

## **CONTRACT OF EXCHANGE**

**STATE OF TEXAS                   §**

**COUNTY OF DENTON           §**

This Contract of Exchange ("Contract") is made and entered into by and between the City of Denton, Texas, a home-rule municipality located in Denton County, Texas (hereinafter "City") and Denton Independent School District, an independent school district and a duly organized political subdivision of the State of Texas, (hereinafter "District"), and is effective on the date last written hereinbelow (the "Effective Date"). City and District are hereinafter collectively referred to herein as "Parties" or individually as "Party."

### **RECITALS**

WHEREAS, City owns that certain parcel of land approximately 3.739 acres of land more particularly described on attached Exhibit "A" to the City Special Warranty Deed (Exhibit "1") attached hereto and made a part hereof, with a local address of 1001 Parvin Street, Denton, Denton County ("City Exchange Property"); and

WHEREAS, District owns that certain parcel of land approximately 4.729 acres of land more particularly described on attached Exhibit "A" to the District Warranty Deed (Exhibit "2") attached hereto and made a part hereof, with local address of 1201 Parvin Street, Denton, Denton County, Texas ("District Exchange Property"); and

WHEREAS, the City Exchange Property and District Exchanged Property shall be referred to collectively as "Exchange Properties".

WHEREAS, pursuant to Texas Local Government Code § 272.001(b)(5), City and District desire to exchange and convey the Exchange Properties to each other together with any and all rights or interests of the Parties in and to adjacent streets, alleys and rights of way and together with all and singular the improvements and fixtures thereon and all other rights and appurtenances to the Exchange Properties, for a purpose that benefits the public interest.

### **ARTICLE I** **EXCHANGE OF PROPERTY**

**1.01** For consideration hereinafter set forth, and upon the terms, conditions, and provisions herein contained, and subject to the reservations herein, District agrees to convey the District Exchange Property to City in exchange and in consideration for City's conveyance to District of the City Exchange Property and the other consideration described herein. The Exchange Properties (which consists of City Exchange Property and District Exchange Property) will be conveyed in two separate closings whereby:

- (i) City Exchange Property will be transferred, sold and conveyed to the District at the first closing; and
- (ii) District Exchange Property will be transferred, sold, and conveyed to the Buyer at the second closing.

**1.02** The promises by City and District stated in this Agreement are the consideration for the formation of this Agreement.

**ARTICLE II**  
**PURCHASE PRICE AND EFFECTIVE DATE**

**2.01 Exchange Consideration.** The Parties stipulate and agree that the Exchange Properties have the same value per square foot, and that the District Exchange Property is of greater size than the City Exchange Property tract, but that there will be no monetary consideration paid by City for the District Exchange Property.

The above notwithstanding, the parties agree that the Exchange Consideration has been identified by an independent appraisal showing the value of the Exchange Properties as follows:

(i)	City Exchange Property	\$1,140,000
(ii)	District Exchange Property	\$1,545,000

**2.02** The effective date of this Contract shall be the date this Contract has been executed by District and City.

**TITLE AND SURVEY**

**3.01 Title Commitment.**

(a) Within twenty (20) calendar days after the Effective Date, City and District shall cause to be furnished, at City and District expense for their respective Exchange Properties, a current Commitment for Title Insurance (the "Title Commitment") for the Exchange Properties, issued by Title Company. The Title Commitment shall set forth the state of title to the Exchange Properties, including a list of liens, mortgages, security interests, encumbrances, pledges, assignments, claims, charges, leases (surface, space, mineral, or otherwise), conditions, restrictions, options, severed mineral or royalty interests, conditional sales contracts, rights of first refusal, restrictive covenants, exceptions, easements (temporary or permanent), rights-of-way, encroachments, or any other outstanding claims, interests, estates, or equities of any nature (each of which are referred to herein as an "Exception").

(b) Along with the Title Commitment, City and District, at City and District expense for their respective Exchange Properties, shall also cause to be delivered true and correct copies of all instruments that create or evidence Exceptions (the "Exception Documents"), including those described in the Title Commitment as exceptions to which the conveyance will be subject and/or which are required to be released or cured at or prior to Closing.

**3.02 Survey.** Within twenty (20) calendar days after the Effective Date, City and District, at City and District expense for their respective Exchange Properties, shall cause to be prepared, a current on the ground survey of the Exchange Properties (the "Survey"). The contents of the Survey shall be prepared by a surveyor selected by City and shall include the matters prescribed by City, which may include but not be limited to, a depiction of the location of all roads, streets, easements and rights of way, both on and adjoining the Exchange Properties, water courses, 100 year flood plain, fences, improvements, and structures of any kind, and other matters provided in items 1-4, 6a, 7a, 8, 11,13,16, 18, and 19 of Table A of the ALTA Minimum Standard Detail Requirements. The Survey shall describe the size of the Exchange Properties, in acres, and contain a metes and bounds description thereof. City and District shall furnish or cause to be furnished any affidavits, certificates, assurances, and/or resolutions as required by the Title Company in order to amend the survey exception as required by **Section 3.05** below. The description of the Exchange Properties as set forth in the Survey shall be used to describe the Exchange Properties in the deed to convey the Exchange Properties to and shall be the description set forth in the Title Policy.

