August 28, 2023

Resolution Authorizing the Superintendent and Executive Director of Finance and Operations to Execute the Closing Documents and Close the Purchase of Property Located at 1903 Wayzata Blvd, Wayzata, Hennepin County, Minnesota

Whereas, the School Board had a discussion in a closed meeting held on June 5, 2023, regarding the execution of a purchase agreement (the “Purchase Agreement”) for the purchase of real property located at 1903 Wayzata Blvd, City of Wayzata, County of Hennepin, Minnesota, containing a building that is approximately 21,000 square feet (“Property”);

Whereas, Chace B. Anderson, as Superintendent, and Deedee Kahring, as Executive Director of Finance and Operations, collectively or individually, were each authorized on behalf of the District to negotiate, execute and enter into the Purchase Agreement, subject to the Board’s reaffirmation of the fully executed Purchase Agreement;

Whereas, the Board has been presented with and reviewed the fully executed Purchase Agreement; and

Whereas, the Board determined that the Purchase Agreement and acquisition of the Property contemplated therein would serve the District’s facility needs and would be economically advantageous to the taxpayers of the District.

Now, therefore be it resolved, that the fully executed Purchase Agreement, and any and all actions taken by the Superintendent and Executive Director of Finance and Operations in connection with the Purchase Agreement be, and hereby are, ratified, affirmed, and approved;

Resolved further, that the Superintendent and Executive Director of Finance and Operations, collectively or individually, are each authorized on behalf of the District to do and perform all acts, and to negotiate, execute and enter into any and all other documents to be executed and delivered in connection with the Purchase Agreement and the closing of the transactions contemplated therein, (which documents are collectively referred to herein as the “Closing Documents”), deemed necessary, desirable or appropriate by such signer;

Recommended Action: Approve the resolution for Authorizing the Superintendent and/or Executive Director of Finance and Operations to execute the Closing Documents and close the purchase of the Property.

WITNESS MY HAND officially as such recording officer this 28th day of August, 2023

School Board Clerk

PURCHASE AGREEMENT

THIS PURCHASE AGREEMENT (“Agreement”) is made and entered into as of the Effective Date (as defined below in Section 10.16) by and between INDEPENDENT SCHOOL DISTRICT 284, a Minnesota independent school district or its assigns (“Purchaser”) and CWE, LLC, a Minnesota limited liability company (“Seller”). In consideration of the mutual covenants and agreements contained herein, including the costs and expenses incurred by Purchaser to perform due diligence related to the acquisition of the Property, and for other good and valuable consideration, Purchaser and Seller do hereby make and enter into this Agreement upon the following terms and conditions:

ARTICLE 1 - PURCHASE AND SALE

1.1 Agreement of Purchase and Sale. Seller agrees to sell to Purchaser, and Purchaser agrees to buy from Seller, the real property consisting of an approximately 21,800 square feet building (“Building”) with a street address of 1903 Wayzata Blvd, City of Wayzata, County of Hennepin, State of Minnesota, approximately depicted in Exhibit A attached hereto and made a part hereof, together with all structures, building systems (i.e. mechanical, HVAC and utility), fixtures and improvements thereon, and easements, leases and rights benefiting or appurtenant to the property (collectively the “Property”). The Property is part of a larger parcel of land with a PID of 0511722130034 as legally described in Exhibit B (the “Original Parcel”), which the Seller will undertake reasonable efforts to subdivide prior to Closing in accordance with Section 1.4. At Closing the Seller shall retain that portion of the Original Parcel not conveyed to the Purchaser (the “Seller Retained Parcel”).

Personal Property located at the Property shall be treated as set forth in Section 4.2(e).

1.2 Purchase Price and Manner of Payment. The purchase price for the Property shall be the sum of Four Million Eight Hundred Fifty Thousand and no/100 Dollars (\$4,850,000.00) (“Purchase Price”). The Purchase Price, subject to prorations and adjustments set forth in this Agreement, shall be payable in full at Closing in cash, by wire transfer of immediately available funds or by a Title Company check to Seller.

1.3 Earnest Money. Within (5) five days after the Effective Date, Purchaser shall deposit with the Title Company (as defined below) the sum of Fifty Thousand and no/100 dollars (\$50,000.00) (“Earnest Money”) in good funds, either by check or by wire transfer. The Title Company shall hold the Earnest Money in accordance with the terms and conditions of this Agreement and any escrow agreement entered into by Seller, Purchaser and Title Company. Interest, if any, accruing on such amount shall become a part of the Earnest Money and shall be distributed as Earnest Money in accordance with the terms of this Agreement. The Earnest Money shall be refundable or paid as set forth in this Agreement. The Earnest Money shall be applied towards payment of the Purchase Price.

1.4 Subdivision. Since the Property is not currently a legally subdivided tax parcel, Seller and Purchaser acknowledge that the subdivision of the Original Parcel to create the Property as a separate legally subdivided tax parcel must occur on or before Closing. The parties understand that subdivision of the Original Parcel is necessary to procure a legal description of the Property for the recording of Seller’s deed, Purchaser’s mortgage, if any; obtaining approval for release of the Property from Seller’s mortgage, if any; and obtaining acceptable title insurance for the Property. The subdivision of the Original Parcel shall be in compliance with applicable state, county and municipal laws, ordinances and regulations relating to the subdivision or platting of property. The subdivision shall include the following:

(a) Subdivision Process. Seller shall take the lead on the subdivision during the Seller Subdivision Period (defined below) and shall engage the appropriate surveyors and consultants to prepare a plat or survey and other requisite documents required by governmental authority to obtain approval of the subdivision. Seller shall use good faith efforts to obtain such subdivision approvals

as are necessary to create the Property and Seller Retained Parcel as two (2) or potentially more legally subdivided separate tax parcels as of the date of Closing by either plat, registered land survey (“RLS”) or administrative subdivision as determined by the governmental authority. The Property will be subdivided substantially similar in size, dimensions and boundaries as generally depicted in Exhibit A subject to governmental regulations. Seller may, at its sole option, include as part of the Property the underground tunnel to the Building. Purchaser and Seller shall approve the final subdivision boundaries of the Property, which approval shall be granted if consistent with the depiction in Exhibit A, and, if any changes, shall not be unreasonably withheld, conditioned or delayed. Seller shall take the lead on all negotiations with governmental authority related to the subdivision and any subdivision agreement or other documents required by the City of Wayzata or other governmental authority to effectuate the subdivision (the “City Subdivision Documents”).

Throughout the subdivision process, Seller shall consult with Kristin Tollison, who will be Purchaser’s representative (“Purchaser’s Representative”) regarding the subdivision. Purchaser and Seller agree to reasonably cooperate in the subdivision. These obligations shall include, but not be limited to, the cooperation of Seller in the approval and execution of any plat or RLS, other subdivision requirements, and the City Subdivision Documents. Purchaser and Seller shall not be entitled to any compensation or reimbursement of costs in connection with this cooperation.

Purchaser shall have the ability to review and approve the plat (or any other description showing the subdivision) and any City Subdivision Documents that impose material and adverse obligations upon, allocate costs, or require improvements to the Property. Seller shall use commercially reasonable efforts to negotiate for the incorporation of Purchaser’s comments relating to the subdivision into the City Subdivision Documents.

(b) Timing of Subdivision Process. Seller shall have one hundred fifty (150) days from the Effective Date to complete the subdivision of the Original Parcel (the “Seller Subdivision Period”). If the Seller has been proceeding diligently but, despite such efforts, fails to complete the subdivision of the Original Parcel within the Seller Subdivision Period, then Purchaser shall extend Seller Subdivision Period in writing by an additional thirty (30) days. If the subdivision process is still incomplete after the extended Seller Subdivision Period, Purchaser shall have the option to: (1) extend the Seller Subdivision Period by an additional thirty (30) days; (2) assume the subdivision process from the Seller, wherein the Seller will assign all documents and materials related to the Seller’s subdivision process to the Purchaser and Seller shall provide Purchaser with ninety (90) additional days to complete the subdivision process (the “Purchaser Subdivision Period”), or (3) terminate this contract in accordance with Section 1.4(e).

