

REAL ESTATE PURCHASE AND SALE AGREEMENT

THIS AGREEMENT ("Agreement"), made and entered into on the later of the two dates of execution by the parties hereto ("Effective Date"), by and between The Boone County Board of Education (herein the "Buyer") with an address of 8330 U.S. Highway 42, Florence, Kentucky 41042, and Greenfield Farm, Inc., a Kentucky corporation (herein the "Seller"), with an address of c/o DBL Law, 207 Thomas More Parkway, Crestview Hills, Kentucky 41017.

WITNESSETH:

In consideration of all of the covenants, terms, and conditions herein contained, and intending to be legally bound, Seller and Buyer hereby agree as follows:

1. **DEFINITIONS.** For purposes of this Agreement, the following terms shall have the meanings ascribed to them:

A. **"Buyer"** means The Boone County Board of Education, or its nominee or designee, the Boone County Board of Education Finance Corporation.

B. **"Environmental Laws"** means federal, state and local laws, statutes or ordinances, and any rules or implementing regulations related thereto (including, but not limited to any permits, orders, court orders or consent decrees issued pursuant to any of the foregoing that affect the Property) relating to pollution or protection of the environment, including laws relating to emissions, discharges, releases, threatened releases or spilling of pollutants, contaminants, chemicals, or toxic or hazardous substances or wastes into the environment (including, without limitation, ambient air, surface water, ground water, soil or substrata), or otherwise relating to the manufacture, processing, sale, generation, treatment, storage, disposal, labeling or other management of any pollutants, contaminants, chemicals or toxic or hazardous substances or wastes.

C. **“Hazardous Substances”** means those substances defined as toxic or hazardous substances by Environmental Laws and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials and any substance that is or contains (i) any "hazardous substance" as now or hereafter defined in § 101(14) of the Comprehensive Environmental Response Compensation and Liability Act of 1980 (CERCLA), as amended, or any regulations promulgated under CERCLA; (ii) any "hazardous waste" as now or hereafter defined in the Resource Conservation and Recovery Act (RCRA), or regulations promulgated under RCRA; (iii) any substance regulated by the Toxic Substances Control Act (TSCA); (iv) gasoline, diesel fuel or other petroleum hydrocarbons; (v) asbestos and asbestos-containing materials in any form, whether friable or nonfriable; (vi) polychlorinated biphenyls; and (vii) radon gas.

D. **“Improvements”** means all structures and other improvements subject of this Agreement, including an offsite storm water detention/retention facility built to state and county specifications and all necessary utilities service.

E. **“Land”** means the parcel(s) of land containing approximately 68.681 acres (subject to survey) located to the west of Interstate 75/71 South as is generally described on Exhibit "A" attached hereto and generally depicted on Exhibit “B” attached hereto.

F. **“Property”** means the Land and the Improvements together with all of Seller’s right, title and interest in and to (i) all rights, privileges, and easements appurtenant to the Land; (ii) all rights-of-way or other appurtenances used in connection with the beneficial use and enjoyment of the Land; (iii) all of Seller’s right, title, and interest in and to all roads,

easements and rights-of-way servicing the Land; and (iv) all subsurface and mineral rights including oil, gas, and other mineral leases.

G. “Seller” means Greenfield Farm, Inc., a Kentucky corporation.

H. “Title Company” means Adams, Stepner, Woltermann & Dusing, P.L.L.C. Title Insurance Company.

2. SALE AND PURCHASE OF PROPERTY. Subject to the terms and conditions hereof, at Closing, Seller shall sell, transfer and convey to Buyer, by a good and sufficient Special Warranty Deed, in form suitable for recording, good and marketable title in and to the Property, and all rights belonging to or inuring to the benefit of the Property, free and clear of all liens and encumbrances caused by or arising under Seller’s ownership, other than legal highways, zoning ordinances, non-delinquent real estate taxes, and any other Permitted Exceptions set forth herein (“Deed”). In the event the Kentucky Department of Education requires a general warranty deed from Seller, Seller will provide such a general warranty deed provided Buyer, at its sole expense, provides title insurance insuring Seller as well as Buyer.