**3.03 Review of Title Commitment, Survey, and Exception Documents.** District and City shall have a period of fifteen (15) calendar days (the “Title Review Period”) commencing with the day City and District, respectively, receive the last of the Title Commitment, the Survey, and the Exception Documents, in which to give written notice to either Party, specifying City or District objections to one or more of the items (“Objections”), if any. All items set forth in the Schedule C of the Title Commitment, and all other items set forth in the Title Commitment which are required to be released or otherwise satisfied at or prior to Closing, shall be deemed to be Objections without any action by either party.

**3.04 City and District Obligation to Cure; Right to Terminate.** City or District shall, within fifteen (15) calendar days after a Party is provided notice of Objections, either satisfy the Objections at objector’s sole cost and expense or promptly notify the Party in writing of the Objections that Party cannot or will not satisfy at its own expense. Notwithstanding the foregoing sentence, the Parties shall, in any event, be obligated to cure those Objections or Exceptions that have been voluntarily placed on or against the Exchange Properties by City or District after the Effective Date. If Party fails or refuses to satisfy any Objections that it is not obligated to cure within the allowed fifteen (15) calendar day period, as may be extended by agreement of the Parties, then the Parties have the option of either:

- (a) waiving the unsatisfied Objections by, and only by, notice in writing prior to Closing, in which event those Objections shall become Permitted Exceptions (herein so called), or
- (b) terminating this Contract by notice in writing prior to Closing.

**3.05 Title Policy.** At Closing, City and District shall cause a standard Texas Owner’s Policy of Title Insurance (“Title Policy”) to be furnished for their respective Exchange Property. The Title Policy shall be issued by the Title Company, in the amount of the Exchange Consideration and insuring that indefeasible fee simple title to the Exchange Properties is conveyed, subject only to the Permitted Exceptions. The Title Policy may contain only the Permitted Exceptions and shall contain no other exceptions to title, with the standard printed or common exceptions amended or deleted as follows:

- (a) survey exception must be amended if required to read “shortages in area” only (although Schedule C of the Title Commitment may condition amendment on the presentation of an acceptable survey and payment, to be borne solely by Buyer, of any required additional premium);
- (b) no exception will be permitted for “visible and apparent easements” or words to that effect (although reference may be made to any specific easement or use shown on the Survey, if a Permitted Exception);
- (c) no exception will be permitted for “rights of parties in possession”, unless otherwise agreed by Buyer; and
- (d) no liens will be shown on Schedule B.

Notwithstanding the enumeration of the stated exceptions, amendments, and/or deletions, Either Party may object to any Exception it deems material, in its sole discretion.

#### **ARTICLE IV**

#### **FEASIBILITY REVIEW PERIOD**

**4.01 Review Period.** Any term or provision of this Contract notwithstanding, the obligations of the

Parties specified in this Contract are wholly conditioned on the Party having determined, in their sole and absolute discretion, during the period commencing with the (i) the Effective Date of this Contract for City Exchange Property and the first closing and (ii) the completion of the Multipurpose field or August 31, 2027 (whichever is later) for the District Exchange Property and the second closing and ending sixty (60) calendar days thereafter (the “Absolute Review Period”), based on such appraisals, tests, examinations, studies, investigations, and inspections of the Exchange Properties the Buyer deems necessary or desirable, including but not limited to studies or inspections to determine the existence of any environmental hazards or conditions, performed at Parties sole cost, that Party finds the Exchange Properties suitable. Either Party is granted the right to conduct engineering studies of the Exchange Properties, and to conduct a physical inspection of the Exchange Properties, including inspections that invade the surface and subsurface of the Exchange Properties. If either Party determines, in its sole judgment, that the Exchange Properties are not suitable, for any reason, that Party may terminate this Contract by written notice, as soon as reasonably practicable, but in any event prior to the expiration of the Absolute Review Period, in which case neither City nor District shall have any further duties or obligations hereunder. In the event terminating Party elects to terminate this Contract pursuant to the terms of this **Article IV, Section 4.01**, terminating Party will provide copies of (i) any and all non-confidential and non-privileged reports and studies obtained during the Absolute Review Period; and (ii) the Survey.

## **ARTICLE V**

### **REPRESENTATIONS, WARRANTIES, COVENANTS, AND AGREEMENTS**

**5.01 Representations and Warranties of Parties.** To induce the Parties to enter into this Contract and consummate the sale and purchase of the Exchange Properties in accordance with the terms and provisions herewith, City and District represent and warrant as to their respective Exchange Property that as of the Effective Date and as of the Closing Date, except where the specific reference is made to another date, that:

- (a) The descriptive information concerning the Exchange Properties set forth in this Contract is complete, accurate, true, and correct.
- (b) There are no adverse or other parties in possession of the Exchange Properties or any part thereof, and no party has been granted any license, lease, or other right related to the use or possession of the Exchange Properties, or any part thereof, except those described in the Leases, as defined in **Article V, Section 5.02(a)**.
- (c) The Parties have good and marketable fee simple title to the Exchange Properties, subject only to the Permitted Exceptions.
- (d) The Parties have the full right, power, and authority to sell and convey the Exchange Properties as provided in this Contract and to carry out all obligations hereunder.
- (e) The Parties have not received notice of, and has no other knowledge or information of, any pending or threatened judicial or administrative action, or any action pending or threatened by adjacent landowners or other persons against or affecting the Exchange Properties.
- (f) The Parties have paid all real estate and personal property taxes, assessments, excises, and levies that are presently due, if any, which are against or are related to the Exchange Properties, or will be due as of the Closing, and the Exchange Properties will be subject to no such liens.