(c) Costs for Subdivision Process. Seller shall pay all third-party out-of-pocket costs incurred by Seller related to subdivision and the City Subdivision Documents, including, but not limited to, all application fees, platting, survey, title, recording and mylars costs. If the Seller does not obtain the subdivision of the Original Parcel during the Seller Subdivision Period, as the same may be extended, and the Purchaser exercises its option for the Purchaser Subdivision Period, then all third-party out-of-pocket costs (including costs of the type contemplated by Section 1.4(d) and reasonable attorneys’ fees) incurred by the Purchaser in conjunction with the subdivision process during the Purchaser Subdivision Period, up to a maximum of fifty thousand (\$50,000), shall be reimbursed by the Seller.

(d) Costs for Subdivision. Seller shall be responsible for all fees and charges imposed by the City or other governmental authority related to or resulting from the subdivision of the Property in accordance with this Agreement, including, but not limited to, all costs allocated to the

Property (whether by special assessment or otherwise) by the City or other governmental authority for any public on-site or off-site improvements, park dedication fees, civil defense siren fees, and any other subdivision related fees, costs or charges. This obligation of Seller further includes, but is not limited to, the payment of all hard and soft costs allocated to the Property that are directly necessary to satisfy the requirements set forth in the City Subdivision Documents, and specifically shall not include Purchaser's attorneys' fees. Seller shall pay these costs on or before the Closing. Seller agrees to indemnify and hold Purchaser harmless from all claims, costs, expenses and damages, including reasonable attorneys' fees, incurred as a result of Seller's failure to pay all of these costs. If the costs incurred by Seller and Purchaser above are not allocated under the City Subdivision Documents consistent with the above, payment adjustment shall be made between the parties at Closing (defined below) or as soon thereafter as is possible.

(e) Subdivision Condition. In the event that Seller cannot complete the subdivision of the Original Parcel during the Seller Subdivision Period, as the same may be extended, Purchaser shall have the right to terminate this Agreement by written notice to the Seller. In the event that Purchaser cannot complete such subdivision during the Purchaser Subdivision Period, then Seller and Purchaser shall each have the right to terminate this Agreement by written notice to the other party. Upon such termination, the Earnest Money shall be returned to Purchaser.

(f) Survival. The obligations of Purchaser and Seller contained in this Section shall survive and be enforceable for a period of six (6) months after Closing and delivery of the deed, and any right to make a claim hereunder shall be waived if notice of the claim is not provided to the other party within said six (6) month period.

ARTICLE 2 – TITLE AND SURVEY AND OTHER DELIVERABLES

2.1 Title Examination. Purchaser shall, at Seller's cost, cause to be issued and delivered to Purchaser a current ALTA title insurance commitment ("Title Commitment") from First American Title Insurance Company, Minneapolis Office ("Title Company") covering the entire Property. Purchaser shall order the Title Commitment within three (3) days after Purchaser's deposit of the Earnest Money. The Title Commitment shall show all matters affecting title to the Property and bind the Title Company to issue at Closing an ALTA 2021 extended owner's title insurance policy to Purchaser in the full amount of the Purchase Price ("Title Policy"). The Title Commitment shall be accompanied by copies of all recorded documents affecting the Property with proper searches for bankruptcies, judgments, liens and assessments. Purchaser shall pay the cost of the premium for the Title Policy and any endorsements required by Purchaser.

2.2 Survey and Plat. Seller shall, at Seller's cost, employ a surveyor, licensed or registered by the state where the Property is located, to prepare an ALTA/NSPS survey of the Original Parcel ("Survey"). Both the Purchaser and Seller shall agree to the proposed subdivision boundaries of the Original Parcel prior to delivery of the Survey. The Survey shall be certified to both Seller and Buyer and shall include the requirements and items that Purchaser and Seller determine are needed for the subdivision and review of the Property, including showing the proposed subdivision of the Property, the square footage of the Property and the Seller Retained Parcel, all encroachments and easements affecting the Property, and all other title exceptions from the Title Commitment which can be depicted on an ALTA survey. The Survey shall include Table A items 1, 2, 3, 4, 6(a) and (b), 7, 8, 9, 10 (as to underground tunnel), 11(a) and (b), 13, 16, 17, 18 and 19. A copy of the Survey shall be provided to the Purchaser within five (5) days after being obtained by Seller, which Survey Purchaser shall use in determining Objections as defined in Section 2.3. Should any changes be required by the City of Wayzata or any other governmental authority to the proposed

subdivision boundaries, Seller shall cause the Survey to be updated and Purchaser shall have the right to again review the same on the terms and conditions set forth in Section 2.4.

2.3 Title Objections; Cure of Title Objections. Purchaser shall have ten (10) days after the receipt of the Title Commitment and the Survey as agreed upon by Seller and Purchaser depicting the subdivision of the Original Parcel, whichever is the later, to notify Seller in writing of such objections as Purchaser may have to anything contained in the Title Commitment or Survey ("Objections"). Seller shall have the right, but not the obligation, to cure any Objections. Seller shall notify Purchaser within seven (7) days after receipt of a written notice from Purchaser describing any such Objections as to whether Seller is willing to attempt to cure such Objections. If Seller is not willing to attempt to cure any such Objections or if Purchaser is not satisfied with Seller's proposed cure, Purchaser's sole rights shall be to either (i) waive the Objections and proceed to purchase the Property without any reduction in the Purchase Price, or (ii) terminate this Agreement and recover the Earnest Money. If Seller indicates that it intends to cure an Objection, then Seller shall have thirty (30) days to complete the cure. If the cure is not completed within such thirty (30) day period, then Seller shall notify Purchaser and Purchaser may do either (i) or (ii) above. Notwithstanding anything to the contrary contained in this Agreement, Seller shall satisfy, release or cure at Closing any liens of an ascertainable amount encumbering the Property that are created, assumed or otherwise caused by Seller, its affiliates or related parties, or any occupants of the Original Parcel, such as mortgages, deeds of trust, mechanic's liens, judgment liens, utility liens and past due tax liens, and in the event that Seller does not, Purchaser may proceed to Closing and pay directly or withhold from the Purchase Price and place into escrow, an amount sufficient to satisfy the lien, or for the Title Company to insure over the lien, as applicable.

2.4 Additional Title Objections. Should any title or survey item that was not previously set forth in the Title Commitment or Survey subsequently be identified and materially and adversely affect the Property, or should the City of Wayzata or any other governmental authority materially alter the proposed subdivision boundary lines of the Property in such a manner that a title or survey item previously thought not to affect the Property then affects it, Purchaser may also, at its option, object to the same; provided such objection is made within five (5) days of Purchaser becoming aware of the objectionable item. Purchaser shall have a period of five (5) days after written notice and receipt of the additional title or survey item or revised preliminary or final plat or RLS, as the case may be, to provide Seller with written notice of an Objection. If Purchaser does not provide written notice of such Objection within the five (5) day time period, then Purchaser shall no longer have any right to object to the additional title or survey item. Any proper Objection under this Section shall otherwise be subject to the process set forth in Section 2.3.

2.5 Due Diligence Materials and Other Documents Provided by Seller. Seller shall deliver to Purchaser, within ten (10) days after the Effective Date, copies of all of the following due diligence materials relating to or affecting the Property to the extent in Seller's possession or control: (a) abstracts and/or title work; (b) survey(s); (c) environmental reports or tests and soil reports or tests; (d) all available records concerning repair and maintenance of the Property, improvements and equipment thereon, including insurance claims; (e) a copy of any plans for the improvements on the Property, including a full set of "as-built" drawings; (f) any correspondence or noticed from governmental authorities regarding the Property; and (g) any other property information reasonably requested by Purchaser ("Due Diligence Materials").

Seller shall also deliver to Purchaser, within ten (10) days after the Effective Date, correct and complete copies of all existing agreements or contracts related to or affecting the Property, including, but not limited to: leases, licenses, occupancy agreements, copies of any unrecorded easements, covenants and restrictions known to Seller that restrict the use of the Property or the construction of improvements at the

Property; and any maintenance, management and service contracts, whether or not being assumed by Purchaser.