3. PURCHASE PRICE AND TERMS OF PAYMENT. The purchase price (“Purchase Price”) to be paid by Buyer to Seller for the Property shall be the sum of ONE MILLION AND 00/100 DOLLARS (\$1,000,000.00) exactly and shall be payable as follows:

A. Within five (5) business days following the execution of this Agreement by the parties hereto, Buyer shall deliver to the law firm of Adams, Stepner, Woltermann & Dusing, P.L.L.C. (“ASWD”) the sum of TEN THOUSAND DOLLARS (\$10,000.00) as a Deposit on account of the Purchase Price. The Title Company is authorized to hold the Deposit in escrow, and to thereafter disburse the Deposit in accordance with the terms and conditions of this Agreement. If the transaction is closed, the Deposit shall be paid to the Seller and shall be

credited to Buyer against the Purchase Price of the Property. If the transaction does not close due to a default by Buyer not otherwise excused hereunder, then the Deposit shall be paid over to the Seller in full satisfaction of all of Seller's claims against the Buyer as liquidated damages for Buyer's breach hereunder. If the transaction does not close due to a default by Seller, or due to the failure of a condition precedent set forth herein, then the Deposit shall be returned to Buyer.

B. The balance of the Purchase Price, subject to adjustments as provided in this Agreement, shall be payable in good funds at Closing.

4. REPRESENTATIONS OF SELLER. In order to induce Buyer to enter into this Agreement, and to consummate the sale and purchase of the Property in accordance with this Agreement, Seller hereby represents to Buyer, as to the following, as of the date of this Agreement and the Closing Date:

A. Authorization of Agreement. Seller has the power and authority to enter into and execute this Agreement and the documents and instruments contemplated herein and to consummate the transaction contemplated herein and therein, and no other action will be necessary to authorize the execution and delivery of this Agreement, the other agreements and documents contemplated hereby to be executed and delivered by Seller, and the consummation of the transactions contemplated herein and therein.

B. Compliance with Laws. Seller has not been placed on notice of the existence of any condition nor does Seller have any actual knowledge of the existence of any condition with respect to the Property which violates any city, county, state, or federal law, ordinance, regulation, or code, applicable thereto (including building, health, safety, and zoning laws) and no notice or communication has been received from any insurer thereof regarding dangerous, illegal, or other conditions requiring corrective action. Seller has not received any

notices of violations of any federal, state, or municipal or other health, building, zoning, safety, environmental protection, or other applicable code, law, ordinance, or regulation.

C. **Condemnation or Special Assessments.** To the actual knowledge of Seller, there are not presently pending any condemnation actions, or special assessments of any nature with respect to the Property or any part thereof or the use and occupancy of the same, nor has Seller received any notice of any condemnation actions, zoning, or land use regulation proceedings, or special assessments being contemplated.

D. **Contracts.** There are no leases, contracts or agreements affecting the use or occupancy of the Property or the maintenance thereof of which Seller is a party, or has knowledge of, or by which either the Seller or the Property is bound. There are no options to purchase, rights of first refusal, purchase agreements, leases, licenses or other rights of occupancy outstanding with respect to the Property other than this Agreement.

E. **Environmental.** To the actual knowledge of Seller, the Property is being used and currently is in compliance with all applicable Environmental Laws. To the Seller's actual knowledge, no Hazardous Substances have been generated, treated, stored, or disposed of on, about or under the Property in violation of any applicable Environmental Laws. Seller has not received any notice from any governmental agency or private or public entity advising that the Seller is responsible for or potentially responsible for response costs or response actions with respect to a release, a threatened release, or clean-up of any Hazardous Substances produced by or resulting from any activity, operation, or process relating to the Property, nor has Seller received any notice from any governmental agency or private or public entity advising that Seller is in violation of any Environmental Laws.

