

Board of Education Work Session

March 7, 2016 6:00 PM

Board Room, Central Services Building  
765 Main St  
Springfield, NE 68059

## **Agenda**

- I. Meeting Roll Call
- II. Notice of Open Meetings Act - Posted
- III. Public Comment
- IV. Items for Discussion/ Possible Action
  - IV.A. Discussion/ Possible Action on Bid Award for Westmont Construction Contract to Prairie Construction
  - IV.B. Discussion only on Springfield Land Purchase for Future Elementary School
- V. Adjourn

WESTMONT ELEMENTARY REMODEL  
SPRINGFIELD PLATTEVIEW COMMUNITY SCHOOLS  
SPRINGFIELD, NEBRASKA

10-13125-10  
BID SET

DOCUMENT 004113 - BID FORM

COMBINED CONSTRUCTION

Westmont Elementary Remodel  
Springfield Platteview Community Schools  
13210 Glenn Street  
Omaha, Nebraska 68138  
DLR Group Project No. 10-13125-10

Issue Date: February 4, 2016

Bid of Prairie Construction Company,

a corporation organized and existing under the laws of the State of Nebraska,

a partnership consisting of \_\_\_\_\_, partners; or

a sole proprietor;

hereinafter called the Bidder.

To: Brett Richards, Superintendent  
Springfield Platteview Community Schools  
14801 South 108<sup>th</sup> Street  
Springfield, Nebraska 68059

The undersigned acknowledges that he has received and familiarized himself with the following:

Project Manual: Divisions and Sections as listed in the Table of Contents

Drawings: As listed on the Index of Drawings Sheet

Addenda: No. CC-1 Dated 2/17/2016  
No. CC-2 Dated 2/24/2016  
No. CC-3 Dated 2/29/2016

The undersigned further acknowledges that he has visited the site and familiarized himself with local conditions affecting the cost of the Work at the place where the Work is to be done.

In submitting this Bid, the undersigned agrees:

1. To furnish all material, labor, tools, expendable equipment, and all utility and transportation services necessary to provide and complete, in a workmanlike manner, all of the Work required for the Combined Construction, including  
General Construction, Mechanical Work, and Electrical Work,  
  
in accord with the Bidding Documents prepared by DLR Group inc., for the consideration hereinafter set forth.
2. To hold his Bid open for ten (10) days after the receipt of Bids and to accept the provisions of the Instructions to Bidders regarding disposition of Bid Security.
3. To enter into and execute a Contract if awarded on the basis of this Bid, to furnish a Performance Bond and a Labor and Material Payment Bond in accord with the General Conditions and General Requirements of this Contract, and to deliver executed Owner-Contractor Agreements and Bonds to the Architect-Engineer within ten (10) days after notification of award, for submittal to the Owner for his approval and acceptance.
4. To substantially complete the Work as specified in Division 01 Section "Summary."

LUMP SUM BASE BID: The undersigned hereby proposes and agrees to provide the foregoing for the Lump Sum of

THREE MILLION THREE HUNDRED SEVENTY EIGHT THOUSAND dollars (\$ 3,378,000 ).  
(Amount shall be shown in both words and figures. In case of discrepancy, the amount shown in words will govern.)

PRIME SUBCONTRACTORS: The undersigned proposes the following Prime Subcontractors:

Mechanical Work: PETLOR

Electrical Work: BAXTER

ALTERNATES: The above Lump Sum Base Bid may be modified in accord with the following Alternates as may be accepted by the Owner. Provide a bid for all Alternates. If there is no cost to the work described, indicate so by writing zero, \$0. If you do not provide a bid price, indicate so by writing, "No Bid."

ALTERNATE NO. CC-1. Add Lockers.

If this Alternate is accepted, add to the

Lump Sum Base Bid the sum of

TWENTY FOUR THOUSAND EIGHT HUNDRED dollars (\$ 24,800 ).

WESTMONT ELEMENTARY REMODEL  
SPRINGFIELD PLATTEVIEW COMMUNITY SCHOOLS  
SPRINGFIELD, NEBRASKA

10-13125-10  
BID SET

ALTERNATE NO. CC-2. Additional Casework.

If this Alternate is accepted, add to the

Lump Sum Base Bid the sum of

FIFTEEN THOUSAND dollars (\$ 15,000 ).

ALTERNATE NO. CC-3. Add acoustical wall panels and baffles.

If this Alternate is accepted, add to the

Lump Sum Base Bid the sum of

NINE THOUSAND SIX HUNDRED dollars (\$ 9,600 ).

ALTERNATES: The Lump Sum Base Bid may be modified in accord with the Alternates as proposed by the undersigned on his completed Bid Forms for the respective projects.

The undersigned has attached the required Bid Security and other items required in the Instructions to Bidders.

The undersigned has attached the required Bid Security.

In submitting this Bid, it is understood that the right to reject any and all Bids and to waive irregularities in the bidding has been reserved by the Owner.

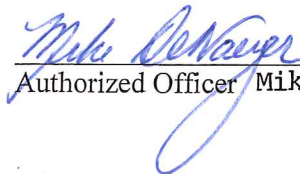
Dated this 3rd day of March, 2016

Prairie Construction Company

Name of Bidder

13316 B Street Omaha, NE 68144

Address of Bidder



Authorized Officer Mike DeNaeyer, Vice President

402-330-8522

Area Code/Telephone Number

END OF SECTION



# AIA Document A310™ – 2010

## Bid Bond

**CONTRACTOR:**

(Name, legal status and address)

Prairie Construction Company  
13316 "B" Street  
Omaha NE 68144

**SURETY:**

(Name, legal status and principal place of business)

Berkley Insurance Company  
11201 Douglas Avenue  
Des Moines IA 50322

**OWNER:**

(Name, legal status and address)

Springfield Platteview Community Schools  
14801 South 108th Street  
Springfield, NE 68059

**BOND AMOUNT:** Five percent of the bid amount (5%)-----

**PROJECT:**

(Name, location or address, and Project number, if any)

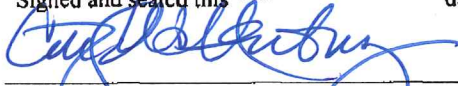
Springfield Platteview Community Schools  
Westmont Elementary Remodel 13210 Glenn St Omaha, NE 68138

The Contractor and Surety are bound to the Owner in the amount set forth above, for the payment of which the Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, as provided herein. The conditions of this Bond are such that if the Owner accepts the bid of the Contractor within the time specified in the bid documents, or within such time period as may be agreed to by the Owner and Contractor, and the Contractor either (1) enters into a contract with the Owner in accordance with the terms of such bid, and gives such bond or bonds as may be specified in the bidding or Contract Documents, with a surety admitted in the jurisdiction of the Project and otherwise acceptable to the Owner, for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof; or (2) pays to the Owner the difference, not to exceed the amount of this Bond, between the amount specified in said bid and such larger amount for which the Owner may in good faith contract with another party to perform the work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect. The Surety hereby waives any notice of an agreement between the Owner and Contractor to extend the time in which the Owner may accept the bid. Waiver of notice by the Surety shall not apply to any extension exceeding sixty (60) days in the aggregate beyond the time for acceptance of bids specified in the bid documents, and the Owner and Contractor shall obtain the Surety's consent for an extension beyond sixty (60) days.

