

## PURCHASE AGREEMENT

**THIS PURCHASE AGREEMENT** (“Agreement”) is made as of May\_\_\_\_, 2020, by and between BETHEL UNIVERSITY, a Minnesota non-profit corporation, (“Seller”) and the LAKE JOHANNA FIRE DEPARTMENT, a Minnesota non-profit corporation, (“Buyer”).

In consideration of this Agreement, Seller and Buyer agree as follows:

1. Sale of Property. Seller agrees to sell to Buyer, and Buyer agrees to buy from Seller, the following property (collectively, the "Property"):

1.1 Real Property. The real property located at 2 Pine Tree Drive, in the City of Arden Hills, County of Ramsey, State of Minnesota, described as follows to wit:

The real property consisting of approximately 3.703 acres (161,282 sf), located in Arden Hills, MN, depicted as Lot 2, Block 1 on the Survey and Preliminary Plat of 2 Pine Tree North provided by Sunde Land Surveying attached hereto as Exhibit A (the “Real Property” or “Lot 2”). There are no buildings or improvements constructed or located on the Real Property, except the existing entrance road and bituminous trail; however, there may be easements and rights benefiting or appurtenant to the Real Property, some of which are set forth below.

1.1.1 The parties acknowledge that Seller is in negotiations for the sale of Lot 1 as well as governmental approval for said Preliminary Plat. Accordingly, Seller is unable to provide assurance that the shape and size of Lot 2 will not be altered. The final shape and size of Lot 2 and corresponding legal description will be finalized during the Due Diligence Period defined herein. Buyer shall not be required to accept a smaller lot than Lot 2, described above. However, if Buyer does accept a smaller lot, the Purchase Price (defined below) shall be prorated based on the square footage.

1.2 Easements. In addition to the Real Property, Seller shall convey to Buyer:

1.2.1 A permanent storm water easement to connect to a storm water pond on Wetland 3 located on Lot 3, Block 1, as depicted on the Survey and Preliminary Plat of 2 Pine Tree North provided by Sunde Land Surveying attached hereto, provided all costs that may be required to connect to a storm water pond outside of Lot 2 will be borne by the Buyer. In addition to storm water runoff and treatment for Lot 2, the storm water easement will allow the Buyer to drain and/or spray clean water used for fire department training exercises into the storm water pond(s), subject to regulatory approval.

1.2.2 A utility easement over Lot 1 or Lot 3 to provide utilities to Lot 2,

provided that all costs that may be required for utility work shall be borne by the Buyer. Seller has the right to approve the path of any such easements in order to ensure the easement does not detrimentally impact Lot 1 or Lot 3 in Seller's reasonable judgment.

1.2.3 A temporary construction easement over parts of Lot 3, allowing Buyer to do the following: (1) park vehicles in pre-determined areas of the parking lot on Lot 3; and (2) stage construction materials and equipment on Lot 3. The temporary construction easement shall commence upon Seller's completion of a new access road depicted on Exhibit A and shall expire twelve (12) months after construction of the new access road is completed.

1.3 Personal Property. There is no personal property transferred by this Agreement.

1.4 Contracts. There are no service or maintenance contracts, equipment leases or other contracts pertaining to the Real Property.

1.5 Warranties. Seller's interests in all warranties and guaranties pertaining to, assigned to, or benefiting Seller or the Real Property.

1.6 Plans. A copy of all preliminary and final survey plans will be made available to the Buyer subject to approval by all necessary governmental entities, including the City of Arden Hills.

2. Purchase Price and Manner of Payment. The total purchase price ("Purchase Price") to be paid by Buyer to Seller for the Property shall be One Million Three Hundred Fifty Thousand Dollars (\$1,350,000.00).