The obligation of Seller to provide the above referenced items is ongoing through Closing in the event that Seller gains access to, or possession or control of, any additional or updated above referenced items after the Effective Date. Seller shall cooperate in all reasonable respects with Purchaser's due diligence efforts. Seller shall not be entitled to any compensation in connection with such cooperation.

2.6 Declaration of Easements. Purchaser and Seller acknowledge and agree that in order for Purchaser to purchase the Property, the Seller Retained Parcel and the Property must be subject to a Declaration of Easements and Operating Agreement (the "Declaration") at or before Closing that addresses, among other items, (a) an easement for access benefitting and burdening both the Seller Retained Parcel and the Property, including access through the underground tunnel on the Seller Retained Parcel to the underground parking on the Property; (b) a non-exclusive cross-parking easement over all parking spaces on the Seller Retained Parcel and the Property, except underground parking spaces and subject to posted signage (as the parties may agree or as required by law) for reserved, visitor and handicap parking; (c) easements for existing utilities that cross the property boundary lines, including stormwater drainage; (d) an allocation of costs in accordance with the Declaration, and (e) management of the maintenance, repair and replacement of shared access, shared parking, shared signage, shared utilities and landscaping including the Property by an affiliate of Seller, provided that the cost for such management shall be comparable to the cost for a third-party property manager.

Within sixty (60) days after the Effective Date, Seller shall deliver to Purchaser for Purchaser's review, a draft of the Declaration. Purchaser will review and may approve, revise or object in writing to the Declaration within ten (10) days after receipt of the initial version of the Declaration. Any objection by Purchaser will specifically reference the provision being objected to and will include comments or revisions that would make the provision acceptable. The parties shall use good faith and commercially reasonable efforts to negotiate and finalize the form of Declaration as soon as possible after submittal of the form to Purchaser. If the parties cannot agree on a mutually acceptable Declaration by the expiration of Seller Subdivision Period, Purchaser and Seller shall each thereafter have the right to terminate this Agreement upon written notice to the other prior to the earlier of approval of the Declaration or Closing, and, in the event this Agreement is so terminated, Purchaser shall receive a full refund of the Earnest Money.

ARTICLE 3 - INSPECTION AND CONTINGENCIES

3.1 Right of Inspection. As of the Effective Date, Purchaser and its agents shall have the right to access the Property to make physical and visual inspections, investigations, surveys and testing as the Purchaser deems necessary. Purchaser agrees that its on-site activities at the Property shall be conducted at reasonable times upon not less than twenty four (24) hours' prior written notice to Brad Hoyt of Seller and shall not unreasonably interfere with the use of the Property by Seller. Seller agrees to meet with the parties conducting any inspections, investigations, surveys and testing and to cooperate in answering questions concerning the Property as requested. Purchaser shall pay all costs and expenses of such inspections, investigations, surveys and testing conducted by Purchaser. Purchaser shall promptly repair and restore any damage to the Property caused by Purchaser's activities at the Property to substantially the same condition as existed prior to such entry. Purchaser shall pay all costs and expenses of such investigation and testing and shall defend, indemnify and hold Seller harmless from and against any and all liabilities, actions, losses, costs, damages, liens and expenses (including reasonable attorney fees incurred by Seller in enforcing such right to defense, indemnification and reimbursement) arising from or relating to such investigation and testing or the conduct of Purchaser's inspection activities at the Property. These obligations of Purchaser shall not be construed to require Purchaser to perform any removal or remediation

of any hazardous substances or incur any other expenses related to discovery of hazardous substances revealed by Purchaser's actions. The indemnification obligations of Purchaser set forth in this Section shall survive the termination of this Agreement by either party. These obligations shall survive Closing or any termination of this Agreement.

3.2 Due Diligence Period. The "Due Diligence Period" shall be from the Effective Date through the date that is sixty (60) days from the Effective Date.

3.3 Extension of Due Diligence Period. Purchaser shall have the right to extend the Due Diligence Period by one additional period of up to thirty (30) days at no cost to Purchaser. To exercise the extension, Purchaser shall provide written notice of exercise to Seller and the Title Company prior to the expiration of the Due Diligence Period. Upon extension by Purchaser, all references in the Purchase Agreement to the Due Diligence Period shall mean the period through this extended date. Purchaser shall continue to have the ability to terminate the Purchase Agreement within the time period set forth in Section 3.5 calculated using this extended Due Diligence Period, and upon termination, the Earnest Money shall continue to be refundable as set forth in this Agreement.

3.4 Purchaser's Contingencies. The obligations of Purchaser under this Agreement are contingent upon each of the following:

- (a) Performance of Seller's Obligations. Seller shall have performed all of the material obligations required to be performed by Seller under this Agreement on or before the Closing.
- (b) Proceedings. That there is no action, litigation, investigation, condemnation or eminent domain proceeding of any kind pending or threatened against the Property on or before the Closing.
- (c) Title and Survey. Title and Survey shall have been found acceptable by Purchaser as provided in Article 2.
- (d) Testing and Inspection. Purchaser shall have determined, in its sole discretion, on or before the expiration of Due Diligence Period, that it is satisfied with the condition of the Property and the results of all inspections and testing of the Property, including, but not limited to, all soil tests, well tests, engineering inspections, property condition reports, hazardous waste and environmental reviews of the Property.
- (e) Contracts. Purchaser shall have determined, in its sole discretion, on or before the expiration of the Due Diligence Period, that it is satisfied with all existing contracts affecting the Property.
- (f) Leases. Seller shall have terminated any leases, licenses or occupancy agreements affecting the Property.
- (g) Due Diligence Materials and Other Documents Provided by Seller. Purchaser shall have determined, in its sole discretion, on or before the expiration of the Due Diligence Period, that it is satisfied with the Due Diligence Materials and other documents and information concerning the Property provided by Seller under this Agreement.

- (h) Government Approvals. Purchaser shall have determined, in its sole discretion, on or before the expiration of Due Diligence Period, that it is satisfied that all governmental approvals, permits or authorizations necessary or desired by Purchaser for the Property have or will be obtained. Purchaser shall have determined, in its sole discretion, on or before the expiration of the Due Diligence Period, that all applicable zoning ordinances, building and use restrictions and codes, required building permits, and any requirements with respect to licenses, permits and agreements necessary for the lawful use and operation of the Property as Purchaser elects, have been or will be issued or complied with.
- (i) Subdivision. The subdivision of the Original Parcel into the Property and Seller Retained Parcel in compliance with Section 1.4.
- (j) Declaration. The Declaration shall be completed in accordance with Section 2.6.
- (k) Tax Exempt Status. Purchaser shall have received information satisfactory to the Purchaser that the Property can become tax exempt after Closing.
- (l) Board Approval. To induce Seller to undertake subdivision of the Property, Purchaser shall have obtained from Purchaser's board all approvals necessary to complete this transaction. Purchaser agrees to include such approvals on the next board meeting agenda that is submitted to the board after the Effective Date. If Purchaser does not obtain such approvals at such meeting, either party may terminate this Agreement until the approvals are obtained.

3.5 Right of Termination. Seller agrees that in the event Purchaser determines in its sole discretion that the Property is not suitable for its purposes, for any reason or no reason at all, on or before the expiration of Due Diligence Period, or that a contingency contained in Section 3.4 has not been satisfied on or before the date specifically set forth for the contingency, Purchaser shall have the right to terminate this Agreement by written notice to Seller on or before five days after the expiration of Due Diligence Period, or five days after the date specifically set forth for the contingency, as applicable. Upon such termination, the Earnest Money shall be returned to Purchaser. If Purchaser acknowledges the satisfaction or waiver of a contingency by written notice to Seller, or if Purchaser does not provide a written notice of termination by the date required, Purchaser shall no longer have a right to terminate this Agreement under this Section because of such contingency. All the contingencies set forth in Section 3.4 are specifically for the benefit of the Purchaser other than (l).