If this Bond is issued in connection with a subcontractor's bid to a Contractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

When this Bond has been furnished to comply with a statutory or other legal requirement in the location of the Project, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

Signed and sealed this 3rd day of March, 2016

  
(Witness)

Prairie Construction Company  
(Principal)  CFO (Seal)

  
(Witness)

Berkley Insurance Company  
(Surety)  (Seal)  
(Title) Jill Shaffer, Attorney-in-Fact

CAUTION: You should sign an original AIA Contract Document on which this text appears in RED. An original signature that changes will not be observed.

Int.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.



POWER OF ATTORNEY  
BERKLEY INSURANCE COMPANY  
WILMINGTON, DELAWARE

NOTICE: The warning found elsewhere in this Power of Attorney affects the validity thereof. Please review carefully.

KNOW ALL MEN BY THESE PRESENTS, that BERKLEY INSURANCE COMPANY (the "Company"), a corporation duly organized and existing under the laws of the State of Delaware, having its principal office in Greenwich, CT, has made, constituted and appointed, and does by these presents make, constitute and appoint: *Mark E. Keairnes; Greg T. LaMair; Jeffrey R. Baker; Patrick K. Duff; Nancy D. Baltutat; F. Melvyn Hrubetz; Joseph I. Schmit; or Jill Shaffer of LaMair-Mulock-Condon Co. of West Des Moines, IA* its true and lawful Attorney-in-Fact, to sign its name as surety only as delineated below and to execute, seal, acknowledge and deliver any and all bonds and undertakings, with the exception of Financial Guaranty Insurance, providing that no single obligation shall exceed **Fifty Million and 00/100 U.S. Dollars (U.S.\$50,000,000.00)**, to the same extent as if such bonds had been duly executed and acknowledged by the regularly elected officers of the Company at its principal office in their own proper persons.

This Power of Attorney shall be construed and enforced in accordance with, and governed by, the laws of the State of Delaware, without giving effect to the principles of conflicts of laws thereof. This Power of Attorney is granted pursuant to the following resolutions which were duly and validly adopted at a meeting of the Board of Directors of the Company held on January 25, 2010:

**RESOLVED**, that, with respect to the Surety business written by Berkley Surety Group, the Chairman of the Board, Chief Executive Officer, President or any Vice President of the Company, in conjunction with the Secretary or any Assistant Secretary are hereby authorized to execute powers of attorney authorizing and qualifying the attorney-in-fact named therein to execute bonds, undertakings, recognizances, or other suretyship obligations on behalf of the Company, and to affix the corporate seal of the Company to powers of attorney executed pursuant hereto; and said officers may remove any such attorney-in-fact and revoke any power of attorney previously granted; and further

**RESOLVED**, that such power of attorney limits the acts of those named therein to the bonds, undertakings, recognizances, or other suretyship obligations specifically named therein, and they have no authority to bind the Company except in the manner and to the extent therein stated; and further

**RESOLVED**, that such power of attorney revokes all previous powers issued on behalf of the attorney-in-fact named; and further

**RESOLVED**, that the signature of any authorized officer and the seal of the Company may be affixed by facsimile to any power of attorney or certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligation of the Company; and such signature and seal when so used shall have the same force and effect as though manually affixed. The Company may continue to use for the purposes herein stated the facsimile signature of any person or persons who shall have been such officer or officers of the Company, notwithstanding the fact that they may have ceased to be such at the time when such instruments shall be issued.

IN WITNESS WHEREOF, the Company has caused these presents to be signed and attested by its appropriate officers and its corporate seal hereunto affixed this 5<sup>th</sup> day of February, 2015.

Attest:

Berkley Insurance Company

(Seal)

By

Ira S. Lederman  
Senior Vice President & Secretary

By

Jeffrey M. Hafter  
Senior Vice President

**WARNING: THIS POWER INVALID IF NOT PRINTED ON BLUE "BERKLEY" SECURITY PAPER.**

STATE OF CONNECTICUT )

) ss:

COUNTY OF FAIRFIELD )

Sworn to before me, a Notary Public in the State of Connecticut, this 5<sup>th</sup> day of February, 2015, by Ira S. Lederman and Jeffrey M. Hafter who are sworn to me to be the Senior Vice President and Secretary, and the Senior Vice President, respectively, of Berkley Insurance Company.

**MARIA C. RUNDBAKEN**  
NOTARY PUBLIC  
MY COMMISSION EXPIRES  
APRIL 30, 2019

Maria C.  
Notary Public, State of Connecticut

**CERTIFICATE**

I, the undersigned, Assistant Secretary of BERKLEY INSURANCE COMPANY, DO HEREBY CERTIFY that the foregoing is a true, correct and complete copy of the original Power of Attorney; that said Power of Attorney has not been revoked or rescinded and that the authority of the Attorney-in-Fact set forth therein, who executed the bond or undertaking to which this Power of Attorney is attached, is in full force and effect as of this date.

Given under my hand and seal of the Company, this 3rd day of March, 2016.

(Seal)

Andrew M. Tuma

WARNING - Any unauthorized reproduction or alteration of this document is prohibited. This power of attorney is void unless seals are readable and the certification seal at the bottom is embossed. The background imprint, warning and confirmation (on reverse) must be in blue ink.