3. Additional Consideration to be Paid to Seller. In addition to the Purchase Price, Buyer will be responsible for the following:

3.1 Buyer will pay to Seller one-third (1/3) of Seller's costs, or Three Hundred Twenty-five Thousand Dollars (\$325,000.00), whichever is less, to construct a new access road (the "Access Road") to serve the Real Property, on Outlot A on the attached Exhibit A. Seller's costs will include the costs to design and construct the Access Road. In addition thereto, Buyer shall be solely responsible for all costs related to paths/trails that may be required by any governmental entity for Buyer's use of Lot 2 and all wetland mitigation or tree replacement costs for Buyer's use of Lot 2.

3.2 Seller shall be solely responsible for all future maintenance and repair costs for the Access Road. Buyer shall not disturb the present road or Seller's monument sign until Seller completes the Access Road, which shall be completed no later than July 1, 2021, unless unforeseeably delayed by city or other regulatory approvals. Seller will remove the monument sign and its foundation during the new road construction at Seller's sole cost.

- 3.3 Upon completion of the Access Road construction, Seller shall provide to Buyer all invoices and cancelled checks documenting Seller's costs. After Buyer's receipt of the invoices and cancelled checks, Buyer shall pay Buyer's one-third (1/3) share of the costs to Seller within Thirty (30) days up to the maximum stated in Section 3.1 above.
4. Earnest Money. Buyer will deposit twenty-five thousand dollars (\$25,000) ("Earnest Money") into an escrow account with Land Title, Inc. ("Title Company") within five (5) business days following execution of this Agreement by both Buyer and Seller. The Earnest Money shall be (i) applied to the Purchase Price at Closing if the parties close hereunder, (ii) refunded to Buyer if this Agreement is terminated by either party for any reason during the Due Diligence Period, or (iii) if the foregoing provisions do not apply, the Earnest Money shall be paid to the party entitled thereto in accordance with the remaining provisions of this Agreement.
5. Title, Survey, Geotechnical and Environmental. Seller will provide the following to Buyer at Seller's sole cost:
- 5.1 Title Commitment issued by Land Title;
- 5.2 Survey by Sunde Land Surveying in PDF format (completed) and in CAD format;
- 5.3 Wetland Determination Study (completed);
- 5.4 Phase I Environmental Study (completed); and
- 5.5 Property subdivision which Seller will complete as soon as practicable. All customary fees, and other subdivision costs, including but not limited to engineering, design, survey, wetland delineation, local governmental fees and costs, Mylar and other printing costs, filing fees, and other costs to subdivide Seller's real property, shall be borne solely by Seller; provided however, Buyer shall be solely responsible for all park dedication fees, city impact fees, and/or SAC/WAC fees as the foregoing relate to Buyer's ownership and use of Lot 2. Seller will, however, request from the City of Arden Hills a waiver of all park dedication and park dedication fees for Lot 2, but the same is not guaranteed and if not granted, said cost shall be borne solely by Buyer.
6. Closing. The purchase of the Property will close ("Closing") no later than (30) days after the expiration of the Contingency Date. Closing will take place at the main office of Land Title, Inc. or as otherwise agreed by Seller and Buyer.
7. Contingency Date and Contingencies. The "Contingency Date" shall be sixty (60) days from the date the preliminary plat is approved by the City of Arden Hills and the Ramsey County Surveyor's office and the Access Road design is approved by the City of Arden

Hills and the Rice Creek Watershed District. If any such contingency has not been satisfied on or before said date (which determination shall be within the Buyer's exclusive discretion), then this Agreement may be terminated, at Buyer's option, by written notice from Buyer to Seller. Upon such termination, the Earnest Money shall be immediately returned to Buyer, and neither party shall thereafter have any further rights against or obligations to the other hereunder, except as expressly provided otherwise herein. All the contingencies set forth in this Agreement are specifically stated and agreed to be for the sole and exclusive benefit of Buyer, and Buyer shall have the right to unilaterally waive any contingency by written notice to Seller. The obligations of Buyer under this Agreement are contingent upon Buyer's determining (in its sole discretion) that Buyer is satisfied with each of the following:

