

**AIR RIGHTS AND TEMPORARY CONSTRUCTION EASEMENT AGREEMENT**

This Air Rights and Temporary Construction Easement Agreement ("Agreement") is made and entered into as of April 7, 2011 by and between the County of Christian, Missouri, a political subdivision of the State of Missouri having an address of 100 W. Church, Room 100, Ozark, MO 65721 ("Grantor") and Spokane R-VII School District, a political subdivision of the State of Missouri having an address of 167 Kentling Ave, Highlandville, MO 65669 ("Grantee").

**WITNESSETH:**

WHEREAS, Grantor is the owner of Spokane Road, formerly State Highway 160 and 65, but now a county right of way located in the City of Spokane, Christian County, Missouri;

WHEREAS, Grantee is the fee simple owner of property adjacent to the East and West boundaries of Spokane Road, being the properties currently occupied by the Spokane Middle School and the Spokane High School, respectively, as more particularly described in Exhibit "A" attached hereto and incorporated herein by reference (the "School Property").

WHEREAS, Grantee intends to undertake a construction project that will add to and alter the School Property and as part of that project intends to construct a bridge crossing over and above a portion of Spokane Road so that the Spokane Middle School and Spokane High School properties will be connected and so that additional classroom and other educational space can be installed in connection with the School Property (the "Project") and the construction, operation, occupancy and maintenance of said bridge will require the use of air rights over Spokane Road as well as temporary construction staging, storage, occupancy and use of portions of Spokane Road while the Project is underway.

WHEREAS, Grantor and Grantee have agreed to enter this Agreement for purposes of permitting Grantee to construct, own, operate and maintain the Project including the bridge.

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) in hand paid by Grantee and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Grant of Easement. Grantor does hereby grant, bargain and sell, convey and confirm unto Grantee, its successors and assigns, an exclusive easement for and in the air rights over that portion of Spokane Road more particularly described on Exhibit "B" attached hereto and incorporated herein by reference as well as such areas on Spokane Road for columns and structural supports and vertical, horizontal, subterranean, lateral and subjacent subsistence and support for the use, maintenance, repair and replacement of the bridge and for the attachment of the bridge to all columns, piers, footings, girders, beams, foundations, slabs and other supports, supporting structures and appurtenances for the purposes of constructing, installing, operating, using, maintaining, repairing, replacing, reconstructing and removing a bridge over Spokane Road connecting the Spokane Middle School and Spokane High School (the "Easement Area"). The parties recognize that currently the Easement Area is only an approximation of where the bridge will be located. Upon completion of construction of the Project, an as-built survey of same shall be prepared together with a revised legal description of the Easement Area and this Agreement shall be amended in recordable form by the parties to attach the as-built legal description of the Easement Area and thereafter all references to the Easement Area shall be as so amended.
  
2. Temporary Construction Easement. Grantor also grants Grantee a temporary easement over, under, across, upon and through those portions of Spokane Road necessary on an as-needed basis from time to time for the construction, installation, operation, use, maintenance, repair, removal, replacement and future reconstruction of the bridge and associated improvements, structural components, columns, piers, footings, girders, beams, foundations, slabs and other supports, supporting structures and appurtenances. Grantor further grants Grantee a temporary easement to stage its construction activities on certain portions of Spokane Road, including without limitation the use of construction platforms, girders, etc., and such storage as may be necessary, for so long as Grantee needs while the construction activity is underway and further agrees that at certain times during construction it may be necessary for Spokane Road to be closed to traffic (and for Grantor to cooperate with Grantee in implementing such closure) so that Grantee can complete the Project. Grantee shall notify Grantor in advance of its construction schedule and shall act reasonably expeditiously with respect to any activities that disrupt traffic on Spokane Road so that interruption of traffic on Spokane Road shall not continue for longer than is reasonably necessary for Grantee's purposes. The parties shall cooperate with each other in the performance of such work and pursuant to that end, neither shall intentionally cause the other any delay or interfere with the due prosecution of the work of the other.