F. **Litigation.** Seller is not a party to any pending action, suit, claim, investigation, or legal, bankruptcy, administrative, or arbitration proceeding, and there is no action, suit, claim, investigation, or legal, bankruptcy, administrative, or arbitration proceeding pending against Seller that affects the Property, whether at law or in equity, nor is there, to Seller's actual knowledge, any action, suit, claim, or investigation threatened against Seller that would affect the Property. The execution and delivery by Seller of this Agreement and such other agreements and instruments as shall be incidental hereto and the consummation of the transaction contemplated herein will not violate any law or regulation or conflict with or result in any breach of or constitute a default under or result in the creation of a lien or encumbrance on the Property. No approval, authorization, consent, or other order or action of or filing with any court, administrative agency, or other governmental authority is required for the execution and delivery by Seller of this Agreement or such other agreements and instruments, or the consummation of the transaction contemplated hereby and thereby, except the possible required approval of a conveyance plat to accompany the recording of the Deed.

The representations and warranties set forth herein shall survive Closing for three (3) months from the Closing Date except F. Environmental, which shall continue to survive. Seller shall immediately notify Buyer if any of the representations, warranties, or covenants of Seller become untrue prior to the date of Closing.

5. **SELLER'S DELIVERABLES.** Within ten (10) days following the date of the execution of this Agreement, Seller shall provide Buyer with copies of the following documents, but only to the extent they are in Seller's actual possession (herein "Seller's Deliverables"):

A. Agreements with any governmental authorities affecting the Property;

B. A recent survey of the Property including any CAD file with topography depicting existing conditions, if Seller has or has access to same;

C. Copies of all soil studies and reports, environmental assessments, and other tests relevant to the Property;

D. Copies of all title commitments, title reports and title insurance policies; and

E. All documents, drawings, plans and permits concerning the construction of the road, the installation of any utilities and storm water detention.

BUYER'S RIGHT OF INSPECTION. Buyer shall have a period of three hundred sixty (360) days from the Effective Date (herein the "Inspection Period") to inspect and investigate the Property for the use of the Property for an elementary and/or middle school site, school bus facility or other facility related to Buyer's operations as a school district, with usual and customary amenities such as student recreational facilities. During the Inspection Period, Buyer shall have the right to enter the Property and make such investigations, inspections, analyses, evaluations, studies and tests on, of and relating to the Property as Buyer deems necessary and desirable in connection with its potential acquisition of the Property, including without limitation, environmental assessments and investigations, appraisals, engineering and utility studies, soil borings, and any other studies or investigations to determine the suitability of the Property for Buyer's intended use, including without limitation, verification of availability of utilities and the like. All such inspection and testing shall be conducted at Buyer's sole cost and expense. If, during the Inspection Period, Buyer determines, in its sole judgment, that the Property is not suitable for Buyer's intended purposes, then Buyer shall have the right, prior to the end of the Inspection Period, to terminate this Agreement and to receive back its Deposit.

Buyer shall be responsible for any and all claims, liabilities, or obligations, costs and expenses, for personal injury, physical damage to any person or the Property, or any liens which may be asserted against the Property, as a result of such entry by Buyer, its agents or designees and to the extent permitted by law, indemnify and hold Seller harmless from any damages, liabilities, or claims for property damage or personal injury caused by Buyer, its employees, agents, and contractors, in the conduct of such inspections and investigations other than pre-existing conditions merely discovered by Buyer or its employees, agents, or contractors. Seller shall reasonably cooperate with Buyer in facilitating such inspections. Buyer shall, at its sole cost and expense, comply with all applicable federal, state, and local laws, statutes, rules, regulations, ordinances, and policies in conducting any of its inspections or testing of the Property. Buyer agrees to keep the Property free from any and all liens arising out of any work performed, materials furnished, or obligations incurred by or on behalf of Buyer or Buyer's representatives or agents in connection with any inspection or testing, and, if any such lien shall at any time be filed, Buyer shall cause the same to be discharged of record within thirty (30) days thereafter by satisfying the same (and if Buyer fails to do so, Seller may discharge the same at Buyer's expense). Except as approved by Seller in writing, in no event shall Buyer or Buyer's representatives or agents have the right to place any materials or equipment on the Property (including, without limitation, signs or other advertising material) until after the Closing has occurred. The indemnification obligation of Buyer in this Section 6 shall survive the Closing or termination of this Agreement.

