

**REAL ESTATE CONTRACT
Recorder's Cover Sheet**

Preparer Information: (name, address and phone number)

John C. Larsen, 415 Clay Street, Cedar Falls, IA 50613, Phone: (319) 277-6830

Taxpayer Information: (name and complete address)

N/A

Return Document To: (name and complete address)

John C. Larsen, 415 Clay Street, Cedar Falls, IA 50613

Grantors:

Board of Regents, State of Iowa, for the use and benefit of the University of Northern Iowa

Grantees:

Cedar Falls Community School District

Legal Description: See Page 2

Document or instrument number of previously recorded documents: N/A

REAL ESTATE CONTRACT

IT IS AGREED effective April 30, 2017, by and between the **Board of Regents, State of Iowa, for the use and benefit of the University of Northern Iowa** (hereinafter “SELLER,” “UNI,” or “University”); and Cedar Falls Community School District (hereinafter “BUYER”); as follows:

RECITALS

WHEREAS, the BUYER and the SELLER each are tax-supported public bodies; and

WHEREAS, the parties have a desire to work collaboratively, maximize their resources, and be responsible stewards of public assets; and

WHEREAS, the parties have previously entered into 28E agreements evidencing their collaborative intentions; and

WHEREAS, this Contract is evidence of the parties’ desire to continue their collaborative relationship; and

WHEREAS, the parties have a strong common interest in teacher education and preparation; and

WHEREAS, both parties recognize that the location of a senior high school in close proximity to UNI’s campus would present opportunities for innovation and enrichment of their education programs.

AGREEMENT

THEREFORE, in consideration of the mutual covenants and promises herein contained, the SELLER, as in this contract provided, agrees to sell to the BUYER, and the BUYER in consideration of the premises, hereby agrees to purchase the following described real estate situated in the County of Black Hawk, State of Iowa, to-wit:

PARCEL “A” SE ¼, SECTION 15 & PARCEL “A” SW ¼, SECTION 14, IN TOWNSHIP 89 NORTH (T89N), RANGE 14 WEST (R14W), IN THE CITY OF CEDAR FALLS, BLACK HAWK COUNTY, STATE OF IOWA:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 15, T89N, R14W; THENCE N00°52’00”W 70.00 FEET ALONG THE EAST LINE OF SAID SOUTHEAST QUARTER (SE ¼) TO A POINT ON THE NORTH RIGHT OF WAY LINE OF WEST TWENTY-SEVENTH STREET AND THE POINT OF BEGINNING; THENCE S89°18’47”W 711.90 FEET ALONG THE NORTH RIGHT OF WAY LINE

OF WEST TWENTY-SEVENTH STREET, TO A POINT; THENCE S88°54'38"W 604.16 FEET CONTINUING ALONG SAID NORTH RIGHT OF WAY LINE OF WEST TWENTY-SEVENTH STREET, TO A POINT ON THE WEST LINE OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER (SE ¼, SE ¼); THENCE N00°59'48"W 1,251.26 FEET ALONG SAID WEST LINE OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER (SE ¼, SE ¼) TO THE NORTHWEST CORNER OF SAID SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER (SE ¼, SE ¼); THENCE CONTINUING N00°59'48"W 133.50 FEET ALONG SAID WEST LINE OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER (NE ¼, SE ¼) TO A POINT; THENCE N88°54'41"E 1,319.20 FEET ALONG THE NORTH LINE OF THE SOUTH 115.00 FEET OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER (NE ¼, SE ¼) TO A POINT ON THE EAST LINE OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER (NE ¼, SE ¼); THENCE N89°36'55"E 383.20 FEET ALONG A LINE PARALLEL TO AND NORMALLY DISTANT FROM THE SOUTH LINE OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER (SW ¼, SW ¼) OF SECTION 14, T89N, R14W, TO A POINT 50.00 FEET NORMALLY DISTANT FROM THE CENTERLINE OF THE CURRENT DRIVE; THENCE S00°00'00"E 695.80 FEET ALONG A LINE PARALLEL TO AND 50.00 FEET NORMALLY DISTANT FROM THE CENTERLINE OF THE CURRENT DRIVE; THENCE CONTINUING ALONG 50.00 FT. CURRENT DRIVE OFFSET SOUTHEASTERLY 177.16 FEET ALONG A 250.00 FT. RADIUS CURVE, CONCAVE NORTHEASTERLY, WITH A LONG CHORD BEARING S20°18'02"E 173.47 FEET; THENCE S40°36'05"E 73.10 FEET CONTINUING ALONG 50.00 FT. CURRENT DRIVE OFFSET, TO A POINT; THENCE S89°36'55"W 477.12 FEET ALONG A LINE PARALLEL TO AND NORMALLY DISTANT FROM THE SOUTH LINE OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER (SW ¼, SW ¼) OF SECTION 14, T89N, R14W, TO A POINT ON THE WEST LINE OF SAID SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER (SW ¼, SW ¼); THENCE S00°52'00"E 475.02 FEET ALONG THE WEST LINE OF SAID SOUTHWEST QUARTER (SW ¼) OF SECTION 14, TO A POINT ON THE NORTH RIGHT OF WAY LINE OF WEST TWENTY-SEVENTH STREET AND THE POINT OF BEGINNING, CONTAINING 2,178,334.7 SQUARE FEET, OR 50.008 ACRES.