- 7.1 With the results of all environmental investigations, studies and tests completed by an environmental testing firm acceptable to Buyer.
- 7.2 With the results of all soil and other site engineering investigations, studies and tests, which Buyer deems appropriate.
- 7.3 With utilities, storm water retention and all on-site and off-site infrastructure to the Real Property.
- 7.4 With all government approvals desired by Buyer to develop the Real Property, including, but not limited to, waiver of all park dedication fees for the Real Property.
- 7.5 With the Real Property title, including all leases, easement agreements, including but not limited to the easements Seller will provide to Buyer, maintenance agreements, or any other agreements relating to the Real Property.
- 7.6 With its review of all documents provided to Buyer by Seller.
- 7.7 With its review of the condition of title to the Real Property.
- 7.8 That the Real Property is suitable for Buyer's needs in accordance with Buyer's development plans.
- 7.9 With the physical condition of the Property including zoning, access, drainage, and wetlands.

Subject to any rights or restrictions under any of the Permitted Encumbrances, Buyer and its agents will have the right, from time to time prior to the Closing, to enter upon the Real Property to examine the same and the condition thereof and to conduct such surveys and to make such engineering and other inspections, tests, and studies as Buyer determines to be reasonably necessary, all at Buyer's sole cost and expense.

Buyer will give Seller advance notice of such examinations or surveys and will conduct such examinations or surveys during normal business hours to the extent practicable. Buyer will conduct all examinations and surveys of the Real Property in a manner that will not harm or damage the Real Property or cause any claim adverse to Seller, and will restore the Real Property to its condition prior to any such examinations or surveys immediately after conducting the same.

- 7.10 With all survey matters, including but not limited to the acreage and the location of the boundaries and boundary markers to be placed on the land.
  - 7.11 That Buyer has obtained financing on terms satisfactory to Buyer.
  - 7.12 That Buyer has obtained an appraisal satisfactory to Buyer.
8. Seller's Closing Documents. On the Closing Date, Seller shall execute and deliver to Buyer the following (collectively, "Seller's Closing Documents"), all in form and content reasonably satisfactory to Buyer:
- 8.1 Deed. A Warranty Deed, conveying the Real Property to Buyer, free and clear of all encumbrances.
  - 8.2 Seller's Affidavit. An Affidavit of Title by Seller indicating that on the Closing Date there are no outstanding, unsatisfied judgments, tax liens or bankruptcies against or involving Seller or the Real Property; that there has been no skill, labor or material furnished to the Real Property for which payment has not been made or for which mechanics' liens could be filed; and that there are no other unrecorded contracts, leases, easements, or other agreements or interests in the Real Property.
  - 8.3 Non-Foreign Transferor Certificate. A non-foreign certificate, properly executed and in recordable form, containing such information as is required by IRC Section 1445(b)(2) and its regulations.
  - 8.4 Bring-down Certificate. A Bring-Down Certificate, stating that Seller's representations and any warranties are true and correct as of the Closing Date.
  - 8.5 Other Documents. All other documents reasonably determined by the Title Company or the Buyer to be necessary to transfer the Property to Buyer in compliance with this Agreement or which are to be entered into by, or given to, the parties upon Closing pursuant to the terms and conditions of this Agreement.
9. Expense Allocations. Seller and Buyer agree to the following prorations and allocations of costs regarding this Agreement:
- 9.1 Real Estate Taxes and Special Assessments. Real estate taxes payable in the first half of 2020 and all prior years will be paid by Seller. Real estate taxes payable in

the second half of 2020, shall be prorated to the date of Closing. All future real estate taxes shall be paid by Buyer. All presently assessed and pending special assessments on the Real Property shall be the sole responsibility of the Seller. Any new special assessments for Lot 2 certified after the Closing Date shall be the obligation of the Buyer.