## **Instructions for Inquiries and Notices Under the Bond Attached to This Power**

**Berkley Surety Group is the affiliated underwriting manager for the surety business of: Acadia Insurance Company, Berkley Insurance Company, Berkley Regional Insurance Company, Carolina Casualty Insurance Company, Union Standard Insurance Company, Continental Western Insurance Company, and Union Insurance Company.**

**To verify the authenticity of the bond, please call (866) 768-3534 or email [BSGInquiry@berkleysurety.com](mailto:BSGInquiry@berkleysurety.com)**

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**Any written notices, inquiries, claims or demands to the surety on the bond to which this Rider is attached should be directed to:**

**Berkley Surety Group  
412 Mount Kemble Avenue  
Suite 310N  
Morristown, NJ 07960  
Attention: Surety Claims Department**

**Or**

**email [BSGClaim@berkleysurety.com](mailto:BSGClaim@berkleysurety.com)**

**Please include with all notices the bond number and the name of the principal on the bond. Where a claim is being asserted, please set forth generally the basis of the claim. In the case of a payment or performance bond, please identify the project to which the bond pertains.**

# SPRINGFIELD PLATTEVIEW PUBLIC SCHOOLS

## Proposed Project Budget - FY 2016

### Westmont Elementary School - HVAC System Replacement & Associated Renovation

Renovation / Remodeling Cost	33,200 SF	\$	101.75	<b>\$ 3,378,000</b>
Addition Construction Cost	0 SF			\$ -
Site work				\$ -
<b>Architect / Engineering Fees</b>				<b>\$ 319,858</b>
Renovation	9.0%	\$	289,750	
Additions	9.0%	\$	-	
Reimbursable Expenses	1.0%	\$	30,108	
<b>Miscellaneous Expenses</b>				<b>\$ 34,313</b>
Survey, Soil & Construction Testing, TAB	1.0%	\$	29,511	
Builders Risk Insurance - Renovation	\$ 0.0016	\$	4,769	
Builders Risk Insurance - Additions	\$ 0.0011	\$	33	
<b>Construction Management Fees</b>				<b>\$ -</b>
Basic Services	0.0%	\$	-	
<b>Fixtures, Furnishings &amp; Equipment</b>	0 SF	\$	-	<b>\$ -</b>
any owner items? Data, security, other				
<b>PROJECT EXPENDITURE SUBTOTAL ( excluding contingency )</b>				<b>\$ 3,732,171</b>
Design & Construction Contingency	5.00%			\$ 168,900
<b>PROJECT BUDGET FY2016 ( including contingency )</b>				<b>\$ 3,901,071</b>
Project Escalation Factor	0.00%			\$ -
<b>TOTAL PROJECT ESCALATED BUDGET</b>				<b>\$ 3,901,071</b>
<b>Fiscal Consultant Fees + Capitalized interest + Issuance</b>				<b>\$ -</b>
Basic Services Fee	\$0.00 / \$1000	\$	-	
<b>TOTAL ESTIMATED PROJECT BUDGET</b>				<b>\$ 3,901,071</b>

total	bid	dif	
\$ 3,378,000	3378000	\$	-

permit / code review	
Survey	9700
Geo test	6811
Construction testing	5000
TAB	8000
total	29511

with escalation  
\$ -

pre-design	dif	%
3270292	\$ 630,779	19%

SD	dif
3618773	\$ (282,298)

DD	dif DD-SD
3618648	\$ (125)

Bid	dif Bid-DD
\$ 3,901,071	\$ 282,423

FACILITY PLANNING

			Fund	Priority/ Phase
<b>PRIORITY PROJECTS</b>				
WM- Project	\$	3,901,071		1
PHS/PC- Sewage Lagoon	\$	225,000		1
Springfield Land	\$	600,000		1
	Total	\$ 4,726,071		
<b>BUDGET PLAN</b>				<b>B.F. Cash Balance</b>
<b>2015-16</b>				<b>\$ 650,000</b>
<b>Revenue</b>				
Building Fund 7.3 cents	\$	905,000	Building	
QCPUF 2.7 cents	\$	3,076,383	QCPUF	
	Total	\$ 3,981,383		
<b>Expenditures 15-16</b>				
Springfield Land Purchase #1	\$	400,000	Building	
Summer Maintenance	\$	100,000	Building	
Sewage Lagoon	\$	225,000	General	
Westmont Project	\$	3,076,383	QCPUF	
Westmont Project	\$	824,688	Building	
Prime Communications	\$	55,000	General	
<b>Total Costs for 15-16:</b>				
Building Fund	\$	1,324,688		
General Fund	\$	280,000		
QCPUF	\$	3,076,383		
				<b>\$ 230,312</b>
<b>2016-17</b>				
<b>Revenue</b>				
Building Fund 5 cents	\$	660,000	Building	
<b>Expenditures 16-17</b>				
Springfield Land Purchase- #2	\$	200,000		
Summer Maintenance	\$	100,000		
				<b>\$ 590,312</b>





## **REAL ESTATE SALE AND PURCHASE AGREEMENT**

This Real Estate Sale and Purchase Agreement (the "**Agreement**") is entered into effective this \_\_\_\_ day of \_\_\_\_\_, 2016, by and between GDR, L.L.C., a Nebraska limited liability company, (the "**Seller**"), and Sarpy County School District 77-0046, commonly known as Springfield Platteview Community Schools (the "**Buyer**"). The Buyer and Seller shall be referred to individually as a "**Party**" and collectively as the "**Parties**").

### **RECITALS:**

A. Seller is the optionee of that certain unimproved real estate located in Sarpy County, Nebraska, consisting of approximately 119 acres, more or less, and more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference (the "**Entire Tract**");

B. Seller intends to rezone, subdivide and develop approximately 60 acres, more or less, of the Entire Tract (the "**Development Property**") generally as identified on the site plan, preliminary and final plat attached hereto as Exhibit "B" (the "**Site Plan**");

C. Buyer is interested in purchasing a portion of the Development Property for the purpose of constructing and using a new elementary school and for other school purposes;

D. Upon Seller obtaining Final Approval of all Governmental Approvals (as defined in Section 3.3, below), Seller desires to sell to Buyer and Buyer desires to purchase and acquire from Seller approximately 9.46 acres, more or less, of the Development Property to Buyer, as depicted on Exhibit "C" attached hereto and incorporated herein by this reference (the "**School Site Property**"), on the terms and subject to the conditions set forth herein.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises, covenants, conditions and agreements set forth herein, Buyer and Seller agree as follows:

### **ARTICLE 1. PURCHASE AND SALE OF PROPERTY**

1.1. **Agreement to Purchase and Sell.** Upon the terms and subject to the conditions set forth in this Agreement, and in reliance upon the representations and warranties made herein by each Party to the other, Seller agrees to sell and convey to Buyer, and Buyer agrees to purchase and acquire from Seller, that certain tract of real estate (as defined in Neb. Rev. Stat. § 76-201), herein described as the School Site Property, as more particularly described in Exhibit "C", and all

rights, improvements and appurtenances situated thereon and relating thereto.