3. Use of Easement. The Easement Area may be used by Grantee for the installation, construction, operation, use, maintenance, repair, replacement, future reconstruction and removal of the Project including the bridge and associated improvements, and thereafter for ingress, egress and access to and from Spokane Middle School and Spokane High School, for classrooms and for other educational purposes. Grantee shall be responsible for maintaining the bridge in a safe manner and in compliance with all applicable laws and regulations. In the event of damage to Spokane Road caused by the construction, use or maintenance of the bridge, Grantee shall repair such damage.
4. Casualty. In the event that the bridge is damaged by fire or other insured casualty, any proceeds of Grantee's insurance shall be paid to Grantee, and Grantee, in Grantee's sole and exclusive discretion, may elect either to; (a) promptly repair, replace and rebuild the bridge at Grantee's sole cost and expense; or (b) to terminate this Agreement by providing written notice of such termination to Grantor. If Grantee elects to terminate this Agreement, then Grantee shall, at Grantee's cost and expense, raze, clear and dispose of the improvements constructed by Grantee on the Easement Area.
5. Setbacks. Grantor agrees that to the extent any building setback lines imposed by Christian County ordinance(s) would be violated or encroached upon as the result of the construction of the Project and the bridge, then notwithstanding any such violations or encroachments, approval of the construction of the Project and bridge is hereby granted and Grantor will provide such other permits, approvals and/or other documentation as may be deemed reasonably necessary by Grantee to confirm such permission as to the setback lines.
6. Notices. All notices, demands and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested, to the following addresses:

If to Grantor, to: Christian County  
100 W. Church, Room 100  
Ozark, MO 65721  
Attn: Lou Lapaglia, Presiding Commissioner

If to Grantee, to: Spokane R-VII School District  
167 Kentling Ave  
Highlandville, MO 65669  
Attn: Superintendent

7. Signage. Grantee shall be permitted to install signage on the exterior of the bridge with the Easement Area provided such signs identify Grantee and/or its programs and purposes.
8. Covenant Running with the Land. This Agreement, including without limitation the easement rights granted herein, and Grantee's rights, privileges, liabilities and obligations shall run with and benefit the owner of the School Property and shall inure to the benefit of and be binding upon Grantee, its successors and assigns.
9. Miscellaneous. This Agreement may be amended only by a writing signed by each of the parties. This Agreement may be executed in any number of counterparts and by each of the parties on separate counterparts, each of which, when so executed, shall be deemed an original, but all of which shall constitute one and the same instrument. This Agreement may be recorded by any party at such party's expense in the office of the Recorder of Deeds for Christian County, Missouri. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Missouri. This Agreement contains the whole agreement between the parties and there are no other terms, obligations, representations, statements or conditions, oral or otherwise.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

GRANTOR:

CHRISTIAN COUNTY, MISSOURI,

By: Lou Lapaglia  
Lou Lapaglia, Presiding Commissioner

By: Absent  
Tom Huff, Eastern Commissioner

By: Bill Barnett  
Bill Barnett, Western Commissioner

ATTEST:

Kay Brown

Kay Brown, Christian County Clerk

APPROVED AS TO FORM:

[Signature]

John W. Housley, Christian County Counselor

GRANTEE:

SPOKANE R-VII SCHOOL DISTRICT

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

Its: \_\_\_\_\_

Attest: \_\_\_\_\_

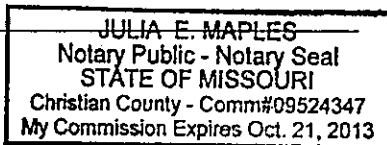
STATE OF MISSOURI )  
 ) ss.  
COUNTY OF CHRISTIAN )

On this 7<sup>th</sup> day of April, 2010, before me appeared Lou Lapaglia, to me personally known, who, being by me duly sworn, did say that he is the Presiding Commissioner of the County of Christian, Missouri, and that said instrument was signed on behalf of said County by authority of its County Commission and said Lou Lapaglia acknowledged said instrument to be his free act and deed and the free act and deed of said County.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal at my office in OSAGE, the day and year last above written.

[Signature]  
Notary Public  
Print Name: Julia E. Naples

My Commission Expires:



STATE OF MISSOURI                    )  
  ) ss.  
COUNTY OF CHRISTIAN                )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2010, before me appeared \_\_\_\_\_, to me personally known, who, being by me duly sworn, did say that (s)he is the \_\_\_\_\_ of the Board of Education of the Spokane R-VII School District, and that said instrument was signed on behalf of said School District by authority of its Board of Education; and said \_\_\_\_\_ acknowledged said instrument to be his/her free act and deed and the free act and deed of said School District.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal at my office in \_\_\_\_\_, the day and year last above written.