ARTICLE 4 - REPRESENTATIONS AND COVENANTS

4.1 Representations and Warranties of Seller. Seller represents and warrants to Purchaser as follows:

- (a) Organization and Authority. Seller is a limited liability company duly organized and validly existing in good standing under the laws of Minnesota. Seller has the requisite power and authority to enter into and perform this Agreement and to transfer all of the Property in accordance with this Agreement and without further consent or approval. The person signing this Agreement and Seller's closing documents on behalf of the Seller is authorized to do so.
- (b) Proceedings. To Seller's actual knowledge, there is no action, litigation, investigation, condemnation, eminent domain or proceeding of any kind pending or threatened against the Property to Seller's actual knowledge. Seller has not received any notice from any

governmental authority or third party of any violation or potential violation of any law, ordinance or regulation related to the Property or its condition, or of any breach of any covenants or easements affecting the Property.

- (c) Notice of Violations. Seller has received no actual written notice from any governmental agency or authority (1) that the Property is currently in violation of any applicable fire, health, building, use, occupancy or zoning laws where such violation remains outstanding, or (2) that any work is required to be done upon or in connection with the Property, where such work remains outstanding.
- (d) Possession and Title. No persons are in possession of any portion of the Property other than Seller. There will be no leases or possessory rights in favor of any person, service or maintenance contracts, equipment leases or other contracts affecting the Property as of the Closing, other than as may be set forth in the Declaration. Seller is not a party to any non-governmental covenants, restrictions or easements contained in any document, whether recorded or unrecorded, that affect the use of the Property or the construction of improvements at the Property. Seller has no actual knowledge of any encroachments or boundary line questions affecting the Property.
- (e) Hazardous Substances. To Seller's actual knowledge, except as may be set forth in the Due Diligence materials, (1) no hazardous substances are located on the Property, (2) Seller has received no notice from any governmental entity or private party that any hazardous substances are currently located on the Property in violation of any environmental law, (3) Seller has no actual knowledge of the use, storage or release of any hazardous substances on the Property, and (4) Seller has not released any hazardous substance on the Property.
- (f) Wells, Individual Sewage Treatment Systems and Storage Tanks. There are no wells or individual sewage treatment systems (other than a shared lift-station), whether in use or abandoned, at the Property. To the Seller's actual knowledge, there are no underground or above ground storage tanks of any size or type at the Property.
- (g) Methamphetamine Disclosure. To Seller's knowledge, Methamphetamine production has not occurred at the Property.

THE PROPERTY IS BEING SOLD, AND PURCHASER IS ACCEPTING POSSESSION OF THE PROPERTY ON THE CLOSING DATE, "AS IS, WHERE IS, WITH ALL FAULTS," EXCEPT FOR SELLER'S REPRESENTATIONS AND WARRANTIES AND SELLER'S COVENANTS AND AGREEMENTS SET FORTH IN THIS AGREEMENT THAT EXPRESSLY SURVIVE THE CLOSING AND INSTRUMENTS EXECUTED BY SELLER AT CLOSING (COLLECTIVELY, THE "SELLER'S WARRANTIES"). EXCEPT FOR SELLER'S WARRANTIES, FOR WHICH ONLY SELLER IS RESPONSIBLE, NEITHER SELLER, ITS COUNSEL OR BROKERS, NOR ANY PARTNER, OFFICER, DIRECTOR, EMPLOYEE, AFFILIATE, AGENT OR ATTORNEY OF SELLER, ITS COUNSEL OR BROKERS NOR ANY OTHER PARTY RELATED IN ANY WAY TO ANY OF THE FOREGOING (EACH A "SELLER PARTY" AND COLLECTIVELY THE "SELLER PARTIES") HAVE OR SHALL BE DEEMED TO HAVE MADE ANY VERBAL OR WRITTEN REPRESENTATIONS, WARRANTIES, PROMISES OR GUARANTEES (WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE) TO PURCHASER WITH RESPECT TO THE PROPERTY, ANY MATTER SET FORTH, CONTAINED OR ADDRESSED IN THE DUE DILIGENCE

DOCUMENTS (INCLUDING, BUT NOT LIMITED TO, THE ACCURACY AND COMPLETENESS THEREOF) OR THE RESULTS OF THE INVESTIGATIONS.

Seller shall indemnify, defend and hold Purchaser harmless from, any expenses or damages, including reasonable attorneys' fees, that Purchaser incurs by reason of, or arising out of, any breach of any of the above representations and warranties. The representations and warranties of Seller in this Agreement shall be true as of the Closing and shall survive Closing for a period of twelve (12) months only and Purchaser shall have no right thereafter to make any claim against Seller or any other party based upon an alleged breach of any such representations or warranties. Seller shall have no liability related to any representation or warranty, or indemnity made by Seller unless and until such liability exceeds \$15,000 in the aggregate, on a cumulative basis (in which event Seller's liability shall be the full amount of such claims, including the initial \$15,000).

4.2 Covenants of Seller. Seller covenants and agrees as follows from the Effective Date until the Closing or earlier termination of this Agreement:

- (a) Exclusive Right to Purchase. Seller and its agents shall cease marketing the Property and shall not conduct any discussions or negotiations or respond in writing to any solicitations by third parties relating to the purchase of the Property during the term of this Agreement. Seller will not enter into any other contracts for the sale of the Property, nor will Seller grant any rights of first refusal or options to purchase the Property or any other rights to others that might prevent the consummation of this Agreement. Seller has not entered into or granted any contracts, rights or options relating to a sale of the Property to any third party that remain in effect on the Effective Date.
- (b) Contracts Affecting the Property. Seller shall not amend any existing or enter into any new agreements or contracts related to or affecting the Property without the consent of Purchaser which will be in force and effect after the Closing, including, but not limited to: any maintenance, management and service contracts; any leases, licenses or occupancy agreements; and any recorded or unrecorded easements, agreements, restrictions, governmental agreements. Seller shall not convey all or any part of the Property.
- (c) Operation of the Property. Seller shall continue to operate, maintain, repair and insure the Property in a manner consistent with the operation, maintenance, repair and insurance of the Property existing as of the Effective Date. Seller shall not perform or authorize any activities that change the physical characteristics of the Property from its existing state as of the date of the Effective Date. Seller shall not perform or authorize any removal or alteration of any buildings, structures, improvements, trees or vegetation at the Property and shall not perform or authorize any excavation or earth moving after the Effective Date.
- (d) Liens and Encumbrances. Upon Closing, subject to obtaining mortgagee's consent to the subdivision, the Property will be free and clear of all liens of an ascertainable amount that are created, assumed or otherwise caused by Seller, its affiliates or related parties, or any occupants of the Property, such as mortgages, deeds of trust, mechanic's liens, judgment liens, utility liens and past due tax liens. All labor or material which has been or will be furnished to the Property have been fully paid for or will be fully paid for by the Closing so that no lien for labor or material rendered can be asserted against the Property. Seller agrees to satisfy the requirements of the Title Company necessary to cause the Title Company to insure Purchaser's title to the Property without an exception for mechanic's lien claims arising out of labor or materials provided to the Property by or at the direction of Seller or any occupants of the Property prior to Closing.

- (e) Personal Property. The Property includes Seller's interest in any personal property, including any equipment, furniture, trade fixtures, inventory, appliances, safes, signs, debris, paints, solvents, chemicals, tanks, and other personal property and moveable items located at the Property on the Effective Date, other than cleaning supplies (the "Personal Property"). Purchaser is obtaining an interest in the Property under this Agreement and is acquiring all of Seller's right, title and interest in the Personal Property.

- (f) Surrender of Property. Unless the parties otherwise agree in writing to the contrary, as of the Closing:
 - (1) Seller shall participate with Purchaser or its agents in a walk-thru inspection of the Property as reasonably requested by Purchaser to verify the condition of the Property, that no Personal Property remains at the Property and that the property is in broom clean condition.
 - (2) Seller shall surrender possession of the Property to Purchaser, and no persons shall be in possession of any portion of the Property or have any right to occupy the Property at any time thereafter other than the Purchaser.
 - (3) Seller shall surrender the Property in a condition similar to the condition as of the date of this Agreement, less reasonable wear and tear.
 - (4) All keys to all buildings and rooms at the Property shall be provided to Purchaser.
 - (5) All leases and contracts related to the operation, management, maintenance and repair of the Property shall be terminated or assigned as agreed upon by the parties.
 - (6) All Personal Property remaining at the Property shall be deemed conveyed to Purchaser and may be used, removed, stored or disposed of by Purchaser.
 - (7) All leases affecting the Property shall be terminated prior to Closing.