- 1.2. **Closing.** The Closing of the purchase and sale of the School Site Property shall be held at the offices of the Buyer within thirty (30) days after the expiration of the Contingency Period, or at such other time, date and place as Seller and Buyer may mutually agree (the "**Closing**").
- 1.3. **Purchase Price.** In consideration of Seller's agreement to convey the Property, and subject to the terms and conditions of this Agreement, the Purchase Price for the School Site Property shall be Six Hundred Thousand and No/100ths Dollars (\$600,000.00). Buyer agrees to pay Seller the Purchase Price amount as follows:
  - 1.3.1. Buyer shall pay Seller Four Hundred Thousand and No/100ths Dollars (\$400,000.00) of the Purchase Price at Closing.
  - 1.3.2. Buyer shall pay Seller Two Hundred Thousand and No/100ths Dollars (\$200,000.00), representing the balance of the Purchase Price, no later than May 12, 2017.
  - 1.3.3. The Purchase Price stated above includes all costs for site preparation work performed on the School Site Property by Seller, as described in Section 1.7 below.
  - 1.3.4. The Purchase Price stated above shall not include any Special Assessments or General Obligation Costs of any Sanitary and Improvement Districts.
- 1.4. **Sanitary and Improvement Districts.** Buyer and Seller expressly agree that the School Site Property shall not be a part of or included in the boundaries of any Sanitary and Improvement District. No SID shall levy or attempt to levy any special assessments or general obligations costs against the School Site Property. The Buyer shall not be obligated to pay any special assessments or general obligations costs levied against the School Site Property by any SID.
- 1.5. [Intentionally omitted].
- 1.6. **Capital Facilities Charges.** The Purchase Price of the School Site Property does not include any amounts for capital facilities charges that may be charged by the City of Springfield or the water supplier. If capital facilities charges are assessed by the City of Springfield or the water supplier, Buyer shall pay such capital facilities charges to the City of Springfield or the water supplier directly.

1.7. **Site Preparation Work and Expenses.** The Seller shall undertake to cause to be performed on the School Site Property certain site preparations work, including grubbing, mass/rough grading, excavation and earthwork, strip and respread, sediment basin installation, erosion control and maintenance, seeding and other site preparation work. On or before November 30, 2016, Seller shall cause all site preparations work on the School Site Property to be performed and to pay all amounts for such site preparation work, including all design fees and costs. Seller shall provide copies of all plans and specifications for the site preparation to Buyer for Buyer's review and approval, which approval shall not be unreasonably withheld, conditioned or delayed. Seller and Buyer shall agree on the location of any permanent sediment basin which will be required to be located on the School Site Property. Buyer further reserves the right (i) to observe the performance of the site preparation work by Seller, (ii) to object to the quality of site preparation work performed by Seller, (iii) to obtain further testing involving the site preparation work, and (iv) to require Seller to have site preparation work re-performed or conformed Buyer requirements pursuant to the approved plans and specifications. Seller shall not be responsible for any finish grading of the School Site Property in order to meet the requirements of Buyer's intended uses. Buyer shall be responsible for any erosion control and maintenance work on the School Site Property after Closing, which shall include the closing of any temporary sediment basins. Seller shall provide to Buyer lien releases and waivers from all contractors and subcontractors who performed the site preparation work described in this Section. Seller, and Seller's contractor(s), shall obtain and maintain such insurance as will protect Seller and Buyer from claims which may arise out of, or result from performance of Seller's site preparation work, including but not limited to workers' compensation and employer's liability, automobile liability, commercial general liability, and excess liability. To the extent allowed, Buyer shall be named as an additional insured on Seller's, and Seller's contractors', insurance policies.

1.8. [Intentionally omitted].

1.9. [Intentionally omitted].

1.10. **Title Insurance Commitment; Survey; Delivery of Deed; Title Insurance Policy.**

1.10.1. **Title Insurance Commitment.** Within ten (10) days of execution of this Agreement, Seller shall furnish to Buyer a current title insurance commitment (the "**Commitment**")

evidencing marketable title to School Site Property or, if not yet available, the Entire Tract, free and clear of all liens and encumbrances, except easements and restrictions of record which will not interfere with Buyer's intended use of the Property for school purposes. If the Commitment is provided for the Entire Tract, the Commitment shall be revised to show the School Site Property upon the recording of the Final Plat. Should a valid title defect exist, Seller shall have a reasonable time to correct said defect, not to exceed 30 days from the date of delivery of Buyer's attorney's opinion describing the defect. If the title defect is not cured within said 30 day period, then Buyer shall have the option to (i) rescind this Agreement; or (ii) extend the Closing for a reasonable period of time to permit Seller to cure such defect.

- 1.10.2. **Survey.** Within fifteen (15) days after Seller has obtained and delivered to Buyer the Commitment, Seller shall obtain and deliver to Buyer (at Seller's sole cost and expense) a current survey of the Entire Tract, including a separate breakout survey of the School Site Property (the "Survey"), prepared by a surveyor licensed in the State of Nebraska. The Survey shall be prepared in accordance with the current standards for Land Title Surveys of the American Land Title Association and the American Congress on Surveying and Mapping and shall be certified to Buyer, Seller and the Title Company. The Survey shall set forth the legal description of the School Site Property and all easements appurtenant to the Entire Tract and shall include a vicinity map showing the location of major streets and/or highways. The Survey shall show all (i) improvements (including fences), (ii) easements encumbering and easements appurtenant to the Entire Tract (visible or recorded), including recording information concerning the documents creating any such easements, (iii) building lines, (iv) curb cuts, (v) sewage, water, electricity, gas and other utility facilities, together with points of connection, (vi) roads and other means of physical and record ingress and egress to and from the Entire Tract from public roads (including the dimensions of abutting streets), (vii) areas located within flood plains or conservation areas or designated as wetlands, and (viii) improvements on adjoining properties which are within five (5) feet of the property lines of the Entire Tract and the School Site Property. The Survey shall also certify the number of gross square feet and the number of Net Square Feet of land included in the School Site Property. For purposes of this Agreement, the term "**Net Square Feet**" shall mean the number of gross square feet within the School Site Property less the number of square feet lying within existing or proposed state or local rights-of-ways.

