

**Guthrie Common School District  
P.O. Box 70  
301 Jaguar Lane  
Guthrie, TX 79236**



**INVITATION TO BIDDERS**  
**BID INSTRUCTIONS**

For purchase of:

**Real Property**

**Real Property Bid**

**Bids due: January 18, 2021 @ 3:00 p.m.**

# Invitation for Bids And Bid Instructions

December 17, 2020

## Property:

### **SURFACE ONLY IN:**

All that certain tract or parcel of land situated in Guthrie, King County, Texas, to wit:

Being all of Lot 3 Blk 27 of the Original Town of Guthrie, King County Texas.

**Bid Opening: January 18, 2021 @ 3:00 p.m.**

### **SCOPE AND INTENT OF BID**

It is the intention of Guthrie Common School District to accept sealed bids for the sale of the Property as listed above.

Interested parties may contact Jodie Reel, Superintendent, Guthrie CSD, P.O. Box 70, 301 Jaguar Lane, Guthrie, Texas 79236, phone number 806-596-4466, to arrange for inspection of the premises, and for review of the sales contract.

Sealed bids will be received until 3:00 p.m. on January 18, 2021, at the Administration Office located at 301 Jaguar Lane, P.O. Box 70, Guthrie, Texas. All bids received at or prior to such time will be opened and read aloud. Bids received after such time will not be opened or considered. Bids received by fax machine, email or other electronic form shall not be considered. The highest acceptable bid or bids may be presented to the Board of Trustees for review and possible approval at a meeting on January 21, 2021 at 6:00 p.m.

Bids received shall be deemed offers to purchase the Property and must be based on a lump sum cash payment for the entire tract(s), payable not more than forty-five (45) days following approval of the sale by the District's Board of Trustees, and be accompanied by an earnest money payment in the amount of not less than ten (10%) percent of the Bid Price. The earnest money shall be applied to the purchase price of the successful Bidder and shall be returned to all unsuccessful Bidders. Any Bid which specifies other payment terms will be deemed non-responsive and shall not be considered by the District. Guthrie CSD reserves the right to reject any and all Bids and to waive any formalities.

**WAIVER OF CLAIMS: BY TENDERING A BID TO THIS INVITATION TO BID, THE BIDDER ACKNOWLEDGES THAT IT HAS READ AND FULLY UNDERSTANDS THE REQUIREMENTS FOR SUBMITTING A BID AND THE PROCESS USED BY THE DISTRICT FOR SELECTING A BEST BIDDER. FURTHER, BY SUBMITTING A BID, THE BIDDER FULLY, VOLUNTARILY AND UNDERSTANDINGLY WAIVES AND RELEASES ANY AND ALL CLAIMS AGAINST THE DISTRICT AND ANY OF ITS TRUSTEES, OFFICERS, AGENTS AND/OR EMPLOYEES THAT COULD ARISE OUT OF THE ADMINISTRATION, EVALUATION, OR RECOMMENDATION OF ANY BID SUBMITTED IN RESPONSE TO THIS INVITATION TO BID.**

**The Bidder should return the following items:**

- 1. Bidder's Information Sheet**
- 2. Bid Form Sheet**
- 3. Completed and executed copy of Contract for Sale**
- 4. Cashier's Check (or equivalent) in an amount not less than ten (10%) percent of the Bid Price, made payable to Guthrie CSD**

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**ANY EXCEPTION OR DEVIATION TO THE CONTRACT FOR SALE MUST BE IN WRITING AND MUST BE ATTACHED TO THE BID FORM! NO OTHER EXCEPTION OR DEVIATION OF THE BID DOCUMENTS SHALL BE CONSIDERED.**

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## INSTRUCTIONS TO BIDDERS

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### 1. INVITATION TO BID:

- A. The Guthrie Common School District invites all interested and qualified Bidders to bid on all the Property listed herein which may be sold by the school district. All bids shall be considered offers to purchase the Property.
- B. For the purpose and clarity of this document only, the word "DISTRICT" will herein mean the Guthrie Common School District and/or the Board of Trustees of the Guthrie Common School District, of Guthrie, King County, Texas. Also, for the purpose and clarity of this document, the word "BIDDER" will herein mean any reliable and interested individual, vendor, corporation, partnership, entity and/or organization, which offers to purchase the advertised Property.
- C. The DISTRICT will receive sealed bids until the date and time stated on the first page. Immediately following the deadline for receiving the sealed bids, they will be opened and read aloud. All interested Bidders are invited to the opening in the Business Office. These bids will be presented to the Board of Trustees of the Guthrie Common School District for its consideration at a meeting in the Board Room located at 301 Jaguar Lane, Guthrie, Texas 79236, at 6:00 p.m. on:

**January 21, 2021, or at a later Board meeting.**

- D. After the Board of Trustees of the Guthrie Common School District has evaluated and approved the bids, the DISTRICT will execute the Contract for Sale and provide notice to the apparent highest acceptable Bidder.