(g) intentionally deleted.

(h) All Leases, as defined in **Article V, Section 5.02(a)**, shall have expired or otherwise terminated, and any and all tenants or parties occupying the Exchange Properties pursuant to the Leases shall have permanently abandoned and vacated the Exchange Properties, including without limitation, all personal property of any such tenants or parties, on or before the date of Closing.

(i) intentionally deleted.

**5.02 Covenants and Agreements of Parties.** Parties covenant and agree as follows as to their respective Exchange Property:

(a) Within ten (10) calendar days after the Effective Date, Parties shall deliver, with respect to the Exchange Properties, true, correct, and complete copies of the following:

(i) All lease agreements and/or occupancy agreements and/or licenses of any kind or nature (if oral, Party shall provide in writing all material terms thereof) relating to the possession of the Exchange Properties, or any part thereof, including any and all modifications, supplements, and amendments thereto (the “Leases”).

(b) From the Effective Date until the date of Closing or earlier termination of this Contract, Parties shall:

(i) Not enter into any written or oral contract, lease, easement or right of way agreement, conveyance, or any other agreement of any kind with respect to, or affecting, the Exchange Properties that will not be fully performed on or before the Closing or would be binding on either Party or the Exchange Properties after the date of Closing.

(ii) Advise promptly of any litigation, arbitration, or administrative hearing, or claims related thereto, concerning or affecting the Exchange Properties.

(iii) Not take, or omit to take, any action that would result in a violation of the representations, warranties, covenants, and agreements.

(iv) Not sell, assign, lease, or convey any right, title, or interest whatsoever in or to the Exchange Properties, or create, grant or permit to be attached or perfected, any lien, encumbrance, or charge thereon.

(c) intentionally deleted.

(d) On or before Closing, Parties shall remove (i) any vehicles, including but not limited to cars, trucks, and boats, running or not that are located upon, or otherwise may be placed on the Exchange Properties (the “Waste Material”), from the Exchange Properties and dispose of same in accordance with all applicable statutes, regulations, rules, orders, and ordinances; and (ii) all personal property from the Exchange Properties.

**5.02.A. Warranty of Parties; Property Condition.** Parties represent and warrant that it has made, or will make prior to Closing, an independent inspection and evaluation of the Exchange Properties and acknowledges that neither Party has made statements or representations concerning the present or future value of the Exchange Properties, or the condition, including the environmental condition, of the Exchange Properties

Except as otherwise specifically represented and warranted by the Parties in this Contract, PARTIES MAKE NO REPRESENTATION OR WARRANTY, EXPRESSED, STATUTORY, OR IMPLIED, AS TO THE VALUE, QUALITY, QUANTITY, PHYSICAL AND ENVIRONMENTAL CONDITION OF THE EXCHANGE PROPERTIES, AND/OR MATERIALS CONTAINED OR LOCATED IN, ON, OR UNDER THE EXCHANGE PROPERTIES, THE NATURE OF THE PAST OR HISTORIC USE OF THE EXCHANGE PROPERTIES, AND/OR MERCHANTABILITY OR FITNESS FOR PURPOSE OF ANY OF THE EXCHANGE PROPERTIES. Parties further acknowledge that it has relied solely upon its independent evaluation and examination of the Exchange Properties, public records relating to the Exchange Properties, and the independent evaluations and studies based thereon. Neither Party makes any warranty or representation as to the accuracy, completeness, or usefulness of any information furnished, if any, whether furnished by Party or any third party. Parties assume no liability for the accuracy, completeness, or usefulness of any material furnished, if any, and/or any other person or party. Reliance on any material so furnished is expressly disclaimed by Parties, and shall not give rise to any cause, claim, or action against either Party.

**5.03 Survival Beyond Closing.** Notwithstanding anything to the contrary contained in this Contract, the representations, warranties, covenants, and agreements of Seller and Buyer contained in this Contract shall survive the Closing, and shall not, in any circumstance, be merged with the Special Warranty Deed, as described in **Article VII, Section 7.02(a)**.

## **ARTICLE VI**

### **CONDITIONS PRECEDENT TO PERFORMANCE**

**6.01 Performance of Obligations.** Neither Party is obligated to perform under this Contract unless, within the designated time periods, all of the following shall have occurred:

- (a) Parties have performed, furnished, or caused to be furnished all items required to be so performed or furnished under other sections of this Contract; and
- (b) Either Party cures or a waiver in writing is provided, within the time periods specified in **Article III**, all of Buyer's objections made in accordance with **Article III**.