- 1.10.3. **Delivery of Deed and Possession.** At Closing, Seller shall deliver to Buyer a properly executed and acknowledged general warranty deed, in the form attached hereto as Exhibit "D", conveying marketable fee simple title to Buyer, free and clear of all liens, encumbrances, special assessments levied or assessed, and subject to acceptable easements, restrictions and covenants of record. Seller shall deliver possession of the School Site Property to Buyer at Closing.
- 1.11. **Closing Costs.** Buyer shall be responsible for the following costs at Closing: (a) costs for recording the Deed; (b) one-half (1/2) of the total for escrow fees, if any; (c) one-half (1/2) of the cost of a standard owner's title insurance policy; (d) cost to obtain any extended coverage in or any endorsements to the owner's title insurance policy; (e) costs of Tests, if any; and (f) Buyer's attorneys' fees. Seller shall be responsible for the following costs at Closing: (a) costs for preparation of the warranty deed; (b) one-half (1/2) of the total for escrow fees, if any; (c) one-half (1/2) of the cost of a standard owner's title insurance policy; (d) Seller's attorneys' fees, if any; (e) applicable Nebraska Documentary Stamp Taxes, if any, which become payable upon recordation of the personal representative's deed; and (f) any fee which becomes payable upon recordation of the personal representative's deed conveying title to the School Site Property from Seller to Buyer.
- 1.12. **Real Estate Taxes.** All real estate and personal property taxes on the School Site Property for the tax years prior to the Date of Closing shall be paid by Seller. The property taxes for the year of the Date of Closing, if any, shall be prorated to the Date of Closing and shall be prorated based upon the then most current property valuations and upon the most current tax rate as determined by law. Any greenbelt recapture tax shall be paid by Seller at or prior to the Date of Closing. Seller and Buyer agree to use their commercially reasonable efforts to utilize Buyer's sale tax exemption status as permitted under the law for any and all conditions that the sales tax exemption status is applicable.
- 1.13. **Contingency Period and Buyer's Closing Contingencies.** This Agreement and Buyer's obligation to consummate this transaction is subject to the following Closing Contingencies (sometimes collectively or individually referred to as the "Closing Contingencies"):
- 1.13.1. **Governmental Approvals.** Seller obtaining all Governmental Approvals (as defined in Section 3.3.3, below) at its sole cost and expense.

1.13.3. **Testing.** Buyer approving all Tests as described in Section 3.1., below, prior to the expiration of the Contingency Period.

1.13.4. **Title Insurance.** Buyer's review and approval the Commitment as described in Section 1.10.1. above;

## **ARTICLE 2. WARRANTIES**

2.1. **Representations and Warranties of Seller.** Seller represents and warrants to Buyer as follows:

2.1.1. **Authority Relative to Agreement.** This Agreement has been executed by the Seller and constitutes the legal, valid and binding obligation of Seller, and is enforceable against Seller in accordance with its terms, subject only to the terms and conditions of Seller's underlying Option Agreement.

2.1.2. **No Brokers.** Seller has not entered into any contract, arrangement or understanding with any person or firm which may result in the obligation of Buyer to pay any finder's fee, brokerage or agent's commission or other like payment in connection with the negotiations leading to the execution of this Agreement or the consummation of the transactions contemplated hereby.

2.1.3. **Condition of Property.** At the time of Closing, Seller represents and warrants to Buyer that Seller will have marketable title in fee simple to the School Site Property, free and clear of all liens and encumbrances except those of record on the date hereof; that there are no unpaid bills for labor or materials for any improvement or repair of the School Site Property; nor any agreement or order for any such labor or materials that could give rise to a construction lien or other lien against the School Site Property; and that Seller has good and lawful authority to sell the School Site Property pursuant to the terms hereof subject only to the terms and conditions of Seller's underlying option agreement. Seller shall cause all leases and leasehold interest in the School Site Property to be terminated by the Closing Date and shall cause all tenants to vacate the Property by the Closing Date.

2.1.4. **Construction Liens.** To the fullest extent allowed by law, Seller shall indemnify, defend and hold harmless Buyer from and against: (i) any and all claims, actions, damages or expenses

(including attorney's fees) arising from Seller's pre-Closing site preparation work, as described in Section 1.7 above, and any other development work conducted on the School Site Property (including personal injury, death and property damage); and (ii) any mechanic's liens filed against the School Site Property resulting from the Seller's pre-Closing site preparation work and any other development work conducted on the School Site Property. After Closing, Seller shall provide to Buyer lien releases and waivers from all contractors and subcontractors who performed the site preparation work described in Section 1.7. The terms and conditions of this Section shall survive the Closing and/or termination of this Agreement.

**2.1.5. Non-Foreign Status.** At the Date of Closing, Seller shall deliver to Buyer the Certification of Non-Foreign Status duly executed and containing such other information as may be required by Internal Revenue Code Section 1445 and the Regulations issued thereunder.

**2.1.6. Exclusion from SID.** Seller represents and warrants to Buyer that the (i) School Site Property shall not be a part of or included in the boundaries of any Sanitary and Improvement District, (ii) no SID shall levy or attempt to levy any special assessments or general obligations costs against the School Site Property, and (iii) Buyer shall not be obligated to pay any special assessments or general obligations costs levied against the School Site Property by any SID.

**2.1.7. School Site Property Access Points.** Seller represents and warrants to Buyer that that the School Site Property shall have (i) at least one traffic entrance/egress point from the future "A" Street, with no restrictions on how this access point may be used, and (ii) access to water distribution, utilities and storm water retention/detention facilities for storm water runoff from the east side of the School Site Property.

**2.1.8. Seller Insurance.** Seller represents and warrants to Buyer that Seller, and Seller's contractors, shall obtain and maintain such insurance as will protect Seller and Buyer from claims which may arise out of, or result from performance of Seller's site preparation work described in Section 1.7 above, including but not limited to workers' compensation and employer's liability, automobile liability, commercial general liability, and excess liability. To the extent allowed, Buyer shall be named as an additional insured on Seller's, and Seller's contractors', insurance policies.

**2.1.9.School Site Stormwater Detention Facilities.** Seller and Buyer agree that as part of Seller's site preparation work, described in Section 1.7 above, Seller may cause to be constructed and installed one (1) stormwater detention facility general located as shown on Exhibit "E", attached hereto and incorporated herein by this reference. Seller shall provide copies of all plans and specifications and the proposed location of such stormwater detention facility before any contract to construct such facility has been awarded by Seller. Seller and Buyer shall mutually agree on the final location of such stormwater detention facility, which stormwater detention facility will be located on the School Site Property. Buyer reserves the right to review and approve Seller's plans and specifications for the stormwater detention facility, which review and approval shall not be unreasonably withheld, conditioned or delayed. Buyer further reserves the right (i) to observe the performance of the work by Seller, (ii) to object to the quality of work performed by Seller, (iii) to obtain further testing involving the work, and (iv) to require Seller to have the work re-performed or conformed Buyer requirements pursuant to the approved plans and specifications. If Buyer has reasonable concerns or objections to any stormwater detention facility plans and specifications, Buyer shall give written notice of such concerns or objections to Seller and thereafter Buyer and Seller shall meet and confer in an attempt to resolve Buyer's concerns or objections.