- (g) Seller's Cooperation. Seller shall cooperate in all reasonable respects and in good faith with Purchaser in obtaining governmental and third-party approvals, consents and agreements, and shall execute such applications, permits, agreements and other documents as may be reasonably required by Purchaser, provided that such items may be effective as of the Closing. Seller shall not be entitled to any compensation or reimbursement of costs in connection with such cooperation.

ARTICLE 5 - CLOSING

5.1 Time and Place. Except as extended pursuant to this Agreement, the closing of the purchase and sale transaction contemplated by this Agreement ("Closing") shall occur on a date that is the later of (a) thirty (30) days after the expiration of Due Diligence Period or (b) ten (10) days after City Council approval of the subdivision of the Property from the Seller Retained Property, or upon such earlier date agreed upon by the parties, at the offices of Title Company or through deposit of funds and documents in escrow with the Title Company.

5.2 Seller's Obligations at Closing. At the Closing, Seller shall deliver to Purchaser a duly executed Limited Warranty Deed in recordable form, conveying to Purchaser fee simple marketable title to the Property and all rights appurtenant, together with a seller's affidavit, FIRPTA affidavit, evidence as to the authority of the persons executing documents on behalf of Seller, well certificate and all other documents reasonably necessary to consummate the transaction contemplated by this Agreement. The seller's affidavit executed by Seller shall be reasonably acceptable to the Title Company and certify as of the date of Closing that there are no outstanding unsatisfied judgments, tax liens or bankruptcies against or involving Seller or

the Property; that there has been no skill, labor or material furnished to the Property at the request of Seller or any other occupant of the Property for which payment has not been made; and that there are no unrecorded interests in the Property known to Seller. Seller shall also deliver possession of the Property to Purchaser at the Closing. At the Closing, Seller shall also deliver to Purchaser the following:

- (a) Service Contracts and Warranties. A termination of all maintenance, management and service contracts affecting the Property or an assignment of contracts for any such contract that Purchaser, in its discretion, agrees to assume, together with any originals of the contracts being assumed. Deliver to Purchaser any originals of all warranties for any equipment or improvements at the Property together with an assignment of such warranties consented to by the warrantor to the extent required by warrantor and obtainable without cost or expense to Seller.
- (b) Personal Property and Bill of Sale. A bill of sale listing all equipment and personal property being sold as part of the Property. The bill of sale shall quit claim Seller's interest and title to the equipment and personal property free and clear of all liens and encumbrances. All equipment, personal property and debris not included in the sale shall be removed by Seller, at its cost, on or before the Closing. Any equipment, personal property or debris remaining on the Property after the Closing shall be deemed abandoned and may be removed, stored or disposed of by Purchaser, at Seller's cost.
- (c) Declaration. The Declaration.

5.3 Purchaser's Obligations at Closing. At the Closing, Purchaser shall pay to Seller the full amount of the Purchase Price, as increased or decreased by prorations or adjustments set forth in this Agreement and shall deliver to Seller all other documents reasonably necessary to consummate the transaction contemplated by this Agreement. Purchaser and Seller agree that the Earnest Money shall be delivered to Seller at the Closing and applied towards payment of the Purchase Price. At the Closing, Purchaser shall also deliver to Seller the following:

- (a) Declaration. The Declaration.
- (b) Waiver of Relocation Benefits. The Waiver of Relocation Benefits (described in Section 10.20).

5.4 Closing Costs. Seller and Purchaser agree to the payment of costs in connection with the Closing as follows: (a) Seller and Purchaser each will pay one-half of any reasonable and customary closing fees or charges imposed by the Title Company for the Closing; (b) Seller shall pay all state deed tax for the recording of the deed; (c) Seller shall pay the cost of recording the Declaration and all documents necessary to place record title in the condition warranted by Seller in this Agreement and Purchaser will pay the cost of recording the deed conveying the Property to Purchaser; and (d) any other costs required to be paid by Purchaser or Seller by Closing pursuant to this Agreement.

5.5 Prorations. Seller and Purchaser agree to the following prorations as if Purchaser was vested with title to the Property on the date of Closing:

- (a) Utility Services. Seller shall pay or cause to be paid all charges for utility services, garbage charges and similar charges incurred at the Property prior to the date of Closing. Seller shall cause all utility meters for utility services at the Property to be read as of the date of Closing.

- (b) Other Costs. Any other costs pertaining to the Property not prorated in this Agreement shall be paid and prorated as follows. Seller agrees to cause to be paid in full all expenses and charges incurred in connection with the Property for the period prior to the date of Closing; provided Seller shall be entitled to seek and retain any refunds or reductions of real estate taxes with respect to its period of ownership of the Property as long as the process to obtain such refund or reduction does not affect the Purchaser's tax amount and tax exempt status. Purchaser agrees to cause to be paid in full all expenses and charges incurred in connection with the Property for the period from the date of Closing and thereafter. Seller or Purchaser, as the case may be, shall indemnify, defend and shall hold the other harmless from any costs, expenses or damages, including reasonable attorneys' fees, which may result from any failure by Seller or Purchaser to so pay such items. The provisions of this Section shall survive Closing and delivery of the deed.

ARTICLE 6 - REAL ESTATE TAXES AND SPECIAL ASSESSMENTS

6.1 Real Estate Taxes and Special Assessments. On or before the Closing, Seller shall pay all general real estate taxes for the Property due and payable in years prior to the year of Closing. General real estate taxes for the Property due and payable in the year of Closing shall be apportioned between Purchaser and Seller based on a 365-day calendar year as if Purchaser were vested with title to the Property on the Closing. Seller shall also pay, on or before the Closing, all deferred taxes for the Property (including green acre taxes) and all special assessments levied, pending or certified against the Property as of the Effective Date, including, without limitation, any installments of special assessments (or estimates thereof) and interest thereon payable after the Closing. The obligations of Purchaser and Seller contained in this Section shall survive Closing and delivery of the deed.

ARTICLE 7 - COMMISSIONS

7.1 Brokerage Commissions. Seller and Purchaser each respectively represent and warrant that the only real estate brokers or agents involved with this transaction is Jason Sell with Cushman & Wakefield, on behalf of Purchaser. Seller shall be responsible for the real estate commissions and costs to the broker at Closing pursuant to a separate agreement. Purchaser and Seller agree to indemnify, defend and hold harmless the other party from any loss, liability, cost, damage or expense resulting from, or relating to, the breach of its representation under this Section. These obligations of Purchaser and Seller shall survive Closing or any termination of this Agreement.

ARTICLE 8 – CASUALTY AND EMINENT DOMAIN

8.1 Casualty. Prior to Closing, Seller shall have responsibility and liability for all damage or injury of any kind to the Property, the improvements thereon, any and all persons, whether employees or otherwise, and all property connected to the Property, except for damage or injury caused by the acts of Purchaser, its agents or assigns. Seller agrees to maintain Seller's current insurance coverage, if any, on the Property until Closing. If, prior to the Closing Date, all or any part of the Property is substantially damaged by fire, casualty, the elements or any other cause, Seller shall immediately give Purchaser written notice of such fact and, in such case, either Seller or Purchaser shall have the right (to be exercised by either party within ten (10) days after receipt of Seller's notice) to terminate this Agreement by delivering written notice of such termination to the other party. If this Agreement is so terminated, neither party will have any further obligations under this Agreement and the Earnest Money shall be refunded to Purchaser. If this Agreement is not terminated despite such damage, or if the Property is damaged but not substantially, Seller shall promptly commence to repair such damage or destruction and return the Property to substantially its

condition prior to such damage. If such damage shall be completely repaired prior to the Closing Date, then there shall be no reduction in the Purchase Price and Seller shall retain the proceeds of all insurance related to such damage. If such damage shall not be completely repaired prior to the Closing Date but Seller is diligently proceeding to repair, then, at Purchaser's option, Purchaser may (a) post-pone closing until the work is complete; or (b) opt to have Seller complete the repair after the Closing Date and require Seller to (1) escrow at least 120% of the estimated amount to complete the work, and (2) deliver all other documentation required by Title to issue said mechanics lien coverage. In either case, Seller shall be entitled to receive the proceeds of all insurance related to such damage after repair is completed and providing all documentation necessary for mechanics lien coverage or fulfillment of the obligations of the escrow agreement. If the work is not completed by Closing and Seller is not diligently proceeding to repair, then Seller is in default under this Agreement and Purchaser has the remedies available under Section 9.1. For purposes of this Section, the words "substantially damaged" mean damage that would cost \$250,000.00 or more to repair.