together with any easements and servient estates appurtenant thereto, but subject to any reasonable easements of record for public utilities or roads, and any zoning restrictions (hereinafter "Property"), all upon the terms and conditions following:

1. **TOTAL PURCHASE PRICE.** The Purchase Price to be paid to SELLER by BUYER shall be One Million Two Hundred Forty Thousand Dollars (\$1,240,000.00), and the method of payment shall be as follows:
 - a. **EARNEST MONEY** of \$20,000.00 due and payable on May 31, 2017 or upon execution of this contract by both parties, whichever shall sooner occur, to be held in trust by SELLER; and
 - b. **BALANCE OF PURCHASE PRICE** shall be due and payable as follows:
 - i. \$600,000.00 due and payable on the Closing Date, as hereinafter defined; and

- ii. \$310,000.00 due and payable June 30, 2018; and
- iii. \$310,000.00 due and payable June 30, 2019.

BUYER shall have the right to prepay all or any part of the Purchase Price without penalty. The parties agree that the Purchase Price indicated herein takes into account any costs that may be involved in removing and/or relocating the recreational and/or athletic fields currently located at the Property, along with the removal by the University of Northern Iowa (hereinafter "UNI") of the storage structure (but not the flooring or concrete footings for the same) at that location. The entire cost of such removal and relocation of the fields shall be borne by SELLER; BUYER shall not be responsible for any of SELLER'S costs related thereto.

2. POSSESSION AND CLOSING. BUYER, concurrently with due performance on its part shall be entitled to possession of said premises at closing and thereafter so long as it shall perform the obligations of this contract. Closing shall take place on August 31, 2017, or earlier by mutual agreement of the parties following the completion of the BUYER'S Due Diligence Period as hereinafter defined (the "Closing Date"). All charges attributable to the SELLER'S ownership and possession of the Property shall be adjusted as of the Closing Date.

3. INTENDED USE. The parties acknowledge and agree that BUYER intends to use the Property for the construction of a new senior high school building and related facilities. Notwithstanding anything to the contrary in this Contract, BUYER will accept title to the Property subject to only those restrictions, easements, and other conditions that do not interfere with this stated intended use of the Property.

4. ADDITIONAL PROVISIONS. This Contract shall be subject to the following:

- a. As also stated in Paragraph 1, the parties acknowledge and agree that the sale of the Property herein will require the relocation by UNI of certain recreational and/or athletic fields on the Property, which fields are currently utilized by UNI students, faculty, staff, and/or their affiliates. BUYER agrees that it will commence no construction activities on the Property that would restrict or impair the use of the westernmost four (4) fields as they currently exist until appropriate replacement fields for such four (4) fields are substantially completed by UNI, and such four (4) fields may be used by UNI after the Closing Date, provided that the construction of replacement fields shall have been promptly commenced and diligently pursued following the sale of the Property to BUYER under this Contract. BUYER agrees there shall be no cost for the SELLER to continue using the four (4) fields until SELLER's fields are substantially complete. Notwithstanding the above provisions, in any event SELLER agrees to vacate all fields on the Property within 18 months following successful passage of the Cedar Falls Community School District referendum approving the construction of a new senior high school on the Property. Until all fields are vacated by SELLER, SELLER shall mow and maintain the entire Property.
- b. Both parties shall exercise good faith efforts to enter into a mutually acceptable 28E or other agreement for shared use of certain recreation fields.
- c. BUYER and UNI will enter into a mutually acceptable easement agreement for