### 2. BID SUBMISSION:

- A. Bidders must submit their bids on the "**Bid Form**" and "**Bidder's Information**" forms enclosed, without any additions or modifications. The District also requires that each Bidder submit a Cashier's Check (or equivalent) in an amount not less than ten (10%) percent of the Bid Price, made payable to Guthrie CSD, as earnest money to secure performance of the Contract if Bidder is selected. Bidders should make a copy of the returned "**Bid Form**," "**Bidder's Information**" and "**Contract of Sale**" forms for their own records.
- B. Bids must be received no later than the bid opening date and the time specified on the first page herein. Late bids will **NOT** be considered and will be returned unopened.
- C. Mail or deliver bids to: Jodie Reel, Superintendent  
Guthrie CSD  
P.O. Box 70  
301 Jaguar Lane  
Guthrie, Texas 79236

D. Bid envelopes must be plainly marked on the outside with the following:

**Real Property Bid – Lot 3 Block 27**

**Bid Opening: January 18, 2021 @ 3:00 p.m.**

E. Only Sealed Bids are accepted. Faxed or emailed bids will not be accepted by the DISTRICT.

3. SIGNATURE ON BID:

To be valid, the bid must be manually signed in ink by an authorized person in the spaces provided. By such signature, the Bidder agrees to strictly abide by the terms, conditions, specifications, and other documents embodied in this Invitation for Bids.

4. BID CONDITIONS:

A. All bids will be based on a lump sum cash payment, net of all closing costs, payable not more than forty-five (45) days following approval of the sale by the Board of Trustees. Bidders will be responsible for arranging any desired inspection of the Property. Bids that specify other payment terms will be deemed non-responsive and will not be considered.

B. The Bidder will assume all risks, liabilities, and abatement cost for ALL hazardous materials currently found on this Property and ALL future hazardous materials found on this Property, if any. **THE BIDDER WILL INDEMNIFY THE GUTHRIE COMMON SCHOOL DISTRICT FROM ALL LIABILITIES RESULTING FROM HAZARDOUS MATERIALS CURRENTLY FOUND IN THE PROPERTY AND ALL FUTURE HAZARDOUS MATERIALS FOUND IN THE PROPERTY, IF ANY.**

## **GENERAL BID CONDITIONS**

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5. BID WITHDRAWAL: Any bid may be withdrawn prior to the scheduled bid opening time without forfeiting Bidder's earnest money, but not later.
6. ANNULMENTS & RESERVATIONS:
  - A. The DISTRICT reserves the right to reject bids for failure to fulfill any/or all of the requirements herein (or for any reason at all), and/or to waive technical defects, if in the DISTRICT's judgment, it is in its best interest.
  - B. The DISTRICT reserves the right to annul any contract at any time, if in its opinion there shall be a failure of the Bidder to perform faithfully any of its stipulations, or in the case of any attempt to impose upon the DISTRICT additional requirements. Any action taken pursuant to this latter stipulation shall not affect or impair any rights or claims of the DISTRICT to damages for the breach of any covenant of the contract by the BIDDER.
  - C. No part of this contract may be assigned or subcontracted without the prior written approval of the District.
7. BID ERRORS: Bidders or their authorized representatives are expected to fully acquaint themselves with the conditions, requirements and specifications before submitting bids. **FAILURE TO DO SO WILL BE AT THE BIDDER'S OWN RISK AND HE/SHE CANNOT SECURE RELIEF ON A PLEA OF ERROR.**
8. COMPLIANCE AND RIGHT OF SELECTION:
  - A. The Bidder shall abide by and comply with the true intent of the specifications and not take advantage of any unintentional error or omission.
  - B. **THE GUTHRIE COMMON SCHOOL DISTRICT RESERVES THE RIGHT TO REJECT ANY OR ALL BIDS WHICH COMPLY WITH THESE SPECIFICATIONS, OR TO ACCEPT A LOWER ACCEPTABLE BID WHICH COMPLIES, PROVIDED THAT IN THE JUDGMENT OF THE GUTHRIE COMMON SCHOOL DISTRICT, THE OFFER UNDER THE LOWER PRICE BID HAS ADDITIONAL VALUE, FUNCTION, OR SERVICE WHICH JUSTIFIES THE DIFFERENCE IN PRICE.**
  - C. Evaluation of all bids shall take into account the following considerations: price, reputation of the Bidder, the Bidder's safety record, the Bidder's past contract performance and service with the DISTRICT or other community organizations, etc., and whichever Bid is determined to be in the best interest of the Guthrie Common School District.
9. OFFER/ACCEPTANCE: **THE SUBMITTED BID AND CONTRACT OF SALE FROM THE BIDDER WILL BE CONSIDERED THE OFFER TO PURCHASE, AND CONTRACTS FOR PURCHASE OF THE PROPERTY WILL BE AWARDED BY THE DISTRICT.**

# BIDDER'S INFORMATION

Real Property

**SURFACE ONLY** in and to:

**All that certain tract or parcel of land situated in Guthrie, King County, Texas, to wit:**

**Being all of Lot 3 Blk 27 of the Original Town of Guthrie, King County Texas.**

**Bid Opening: January 18, 2021, 3:00 p.m.**

ALL INFORMATION ASKED FOR BELOW MUST BE PROVIDED, AND THIS PAGE MUST BE SIGNED AND RETURNED WITH THE BID. IF THIS BID IS NOT SIGNED, IT WILL BE DISQUALIFIED AT THE OPENING.

**BY SIGNING THIS FORM THE AUTHORIZED UNDERSIGNED AGREES TO THE FOLLOWING STATEMENTS. (ANY EXCEPTIONS MUST BE IN WRITING AND ACCOMPANY THIS BID.)**

I (We) propose to purchase the advertised Property from the Guthrie Common School District, at the price indicated and to remain in compliance with the General Stipulations and Conditions, Specifications, and the provisions to be contained in the Contract for Sale.