8.2 Eminent Domain. If prior to the Closing Date, eminent domain proceedings are commenced against all or any part of the Property, Seller shall immediately give Purchaser written notice of such fact and, in such case, either Seller or Purchaser shall have the right (to be exercised by Purchaser or Seller within ten (10) days after receipt of Seller's notice) to terminate this Agreement by delivering written notice of such termination to the other party. If this Agreement is so terminated, neither party will have further obligations under this Agreement and the Earnest Money, and all accrued interest thereon, shall be refunded to Purchaser. If neither party terminates this Agreement, the Purchase Price shall be reduced by any condemnation awards paid to Seller prior to Closing and Seller shall, at Closing, assign to Purchaser all of Seller's right, title and interest in and to any award made or to be made in the condemnation proceedings. Prior to the Closing Date, Seller shall not designate counsel, appear in, or otherwise act with respect to the condemnation proceedings without Purchaser's prior written consent.

ARTICLE 9 - REMEDIES

9.1 Remedies. If any representation or warranty of Purchaser in this Agreement proves untrue, if Purchaser breaches any covenant of Purchaser under this Agreement, or if Purchaser fails to consummate the transactions contemplated in this Agreement for any reason other than Seller's default or the failure of any conditions precedent to Purchaser's obligations to be satisfied, Seller shall have the right to terminate this Agreement by giving Purchaser thirty (30) days' prior written notice of such termination in accordance with Minnesota Statutes 559.21. If Purchaser fails to cure all items of default specified in the notice within thirty (30) days after receiving such notice, then this Agreement shall be deemed terminated and upon such termination Seller shall retain the Earnest Money as liquidated damages and as Seller's sole remedy, subject, however, to Purchaser's obligations and Seller's rights which are expressly provided for herein to survive termination of this Agreement..

If any representation or warranty of Seller in this Agreement proves untrue, if Seller breaches any covenant of Seller under this Agreement, or if Seller fails to consummate the transactions contemplated in this Agreement for any reason other than Purchaser's default or the failure of any conditions precedent to Seller's obligations to be satisfied, then Seller shall be in default of this Agreement and Purchaser's sole and exclusive rights shall be to either (i) terminate this Agreement by giving written notice of such termination to Seller, whereupon the Earnest Money shall be returned to Purchaser and Purchaser may bring an action for Purchaser's actual third-party out-of-pocket costs incurred by Purchaser in connection with its negotiation of this Agreement and due diligence up to a maximum of \$50,000 or (ii) seek specific performance of this Agreement, but only if a lawsuit seeking specific performance is commenced within six (6) months after the scheduled Closing Date or within twelve (12) months of the Closing Date with

respect to the indemnification obligations of Seller under Article 4. In the event that Seller fails to fulfill its obligation under Section 1.4, Purchaser shall also have the remedies set forth in Section 1.4(e).

ARTICLE 10 – MISCELLANEOUS

10.1. Assignment. Purchaser and Seller shall not assign or transfer this Agreement, or any interest in or part of this Agreement, without the prior consent of the other party in its sole and absolute discretion; provided, however, that the assigning party may, without the other party's consent, assign this Agreement to an entity managed or controlled by the assigning party and/or one or more members of the assigning party, under common control with or which controls the assigning party (whether directly or through one or more intervening entities) so long as (i) the assigning party notifies the other party of such assignment prior to the Closing, and (ii) the assignee(s) assume all of the assigning party's liabilities and obligations under this Agreement. No such assignment or transfer (regardless of whether the other party's consent is required) shall release the assigning party from any obligation or liability under this Agreement. Subject to the foregoing, this Agreement shall benefit and bind Seller and Purchaser and their respective personal representatives, heirs, statutory successors, and assigns.

10.2 Severability. In the event any provision of this Agreement shall be held to be invalid, unenforceable or in conflict with the law of the jurisdiction, the remaining provisions of this Agreement shall continue to be valid, enforceable and not be affected by such holding.

10.3 Waiver. No term or condition of this Agreement will be deemed waived or amended unless expressed in writing. The waiver of any condition or the breach of any term will not be a waiver of any subsequent breach of the same or any other term or condition.

10.4 Notices. Any notice required or permitted to be given hereunder will be properly given in accordance with this Agreement, if in writing and (i) delivered by hand, (ii) sent by recognized overnight courier (such as Federal Express), (iii) sent via electronic mail, or (iv) mailed by United States first class mail, postage prepaid, to the most recent street or email address of the parties, as applicable. Notice shall be effective, and the time for response to any notice by the other party shall commence to run, one (1) business day after any such deposit if by overnight carrier, or three (3) days if by U.S. mail, or the day of receipt if delivered by hand, or the day when sent by email if sent before 5:00 pm CST and on the next business day if sent after 5:00 p.m. CST, in each case with confirmation of transmission by the transmitting equipment, to the addresses and email addresses and marked to the attention of the individual (by name or title) set forth below or to such other address email address or individual as such party may designate by a notice given in accordance with this Section 10.4:

If to Purchaser: Independent School District 284
Administration Building
Attention: DeeDee Kahring
16000 41st Ave N
Plymouth, Minnesota 55446
Email: deedee.kahring@wayzataschools.com

With a copy to: Taft Stettinius & Hollister LLP
Attention: Brianna Maershbecker
2200 IDS Center
80 South 8th Street
Minneapolis, MN

Email: bmaershbecker@taftlaw.com

If to Seller: CWE, LLC
c/o Continental Property Group
1907 Wayzata Blvd, Suite 250
Wayzata, MN 55391
Attention: Pam Snyder and Brad Hoyt
Email: psnyder@continentalpropertygroup.com; bahoyt@gmail.com

With a copy to: Robins Kaplan LLP
800 LaSalle Avenue
Suite 2800
Minneapolis, MN 55402
Attn: Steven A. Schumeister
Email: sschumeister@robinskaplan.com
Telephone: 612-349-8751

And

Winthrop & Weinstine, P.A.
225 South Sixth Street
Suite 3500
Minneapolis, MN 55402
Attn: Joanne L. Matzen
Email: jmatzen@winthrop.com
Telephone: 612-604-6641

If to Title Company: First American Title Insurance Company
121 South 8th Street, Suite 1250
Minneapolis MN 55402
Attn: Nicole Haapala
Email: nhaapala@firstam.com
Telephone: 612-305-2014

or to such other respective addresses and/or addressees as may be designated by notice given in accordance with the provisions of this Section 10.4 Attorneys for each party shall be authorized to give and receive notices for each such party.

10.5 Reserved.

10.6 Further Assurances. Each party agrees that it will execute and deliver such other documents and take such other action, whether prior or subsequent to Closing, as may reasonably be requested by the other party, to further consummate the transaction contemplated by this Agreement, without further consideration.

10.7 Termination. If this Agreement is terminated by either Purchaser or Seller pursuant to a right of termination expressly set forth in this Agreement, neither party shall have any further rights or obligations under this Agreement, except for the obligations concerning the Earnest Money as set forth in this Agreement, and to the extent any rights or obligations expressly survive such termination.