**6.02 Breach of Parties Representations, Warranties, Covenants, and Agreements.** Neither Party is obligated to perform under this Contract unless all representations, warranties, covenants, and agreements contained in this Contract are true and correct or have been performed, as applicable, as of the Closing Date, except where specific reference is made to another date.

**6.03 Adverse Change.** Neither Party is obligated to perform under this Contract if, on the date of Closing, any portion of the Exchange Properties has been condemned by an entity other than City or District, or is the subject of condemnation, eminent domain, or other material proceeding initiated by an entity other than City or District, or the Exchange Properties, or any part thereof, has been materially or adversely impaired in any manner.

**6.04 Review Period.** Neither Party is obligated to perform under this Contract if notice is provided pursuant to **Article IV, Section 4.01** that Party has determined that the Exchange Properties are unsuitable.

**6.05 Right to Waive Conditions Precedent.** Notwithstanding anything contained in this Contract to the contrary, Parties may elect to waive any of the conditions precedent to the performance of obligations

under this Contract by giving a written waiver, at any time prior to Closing, specifying the waived condition precedent.

**6.06 Termination if Conditions Precedent Not Satisfied or Waived.** If any of the conditions precedent to the performance of Parties obligations under this Contract have not been satisfied or waived, the Either Party may, by giving written notice, terminate this Contract.

## **ARTICLE VII**

### **CLOSING**

**7.01 Date and Place of Closing.** The separate Closings for City Exchange Property and District Exchange Property (herein so called) shall take place in the offices of the Title Company and shall be accomplished through an escrow to be established with the Title Company, as escrowee.

- (a) Unless otherwise agreed in writing by the Parties, the Closing Date for City Exchange Property (herein sometimes called) shall be on a day after the Contract of Exchange has been approved by the City Council of Denton, Texas and which is no more than forty-five (45) calendar days after the date on which the City has satisfied, performed, furnished, or caused to be furnished to District all representations, warranties, items and obligations required to be satisfied, performed or furnished under this Contract as to City Exchange Property, unless District has expressly waived or accepted any nonperformance thereof in writing. In the event a Closing Date for City Exchange Property is not set within the established parameters herein, unless otherwise agreed to by the parties, either party can then terminate this Contract by providing written notice thereof to the other party and the Title Company.
- (b) Unless otherwise agreed in writing by the Parties, the Closing Date for District Exchange Property (herein sometimes called) shall be on or before sixty (60) calendar days after the earlier of (i) the date District has provided City written notice that Borman Elementary Building has been demolished, remediated, and restored to reflect the agreed upon Multi-purpose Field or (ii) August 31, 2027 and the date on which the District has satisfied, performed, furnished, or caused to be furnished to City all representations, warranties, items and obligations required to be satisfied, performed or furnished under this Contract as to District Exchange Property, unless City has expressly waived or accepted any nonperformance thereof in writing. In the event a Closing Date for District Exchange Property is not set within the established parameters herein, unless otherwise agreed to by the Parties, City can then terminate this Contract by providing written notice thereof to District and the Title Company, and City shall be entitled to pursuing any other remedy at law or in equity.

**7.02 Items to be Delivered at the Closing.**

- (a) **City.** At the Closing, City shall deliver or cause to be delivered to District or the Title Company, at the expense of the party designated herein, the following items:
  - (i) The Title Policy, in the form specified in **Article III, Section 3.05**;
  - (ii) The Special Warranty Deed, substantially in the form as attached hereto as Exhibit “1,” subject only to the Permitted Exceptions, if any, duly executed by City and acknowledged; and
  - (iii) A quitclaim deed for the abandonment, release and quitclaim of a (30) foot Pedestrian Access Easement set forth in Document No. 2022-151178 Real Property Records,

- (iv) Denton County, Texas, substantially in the form as attached hereto as Exhibit “3”.
- (iv) Other items reasonably requested by the Title Company as administrative requirements for consummating the Closing.

(b) **District.** At the Closing, District shall deliver to City or the Title Company, the following items:

- (i) The Warranty Deed, substantially in the form as attached hereto as Exhibit “2,” subject only to the Permitted Exceptions, if any, duly executed by District and acknowledged; and
- (ii) Evidence of Demolition and remediation of Borman Elementary School.
- (iii) Multi-Purpose Field inclusive of the following:
  - a. Utilities in-ground: irrigation and electric as specified by City.
  - b. Sod and fencing surrounding the soccer field.
  - c. ADA access from adjacent parking lot to the multi-purpose field.
  - d. Relocation of utility box for electric services, if needed, pending final design of property and related amenities.
  - e. Install sleeves and conduits for future sport lighting and scoreboard.
  - f. Rebuild of the existing 10’ wide loop trail at the multi-purpose field,
  - g. Installation of new trail connections to existing trails.
- (iv) Other items reasonably requested by the Title Company as administrative requirements for consummating the Closing.