(I) (We) certify that this bid will be made without any previous understanding, agreement, or connection with any person, firm, or corporation bidding on such real Property, and shall be in all respects fair and without collusion or fraud, and in no way limits competition.

(I) (We) certify that this Bidder and no employee of this Bidder has given, offered to give, nor intends to give at **any time** any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to any employee, officer or agent of Guthrie Common School District in connection with this submitted bid.

(I) (We) certify that this Bidder adheres to or follows non-discriminatory practices with respect to the employment or promotion of personnel without regard to race, color, religion, sex, national origin, age, handicap, or political affiliation or belief.

COMPANY or ORGANIZATIONS NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_  
(Street Address)

\_\_\_\_\_  
(PO Box Address)

CITY, STATE, ZIP CODE: \_\_\_\_\_

TELEPHONE #: \_\_\_\_\_

FAX TELEPHONE #: \_\_\_\_\_

DATE: \_\_\_\_\_

AUTHORIZED SIGNATURE: \_\_\_\_\_

AUTHORIZED PRINTED NAME: \_\_\_\_\_

**BID FORM**  
Real Property

**SURFACE ONLY in and to:**

**All that certain tract or parcel of land situated in Guthrie, King County, Texas, to wit:**

**Being all of Lot 3 Blk 27 of the Original Town of Guthrie, King County Texas.**

**Bid Opening: January 18, 2021, 3:00 p.m.**

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I (We) the undersigned, bid the following amount for the above-marked Property.

**I (WE) UNDERSTAND THAT THIS PROPERTY IS SOLD "AS IS" AND GUTHRIE COMMON SCHOOL DISTRICT MAKES NO WARRANTY AS TO ITS CONDITION, AND EXPRESSLY DENIES AND REVOKES ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE PROPERTY'S FITNESS FOR ANY PARTICULAR PURPOSE. I (WE) WILL ASSUME ALL CURRENT AND FUTURE RESPONSIBILITIES, COSTS, ABATEMENTS, AND LIABILITIES OF ALL HAZARDOUS MATERIALS, IF ANY, AND SHALL BE REQUIRED TO COMPLY WITH ALL APPLICABLE FEDERAL, STATE AND LOCAL LAWS AND RULES REGARDING HAZARDOUS MATERIALS INCLUDING, BUT NOT LIMITED TO, THE TEXAS ASBESTOS HEALTH PROTECTION ACT.**

I (We) included a cashier's check in the amount of \$\_\_\_\_\_, an amount equal to ten (10%) percent of the bid price, as earnest money to secure my performance under the Contract if I (we) are the successful Bidder. In the event the successful Bidder fails to provide the balance of funds necessary to satisfy the bid as required, Guthrie CSD may cash the earnest money check as liquidated damages.

**Bid Amount:**

\_\_\_\_\_ [ \$ \_\_\_\_\_ ]  
*(insert bid price in text and numerical form)*

INDIVIDUAL or ORGANIZATION NAME: \_\_\_\_\_

AUTHORIZED SIGNATURE: \_\_\_\_\_

AUTHORIZED PRINTED NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_



# **Attachment - Contract of Sale**

**CONTRACT OF SALE**

THIS CONTRACT FOR SALE OF REAL PROPERTY ("this Agreement") is made by and between the Guthrie Common School District ("Seller") and \_\_\_\_\_, ("Purchaser"). Seller and Purchaser are sometimes collectively referred to herein as the "Parties" and each of the Parties is sometimes singularly referred to herein as a "Party."

**WITNESSETH:**

**WHEREAS**, Seller properly published its NOTICE OF INTENT TO SELL REAL PROPERTY AND INVITATION TO BID on December 7, and December 14, 2020, in the Paducah Post, which is a newspaper of general circulation published in the District, concerning certain real property more fully described herein, all in compliance with Texas Local Government Code §272.001 *et seq.*

**WHEREAS**, the Purchaser submitted a bid on said real property, which bid was determined to be the best bid for the Purchaser by its Board of Trustees at a meeting, properly held on \_\_\_\_\_, 2020.

**WHEREAS**, Seller has agreed to sell the property to Purchaser, and Purchaser has agreed to purchase the Property from Seller, as set forth in the terms of this Contract.

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and confessed, the parties hereto do hereby agree as follows:

**PURCHASE AND SALE OF THE PROPERTY**

1. Contract of Sale; Purchase Price.
  - a.) In consideration of the successful completion of the applicable lease/purchase term and payment by Purchaser to Seller at Closing, in the manner set forth in Paragraph 3, the sum of: \_\_\_\_\_ (\$\_\_\_\_\_.00) (the "Purchase Price"), Seller hereby agrees to sell and convey to Purchaser the property, described in **Exhibit "A"** attached hereto and incorporated herein by this references for all purposes (the "Property"), together with (a) all benefits, privileges, rights and appurtenances thereon or pertaining to such real property, (b) all permits, approvals, licenses, water and sewer capacity commitments, and (c) all other surface rights and surface interests in the Property owned or held by Seller, and Purchaser hereby agrees to purchase said Property from Seller at the Purchase Price and upon the terms set forth herein.
  
2. Earnest Money. Included with the delivery of this contract is earnest money in the amount of \_\_\_\_\_ (\$\_\_\_\_\_.00) (the "Earnest Money"). The Earnest Money shall be applied to the Purchase Price at the Closing. If, pursuant to any provision of this Contract, Purchaser is entitled to obtain a refund of the Earnest Money, Title Company shall return the Earnest Money to Purchaser.