10.8 Time of Essence. Time is of the essence of this Agreement.

10.9 Calculation of Time Periods. Except as specifically set forth in this Agreement, in computing any period of time described in this Agreement, the day of the act or event after which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included, unless such last day is on a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next business day following such Saturday, Sunday or legal holiday. As used herein, the term “legal holiday” means any state or federal holiday for which financial institutions or post offices are generally closed in the state where the Property is located.

10.10 Governing Law. This Agreement shall in all respects be interpreted, construed and enforced according to the laws of the state where the Property is located.

10.11 Counterparts. This Agreement may be executed separately and independently in any number of counterparts and each and all of which together shall be deemed to have been executed simultaneously and regarded as one agreement dated the Effective Date. The transmission of a signature page by email shall be valid and binding once attached to the Agreement for all purposes of this Agreement

10.12 Captions. The captions and headings contained in this Agreement are for convenient reference only and shall not affect the interpretation of this Agreement.

10.13 Attorneys’ Fees and Costs. Purchaser and Seller will pay their own attorneys’ fees for the transaction contemplated by this Agreement, except as follows. In the event of litigation arising out of breach or claimed breach of this Agreement, the prevailing party shall be entitled to recover from the other party all costs and expenses incurred as a result, including attorneys’ fees and costs.

10.14 Survival. All of the terms of this Agreement, including, without limitation, the representations and warranties contained herein, shall survive and be enforceable after the Closing and delivery of the deed.

10.15 Entire Agreement/Amendment. This Agreement constitutes the entire agreement between the parties with respect to the subject matter herein and fully supersedes all prior written or oral agreements between the parties with respect to such matters. No other agreement, statement or promise made by any party and no amendment, modification or other change of any provision of this Agreement shall be effective unless in writing signed by the parties.

10.16 Effective Date. The date that the last party executed this Agreement as evidenced by the dates in the signature block of this Agreement. If either party fails to date this Agreement by its signature, the date by the signature of the other party shall constitute the Effective Date. Upon execution, a party shall promptly forward a signed original to the other party.

10.17 Exculpation. Except as expressly provided below with respect to Seller, no constituent shareholder, member or partner in or agent of Seller or Purchaser, nor any advisor, trustee, director, officer, employee, beneficiary, shareholder, member, manager, partner, participant, representative or agent of any partnership, limited liability company, corporation, trust or other entity that has or acquires a direct or indirect interest in Seller or Purchaser, shall have any personal liability, directly or indirectly, under or in connection with this Agreement or any agreement made or entered into under or pursuant to the provisions of this Agreement, or any amendment or amendments to any of the foregoing made at any time or times. Each party and its successors and assigns and, without limitation, all other persons and entities, shall look solely to the other party’s assets for the payment of any claim or for any performance, and each party, on behalf of itself and its successors and assigns, hereby waives any and all such personal liability; provided, however,

if Seller distributes funds from the Seller entity and does not retain enough funds to pay any claims required of Seller under this Agreement, then such personal liability shall not be waived by Purchaser.

10.18 Section 1031 Exchange. Purchaser and Seller agree that, at either party's election, this transaction shall be structured as an exchange of like-kind properties under Section 1031 of the Internal Revenue Code and the regulations and proposed regulations thereunder. The party so electing shall be known as the "Electing Party," and the other party shall be known as the "Non-Electing Party." The parties agree that if either party wishes to make such election, it must do so prior to the Closing Date. If the Electing Party so elects, the Non-Electing Party shall cooperate with the Electing Party; it being understood, however, that the Non-Electing Party shall not be required to take title to any other property as part of the Section 1031 exchange. The Electing Party shall in all events be responsible for all costs and expenses related to the Section 1031 exchange and shall indemnify, defend and hold harmless the Non-Electing Party from and against any and all liability, claims, damages and expenses (but excluding any attorneys' fees and expenses incurred by the Non-Electing Party in connection with its review of the documents reasonably necessary to effect the Electing Party's exchange) actually incurred by the Non-Electing Party and arising out of such Section 1031 exchange. Any Section 1031 Exchange shall in no event extend the Closing Date.

10.19 Confidentiality. Seller entered into a Confidentiality Agreement with Purchaser dated April 11, 2023. Such agreement shall remain in full force and effect and is merged into this Agreement.

10.20 Relocation Benefits.

(a) Applicability. Purchaser is an "acquiring authority" within the meaning of Minn. Stat. §§ 117.50 through 117.56. When Purchaser acquires real property, Minn. Stat. § 117.52 obligates Purchaser, as an "acquiring authority" to provide the relocation assistance, services, payments and benefits required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987 and the regulations adopted pursuant thereto which are found at 49 CFR Part 24. 49 CFR § 24.101(a) indicates that the requirements of the regulations do not apply to voluntary transactions which meet the following conditions:

- i. No specific site or property needs to be acquired;
- ii. The property to be acquired is not part of an intended, planned or designated project area where all or substantially all of the property within the area is to be acquired within specific time limits;
- iii. The acquiring agency will not acquire the property in the event negotiations fail to result in an amicable agreement, and the owner is so informed in writing; and
- iv. The acquiring agency informs the owner in writing what it believes to be the fair market value of the property.

Purchaser asserts that this transaction satisfies the requirements set forth above. Purchaser does not need to acquire any specific site; the Property is not part of an intended, planned or designated project area of Purchaser's in which Purchaser is to acquire all or substantially all of the property within the area within specific time limits; Purchaser will not acquire the Property in the event negotiations fail to result in an amicable agreement between Seller and Purchaser; and Purchaser believes that the Purchase Price is the fair market value of the Property.

(b) Representations and Warranties of Seller. Seller represents and warrants to Purchaser that Seller is the sole owner-occupant of the Property; that Seller had expressed an intent to sell the Property on the public market prior to any inquiry or action by the Purchaser; that there were no tenants or other non-owner occupants in possession of all or any portion of the Property as of the date Purchaser delivered the initial draft of this Agreement to Seller; and Seller will not allow any parties other than Seller to occupy or possess the Property prior to the Closing. Seller further represents to Purchaser that the Property is used solely for the operation of a business and has not been used as a single-family or multi-family residence, a multi-purpose property which included a single or multi-family residence, a unit in a condominium or cooperative housing project or any other place of permanent or customary usual residence of a person.

(c) Indemnification. Seller acknowledges that Purchaser is executing this Agreement in reliance on the representations set forth in Section 10.20, and Seller hereby agrees to indemnify Purchaser against any claims, causes of action or liability, including, but not limited to, claims for relocation assistance, services, payments or benefits, which Purchaser suffers or incurs as a result of the inaccuracy of any of the warranties set forth in Section 10.20 or Seller's breach of any of the warranties set forth in Section 10.20, provided that any action for damages based on a breach of any warranty shall have been commenced by Purchaser against Seller within twelve (12) months of the Closing.

(d) Waiver. Seller agrees that if, notwithstanding the provisions of Sections 10.20(a) and 10.20(b) above, Purchaser is obligated to provide Seller with relocation benefits pursuant to Minn. Stat. § 117.52, it is Seller's intent to waive the relocation benefits pursuant to the provisions of Minn. Stat. § 117.521. The attached Exhibit C specifically describes the types and amounts of relocation assistance, services, payments and benefits which Seller may be eligible for if the provisions of Sections 10.20(a) and 10.20(b) do not apply; and the types and amounts of relocation assistance, services, payments and benefits which Seller is waiving pursuant to this Section 10.20(d). Seller acknowledges that Purchaser has explained the contents of this waiver to Seller, that Seller is waiving these benefits voluntarily, that Purchaser has not made any express or implied threats to acquire the Property by eminent domain or any other threats intended to induce Seller to waive relocation assistance benefits and that representatives of Seller have explained the contents of this waiver to Seller in a manner which is understandable to the Seller and the Seller understands the terms and conditions of the waiver.

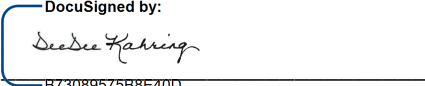
(e) Notice. This Section 10.20 shall constitute the notice described in 49 CFR §24.102(b), including notice of Purchaser's obligation to obtain an appraisal pursuant to 49 CFR §24.102(c), and the notice described in 49 CFR §24.203.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, Purchaser and Seller have executed this Purchase Agreement as of the Effective Date.