BUYER'S use of that portion of UNI's service road between West 27th Street and the north side of the Property, which road is located directly to the east of the Property and easterly of the cell phone tower located near the Property. Such agreement will be executed within one year of the Closing Date.

- d. BUYER will attempt to place a majority of the new senior high school vehicle parking on the eastern edge of the Property.
- e. SELLER shall have the option for a period of one (1) year commencing June 30, 2032, to purchase the Property at the Purchase Price as identified in Paragraph 1 hereof if neither of the following statements is correct:
 - i. The BUYER has commenced construction of a senior high school at the Property; or
 - ii. The BUYER has successfully obtained voter approval of a bond referendum in the Cedar Falls Community School District that authorizes the issuance of General Obligation Bonds for various purposes, including for the construction of a new senior high school and related facilities, and authorizes the levy of a tax related to the same.

SELLER shall exercise the option described in this subparagraph (e) by providing written notice to BUYER as provided in Section 12 below. SELLER shall complete such purchase within ninety (90) days of the date on which notice of such exercise of option is given.

- f. If BUYER chooses to sell or transfer the Property, BUYER agrees to provide SELLER first opportunity to purchase the Property as follows:
 - i. BUYER shall promptly give written notice to SELLER of any such prospective sale or transfer. If SELLER elects to exercise its right to proceed with a purchase of the Property subject to the determination of the purchase price therefor, SELLER shall give written notice of the same to BUYER within one hundred twenty (120) days of receipt of BUYER'S notice of prospective sale or transfer.
 - ii. The parties shall thereafter promptly proceed to determine the purchase price for such sale to SELLER. The purchase price for the Property shall be the lesser of the following:
 - 1. The purchase price identified in Paragraph 1 plus an inflationary increase determined under the National Consumer Price Index for each full calendar year the BUYER owned the Property.
 - 2. The "Appraised Value" as hereafter defined. For purposes of this subparagraph (f), Appraised Value shall be determined as follows. Promptly following SELLER'S notice of election to exercise its rights under this subparagraph, SELLER and BUYER each shall select a licensed commercial real estate appraiser, and each appraiser shall provide an appraisal of the Property. Each party shall be responsible for the costs of its respective appraisal. If the appraised values of the Property as set forth in these two appraisals are within ten percent (10%) of each another, then the Appraised Value of the Property for

purposes of this subparagraph (f) shall equal the average of the two appraisals. If the values are not within ten percent (10%) of each another, the two appraisers shall jointly select a third licensed commercial real estate appraiser, whose determination of the appraised value of the Property shall serve as the Appraised Value for purposes of this subparagraph (f). The cost of this third appraisal shall be borne equally by SELLER and BUYER.

- iii. SELLER shall complete its purchase of the Property within one hundred twenty (120) days of the date of the last appraisal completed pursuant to subparagraph (f)(ii)(2).
- iv. Any written notice required under this subparagraph (f) shall be given as provided in Section 12 below.

5. **DUE DILIGENCE.** BUYER shall have a due diligence period for ninety (90) days following the acceptance of this Contract (hereinafter "Due Diligence Period"). BUYER may, in its sole and absolute discretion, within said Due Diligence Period, give SELLER written notice of rescission of this Contract and receive a refund of all amounts paid by BUYER to SELLER. Said Due Diligence Period shall include the following:

- a. Documents. Within thirty (30) days of the acceptance of this Contract, SELLER shall provide to BUYER copies of the following documents for BUYER'S consideration as it conducts its due diligence, if the existence of the same are known of or held by SELLER: existing ALTA survey(s); existing environmental reports; zoning letter(s) or zoning evidence; existing engineering reports; existing leases, covenants, easement agreements, restrictions, service contracts, and warranties relating to or affecting the Property.
- b. Inspections. During the Due Diligence Period, during reasonable hours and upon reasonable written notice to SELLER, BUYER (or its representatives or independent contractors) may make inspection, examination, and tests of the Property at BUYER'S cost, including but not limited to its acreage, square footage, boundaries, location, soil, ground water, air quality, environmental condition, availability of access, tax status, suitability of the Property for its intended use, and all other matters as BUYER may deem necessary or appropriate. The parties agree that the Purchase Price stated above shall not be changed on account of the Property being more or less acreage or square footage than presently contemplated by the parties, it being the parties' intention that the sale will be in gross and not based on acreage.
- c. Environmental Matters.
 - i. SELLER warrants that to the best of its knowledge and belief, there are no abandoned wells, solid waste disposal sites, hazardous wastes or substances, or underground storage tanks located on the property; the Property does not contain levels of radon gas, asbestos, or urea-formaldehyde foam insulation which require remediation under government standards; and SELLER has done nothing to contaminate the Property with hazardous wastes or substances. SELLER warrants that the property is not subject to any local, state, or federal judicial or

administrative action, investigation or order, as the case may be, regarding wells, solid waste disposal sites, hazardous wastes or substances, or underground storage tanks. SELLER shall provide BUYER with a properly executed Groundwater Hazard Statement showing no wells, private burial sites, solid waste disposal sites, private sewage disposal system, hazardous waste, and underground storage tanks on the Property.

- ii. During the Due Diligence Period, BUYER may, at its expense, obtain a report from a qualified engineer or other person qualified to analyze the existence or nature of any hazardous materials, substances, conditions, or wastes located on the Property. In the event any hazardous materials, substances, conditions, or wastes are discovered on the Property, BUYER'S obligation hereunder shall be contingent upon the removal at SELLER'S cost of such materials, substances, conditions, or wastes, or other resolution of the matter reasonably satisfactory to BUYER. However, in the event SELLER is required to expend any sum in excess of \$10,000.00 to remove any hazardous materials, substances, conditions, or wastes, SELLER shall have the option to cancel this transaction, and refund to BUYER any amounts paid by BUYER to SELLER related to this Contract, and declare this Contract null and void. The expense of any inspection shall be paid by BUYER. The expense of any action necessary to remove or otherwise make safe any hazardous material, substances, conditions, or waste shall be paid by SELLER, subject to SELLER'S right to cancel this transaction as provided above.

- d. Abstract and Title. At UNI's expense, promptly after the execution of this Contract, UNI shall obtain an abstract of title to the Property continued through the date of this Contract and deliver it to BUYER'S attorney for examination. It shall show marketable title in SELLER in conformity with this Contract, Iowa law, and title standards of the Iowa State Bar Association. The SELLER shall make every reasonable effort to promptly perfect title. The abstract shall become the property of BUYER when the Purchase Price is paid in full. SELLER shall pay the costs of any additional abstracting and title work due to any act or omission of SELLER. The abstract shall be obtained from an abstracter qualified by the Guaranty Division of the Iowa Housing Finance Authority.

6. CONDITION OF PROPERTY. The Property as of the date of this Contract, including grounds and all improvements, will be preserved by the SELLER in its present condition until possession, except as otherwise provided herein. Notwithstanding the foregoing, University personnel may remove any and all fixtures related to the recreational fields on the Property on or before the time such fields cease to be used by UNI, and UNI reserves the right to remove sod from the grounds to assist with relocation of the playing fields.

7. PATENT. Upon payment of the Purchase Price in full, SELLER shall convey the Property to BUYER in fulfillment of this Contract by patent, free and clear of all liens, restrictions, and encumbrances except as provided in this Contract. General warranties of the title shall extend to the time of delivery of the deed excepting encumbrances suffered or permitted by BUYER.