6. VERIFICATION OF TITLE.

A. Title Commitment. Within thirty (30) days after the Effective Date, Buyer shall obtain a commitment for an ALTA title insurance policy issued by the Title

Company, with legible copies of all documents creating exceptions, providing for the issuance of an owner's title insurance policy (the "Title Commitment") to cover the Property for the full amount of the Purchase Price showing fee simple title to the Property to be in the name of Seller, subject only to real estate taxes not yet due and payable, easements, restrictions, and rights-of-way of record that do not unreasonably interfere (in Buyer's sole judgment) with the Buyer's intended use of the Property (herein the "Permitted Exceptions"). Buyer shall have the right, at its cost, to request the Title Company to issue certain endorsements and affirmative coverages, including Owner's Comprehensive Endorsement; Survey Endorsement; Access Endorsement; and Tax Parcel Endorsement.

B. Title Defects. Buyer shall have a period of thirty (30) days to review the Title Commitment. If the Title Commitment reflects or discloses matters objectionable to Buyer or the Kentucky Department of Education (herein "Title Defects"), then on or before the expiration of said thirty (30) day period, Buyer shall provide Seller with written notice of such Title Defects, and Seller shall have a period of thirty (30) days (herein the "Cure Period") from the date of such notice to cure or remove any Title Defects; provided, however, it is expressly understood and agreed that the Seller shall have no obligation to cure or remove any Title Defects. If Seller fails to, or elects not to, cure or remove the Title Defects on or before the expiration of the Cure Period, then Buyer shall have thirty (30) days from the earlier of the end of the Cure Period or the date on which it receives written notice from Seller that Seller elects not to cure the Title Defects ("Buyer's Cure Election Date") to either: (i) terminate this Agreement by written notice to the Seller; or (ii) elect in writing to waive any Title Defects and proceed to Closing without reduction in the Purchase Price. Subject to Kentucky Department of Education approval per Section 8.G, if the Buyer fails to give written notice to the Seller of its

objections to the title commitment on or before the expiration of Buyer's Cure Election Date, then Buyer shall be deemed to have no objections to the state of Seller's title to the Property as shown by the Title Commitment, and any exceptions to Seller's title which are shown on the Title Commitment, which have not been objected to, or which, if objected to, have been either cured by Seller or as to which Buyer has waived or been deemed to have waived its objections, shall be considered to be Permitted Exceptions. If Buyer elects to terminate this Agreement by written notice to Seller as provided for herein, then the Title Company shall return the earnest money Deposit to Buyer, and the parties shall be released from all further obligations hereunder.

7. CONTINGENCIES AND CONDITIONS PRECEDENT TO CLOSING.

Buyer's obligation to close is strictly contingent on Buyer being satisfied, in its sole and unfettered discretion, with its inspection of the Property during the Inspection Period, and the Kentucky Department of Education shall have approved this Agreement, the proposed closing documents and given its final approval and authorization to Buyer for Buyer to close on the transaction during the inspection period, and the Land has public road access by Grand National Boulevard.

8. CLOSING.

A. Time and Place.

Provided that the Contingencies And Conditions Precedent To Closing have been satisfied, the Closing hereunder shall take place at the offices of Adams, Stepner, Woltermann & Dusing, P.L.L.C., 40 West Pike Street, Covington Kentucky 41011 or any other mutually agreed upon location, at a mutually agreeable time, not to exceed thirty (30) days after all contingencies and conditions precedent to closing have been completed to the satisfaction of Buyer and the

Kentucky Department of Education has given Buyer approval and authorization to close the transaction.