**2.2. Buyer's Representations and Warranties.** Buyer represents and warrants to Seller as follows:

**2.2.1.Authority Relative to Agreement.** Buyer is a political subdivision and body corporate duly organized and in good standing under the laws of the State of Nebraska and has all requisite authority and power to execute, deliver and perform this Agreement. All necessary actions required in order to authorize the execution and delivery of this Agreement and the consummation and performance of the transactions contemplated hereby have been duly and validly taken by Buyer. Buyer's Board of Education approved the terms set forth herein and authorized the execution hereof or will do so at a regular meeting in accordance with Nebraska law. This Agreement has been executed by an authorized representative of Buyer and constitutes the legal, valid and binding obligation of Buyer and is enforceable against Seller in accordance with its terms.

2.2.2.**No Brokers.** Buyer has not entered into any contract, arrangement or understanding with any person or firm which may result in the obligation of Seller to pay any finder's fee, brokerage or agent's commission or other like payment in connection with the negotiations leading to the execution of this Agreement or the consummation of the transactions contemplated hereby.

2.2.3.**Future Fencing.** Buyer agrees to reasonable future fencing along the entrance to the School Site Property.

2.2.4.**Rent.** Buyer agrees to rent the School Site Property to Seller after Closing until November 30, 2016, for \$1.00. Such ground lease shall automatically expire on November 30, 2016, without further notice from either party. Seller, or Seller's tenants, if any, shall immediately vacate the School Site Property on or before November 30, 2016, and shall not hold over. Seller, or Seller's tenants, if any, shall have the right to harvest all mature crops on the School Site Property no later than November 30, 2016. Seller shall not cause any liens, mortgages or other encumbrances to encumber the School Site Property during the term of the lease.

### **ARTICLE 3. OTHER AGREEMENTS**

3.1. **Inspection and Testing.** At any time after the execution of this Agreement by all Parties and prior to Closing, Buyer and its employees and agents shall have the right to enter upon the Property and perform such professional wetlands delineation, professional floodplain analysis, soil tests, geotechnical investigation, borings, phase 1 environmental audit, surveys, studies, inspections, and other tests and inspections (the "Tests") as it deems necessary to determine suitability of the School Site Property for its intended use and to determine whether the School Site Property contains, or has the potential of containing, any hazardous materials or substances, or other environmental problems. It is the intention of the Parties that if Tests indicate that the School Site Property may contain hazardous substances, Buyer shall have the right to rescind the Agreement as provided herein. If in Buyer's sole judgment, such Tests indicate or determine that the School Site Property is not suitable for the uses contemplated by the Buyer, or that the School Site Property contains any hazardous materials or substances, then Buyer may rescind this Agreement by written notice to Seller. Buyer shall make reasonable efforts to restore the Property if (a) such tests alter the grade, compaction or vegetation and (b) this Agreement fails to close for any

reason. Only to the extent allowed by law, Buyer hereby agrees to indemnify, defend and hold harmless Seller from and against: (i) any and all claims, actions, damages or expenses (including attorney's fees) arising from Buyer's Tests conducted on the School Site Property (including personal injury, death and property damage); and (ii) any mechanic's liens filed against the School Site Property resulting from the Buyer's Tests. The terms and conditions of this Section shall survive the Closing and/or termination of this Agreement.

3.2. **Buyer's Closing Contingencies.** Buyer's obligation to consummate this transaction is contingent upon the following Closing Contingencies (sometimes collectively or individually referred to as the "Contingencies"):

3.2.1. **Governmental Approvals.** This Agreement is contingent upon Seller obtaining, at Seller's sole cost and expense: (i) the rezoning of the School Site Property, for Buyer's intended development and use of the School Site Property as an elementary school; (ii) the replatting of the School Site Property as shown on the Site Plan attached hereto; and (iii) all other approvals, permits, licenses, entitlements deemed necessary by Buyer for Buyer's intended development and use of the Property as an elementary school (collectively, the "**Governmental Approvals**"); provided that Buyer shall be responsible for obtaining the building permit for the construction of the elementary school and shall be solely responsible for all other fees and costs customarily associated with the issuance of a building permit. Except as set forth herein, Buyer shall, at no cost to Buyer and gratuitously to Seller, reasonably cooperate with Seller in the pursuit of the Governmental Approvals, including, without limitation, executing any application necessary to obtain each Governmental Approval. Seller shall pursue the applications and processing for the Governmental Approvals to completion and Seller shall execute all necessary and appropriate instruments that are related to the same. "**Final Approval**" of the Governmental Approvals shall be the date when: (a) all of the Governmental Approvals have been reviewed and finally approved by the appropriate governmental agencies, (b) any ordinances with respect thereto have taken effect, and (c) the time has passed for appeal of all Governmental Approvals. If the Final Approval of the Governmental Approvals has not occurred on or before the "**Approval Deadline**" (as defined herein) then Buyer may terminate this Agreement, in which case this Agreement shall be of no further force and effect. The Approval Deadline shall be May 31, 2016.

- 3.2.2. **Testing.** This Agreement is contingent on Buyer approving the Tests as described in Paragraph 3.1. above.
- 3.2.3. **Title Insurance.** This Agreement is contingent on Buyer approving the Title Insurance Commitment as described in Paragraph 1.10.1. above.
- 3.3. **Seller's Contingency.** Seller's obligation to close this transaction is conditioned upon Seller: (i) exercising its option for the Entire Tract and acquiring legal title to the Entire Tract; and (ii) obtaining all necessary Final Approvals of the Governmental Approvals to develop the Entire Tract generally in conformance with the Site Plan, including a subdivision agreement with the City of Springfield, Nebraska, on terms acceptable to Seller in Seller's sole discretion.
- 3.4. **Contingency Period.** The Contingency Period shall expire on May 31, 2016.
- 3.5. **Failure of Contingencies.** Seller and Buyer agree to make a good faith effort to satisfy the Contingencies stated above. In the event any one or more of the Contingencies described above have not been met within the Contingency Period, or mutual extensions thereof, then Seller or Buyer shall deliver written notice to the other Party before the expiration of the Contingency Period stating that one or more of the Contingencies have not been met and, unless such Contingencies are waived by the Party giving notice, this Agreement shall be null and void and both Parties shall have no further obligation or liability under this Agreement.