3. Form of Payment. The Purchase Price shall be payable in cash, cashier's check, wire transfer, or any other form acceptable to the Seller at Closing.

### **CONDITIONS PRECEDENT**

4. Conditions Precedent. The following shall each be conditions precedent to Purchaser's obligation to purchase the Property. If any one or more of such conditions precedent is not satisfied at, or prior to, Closing, Purchaser shall be entitled to waive any one or more of such conditions precedent by written notice to Seller, or to terminate this Contract by written notice to Seller, in which event, the Earnest Money, shall be returned by the Title Company or Seller to the Purchaser.

- a. No lawsuit, appeal or other action shall have been filed by any party, directly or indirectly, involving the Property, including without limitation, any such lawsuit, appeal or other action for the purpose of challenging, contesting or seeking to prohibit, restrain, enjoin or delay any change in zoning or restrictive covenants required for Purchaser's use, which use is described as follows:

The usage of said premises will be for       NONE      .

- b. Purchaser shall be entitled to contact and make applications to any and all applicable local, municipal, county, state and federal agencies which Purchaser may deem appropriate in connection with the satisfaction of any conditions precedent set forth herein, and Seller agrees to cooperate with Purchaser in connection therewith at no cost to the Seller.

5. Title Insurance and Permitted Exceptions. Purchaser may, at its expense and at its option, secure a Commitment for an Owner's Policy of Title insurance prior to closing, and shall promptly provide a copy of same to Seller.

- a. In the event any condition of the title to the Property as shown on the Commitment is disapproved, in writing, by Purchaser, Seller, at Seller's sole option and without any obligation to incur any cost, shall provide written notice of those title defects or exceptions specified by Purchaser (the "Objections"), if any, that Seller is willing and able to cure. If Seller is unable or unwilling to cure some or all of the Objections, Seller shall advise Purchaser in writing.

- b. If Seller does not cure the Objections, Purchaser may: (i) terminate this Agreement upon written notice to Seller, and the parties hereto shall be released from all obligations hereunder, and the Earnest Money shall be returned to Purchaser; (ii) waive, in writing, those Objections to title which Seller is unable or unwilling to cure and proceed to Closing hereunder; or (iii) Purchaser and Seller may jointly agree in writing for Seller to cure the Objections. All title exceptions which are approved or deemed approved by Purchaser shall constitute Permitted Exceptions for purposes hereof.

6. **Boundary Survey.** Purchaser may, at its expense and at its option, cause a Land Title Survey of the Property to be performed. In the event Purchaser performs a survey, it shall provide a copy of same to Seller.
- a. If Purchaser disapproves any condition appearing in the Survey, Seller, at Seller's sole option and without any obligation to incur any cost, shall provide written notice of those objections to the Survey specified by Purchaser, if any, that Seller is willing and able to cure. If Seller is unable or unwilling to cure some or all of the defects in the Survey identified by Purchaser, Seller shall advise Purchaser in writing.
- b. If Seller does not cure the defect(s) to the Survey, Purchaser may: (i) with the agreement of the Seller, amend the boundary lines of the Property to eliminate any defects in the Survey; (ii) terminate this Agreement upon written notice to Seller, and the parties hereto shall be released from all obligations hereunder, and the Earnest Money shall be returned to Purchaser; (iii) waive in writing those defects to the Survey which Seller is unable or unwilling to cure and proceed to close this Agreement pursuant to the provisions hereof; or (iv) Purchaser and Seller may jointly agree in writing for Seller to cure the defect(s) to the Survey.
7. **Disclosure of Environmental Information by Seller. THE PROPERTY MAY HAVE OR HAVE HAD IMPROVEMENTS THAT HAVE OR HAD BEEN CONSTRUCTED USING ASBESTOS AND/OR ASBESTOS-CONTAINING MATERIALS, MAY HAVE BEEN CONSTRUCTED WITH OR INCLUDED EQUIPMENT CONTAINING PCB'S, AND MAY HAVE BEEN CONSTRUCTED USING LEAD PAINT. THESE MATERIALS MAY OR MAY NOT HAVE BEEN ABATED PRIOR TO THE DATE OF CLOSING.**
- a. **PURCHASER AGREES TO ACCEPT THE PROPERTY IN ITS PRESENT CONDITION ("AS IS") AND TO ACCEPT FULL LIABILITY AND FINANCIAL RESPONSIBILITY FOR ALL COSTS OF REMOVING AND/OR ABATING ANY ENVIRONMENTAL HAZARD OR HAZARDOUS MATERIAL PRESENT ON THE PROPERTY, WHETHER PRESENTLY KNOWN OR UNKNOWN, AND TO RELEASE SELLER FROM ANY FINANCIAL RESPONSIBILITY FOR SUCH CONDITION TO THE FULLEST EXTENT PERMITTED BY LAW. PURCHASER FURTHER AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS SELLER FROM ANY AND ALL COSTS, CLAIMS, LAWSUITS, OR CAUSES OF ACTION OF ANY NATURE BY PURCHASER OR ANY THIRD PARTY, INCLUDING CLAIMS BY OR ON BEHALF OF ANY GOVERNMENTAL UNIT. THIS DUTY TO DEFEND, INDEMNIFY AND HOLD HARMLESS SHALL APPLY WITHOUT REGARD TO ANY CLAIM THAT THE INJURY OR CONDITION COMPLAINED OF AROSE, IN WHOLE OR IN PART, FROM SELLER'S OWN NEGLIGENCE.**
8. **Waiver of Warranties and Consumer Rights. PURCHASER WAIVES ITS RIGHTS, IF ANY, UNDER THE TEXAS DECEPTIVE TRADE PRACTICES-CONSUMER PROTECTION ACT, SECTION 17.41, et seq., OF THE TEXAS BUSINESS AND COMMERCE CODE, A LAW THAT GIVES CONSUMERS SPECIAL RIGHTS AND**