PROVIDED HOWEVER, if all such Contingencies and Conditions Precedent To Closing are not completed to Buyer's satisfaction by March 1, 2018, then, at the option of either party, this Agreement may be null and void and Buyer shall be entitled to the return of its Deposit, or the parties may elect to extend the time for closing upon their mutual agreement.

B. Items to be Delivered by Seller.

At Closing, Seller shall deliver or cause to be delivered to Buyer, each of the following items:

- (i) A Special or General Warranty Deed (as required herein) (and approved conveyance plat, if reasonably required to pass good title) both executed and acknowledged by Seller and in form suitable for recording, conveying good and marketable fee simple title to the Property to Buyer, with standard warranty of title, except for the Permitted Exceptions.
- (ii) A Seller's Affidavit in the form required by the Title Company.
- (iii) A combined Seller/Buyer Closing Statement.
- (iv) Non-foreign status affidavit.
- (v) Evidence of Seller's authority to consummate this transaction.
- (vi) Any other documents reasonably required by the Kentucky Department of Education or Buyer's counsel.

C. Items to be Delivered by Buyer.

- (i) The Purchase Price (subject to adjustments and prorations provided in this Agreement).

D. **Adjustments and Prorations.** At Closing, the following items shall be adjusted or prorated between Seller and Buyer:

Real Estate Taxes and Assessments shall be prorated to the Date of Closing based upon the last available PVA assessment or tax bill, if available.

E. **Seller's Costs.** The Seller shall be responsible for the cost of the real estate transfer taxes and fees; the deed; the cost of discharging any and all mortgages or other liens on the Property;

F. **Buyer's Costs.** Buyer shall be responsible for the cost of recording the Deed; the cost of the Title Insurance Policy requested by Buyer; all expenses involved with the inspection of the Property; and the fee of the Title Company for acting as closing and escrow agent.

9. **NOTICES.** All notices and communications herein required to be given or made to Seller or Buyer shall be made in writing and shall be addressed as provided below or at such address as each shall notify the other in writing, and shall be deemed delivered three (3) days after being deposited in the mail if made by ordinary mail, or upon delivery if made by a nationally recognized overnight delivery service with confirmation receipt, by personal service delivery, or by electronic correspondence (email or facsimile) with delivery receipt or verification. Notwithstanding the foregoing or any other provision of this Agreement, in the event any deadline requiring written notice falls on a Saturday or Sunday or a National Holiday or any special National Holiday declared by the President of the United States, such notice shall be deemed delivered if given on the next regular weekday.

Seller: Greenfield Farm, Inc.
c/o DBL Law
207 Thomas More Parkway
Crestview Hills, KY 41017
Attn: James A. Dressman III
859.426.2150
jdressman@dbllaw.com

Buyer: The Boone County Board of Education
Attn: Randy Poe, Superintendent
8330 U.S. Highway 42
Florence, KY 41042
859.282.3197
Randy.Poe@boone.kyschools.us

Copy to: Gerald F. Dusing, Esq.
Adams, Stepner, Wolterman & Dusing, PLLC
40 West Pike Street
Covington, KY 41011
859.394.6200
gdusing@aswdlaw.com

10. MISCELLANEOUS.

A. **Entire Agreement.** This Agreement constitutes and contains the entire agreement between the parties, and supersedes and cancels any and all other agreements or understanding between the parties.

B. **Amendment.** This Agreement may not be modified or amended, except by an agreement in writing signed by the Seller and the Buyer.

C. **Binding Effect.** This Agreement shall be binding upon the parties hereto, their heirs, successors and assigns. Seller agrees that Buyer may assign this Agreement and its rights hereunder and Seller will simultaneously with the payment in full of the consideration,

sell, convey, assign, and transfer the Property, as provided herein, to such nominee, assignee, or designee as Buyer may designate.

D. Further Assurances. After the Closing, Seller and Buyer will, at their own cost and expense, fully cooperate and take all appropriate action or actions, and execute any documents, instruments, or conveyances of any kind which may be reasonably necessary to carry out the provisions of this Agreement.