#### **ARTICLE 4. CONDITIONS OF CLOSING**

- 4.1. **Buyer's Conditions of Closing.** Buyer's obligation to close on the purchase of the School Site Property is expressly conditioned upon the complete and timely fulfillment of the following at or prior to Closing:
- 4.2.1 **Warranty Deed.** Buyer shall receive from Seller an executed and acknowledged general warranty deed to the School Site Property, in the form attached hereto as Exhibit "D".
- 4.2.2 **Accuracy of Warranties.** All representations and warranties of Seller contained in this Agreement shall be true and correct at and as of Closing and Seller shall have performed all agreements and covenants and satisfied all conditions on its part to be

performed or satisfied by Closing pursuant to the terms of this Agreement.

4.2. **Seller's Conditions of Closing.** Seller's obligation to perform hereunder is expressly conditioned upon the complete and timely fulfillment of the following at or prior to Closing:

4.2.1. **Payments.** At Closing, Buyer shall deliver to Seller the portion of the Purchase Price in accordance with Section 1.3.1 of this Agreement.

4.2.2. **Accuracy of Warranties.** All the representations and warranties of Buyer contained in this Agreement shall be true and correct at and as of Closing and Buyer shall have performed all agreements and covenants and satisfied all conditions on its part to be performed or satisfied by Closing pursuant to the terms of this Agreement.

## **ARTICLE 5. MISCELLANEOUS**

5.1. **Binding Effect; Benefits.** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors, agents and permitted assigns except as provided otherwise in this Agreement. Notwithstanding anything contained in this Agreement to the contrary, nothing in this Agreement, expressed or implied, is intended to confer on any person other than the parties hereto or their respective successors, agents and permitted assigns any right, remedy, obligation or liability under or by reason of this Agreement.

5.2. **Counterparts.** This Agreement may be executed, acknowledged, delivered and transmitted in counterparts, by facsimile process or otherwise, each of which when so executed, acknowledged, delivered or transmitted shall be deemed an original, but all of such counterparts shall constitute one and the same instrument.

5.3. **Delivery of Documents.** This Agreement properly executed and any document or notice required or permitted to be delivered hereunder shall be in writing and shall be deemed delivered on the same day if personally delivered or two (2) days after deposit in the U.S. mail if delivered by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

If to Seller:

With copies to:

GDR, L.L.C.  
Attn: Gene Graves  
15302 Weber Street  
Bennington, Nebraska 68007

Fullenkamp, Doyle & Jobeun  
Attn: Larry A. Jobeun  
11440 West Center Road  
Omaha, Nebraska 68144

If to Buyer:

With copies to:

Springfield Platteview Community  
Schools  
Attn: Superintendent Brett Richards  
14801 S. 108<sup>th</sup> Street  
Springfield, NE 68059-4925

Perry, Guthery, Haase &  
Gessford, P.C., L.L.O.  
Attn: Derek A. Aldridge  
233 S. 13th Street, Suite 1400  
Lincoln, NE 68508

or to such other address as any party shall specify by written notice so given.

- 5.4. **Entire Agreement.** This Agreement, together with the exhibits attached hereto and all other documents to be delivered pursuant hereto, constitute the complete and exclusive written expression of the terms and conditions of the agreement among the parties and supersedes all prior or contemporaneous proposals, agreements, understandings, negotiations and discussions, oral or written, between the parties pertaining to the subject matter hereof. This Agreement may not in any way be explained, supplemented, or modified by: (a) any prior or existing course of dealing; (b) any prior performance of the parties; or (c) any other method, unless amended in a writing signed by duly authorized representatives of Buyer and Seller.
- 5.5. **Execution of Additional Documents.** The Parties hereto will endeavor at any time, and from time to time after Closing, upon request of the other party, execute, acknowledge and deliver such further acts, deeds, assignments, transfers, conveyances, powers of attorney and assurances as reasonably determined by both Parties may be required to carry out the intent of this Agreement, and to transfer and vest title to the School Site Property, and to protect the right, title and interest in and enjoyment of the Property assigned, transferred and conveyed to Buyer pursuant to this Agreement; provided, however, this Agreement shall be effective regardless of whether any such additional documents are executed.
- 5.6. **Assignment.** Neither Buyer nor Seller shall not assign any right or delegate any obligation arising hereunder without the prior written consent of the other Party.
- 5.7. **Governing Law.** This Agreement shall be enforced in accordance with and governed by the laws of the State of Nebraska.

- 5.8. **Severability.** If for any reason whatsoever, any one or more of the provisions of this Agreement shall be held or deemed to be inoperative, unenforceable or invalid as applied to any particular case or in all cases, such circumstances shall not have the effect of rendering such provision invalid in any other case or of rendering any other provision of this Agreement inoperative, unenforceable or invalid.
- 5.9. **Waiver.** By written notice to the other Party, either Party hereto may: (a) extend the time for the performance of any of the obligations or other actions of the other Party under this Agreement; (b) waive any inaccuracy in the representations or warranties of the other Party contained in this Agreement or in any document delivered pursuant to this Agreement; (c) waive compliance with any condition or covenant of the other Party contained in this Agreement; or (d) waive performance of any obligation of the other Party under this Agreement. Except as provided in the preceding sentence, no action taken pursuant to this Agreement, including, without limitation, any investigation by or on behalf of any Party, shall be deemed to constitute a waiver by the Party taking such action of compliance with any representation, warranty, covenant or agreement contained in this Agreement. The waiver by any Party hereto of a breach of any provision hereunder (i) shall not be effective unless in writing and signed by an authorized representative of the waiving Party, and (ii) shall not operate or be construed as a waiver of any prior or subsequent breach of the same or any other provision hereunder.
- 5.10. **Risk of Loss.** This Agreement shall not be deemed to convey title to the School Site Property to Buyer. Any risk of loss to the School Site Property shall be borne by Seller until title is conveyed to Buyer.
- 5.11. **Incorporation of Exhibits.** All exhibits attached hereto are by this reference incorporated herein and made a part hereof for all purposes as if fully set forth herein.
- 5.12. **Non-Merger.** This Agreement shall survive Closing and shall not be deemed to be merged into any document delivered at Closing. This Agreement shall be binding on the heirs, personal representatives, successors and assigns of the parties hereto. Buyer may not assign this Agreement without the prior written consent of the other party. Time is of the essence for purposes of this Agreement.

**SELLER:**

GDR, L.L.C., a Nebraska limited liability company,

By: \_\_\_\_\_  
Gene Graves, Member

STATE OF NEBRASKA            )  
                                          ) ss.  
COUNTY OF SARPY            )

The foregoing instrument was acknowledged before me this \_\_\_\_ day  
of \_\_\_\_\_, 2015, by \_\_\_\_\_, member of GDR,  
L.L.C., on behalf of the limited liability company.