**7.03 Adjustments at Closing.** Notwithstanding anything to the contrary contained in this Contract and without limiting the general application of the provisions of **Section 5.03**, above, the provisions of this **Article VII, Section 7.03** shall survive the Closing. The following item shall be adjusted or prorated between City and District with respect to the Exchange Properties:

- (a) If applicable, Ad valorem taxes relating to the Exchange Properties for the calendar year in which the Closing shall occur shall be prorated and submitted by the Parties to the Denton County Tax Assessor as of the Closing Date. Ad valorem tax for the calendar year in which the Closing shall occur shall be tendered under *Texas Tax Code Section 26.11*. If the actual amount of taxes for the calendar year in which the Closing shall occur is not known as of the Closing Date, the proration at Closing shall be based on the amount of taxes due and payable with respect to the Exchange Properties for the preceding calendar year.

**7.04 Possession at Closing.** Possession of the Exchange Properties shall be delivered at Closing.

**7.05 Costs of Closing.** Each party is responsible for paying the legal fees of its counsel, in negotiating, preparing, and closing the transaction contemplated by this Contract. Each Party is responsible for paying all other fees, costs, and expenses related to Closing.

## **ARTICLE VIII**

### **DEFAULTS AND REMEDIES**

**8.01 City’s Defaults and District’s Remedies.**

- (a) **City’s Defaults.** City is in default under this Contract on the occurrence of any one or more of the following events:
  - (i) Any of City’s warranties or representations contained in this Contract are untrue on the Closing Date;



- (ii) City fails to meet, comply with, or perform any covenant, agreement, condition precedent, or obligation on City's part required within the time limits and in the manner required in this Contract; or
  - (iii) City fails to deliver at Closing the items specified in **Article VII, Section 7.02(a)** of this Contract for any reason other than a default by District or termination of this Contract by District pursuant to the terms hereof prior to Closing.
- (b) District's Remedies.** If City is in default under this Contract, District may do any of the following:
- (i) Terminate this Contract by written notice delivered to City.
  - (ii) Seek other recourse or relief as may be available to District at or by law, equity, contract or otherwise.

## **8.02 District's Default and City's Remedies.**

- (a) District's Default.** District is in default under this Contract on the occurrence of any one or more of the following events:
- (i) Any of District's warranties or representations contained in this Contract are untrue on the Closing Date;
  - (ii) District fails to meet, comply with, or perform any covenant, agreement, condition precedent, or obligation on District's part required within the time limits and in the manner required in this Contract; or
  - (iii) District fails to deliver at Closing the items specified in **Article VII, Section 7.02(b)** of this Contract for any reason other than a default by City or termination of this Contract by City pursuant to the terms hereof prior to Closing.
- (b) City's Remedy.** If District is in default under this Contract, City may do either one of the following:
- (i) Terminate this Contract by written notice delivered to District; or
  - (ii) Enforce specific performance of this Contract against District, requiring District to convey the District Exchange Property to City subject to no liens, encumbrances, exceptions, and conditions.

## **ARTICLE IX MISCELLANEOUS**

**9.01 Notice.** All notices, demands, requests, and other communications required hereunder shall be in writing, delivered, unless expressly provided otherwise in this Contract, by telephonic facsimile, by hand delivery, or by United States Mail, and shall be deemed to be delivered and received upon the earlier to occur of: (a) if provided by telephonic facsimile or hand delivery, the date provided, and (b) if provided by United State Mail, the date of the deposit in a regularly maintained receptacle for the United States Mail, registered or certified, return receipt requested, postage prepaid, addressed as follows:

District:

City:

Dr. Susannah Holbert O'Bara, Superintendent  
Denton Independent School District  
1307 N. Locust St.  
Denton, Texas 76201

Deanna Cody, Deputy Director  
Development Services - Real Estate  
401 N. Elm St.  
Denton, Texas 76201

Copies to:

For District:

For City

Dr. Jeremy Thompson  
Deputy Superintendent  
1307 N. Locust St.  
Denton, Texas 76201

Sara Hensley  
City Manager's Office  
215 E. McKinney  
Denton, Texas 76201  
Telecopy: (940) 382-7923

**9.02 Governing Law and Venue.** This Contract is being executed and delivered and is intended to be performed in the State of Texas, the laws of Texas governing the validity, construction, enforcement, and interpretation of this Contract. THIS CONTRACT IS PERFORMABLE IN, AND THE EXCLUSIVE VENUE FOR ANY ACTION BROUGHT WITH RESPECT HERETO, SHALL LIE IN DENTON COUNTY, TEXAS.

**9.03 Entirety and Amendments.** This Contract embodies the entire agreement between the parties and supersedes all prior agreements and understandings, if any, related to the Exchange Properties, and may be amended or supplemented only in writing executed by the party against whom enforcement is sought.

**9.04 Parties Bound.** This Contract is binding upon and inures to the benefit of City and District, and their respective devisees, heirs, successors, and assigns.