- 9.2 Recording Costs. Seller will pay the cost of recording all documents necessary to place record title in the condition warranted in this Agreement. Buyer will pay the costs of recording the Warranty Deed. Seller will pay the State Deed tax on the sale price.
  - 9.3 Attorney's Fees. Each of the parties will pay its own attorney fees.
  - 9.4 Title Insurance. Seller will pay all costs of providing the Title Commitment designated in 5.1, above, and 11.1, below. Buyer shall pay the cost of the title insurance premium.
  - 9.5 Closing Costs. Seller and Buyer will each pay one-half of the customary closing costs not otherwise herein allocated.
10. Title Examination. Title Examination will be conducted as follows:
- 10.1 Title Evidence and Buyer's Examination. Seller shall provide Buyer, within ten (10) days of full execution of this Agreement, a copy of a commitment for an ALTA Owner's Policy of Title Insurance (accompanied by legible copies of all documents described therein) ("Title Commitment") issued by Land Title, Inc., ("Title Company") and any and all documents, reports, studies, tests, engineering drawings, CAD surveys, Phase I report, Wetland Delineation, or other pertinent materials which Seller has in its immediate possession (or available to Seller) which relate to the Property.
  - 10.2 Title Corrections. Within fifteen (15) days after receiving the Title Commitment, Buyer will examine the title to the Real Property and make written objections ("Objections") to the form and/or contents of the Title Commitment and/or to any items shown on the survey. If Buyer delivers to Seller any Objections, Seller will use Seller's best efforts to cure or satisfy the Objections on or before the Closing date. If the Objections are not cured on or before the Closing date, the Buyer will have the option to do the following:
    - i. Terminate this Agreement and receive a full refund of the Earnest Money;
    - ii. Withhold from the Purchase Price an amount which, in the reasonable judgment of the Title Company, is sufficient to assure cure of the Objections. Any amount so withheld will be placed in escrow with the Title Company, pending such cure. If Seller does not cure such Objections within ninety (90) days after such escrow is established, Buyer may then cure such Objections

and charge the costs of such cure (including reasonable attorney's fees) against the escrowed amount. If such escrow is established, the parties agree to execute and deliver such documents as may be reasonably required by Title Company, and Seller agrees to pay the charges of the Title Company, to create and administer the escrow; or

iii. Waive the Objections and proceed to Closing.

11. Representations and Warranties by Seller. Seller represents and warrants to Buyer as follows (which representations and warranties shall be true and correct as of the date the Seller signs this Agreement and as of the date of actual Closing):

11.1 Corporation; Authority. Seller is duly incorporated and is in good standing under the laws of the State of Minnesota; Seller has the requisite corporate power and authority to enter into and perform this Agreement and those Seller's Closing Documents signed by it; such documents have been duly authorized by all necessary corporate action on the part of Seller and have been duly executed and delivered; such execution, delivery and performance by Seller of such documents does not conflict with or result in a violation of Seller's Articles of Incorporation or Bylaws, or any judgment, order, or decree of any court or arbiter to which Seller is a party; such documents are valid and binding obligations of Seller, and are enforceable in accordance with their terms.

11.2 Title to Real Property. Seller owns the Property, free and clear of all encumbrances, except the encumbrances, if any, identified in the legal description, or those approved by Buyer after review of the Title Evidence, which shall become the "Permitted Encumbrances."

11.3 Leases. There are no leases or other possessory rights of others regarding the Real Property except as disclosed to Buyer.

11.4 Contracts. There are no Contracts affecting the Property, excepting any contracts made for Lot 1, as referenced in Section 1.1.1 hereof.

11.5 Rights of Others to Purchase Property. Seller has not entered into any other contracts for the sale of the Property, other than that disclosed in this Agreement, nor are there any rights of first refusal or options to purchase the Property or any other rights of others that might prevent the consummation of this Agreement.

11.6 Environmental Representations. The Seller has no knowledge of the presence of any hazardous material located on the Real Estate. Further, the Seller has no knowledge of any underground storage tanks, or wells on the Real Estate. Seller has delivered to Buyer a current Phase I environmental report, and a Wetlands Delineation of the Real Estate.

11.7 Indemnity. Seller will indemnify Buyer, against and will hold Buyer, its

successors and assigns, harmless from, any expenses or damages, including reasonable attorneys' fees as awarded by a court, that Buyer incurs because of the breach of any of the above representations and warranties, whether such breach is discovered before or after closing.