**PROTECTIONS. AFTER CONSULTATION WITH AN ATTORNEY OF ITS OWN SELECTION, PURCHASER VOLUNTARILY CONSENTS TO THIS WAIVER. SELLER AND PURCHASER DO HEREBY DISCLAIM ANY WARRANTY, WHETHER EXPRESS, IMPLIED, OR STATUTORY, AS TO THE CONDITION OF THE STRUCTURE, ITS FITNESS FOR ANY PURPOSE, HABITABILITY, OR OTHERWISE, SAVE AND EXCEPT ONLY THE WARRANTY OF TITLE SET FORTH IN THE SPECIAL WARRANTY DEED.**

- a. Purchaser represents and agrees that Seller has not made, does not make and specifically negates and disclaims any representations, warranties, promises, covenants, agreements or guarantees of any kind or character whatsoever, whether expressed or implied, or written, past, present or future, of, as to, concerning or with respect to (i) the value, nature or quality or condition of the property, including without limitation, the water, soil and geology, (ii) the income to be derived from the property, (iii) the suitability of the property for any and all activities and uses which Purchaser may conduct thereon, (iv) the compliance with ordinances or regulations of any applicable governmental authority or body, (v) the habitability, merchantability, marketability, profitability or fitness for a particular purpose of the property, (vi) the manner or quality of the construction or materials, if any, incorporated into the property, (vii) the manner, quality, state of repair or lack of repair of the property, or (viii) any other matter with respect to the property, and specifically that Seller has not made, does not make and specifically disclaims any representations regarding compliance with any environmental protection, pollution or land use laws, rules, regulations, order or requirements, including solid waste, as defined by the U.S. Environmental Protection agency Regulations at 40 C.F.R., Part 261, or the disposal or existence, in or on the property of any hazardous substance, as defined by the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended, and regulations promulgated thereunder.
- b. Purchaser further represents and agrees that, having been given the opportunity to inspect the property, Purchaser is relying solely on its own investigation of the property and not on any information provided by Seller. Purchaser further acknowledges and agrees that any information provided or to be provided with respect to the property was obtained from a variety of sources and that Seller has not made any independent investigation or verification of such information and makes no representations as to the accuracy or completeness of such information. Seller will not be liable or bound in any manner by any verbal or written statements, representations or information pertaining to the property, or the operation thereof, furnished by any real estate broker, agent, employee, officer, administrator or other personnel. Purchaser further represents and agrees that to the maximum extent permitted by law, the sale of the property as provided for herein is made on an "AS IS" condition and basis WITH ALL FAULTS. It is understood and agreed that the purchase price has been adjusted by prior negotiation to reflect that all of the property is sold by Seller and purchased by Purchaser subject to the foregoing.

9. Liens; Repairs. Purchaser shall not cause or permit any mechanic's material men's or other liens to be filed against the Property as a result of the inspections performed prior to or on the Closing Date. Purchaser shall repair and restore any damage to the Property caused by entry upon the Property by Purchaser or Purchaser's Representatives, except to the extent Seller's negligence or willful acts contributed to such damage.
10. **Indemnification. PURCHASER SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS SELLER AND SELLER'S OFFICERS, ADMINISTRATORS, AGENTS, AND EMPLOYEES (COLLECTIVELY, THE "INDEMNIFIED PARTIES"), FROM AND AGAINST ANY AND ALL ACTIONS, LOSSES, COSTS, DAMAGES, CLAIMS, LIABILITIES, AND EXPENSES BROUGHT, SOUGHT, OR INCURRED BY OR AGAINST ANY OF THE INDEMNIFIED PARTIES RESULTING FROM, ARISING OUT OF, OR RELATING TO ENTRY UPON THE PROPERTY BY PURCHASER OR ANY OF THE PURCHASER'S REPRESENTATIVES. THE FOREGOING INDEMNIFICATION AND REPAIR AND RESTORATION OBLIGATIONS (COLLECTIVELY, "PURCHASER'S INDEMNITY OBLIGATION") SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.**

### **REPRESENTATIONS AND WARRANTIES**

11. Seller represents and warrants to Purchaser the following as of the date hereof and as of the Closing:
  - a. Seller represents that former Texas Education Code §22.10(b), as continued in effect by current Education Code §11.301, gives it the full power to enter into this Agreement and execute all documents required hereunder.
  - b. The making, execution, delivery, and performance of this Agreement by Seller has been duly authorized and approved by the Board of Trustees of the Guthrie Common School District, and this Agreement constitutes a valid and binding obligation, enforceable in accordance with its terms.
  - c. Seller has, and will convey to Purchaser at Closing, good title to the Property, free from all liens and encumbrances, subject only to those exceptions set forth on the form of Special Warranty Deed.
  - d. From the Effective Date and until Closing, Seller shall not take any action or omit to take any action that would have the effect of violating any of the representations, warranties or covenants of Seller contained in this Agreement.
  - e. There is no pending or, to the knowledge of Seller, threatened condemnation or similar proceeding or special assessment (inclusive of assessments for street widening, repair or improvement) affecting the Property.
  - f. There is no pending or, to Seller's knowledge, threatened litigation or administrative proceeding affecting the Property or Seller's interest in the Property.