**9.05 Intentionally deleted.**

**9.06 Further Assurances.** In addition to the acts and deeds recited in this Contract and contemplated to be performed, executed, and/or delivered by the Parties, the Parties agree to perform, execute, and/or deliver, or cause to be performed, executed, and/or delivered at the Closing or after the Closing, any further deeds, acts, and assurances as are reasonably necessary to consummate the transactions contemplated hereby. Notwithstanding anything to the contrary contained in this Contract and without limiting the general application of the provisions of **Section 5.03**, above, the provisions of this **Article IX, Section 9.06** shall survive Closing.

**9.07 Time is of the Essence.** It is expressly agreed between City and District that time is of the essence with respect to this Contract.

**9.08 Exhibits.** The Exhibits which are referenced in, and attached to this Contract, are incorporated in and made a part of this Contract for all purposes.

**9.09 Intentionally deleted.**

**9.10 Contract Execution.** This Contract of Exchange be executed in any number of counterparts, all of which taken together shall constitute one and the same agreement, and any of the Parties hereto may execute this Agreement by signing any such counterpart.

**9.11 Business Days.** If the Closing Date or the day of performance required or permitted under this Contract falls on a Saturday, Sunday, or Denton County or City holiday, then the Closing Date or the date of such performance, as the case may be, shall be the next following regular business day.

DENTON INDEPENDENT SCHOOL DISTRICT

BY: \_\_\_\_\_

Executed by DISD on the \_\_\_\_\_ day of \_\_\_\_\_, 2025.

**ACKNOWLEDGMENT**

THE STATE OF TEXAS       §

COUNTY OF DENTON       §

This instrument was acknowledged before me on \_\_\_\_\_, 2025 by  
\_\_\_\_\_ on behalf of \_\_\_\_\_.

CITY OF DENTON:

BY: \_\_\_\_\_  
SARA HENSLEY, CITY MANAGER

Executed by City of Denton on the \_\_\_\_\_ day of \_\_\_\_\_ 202\_.

ATTEST:  
LAUREN THODEN, CITY SECRETARY

THIS AGREEMENT HAS BEEN BOTH  
REVIEWED AND APPROVED AS TO  
Financial and operational obligations and  
Business terms.

BY: \_\_\_\_\_

APPROVED AS TO LEGAL FORM:  
MACK REINWAND, CITY ATTORNEY

\_\_\_\_\_, DIRECTOR  
\_\_\_\_\_, Department  
Date: \_\_\_\_\_

BY: \_\_\_\_\_

## RECEIPT OF AGREEMENT BY TITLE COMPANY

By its execution below, Title Company acknowledges receipt of an executed copy of this Contract. Title Company agrees to comply with, and be bound by, the terms and provisions of this Contract, to perform its duties pursuant to the provisions of this Contract, and to comply with Section 6045(e) of the Internal Revenue Code of 1986, as amended from time to time, and as further set forth in any regulations or forms promulgated thereunder.

TITLE COMPANY:

\_\_\_\_\_

\_\_\_\_\_, TX 7\_\_\_\_

Direct:

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

Printed Name: \_\_\_\_\_

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

Contract receipt date: \_\_\_\_\_, 20\_\_

**EXHIBIT "1"**  
**TO**  
**CONTRACT OF EXCHANGE**

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**NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.**

**SPECIAL WARRANTY DEED**

**THE STATE OF TEXAS       §**  
                                          **§       KNOW ALL MEN BY THESE PRESENTS:**  
**COUNTY OF DENTON       §**

THAT THE UNDERSIGNED, CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, whose address is 215 E. McKinney Street, Denton, Texas 76201, hereinafter "Grantor," whether one or more, for and in consideration of the sum of TEN DOLLARS (\$10.00) cash, and other good and valuable consideration in hand paid by the Grantee, herein named, the receipt and sufficiency of which is hereby fully acknowledged and confessed, and pursuant to Texas Local Government Code §272.001(b)(5), has GRANTED, SOLD, and CONVEYED, and by these presents does hereby GRANT, SELL, and CONVEY unto DENTON INDEPENDENT SCHOOL DISTRICT, a duly organized and existing political subdivision of the State of Texas, whose address is \_\_\_\_\_, hereinafter "Grantee," the real property containing approximately 3.739 acres of land, located in the ASA Hickman Survey, Abstract Number 521, City of Denton, Denton County, Texas, and being more particularly described in Exhibit "A," and depicted on Exhibit "B", attached hereto and made a part hereof for all purposes, hereinafter "the Property," for use for a public purpose.

This conveyance is further made subject to the following:

A. Grantor, subject to the limitation of such reservation made herein, reserves, for itself, its heirs, devisees, successors, and assigns all oil, gas, and other minerals in, on, and under and that may be produced from the Property. Grantor, its heirs, devisees, successors, and assigns shall not have the right to use or access the surface of the Property, in any way, manner, or form, in connection with or related to the reserved oil, gas, and other minerals and/or related to exploration and/or production of the oil, gas, and other minerals reserved herein, including without limitation, use or access of the surface of the Property for the location of any well or drill sites, well bores, whether vertical or any deviation from vertical, water wells, pit areas, seismic activities, tanks or tank batteries, pipelines, roads, electricity or other utility infrastructure, and/or for subjacent or lateral support for any surface facilities or well bores, or any other infrastructure or improvement of any kind or type in connection with or related to the reserved oil, gas, and other minerals, and/or related to the exploration or production of same.