12. Representations and Warranties of Buyer. Buyer makes the following representations and warranties to Seller, which representations and warranties shall be true and correct in all material respects on the Closing Date:

12.1 Corporation. Buyer is a non-profit corporation duly organized, validly existing and in good standing under the laws of the State of Minnesota.

12.2 Authority. The execution, delivery and performance of this Agreement and all other documents, instruments and agreements now or hereafter to be executed and delivered by Buyer pursuant to this Agreement are within the power of Buyer, have been duly authorized by all necessary or proper action, and are enforceable against Buyer in accordance with its terms. The individual executing this document on behalf of Buyer has the authority to bind Buyer.

12.3 Buyer will indemnify Seller, against and will hold Seller, its successors and assigns, harmless from, any expenses or damages, including reasonable attorneys' fees as awarded by a court, that Buyer incurs because of the breach of any of the above representations and warranties, whether such breach is discovered before or after closing.

13. Conditions Precedent. Buyer's obligation to close on the Property purchase is subject to the following conditions precedent:

13.1 The representations and warranties of Seller contained in this Agreement must be true now and on the Closing date as if made on the Closing date.

13.2 The Seller shall have performed and satisfied each of the Seller's obligations under this Agreement.

13.3 The Buyer is able to obtain an Owner's Policy of Title Insurance issued by the Title Company in the full amount of the Purchase Price, subject only to the Permitted Encumbrances, covering title to the Real Property, showing Buyer as owner of the Property and providing for full coverage over all standard title exceptions.

13.4 There has been no change in the physical condition of the Property between the date the Buyer signs this Agreement and Closing.

In the event any of the foregoing conditions are not satisfied as of the time of Closing, Buyer will have no obligation to proceed to Closing and, unless Buyer delivers written notice to Seller that Buyer has waived any unsatisfied condition and will proceed to



Closing, this Agreement, upon notice from Buyer to Seller, will cease and terminate, the Earnest Money shall be refunded to Buyer, and neither party shall thereafter have any rights against or obligations to the other hereunder, except as expressly provided otherwise herein.

14. Condemnation. If, prior to the Closing Date, eminent domain proceedings are commenced against all or any part of the Property, Seller shall immediately give notice to Buyer of such fact and at Buyer's option (to be exercised within thirty (30) days after Seller's notice), this Agreement shall terminate, in which event the Earnest Money shall be refunded to Buyer and neither party will have further obligations under this Agreement, except as expressly provided otherwise herein. If Buyer shall fail to give such notice then there shall be no reduction in the Purchase Price, and Seller shall assign to Buyer at the Closing Date of all of Seller's right, title and interest in and to any award made or to be made in the condemnation proceedings. Prior to the Closing Date, Seller shall not designate counsel, appear in, or otherwise act with respect to the condemnation proceedings without Buyer's prior written consent.
15. Broker's Commission. Seller and Buyer represent and warrant to each other that they have dealt with no brokers, finders or the like in connection with this transaction, except as follows: Seller has engaged Pete DuFour and Andy Heieie of Colliers International and David Buyse and Rory Johnson of Corporate Tenant Advisors; Seller shall be solely responsible for paying all amounts that may be owed to the foregoing. Seller and Buyer agree to indemnify each other, and to hold each other harmless against all claims, damages, costs or expenses of or for any fees or commissions due to any other brokers resulting from their actions or agreements, regarding the execution or performance of this Agreement. The foregoing indemnification shall survive Closing or if no Closing occurs the termination or cancellation of this Agreement.
16. Survival. All of the terms of this Agreement and warranties and representations herein contained shall survive and be enforceable after the Closing.
17. Notices. Any notice required or permitted hereunder shall be given by personal delivery upon an authorized representative of a party hereto; or if mailed, by United States registered or certified mail, return receipt requested, postage prepaid, or if deposited cost paid with a nationally recognized, reputable overnight courier, properly addressed as follows:

If to Seller:

Amy Blaz--CFO  
Bethel University  
3900 Bethel Drive  
St. Paul, MN 55112

With Copy to:

Thomas F. Hutchinson/Dale J. Moe  
Eastlund Hutchinson, Ltd  
4200 County Road 42 West  
Savage, MN 55378

612-865-2317  
thutchinson@eastlundhutchinson.com  
dmoe@eastlundhutchinson.com

If to Buyer:

Tim Boehlke, Fire Chief  
Lake Johanna Fire Department  
5545 Lexington Avenue North  
Shoreview, MN 55126  
651-415-2100

With Copy to:

Erich J. S. Hartmann  
Erickson, Bell, Beckman & Quinn, PA  
1700 West Highway 36, Suite 110  
Roseville, MN 55113  
651-223-4999

Any party may change its address for the service of notice by giving notice of such change ten (10) days prior to the effective date of such change.

18. Choice of Law. The laws of the State of Minnesota shall govern all matters relating in any manner to the Agreement.
19. Captions. The paragraph headings or captions appearing in this Agreement are for convenience only, are not a part of this Agreement and are not to be considered in interpreting this Agreement.
20. Entire Agreement; Modification. This written Agreement constitutes the complete agreement between the parties and supersedes any prior oral or written agreements between the parties regarding the Property. There are no verbal agreements that change this Agreement and no waiver of any of its terms will be effective unless in a writing executed by the parties.
21. Confidentiality. Seller and Buyer both acknowledge that the terms and conditions of this Agreement and all information exchanged by the parties ("Confidential Information") is private and confidential. Neither party shall directly or indirectly, disclose, or permit the disclosure of the Confidential Information to any other persons or entities other than their accountants, attorneys, boards of directors, real estate consultants and agents who have a legitimate need to know such information and who, as a condition precedent to such disclosure, agree to keep the Confidential Information in strict confidence. Both parties may disclose Confidential Information to the extent required by law or appropriate judicial order.
22. Binding Effect. This Agreement binds and benefits the parties and their successors and

assigns.

23. No Assignment. This Agreement shall be binding on the parties hereto and their respective successors. Neither party may, or shall have the power to, assign this Agreement, and/or any rights and/or obligations hereunder.
24. Counterparts. This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument.
25. Defaults and Remedies. In the event of a default on the part of either party under this Agreement which continues for three (3) business days after receipt of written notice from the other party, the following shall apply:
  - 25.1 If the Buyer is the defaulting party, the Seller may, as its sole remedy, terminate this Agreement, whereupon the Earnest Money shall be delivered to Seller as liquidated damages.
  - 25.2 If the Seller is the defaulting party, the Buyer may, as its sole remedy, terminate this Agreement, whereupon the Earnest Money shall be returned to Buyer.

Notwithstanding anything to the contrary contained herein, the parties acknowledge and agree that any liability of the parties to the other under the covenants and indemnification contained in 11.7, 12.3, and 15 shall not be limited or affected by the foregoing provisions of this section.

26. Operation Prior to Closing. During the period from the date of Seller's acceptance of this Agreement to the earlier of the date of actual Closing or termination of the Agreement (the "Executory Period"), the Seller shall execute no contracts, easements, leases or other agreements regarding the Property without the prior written consent of Buyer.

Seller will give to Buyer written notice of any citation or other notice which Seller receives, subsequent to the date the Seller signs this Agreement, from any governmental authority concerning any alleged violation of any law, ordinance, code, rule, regulation or order regulating the Property or the use thereof.

The Seller shall not take any action, or cause to be recorded against the Real Property, any documents which change the condition of title to the Real Property from that shown in the Title Commitment without the prior written consent of the Buyer.

The Seller shall keep in full force and effect all existing insurance policies affecting the Property in the same or greater coverages and amounts during the Executory Period as the Seller is currently maintaining on the Real Property.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be duly executed as of the date and year above written.

**SELLER:**

**BETHEL UNIVERSITY**

By: \_\_\_\_\_  
Amy Blaz, CFO

**BUYER:**

**LAKE JOHANNA FIRE DEPARTMENT**

By: \_\_\_\_\_  
Tim Boehlke, Chief Executive Officer