- g. Neither the execution and delivery of this Agreement by Seller nor Seller's performance of any obligation hereunder (i) will constitute a violation of any law, ruling, regulation or order to which Seller is subject, or (ii) shall constitute a default of any term or provision or shall cause an acceleration of the performance required under any other agreement or document to which Seller is a party or is otherwise bound.
  - h. Seller represents that hazardous materials may be present on the Property, but makes no representations regarding the specific amount or types of such materials.
  - i. There are not any outstanding contracts or options to purchase the Property or any portion thereof in favor of any third party.
12. Purchaser represents and warrants the following as of the date hereof and as of the closing:
- a. Purchaser warrants that the making, execution, delivery and performance of this Agreement has been duly authorized and approved by the Purchaser's governing board, if applicable, and constitutes a valid and binding obligation, enforceable in accordance with its terms.
  - b. From the Effective Date and until Closing, Purchaser shall not take any action or omit to take any action that would have the effect of violating any of the representations, warranties or covenants of Purchaser contained in this Agreement.
  - c. Neither the execution and delivery of this Agreement by Purchaser nor Purchaser's performance of any obligation hereunder (i) will constitute a violation of any law, ruling, regulation or order to which Purchaser is subject, or (ii) shall constitute a default of any term or provision or shall cause an acceleration of the performance required under any other agreement or document to which Purchaser is a party or is otherwise bound.
  - d. Purchaser represents and warrants that Purchaser has inspected and conducted such tests and studies of the Property as Purchaser determines necessary, and that Purchaser is familiar with the general condition of the Property, and agrees to purchase the property "**AS IS.**" Purchaser understands and acknowledges that the Property may be subject to fire, floods, erosion, high water table, dangerous underground soil conditions and similar occurrences that may alter its condition or affect its suitability for any proposed use. Seller shall have no responsibility or liability with respect to any such occurrence. Except as otherwise specifically and expressly provided for herein, Purchaser represents and warrants that Purchaser is acting, and will act only, upon information obtained by Purchaser directly from Purchaser's own inspection of the Property.

- e. Except as set forth in this Agreement, Purchaser acknowledges that Seller has made no representation or warranty, either express or implied, regarding the presence of any Hazardous Materials (as defined herein) in, on or under the Property. By entering into this Agreement, Purchaser shall be deemed to have made its own independent investigation of the Property with regard to the presence or absence of Hazardous Materials, as Purchaser deems appropriate. Accordingly, notwithstanding any other provision of this Agreement, **EXCEPT IN THE CASE OF AN EXPRESS REPRESENTATION CONTAINED IN THIS AGREEMENT, PURCHASER HEREBY EXPRESSLY WAIVES AND RELINQUISHES ANY AND ALL RIGHTS AND REMEDIES PURCHASER MAY NOW OR HEREAFTER HAVE AGAINST SELLER, ITS SUCCESSORS AND ASSIGNS, AND ANY OF SELLER'S ADMINISTRATORS, EMPLOYEES, OFFICERS, DIRECTORS OR AGENTS, WHETHER KNOWN OR UNKNOWN, WITH RESPECT TO ANY PAST, PRESENT OR FUTURE PRESENCE OR EXISTENCE OF HAZARDOUS MATERIALS ON, IN, UNDER OR ABOUT THE PROPERTY OR WITH RESPECT TO ANY PAST, PRESENT OR FUTURE VIOLATION OF ANY RULES, REGULATIONS OR LAWS, NOW OR HEREAFTER ENACTED, REGULATING OR GOVERNING THE USE, HANDLING, STORAGE OR DISPOSAL OF HAZARDOUS MATERIALS, INCLUDING, WITHOUT LIMITATION, ANY AND ALL RIGHTS AND REMEDIES PURCHASER MAY NOW OR HEREAFTER HAVE UNDER THE ENVIRONMENTAL LAWS, INCLUDING ALL CLAIMS, WHETHER KNOWN OR UNKNOWN NOW OR HERINAFTER EXISTING WITH RESPECT TO THE PROPERTY UNDER SECTION 107 OF CERCLA (42 U.S.C.A. § 9607). SUCH RELEASE SHALL EXTEND TO CLAIMS ARISING IN WHOLE OR IN PART AS A RESULT OF SELLER'S OWN NEGLIGENCE.**

### CLOSING

13. Closing. The closing of the sale of the Property from Seller to Purchaser (the "Closing") shall be within: within 45 days of final action by Seller's Board of Trustees to approve this Agreement, and as coordinated through the officer of the Title Company, if any, and the Parties, whichever is later.
- a. Delivery by Seller. At Closing, Seller shall deliver to Purchaser the following documents and instruments, all of which shall be dated on or effective as of the Closing Date:
- i. The Special Warranty Deed, duly executed and acknowledged by Seller, conveying good title to the Property;
  - ii. Such other and further documents as may be reasonably requested by the Title Company, if any; and
  - iii. Possession of the Property.