As used herein, the term "other minerals" shall include oil, gas, and all associated hydrocarbons and shall exclude (i) all substances that any reasonable extraction, mining, or other exploration and/or production method, operation, process, or procedure would consume, deplete, or destroy the surface of the Property; and (ii) all substances which are at or near the surface of the Property. The intent of the parties hereto is that the meaning of the term "other minerals" as utilized herein, shall be in accordance with that set forth in *Reed v. Wylie*, 597 S.W.2d 743 (Tex. 1980).

As used herein, the term "surface of the Property" shall include the area from the surface of the earth to a depth of five hundred feet (500') below the surface of the earth and all areas above the surface of the earth.

B. Grantor, hereby specifically disclaims any warranty, guaranty, or representation, oral or written, past, present or future, of, as to, or concerning: (a) the nature and condition of the Property or other items conveyed hereunder, including without limitation, the water, soil and geology, the suitability thereof and of the Property or other items conveyed hereunder for any and all activities and uses which Grantee may elect to conduct thereon, the existence of any environmental hazards or conditions thereon (including, but not limited to, the presence of asbestos or other hazardous materials) or compliance with applicable environmental laws, rules and regulations; (b) the nature and extent of any right-of-way, lease possession, lien encumbrance, license, reservation, condition or otherwise; and (c) the compliance of the Property or its operation with any laws, ordinances or regulations of any governmental entity or body. Grantee acknowledges that Grantee has inspected the Property and that Grantee is relying solely on Grantee's own investigation of the same and not on any information provided or to be provided by or on behalf of Grantor. Grantee further acknowledges that any information provided with respect to the Property or other items conveyed hereunder was obtained from a variety of sources, and Grantor: (1) has not made any independent investigation or verification of such information; and (2) does not make any representations as to the accuracy or completeness of such information. This conveyance is made on an "AS IS," "WHERE IS" and "WITH ALL FAULTS" basis, and Grantee expressly acknowledges that, except as otherwise specified herein, Grantor has made no warranty or representation, express or implied, or arising by operation of law, including, but not limited to, any warranty of condition, title (except as specifically set forth and limited in this Deed), habitability, merchantability or fitness for a particular purpose with respect to the Property, all such representations and warranties, as well as any implied warranties being expressly disclaimed.

C. By Grantee's acceptance of this Deed, Grantee agrees that Grantor shall not be responsible or liable to Grantee for any conditions affecting the Property, as Grantee is purchasing the same "AS IS," "WHERE IS" and "WITH ALL FAULTS." Grantee or anyone claiming by, through or under Grantee, hereby fully releases Grantor, Grantor's employees, officers, directors, representatives, attorneys and agents from any and all claims that Grantee may now have or hereafter acquire against Grantor, and Grantor's employees, elected and appointed officials, officers, directors, representatives, attorneys and agents for any cost, loss, liability, damage, expense, demand, action or cause of action arising from or related to any conditions affecting the Property. Grantee further acknowledges and agrees that this release shall be given full force and effect according to each of its expressed terms and provisions, including, but not limited to, those relating to unknown and unsuspected claims, damages and causes of action. This covenant releasing Grantor shall be a covenant running with the Property and shall be binding upon Grantee. Grantor hereby assigns without recourse or representation of any nature to Grantee, effective upon the execution and delivery hereof, any and all claims that Grantor may have for any such errors, omissions or defects in the Property. As a material covenant and condition of this conveyance, Grantee agrees that in the event of any defects, or other conditions affecting the Property, Grantee shall look solely to Grantor's predecessors or to such contractors and consultants as may have contracted for work in connection with the Property for any redress or relief. Upon the assignment by Grantor of Grantor's claims, Grantee releases Grantor of all rights, express or implied, Grantee may have against Grantor arising out of or resulting from any defects in the Property. Grantee further understands that some of Grantor's predecessors in interest may be or become insolvent, bankrupt, judgment proof or otherwise incapable of responding in damages, and Grantee may have no remedy against such predecessors, contractors or consultants.

**D. TO THE EXTENT ALLOWED BY TEXAS LAW, GRANTEE HEREBY AGREES TO INDEMNIFY, PROTECT, DEFEND, SAVE AND HOLD HARMLESS GRANTOR, AND**

**GRANTOR'S EMPLOYEES, ELECTED AND APPOINTED OFFICIALS, OFFICERS, DIRECTORS, REPRESENTATIVES, ATTORNEYS AND AGENTS FROM AND AGAINST ANY AND ALL DEBTS, DUTIES, OBLIGATIONS, LIABILITIES, SUITS, CLAIMS, DEMANDS, CAUSES OF ACTIONS, DAMAGES, LOSSES, COSTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES AND EXPENSES AND COURT COSTS) IN ANY WAY RELATING TO, CONNECTED WITH, OR ARISING OUT OF THE PROPERTY OR THE OWNERSHIP, LEASING, USE, OPERATION, MAINTENANCE AND MANAGEMENT THEREOF FROM AND AFTER THE DATE HEREOF, INCLUDING, WITHOUT LIMITATION, THE COST OF ANY REMOVAL OF HAZARDOUS SUBSTANCES OR CONTAMINANTS FROM THE PROPERTY AND OTHER ITEMS CONVEYED HEREUNDER.**

E.