\_\_\_\_\_  
Notary Public  
Print Name: \_\_\_\_\_

My Commission Expires:

\_\_\_\_\_

## Exhibit "A"

### Legal Description of the School Property

A TRACT OF LAND LYING IN THE SOUTHWEST QUARTER (SW¼) OF SECTION 13, AND THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER (NE¼ NW¼) OF SECTION 24, TOWNSHIP 25 NORTH, RANGE 22 WEST OF THE FIFTH PRINCIPAL MERIDIAN, SPOKANE, CHRISTIAN COUNTY, MISSOURI, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A FOUND COPPER WELD STAMPED "LS 2122" AT THE SOUTHWEST CORNER OF SAID SECTION 13; THENCE S89°04'55"E, 572.60 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY OF STATE HIGHWAY NO. 160; THENCE ALONG SAID RIGHT-OF-WAY LINE, N60°30'10"E, 99.60 FEET; THENCE N48°31'15"E, 476.02 FEET TO A FOUND 1/2" IRON PIN CAPPED "LS 2340" FOR THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY LINE ALONG THE FOLLOWING THREE COURSES: N48°43'56"E, 252.24 FEET TO A FOUND RIGHT-OF-WAY MARKER; N31°05'14"E, 417.22 FEET TO A FOUND RIGHT-OF-WAY MARKER; 836.44 FEET ALONG A 2964.79 FOOT RADIUS CURVE LEFT, HAVING A DELTA ANGLE OF 16°09'52", AND A CHORD BEARING N23°53'11"E TO A FOUND 1/2" IRON PIN; THENCE LEAVING SAID RIGHT-OF-WAY LINE, S88°56'21"E, 272.94 FEET (273.96'DEED) TO AN IRON PIN SET ON THE WEST RIGHT-OF-WAY LINE OF SPOKANE ROAD (OLD 160); THENCE S14°26'51"E ALONG SAID RIGHT-OF-WAY LINE, 372.27 FEET (372.00' DEED) TO A SET IRON PIN; THENCE 272.26 FEET ALONG A 1193.69 FOOT RADIUS CURVE RIGHT, HAVING A DELTA ANGLE OF 13°04'05", AND A CHORD BEARING S07°54'36"E TO A SET IRON PIN; THENCE S01°25'06"E, 384.52 FEET TO A SET IRON PIN; THENCE S02°38'38"W, 433.95 FEET TO A SET IRON PIN; THENCE 793.94 FEET ALONG A 589.70 FOOT RADIUS NON-TANGENT CURVE RIGHT, HAVING A DELTA ANGLE OF 77°08'24", AND A CHORD BEARING S41°10'12"W TO A FOUND 1/2" IRON PIN CAPPED "LS 2340" AT THE SOUTH-MOST CORNER OF TRACT 3 OF BOOK 244, PAGE 161; THENCE LEAVING SAID RIGHT-OF-WAY LINE, N42°07'23"W, 970.88 FEET TO THE POINT OF BEGINNING.

ALSO: A TRACT OF LAND LYING IN THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER (SE¼ SW¼) OF SECTION 13, TOWNSHIP 25 NORTH, RANGE 22 WEST IN CHRISTIAN COUNTY, MISSOURI, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SE¼ SW¼, THENCE S01°54'06"W ALONG THE EAST LINE OF SAID SE¼ SW¼, 165.00 FEET TO A SET 5/8" IRON PIN CAPPED "GREAT RIVER 2001011476" FOR THE POINT OF BEGINNING; THENCE CONTINUING S01°54'06"W ALONG THE EAST LINE OF SAID SE¼, SW¼, 479.01 FEET TO A SET 5/8" IRON PIN CAPPED "GREAT RIVER 2001011476"; THENCE LEAVING SAID EAST LINE, N89°23'20"W, 185.61 FEET TO AN EXISTING 5/8" IRON PIN; THENCE S01°51'25"W, 211.50 FEET TO AN EXISTING 5/8" IRON PIN WITH AN ALUMINUM TABLET STAMPED "LS 62-D" AT THE NORTHEAST CORNER OF A TRACT OF LAND RECORDED IN BOOK 350, PAGE 2992 IN THE CHRISTIAN COUNTY, MISSOURI RECORDER'S OFFICE; THENCE ALONG THE NORTH LINE OF SAID BOOK 350, PAGE 2992, N89°41'26"W, 126.76 FEET TO A SET 5/8" IRON PIN CAPPED "GREAT RIVER 2001011476" AT THE NORTHWEST CORNER OF SAID BOOK 350, PAGE 2992, SAID POINT BEING ON THE EAST LINE OF A TRACT