- b. Delivery by Purchaser. At Closing, Purchaser shall deliver to Seller the following documents, instruments, and items, all of which shall be dated on or effective as of the Closing Date:
  - i. The Purchase Price in the form described in paragraph 3; and
  - ii. Such other and further documents as may be reasonably required by Seller or the Title Company.
- 14. Recordation. Upon the completion of the deliveries specified in this Article, the Title Company, if any, or, if none, Purchaser shall cause the appropriate closing documents to be promptly recorded in King County, Texas.
- 15. Closing Costs.
  - a. Purchaser shall pay: (i) all title examination fees, premiums, and other fees for the Title Commitment and/or the Survey; (ii) its own attorneys' fees; (iii) other charges required to be paid by Purchaser pursuant to this Contract; (iv) any local, county or state transfer, recording fee or tax assessed in connection with any mortgage or security interest granted by Purchaser in favor of a lender or third-party; (v) all escrow fees; and (vi) all other closing costs except for Seller's own attorney's fees.
  - b. Seller is a governmental entity exempt from ad valorem taxes and special assessments. No taxes are due for the time during which Seller has owned the Property. Purchaser will be responsible for payment of any taxes assessed for the current year by reason of Purchaser's purchase the Property.
  - c. If Purchaser's use of the Property after Closing will result in the assessment of additional taxes for periods prior to Closing, Purchaser shall pay such taxes at Closing.
- 16. Insurance. Liability insurance, if any, carried by Seller on the Property shall be terminated effective as of Closing. Purchaser shall be solely responsible for acquiring liability insurance on the Property after Closing.

#### **CASUALTY OR CONDEMNATION PRIOR TO CLOSING**

- 17. If at any time prior to the Closing any portion of the Property is destroyed or damaged by fire or any other casualty, or in the event a taking by condemnation, eminent domain or similar proceedings or a conveyance in lieu thereof is commenced or threatened with respect to any portion of the Property, Seller shall give notice thereof to Purchaser and Purchaser shall thereupon have the option to terminate this Contract upon written notice to Seller prior to Closing, in which event the Earnest Money shall be promptly refunded to Purchaser, whereupon this Contract shall be rendered null and void and the Parties shall have no further obligations or liabilities hereunder. If Purchaser does not exercise its option under this paragraph to terminate this Contract, this Contract shall remain in full force and effect and Seller shall assign or pay to

Purchaser at Closing Seller's interest in and to any and all insurance proceeds and condemnation awards.

### **DEFAULT**

18. Default.

- a. Purchaser's Default. In the event Purchaser defaults under this Contract or fails to perform any obligation of Purchaser under this Contract, and such default and failure shall remain uncured for a period of five (5) days following written notice thereof from Seller to Purchaser, provided that Seller has not defaulted in the performance of any of Seller's obligations hereunder, Seller may, as Seller's sole remedy, terminate this Contract by written notice to Purchaser at any time before such default by Purchaser is cured, in which event, Seller shall be entitled to retain, as liquidated damages for the Purchaser's default, the Earnest Money and Purchaser shall thereby be released from further obligations under this Contract. Such amount is agreed upon by and between the Seller and the Purchaser as liquidated damages, due to the difficulty and inconvenience of ascertaining and measuring actual damages, and the uncertainty thereof; and no other damages, rights or remedies shall in any case be collectible, enforceable or available to the Seller other than in this Section, but the Seller shall accept said cash payment as the Seller's total damages and relief.
- b. Seller's Default. In the event Seller defaults under this Contract, or in the event Seller fails to perform any obligation of Seller under this Contract, including without limitation, the obligation to convey good and marketable title to the Property to the Purchaser on the Closing Date subject only to the Permitted Exceptions in accordance with the provisions of this Contract, the Seller shall have the option of correcting any default or, upon five (5) days notice from Seller advising Purchaser that Seller will not cure the default, Purchaser may terminate this Contract, in which event the Earnest Money shall be returned to Purchaser or Purchaser shall have the option of taking the premises "AS IS". Purchaser may seek to enforce specific performance of Seller's obligations hereunder if Seller's refusal to perform or non-performance is not excused by the terms of this Contract or is not in good faith.

### **RESTRICTIONS OF USE**

19. The Property, or any part thereof, shall not be used in the operation of, or in conjunction with, any school or other institution of learning, study or instruction which discriminates against any person because of the person's race, color or national origin, regardless of whether such discrimination be effected by design or otherwise. The foregoing restriction may be recorded at close of escrow against the Property.

### **NOTICES**

20. Notices. Any notices or other communications required or permitted hereunder shall be sufficiently given if in writing and (i) hand delivered, including delivery by courier

service; (ii) sent by facsimile; or (iii) sent by certified mail, return receipt requested, postage prepaid, addressed as shown below, or to such other address as the party concerned may substitute by written notice to the other. If the notice is sent by facsimile, it must be properly addressed, reflecting the facsimile phone number of the addressee(s), and must be transmitted by a facsimile which produces a dated message upon confirmed completion. All notices delivered by hand or by facsimile shall be deemed received on the date of delivery against receipt. All notices forwarded by mail shall be deemed received on a date three (3) days (excluding Sundays and legal holidays when the U.S. mail is not delivered) immediately following date of deposit in the U.S. mail. Provided, however, the return receipt indicating the date upon which all notices were received shall be *prima facie* evidence that such notices were received on the date on the return receipt.