E. Condemnation. In the event that prior to Closing all or any portion of the Property becomes the subject of a condemnation proceeding by a public or quasi-public authority having the power of eminent domain, Seller shall immediately notify Buyer thereof in writing, and Buyer, within sixty (60) days of the notice, may (a) elect to proceed with the Closing of this transaction without reduction in the Purchase Price, in which event Buyer shall be entitled to receive all proceeds of any award or payment in lieu thereof, or (b) elect to terminate this Agreement, in which event the parties shall have no further obligations to each other.

F. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same document.

G. Acceptance. Seller shall have a period of seven (7) days after its receipt of an executed copy of this Agreement to sign the same and return a fully executed copy to Buyer. If Buyer does not receive a signed copy of this Agreement within said seven (7) days period, then this Agreement shall be null and void.

H. Broker's Fees. Each party acknowledges there is no real estate broker involved in this purchase and sale and no real estate commission, finder's fee, consulting fee or

like fee in connection with this transaction and each party agrees to hold the other harmless respecting same that may be claimed by reason of the respective parties act.

I. Representations of Buyer. By executing this Agreement, Buyer hereby represents that, subject to approval by the Kentucky Department of Education, Buyer has the power and authority to enter into and execute this Agreement and the documents and instruments contemplated herein, and to consummate the transactions contemplated herein.

J. Governing Law. This Agreement shall be construed under and in full accordance with the laws of the State of Kentucky.

K. Time of the Essence. Time is of the essence with reference to this Agreement.

L. Attorneys' Fees. In the event of any proceeding between the parties hereto to enforce any of the provisions of this Agreement, the prevailing party in such proceeding shall be entitled to an award of all costs and expenses, including reasonable attorneys' fees. This section shall survive the Closing or a prior termination hereof.

M. Section 1031 Exchange. To enable either Buyer or Seller to effect a "like kind" exchange under Section 1031 of the Internal Revenue Code, either party may elect to close this transaction as a tax-free exchange, and in such event, the other party shall cooperate with the electing party in connection with such "like kind" exchange transaction and will execute such documents as are reasonably requested.

11. Property "AS IS." Except as otherwise provided in this Agreement, Buyer, by its execution hereof, acknowledges that (i) Seller has not made, does not make, and specifically negates and disclaims any other representations, warranties, promises, covenants, agreements, or guaranties of any kind or character whatsoever, whether express or implied, oral or written, past,

present, or future as to, concerning, or with respect to (A) the value, nature of quality, or condition of the Property, including, without limitation, the water, soil, geology, (B) the income to be derived from the Property, (C) the suitability of the Property for any and all activities and uses which Buyer may conduct thereon, (D) the compliance of or by the Property or its operation with any laws, rules, ordinances, or regulations of any applicable governmental authority or body, (E) the habitability, merchantability, marketability, profitability, or fitness for a particular purpose of the Property, (F) the manner of quality of the construction or materials, if any, incorporated into the Property, (G) the manner, quality, state of repair, or lack or repair of the Property, or (H) 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, orders, or requirements, including, the disposal or existence, in or on the Property, of any hazardous materials, (ii) Buyer has fully inspected the Property and that the conveyance and delivery of the Property contemplated by the Agreement is **“AS IS”** and **“WITH ALL FAULTS,”** and (iii) no warranty has arisen through trade, customer, or course of dealing with Buyer. Buyer represents that Buyer has made or will make on or before Closing, and if not, does hereby waive (i) all inspections of the Property to determine its value and condition deemed necessary or appropriate by Buyer, including, without limitation, inspections for the presence of asbestos, pesticide residues, underground storage tanks, hazardous waste, and other hazardous materials, and (ii) investigations to determine whether any portion of the Property lies within any flood hazard area as determined by the U.S. Army Corps of Engineers or other applicable authority.

[Signature page immediately follows]

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates set forth below their respective signatures.

BUYER:

BOONE COUNTY BOARD OF EDUCATION

By: _____
_____, Chairperson Date _____

SELLER:

GREENFIELD FARMS, INC.

By: _____
_____, Authorized Representative Date _____