OF LAND RECORDED IN BOOK 2009, PAGE 6401 IN THE CHRISTIAN COUNTY, MISSOURI RECORDER'S OFFICE; THENCE N03°41'35"E ALONG THE EAST LINE OF SAID BOOK 2009, PAGE 6401, 56.52 FEET TO AN EXISTING ½" IRON PIN CAPPED "LS 2122" AT THE NORTHEAST CORNER OF SAID BOOK 2009, PAGE 6401; THENCE ALONG THE NORTH LINE OF SAID BOOK 2009, PAGE 6401, N86°16'21"W, 135.27 FEET TO AN EXISTING 5/8" IRON PIN AT THE NORTHWEST CORNER OF SAID BOOK 2009, PAGE 6401, SAID POINT BEING ON THE EAST RIGHT-OF-WAY LINE OF SPOKANE ROAD; THENCE N01°39'29"E ALONG SAID RIGHT-OF-WAY LINE, 164.37 FEET TO A SET 5/8" IRON PIN CAPPED "GREAT RIVER 2001011476"; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY LINE, N01°25'06"W, 347.69 FEET TO A COTTON PICKER SPINDLE; THENCE 115.59 FEET ALONG A 1253.69 FOOT RADIUS CURVE LEFT, HAVING A DELTA ANGLE OF 5°16'58" AND A CHORD BEARING N04°01'03"W TO A SET 5/8" IRON PIN CAPPED "GREAT RIVER 2001011476" AT THE SOUTHWEST CORNER OF THE SPOKANE CEMETERY (FORMALLY MOUNT CARMEL CEMETERY); THENCE ALONG THE SOUTH LINE OF SAID SPOKANE CEMETERY, S89°24'56"E, 478.45 FEET TO THE POINT OF BEGINNING.



## Exhibit "B"

### Easement Area

A PERPETUAL EASEMENT IN THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER (SE¼ SW¼) OF SECTION 13, TOWNSHIP 25 NORTH, RANGE 22 WEST IN CHRISTIAN COUNTY, MISSOURI, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SE¼ SW¼; THENCE S01°54'06"W ALONG THE EAST LINE OF SAID SE¼ SW¼, 165.00 FEET TO A 5/8-INCH IRON PIN CAPPED "GREAT RIVER 2001011476"; THENCE LEAVING SAID EAST LINE, N89°24'56"W, 478.45 FEET TO A 5/8-INCH IRON PIN CAPPED "GREAT RIVER 2001011476" ON THE EASTERLY RIGHT-OF-WAY LINE OF SPOKANE ROAD; THENCE SOUTHERLY ALONG SAID RIGHT-OF-WAY THROUGH A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 05°16'58", A RADIUS OF 1253.69 FEET AND A CHORD BEARING OF S04°01'03"E, AN ARC DISTANCE OF 115.59 FEET TO AN EXISTING COTTON PICKER SPINDLE; THENCE S01°25'06"E ALONG SAID RIGHT-OF-WAY LINE, 243.40 FEET TO THE POINT OF BEGINNING OF THE EASEMENT DESCRIBED HEREIN; THENCE CONTINUING S01°25'06"E ALONG SAID RIGHT-OF-WAY LINE, 56.95 FEET; THENCE LEAVING SAID RIGHT-OF-WAY LINE, S76°10'35"W, 61.43 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF SPOKANE ROAD; THENCE N01°25'06"W ALONG SAID RIGHT-OF-WAY LINE, 56.95 FEET; THENCE LEAVING SAID RIGHT-OF-WAY LINE, N76°10'34"E, 61.43 FEET TO THE POINT OF BEGINNING.

THE ABOVE-DESCRIBED EASEMENT IS RESTRICTED TO THE AIR SPACE ABOVE AN ELEVATION OF 1376.00 FEET, NORTH AMERICAN VERTICAL DATUM OF 1988, EXCEPT FOR SUCH SUPPORT COLUMNS AND ANY OTHER STRUCTURAL ELEMENTS NEEDED TO SUPPORT THE MAIN STRUCTURE SITUATED ABOVE SAID MINIMUM ELEVATION.