PURCHASER:

INDEPENDENT SCHOOL DISTRICT 284,
a Minnesota independent school district

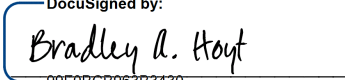
By: 
Name: DeeDee Kahring
Title: Executive Director of Finance and Operations

Dated: June 29, 2023, 2023

IN WITNESS WHEREOF, Purchaser and Seller have executed this Purchase Agreement as of the Effective Date.

SELLER:

CWE, LLC,
a Minnesota limited liability company

By: 
Print: Bradley A. Hoyt
Title: President

Dated: June 28, 2023, 2023

Exhibit A to Purchase Agreement

Legal Description and Depiction of Property

Legal Description:

Exact legal description to be determined and agreed upon between Purchase and Seller as part of the platting process.

Depiction:

Blue Outline – Original Parcel

Red Outline - Property

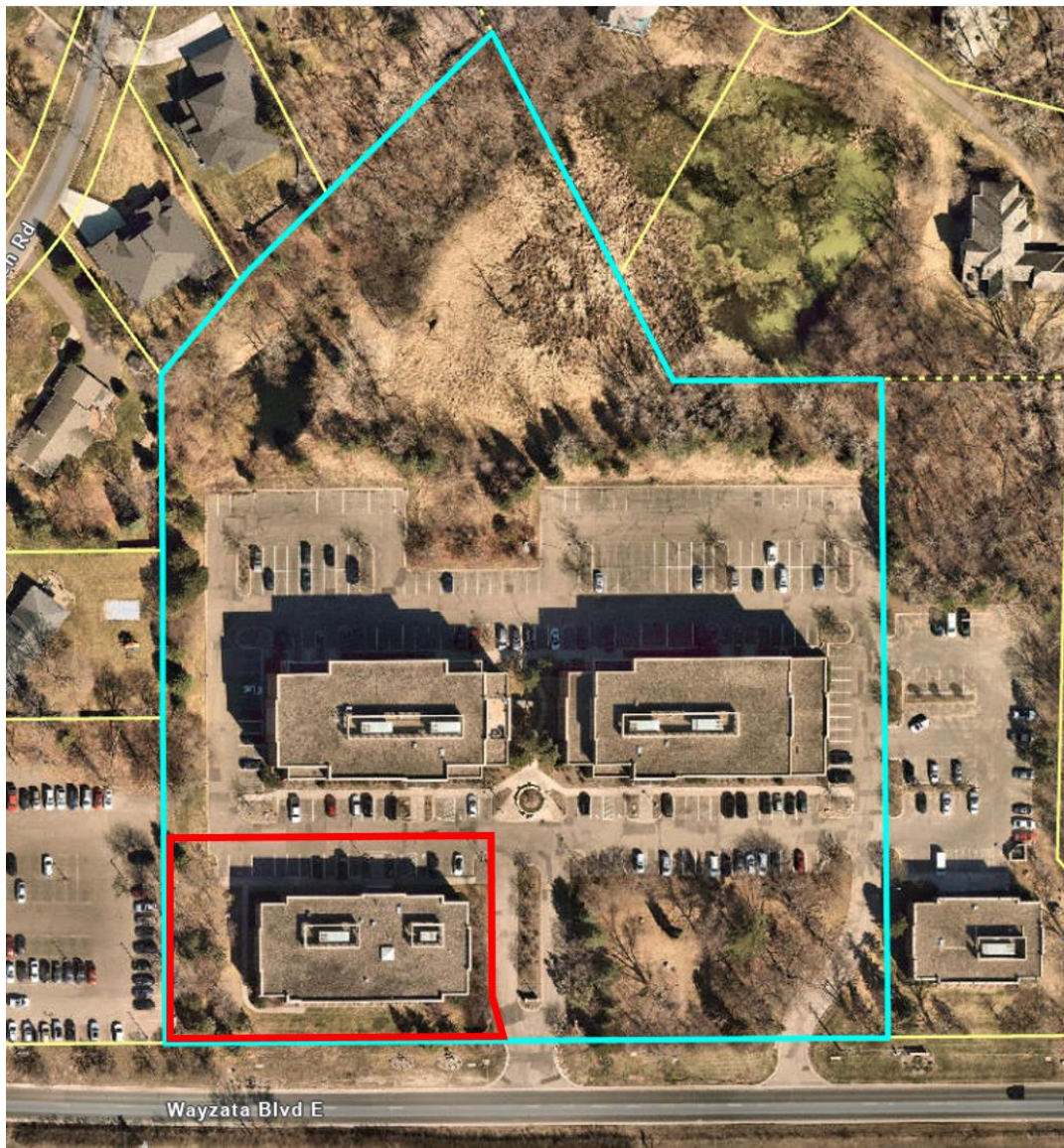


Exhibit B to Purchase Agreement

Legal Description of the Original Parcel

Lot 1, Block 1, Wayzata Executive Park Addition, Hennepin County, Minnesota

**Exhibit C to Purchase Agreement
Waiver of Relocation Benefits**

Waiver of Relocation Benefits

1. RELOCATION ASSISTANCE, SERVICES, PAYMENTS AND BENEFITS FOR WHICH SELLER MAY BE ELIGIBLE.

If, notwithstanding the factors recited in Section 10.20 of the Purchase Agreement, the requirements of 49 CFR, Part 24 apply to Purchaser's acquisition of the Property from Seller, Seller may be entitled to receive the following relocation assistance, services, payments and benefits:

A. Seller has the right to require Purchaser to comply with the basic acquisition policies described in 49 CFR, Section 24.102;

B. Seller has the right to require Purchaser to acquire all buildings, structures or other improvements located upon the Property pursuant to the provisions of 49 CFR, Section 24.105;

C. Seller has the right to require Purchaser to pay expenses incidental to transfer of title to the Purchaser pursuant to the requirements of 49 CFR, Section 24.106;

D. Seller has the right to receive the relocation notices described in 49 CFR, Section 24.203;

E. Seller has the right to receive relocation planning, advisory services and coordination as described in 49 CFR, Section 24.205; and

F. Seller has the right to receive payment for actual reasonable moving and related expenses pursuant to 49 CFR, Sections 24.301 and 24.303 and payment for re-establishment expenses pursuant to 49 CFR, Section 24.304. Re-establishment expenses may not exceed \$10,000.00. As a substitute for the payments for actual reasonable moving and related expenses and re-establishment expenses, Seller may be eligible to choose a fixed payment equal to the average of 2 years annual gross revenues of the nonprofit organization less administrative expenses, as computed in accordance with 49 CFR, Section 24.305(d), but such amount shall not be less than \$1,000.00 nor more than \$20,000.00. Any payment in excess of \$1,000 must be supported with financial statements for the two 12-month periods prior to the acquisition.

2. RELOCATION ASSISTANCE, SERVICES, PAYMENTS AND BENEFITS WHICH SELLER IS ELIGIBLE FOR AND WHICH SELLER IS VOLUNTARILY WAIVING PURSUANT TO MINN. STAT. § 117.521, SUBD. 1.

Seller voluntarily waives the relocation assistance and each of the relocation services, payments and benefits described in Section 1 above. Seller states that this waiver is made voluntarily and is not made under any threat of acquisition of the Property by eminent domain by Purchaser. Seller further states that Purchaser and Seller's attorney have explained the contents of this waiver to Seller and that Seller fully understands the nature of the relocation assistance, services, payments and benefits for which Seller is eligible and that Seller knowingly and voluntarily waives such assistance, services, payments and benefits.



Board of Education
Regular Meeting – August 28, 2023

AGENDA SECTION: Adjourn

ITEM: Adjourn

COMMENTS BY: Sarah Johansen, Board Chair

This agenda item brings closure to the School Board meeting.

Recommended Action: Call the meeting to a close.

Motion by: _____ **Yes:** _____ **Passed:** _____

Second by: _____ **No:** _____ **Failed:** _____

Time of Adjournment: _____