8. **SURVEY.** If a survey is required under Iowa Code Chapter 354, or city or county ordinances, SELLER shall pay the costs thereof. BUYERS may, at BUYER'S expense during the Due Diligence Period, have the property surveyed and certified by a registered land surveyor. If the survey shows an encroachment on the Property or if any improvements located on the Property encroach on lands of others, the encroachments shall be treated as a title defect.

9. **LIENS.** No mechanics' lien shall be imposed upon or foreclosed against the real estate described herein.

10. REMEDIES.

- a. Seller Breach. If SELLER fails to timely perform this Contract, BUYER shall have the right to have all payments made returned to it.
- b. Buyer Breach – Forfeiture. If BUYER (a) fails to make the payments aforesaid, or any part thereof, as same become due; or (b) fails to perform any of the agreements as herein made or required; then SELLER, in addition to any and all other legal and equitable remedies which they may have, at its option, may proceed to forfeit and cancel this contract as provided by law (Chapter 656 Code of Iowa).
- c. Attorney Fees. The prevailing party in any legal action related to this Contract shall be entitled to obtain judgment for costs and attorney fees.

11. **GENERAL PROVISIONS.** In the performance of each part of this Contract, time shall be of the essence. Failure to promptly assert rights herein shall not, however, be a waiver of such rights or a waiver of any existing or subsequent default. This Contract shall apply to and bind the successors in interest of the parties. This Contract contains the entire agreement of the parties and shall not be amended except by a written instrument duly signed by SELLER and BUYER. Paragraph headings are for convenience of reference and shall not limit or affect the meaning of this Contract. Words and phrases herein shall be construed as in the singular or plural number, and as masculine, feminine, or neuter gender, according to the context.

12. **NOTICE.** Any notice under this Contract shall be in writing and be deemed served when it is delivered by personal delivery or mailed by certified mail, addressed to the parties as follows:

- a. To the Board of Regents, State of Iowa, by giving notice to the Executive Director, 11260 Aurora Avenue, Urbandale, IA 50322-7905.
- b. To the University of Northern Iowa, by giving notice to the Senior Vice President for Finance and Operations, 122 Lang Hall – UNI, Cedar Falls, IA 50614-0003.
- c. To the Cedar Falls Community School District by giving notice to the Superintendent, 1002 West 1st Street, Cedar Falls, IA 50613.

Either party may change its address(es) for notices under this Contract by appropriate notice to the other party as provided in this paragraph 12.

13. **NO REAL ESTATE AGENT OR BROKER.** Neither party has used the service of a real estate agent or broker in connection with this transaction.

14. INSPECTION OF PRIVATE SEWAGE DISPOSAL SYSTEM. Seller represents and warrants to Buyer that the Property is not served by a private sewage disposal system, and there are no known private sewage disposal systems on the property.

SELLER

BOARD OF REGENTS, STATE OF IOWA, FOR THE USE AND BENEFIT OF THE UNIVERSITY OF NORTHERN IOWA

By: Dr. Robert Donley
Its: Executive Director and Chief Executive Officer

Address:
12260 Aurora Avenue
Urbandale, IA 50322-7905

STATE OF IOWA, COUNTY OF POLK)ss.

This record was acknowledged before me on this _____ day of _____, 2017, by Dr. Robert Donley, as Executive Director and Chief Executive Officer, of the Board of Regents, State of Iowa, For The Use And Benefit of The University Of Northern Iowa.

Notary Public

BUYER

CEDAR FALLS COMMUNITY SCHOOL DISTRICT

By Joyce Coil, President of the Board of Directors of the Cedar Falls Community School District
Board of Education

By Douglas Nefzger, Secretary of the Board of Directors of the Cedar Falls Community School
District Board of Education

Address:
1002 West 1st Street
Cedar Falls, IA 50613

STATE OF IOWA, COUNTY OF BLACK HAWK)ss.

This record was acknowledged before me on this _____ day of _____, 2017, by
Joyce Coil, President of the Board of Directors of the Cedar Falls Community School District
Board of Education.

Notary Public

STATE OF IOWA, COUNTY OF BLACK HAWK)ss.

This record was acknowledged before me on this _____ day of _____, 2017, by
Douglas Nefzger, Secretary of the Board of Directors of the Cedar Falls Community School
District Board of Education.

Notary Public