If to Seller: Jodie Reel, Superintendent  
Guthrie Common School District  
P.O. Box 70  
Guthrie, TX 79236  
Telephone 806-596-4466  
Fax 806-596-4519

With a copy to: Mr. David Backus  
Underwood Law Firm  
P.O. Box 16197  
Lubbock, Texas 79490  
Telephone No.: (806) 793-1711  
Facsimile No: (806) 793-1723

If to Purchaser: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Telephone No: (806) \_\_\_\_\_  
Facsimile No: (806) \_\_\_\_\_

With a copy to:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The addresses may be changed by giving notice of such change in the manner provided herein for giving notice. Unless and until such written notice is received, the last address and addressee given shall be deemed to continue in effect for all purposes. No notice to either Purchaser or Seller shall be deemed given or received unless the entity noted "With a copy to" is simultaneously delivered notice in the same manner as any notice given to either Seller or Purchaser, as the case may be.

## MISCELLANEOUS

21. Entire Agreement. This Agreement, the Bid Form, Bidder's Information forms, the Addendum to Property Sales Contract, and the attached Exhibits constitute the entire agreement and understanding of Seller and Purchaser relating to the subject matter hereof and supersede all prior representations, agreements, and understanding, oral or written, relating to such subject matter.
22. Assignment. This Agreement and any documents executed in connection therewith may not be assigned by either party without the written consent of the other party, which consent will not be unreasonably withheld. This Agreement shall be binding upon the assigns of the Parties, if any.
23. Severability. Except as expressly provided to the contrary herein, each paragraph, section, part, term, or provision of this Agreement shall be considered severable, and if for any reason any paragraph, section, part, term, or provision herein is determined to be invalid and contrary to or in conflict with any existing or future law or regulation by a court or governmental agency having valid jurisdiction, such determination shall not impair the operation of or have any other affect on other paragraphs, sections, parts, terms, or provisions of this Agreement as may remain otherwise intelligible, and the latter shall continue to be given full force and effect and bind the parties hereto, and said invalid sections, parts, terms, or provisions shall not be deemed to be a part of this Agreement.
24. Construction and Interpretation of Agreement. THIS CONTRACT AND THE TRANSACTIONS CONTEMPLATED HEREBY SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS. Any action brought to enforce or interpret this Agreement shall be brought in the court of appropriate jurisdiction in King County, Texas. Should any provision of this Agreement require judicial interpretation, it is agreed that the court interpreting or considering same shall not apply the presumption that the terms hereof shall be more strictly construed against a party by reason of the rule or conclusion that a document should be construed more strictly against the drafting party. It is agreed and stipulated that all parties hereto consulted legal counsel before the execution of this Agreement.
25. Amendment and Waiver. This Agreement may not be amended or modified in any way except by an instrument in writing executed by all parties hereto; provided, however, either Seller or Purchaser may unilaterally, in writing, (i) extend the time for performance of any of the obligations of the other, (ii) waive any inaccuracies and representations by the other contained in this Agreement, (iii) waive compliance by the other with any of the covenants contained in this Agreement, and (iv) waive the satisfaction of any condition that is precedent or subsequent to the performance by the party so waiving any of its obligations under this Agreement.
26. No Partnership or Joint Venture. Nothing contained herein shall be deemed or construed by the parties hereto or by any third party as creating the relationship of (i)

principal and agent, (ii) a partnership, or (iii) a joint venture between the parties hereto. The Parties' relationship is limited to that of seller and purchaser.

27. Counterparts. This Contract may be executed in multiple counterparts. A facsimile copy of this Contract bearing the signature of a Party hereto shall be sufficient to bind such Party to the terms of this Contract.
28. Time. Time is an essential element of this Agreement and each and all of its provisions. Any extension of time granted for the performance of any duty under this Agreement shall not be considered an extension of time for the performance of any other obligation under this Agreement, nor be considered a waiver of time as an essential element of this Agreement.
29. Captions. The captions in this Contract are inserted for convenience of reference only and in no way define, describe, or limit the scope or intent of this Contract or any of the provisions hereof.
30. Governing Document. This Agreement shall govern in the event of any inconsistency between this Agreement and any of the Exhibits attached hereto or any other document or instrument executed or delivered pursuant hereto or in connection herewith.

[REST OF PAGE LEFT INTENTIONALLY BLANK]

**EXECUTION**

IN WITNESS WHEREOF, the parties have executed this instrument on the dates appearing below:

**Seller:**

GUTHRIE COMMON SCHOOL DISTRICT,  
A Texas political subdivision

\_\_\_\_\_  
By: President Board of Trustees

Date Signed: \_\_\_\_\_

**Purchaser:**

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

STATE OF TEXAS           §  
  §  
COUNTY OF KING       §

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2020, by \_\_\_\_\_, President of Guthrie Common School District Board of Trustees, on behalf of said school district.

\_\_\_\_\_  
Notary Public, State of Texas

STATE OF TEXAS           §  
  §  
COUNTY OF \_\_\_\_\_ §

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2020, by \_\_\_\_\_.

\_\_\_\_\_  
Notary Public, State of Texas

**EXHIBIT A TO CONTRACT OF SALE  
PROPERTY DESCRIPTION**

All that certain tract or parcel of land situated in Guthrie, King County, Texas, to wit:

Being all of Lot 3 Blk 27 of the Original Town of Guthrie, King County Texas.