\_\_\_\_\_  
Notary Public

**BUYER:**

Sarpy County School District 77-0046,

By: \_\_\_\_\_

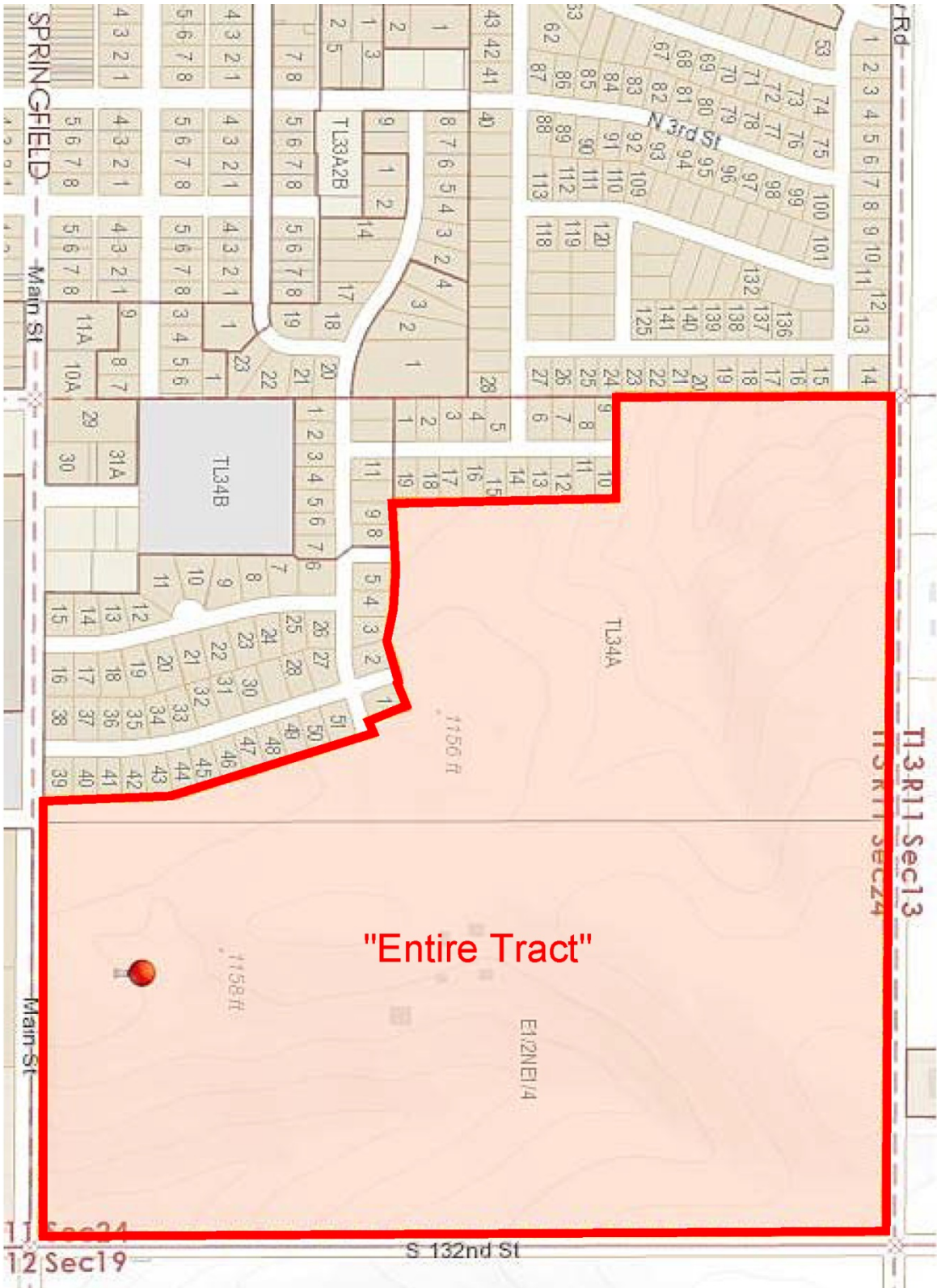
Brian Osborn  
President of the Board of Education  
Springfield Platteview Community Schools

STATE OF NEBRASKA            )  
                                                  ) ss.  
COUNTY OF SARPY            )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2015, by Brian Osborn, President of the Board of Education of Sarpy County School District 77-0046, commonly known as Springfield Platteview Community Schools, on behalf of the school district.

\_\_\_\_\_  
Notary Public

**EXHIBIT "A"**  
**MAP AND LEGAL DESCRIPTION OF ENTIRE TRACT**  
**(Page 1 of 2)**  
**Map**



**EXHIBIT "A"**  
**MAP AND LEGAL DESCRIPTION OF ENTIRE TRACT**  
**(Page 2 of 2)**  
**Legal Description**

[Legal description of the Entire Tract to be inserted by amendment or  
addendum when available.]

**EXHIBIT "B"**  
**DEVELOPMENT PROPERTY**

Preliminary Plat and Final Plat, Lots 1 through 286, inclusive, and Outlots A through I, inclusive, Springfield Pines, a Subdivision as surveyed, platted and recorded in Sarpy County, Nebraska.



**EXHIBIT "C"**  
**LEGAL DESCRIPTION OF THE SCHOOL SITE PROPERTY**

[Legal description of the School Site Property to be inserted by amendment  
or addendum when available.]

**EXHIBIT "D"**  
**Form of Warranty Deed**

GDR, L.L.C., GRANTOR, for \_\_\_\_\_ Dollars (\$\_\_\_\_\_) and other good and valuable consideration, receipt of which is hereby acknowledged by GRANTOR, hereby conveys to Sarpy County School District 77-0046, commonly known as Springfield Platteview Community Schools, GRANTEE, the following described real estate (as defined in NEB. REV. STAT. § 76-201):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

GRANTOR covenants with GRANTEE that GRANTOR:

- (1) Is lawfully seized as such real estate and that it is free from encumbrances, except easements, covenants and restrictions of record;
- (2) Has legal power and authority to convey the same; and
- (3) Warrants and will defend title to the real estate against the lawful claims of all persons.

Executed: \_\_\_\_\_, 2016

**GRANTOR: GDR, LLC**

By: \_\_\_\_\_  
\_\_\_\_\_

STATE OF NEBRASKA        )  
                                          ) ss.  
COUNTY OF SARPY         )

The foregoing instrument was acknowledged before me on \_\_\_\_\_, 2016, by \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

# EXHIBIT "E"

## Stormwater Detention Facility – General Location