TO HAVE AND TO HOLD the above described premises, together with all and singular the rights and appurtenances thereto in anywise belonging, subject to the above-listed reservations, restrictions and conditions, unto the said Grantee, Grantee's heirs, successors and/or assigns forever; and Grantor does hereby bind Grantor and Grantor's heirs, successors, and/or assigns to WARRANT AND FOREVER DEFEND all and singular the said premises unto the said Grantee, Grantee's heirs, successors, and/or assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof when the claim is by, through, or under Grantor but not otherwise.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 202\_.

GRANTOR:

THE CITY OF DENTON,

A Texas Home-Rule Municipal Corporation

BY: \_\_\_\_\_  
Sara Hensley, City Manager



**THE STATE OF TEXAS**

§

§

**COUNTY OF DENTON**

§

BEFORE ME, a Notary Public, on this day personally appeared Sara Hensley, City Manager of the City of Denton, a Texas home-rule municipal corporation, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same in her capacity as City Manager for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this \_\_\_\_\_ day of \_\_\_\_\_, 202\_.

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF TEXAS

\_\_\_\_\_  
PRINTED NAME OF NOTARY

MY COMMISSION EXPIRES:

\_\_\_\_\_

**AFTER RECORDING PLEASE RETURN TO:**

Denton County  
110 W. Hickory Street  
2<sup>nd</sup> Floor  
Denton, Texas 76201

**EXHIBIT “A”**  
**to**  
**City Special Warranty Deed**  
**Legal Description**

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**EXHIBIT “B”**  
**to**  
**City Special Warranty Deed**  
**Survey**

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**EXHIBIT “C”**  
**to**  
**City Special Warranty Deed**  
**Document No. 2022-151178, Real Property Records, Denton County, Texas**

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**EXHIBIT “2”  
TO  
CONTRACT OF EXCHANGE**

**NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER’S LICENSE NUMBER.**

**WARRANTY DEED**

**STATE OF TEXAS                   §**

**COUNTY OF DENTON           §       KNOW ALL MEN BY THESE PRESENTS**

THAT THE UNDERSIGNED, DENTON INDEPENDENT SCHOOL DISTRICT, a duly organized and existing political subdivision of the State of Texas, whose address is \_\_\_\_\_, hereinafter “Grantor,” whether one or more, for and in consideration of the sum of TEN DOLLARS (\$10.00) cash, and other good and valuable consideration in hand paid by the Grantee, herein named, the receipt and sufficiency of which is hereby fully acknowledged and confessed, and pursuant to Texas Local Government Code §272.001(b)(5), has GRANTED, SOLD, and CONVEYED, and by these presents does hereby GRANT, SELL, and CONVEY unto CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, whose address is 215 E. McKinney Street, Denton, Texas 76201 hereinafter “Grantee,” the real property containing approximately 4.729 acres of land, located in the ASA Hickman Survey, Abstract Number 521 Denton County, Texas being particularly described on Exhibit “A,” attached hereto and made a part hereof for all purposes, and being located in Denton County, Texas, together with any and all rights or interests of Grantor in and to adjacent streets, alleys, and rights of way and together with all and singular the improvements and fixtures thereon and all other rights and appurtenances thereto and depicted on Exhibit “B”, attached hereto and made a part hereof for all purposes, hereinafter “the Property,” for use for a public purpose.

**Special Provisions:** Grantor has filed that certain plat filed of record as Document Number 2025-131, Real Property Records, Denton County, Texas, attached hereto as Exhibit “C” reserving unto Grantor a 0.78 acre tract of land as a perpetual drainage and detention easement in, along, upon, under, over, and across that portion of the Property(the “Drainage and Detention Easement”). Master Note 25 regarding said Drainage and Detention Easement forever binds Dallas Independent School District, as Grantor, their heirs, grantees, and successors to adhere to the following:

“The Drainage Easements, and Drainage and Detention Easement within the limits of this addition shall remain open at all times and will be maintained in a safe and sanitary condition by the owners of the lot or lots that are traversed by or adjacent to the Drainage Easements and Drainage and Detention Easement. The City will not be responsible for the maintenance and operation of said easement, for any damage to private property or person that results from conditions in the easement or for the control of erosion. No obstruction to the natural flow of storm water runoff shall be permitted by construction of any type of building, fence or any other structure within the Drainage Easements and Drainage and Detention

Easement, as herein above defined, unless approved by the City. The owners shall keep the Drainage and Detention Easement clear and free of debris, silt, and any substance that would result in unsanitary conditions or obstruct the flow of water. The City shall have the right of ingress and egress for the purpose of inspection and supervision of maintenance by the owners to alleviate any undesirable conditions that may occur. Furthermore, the City shall have the right, but not the obligation, to enter upon the above described Drainage Easements and Drainage and Detention Easement to remove any obstruction to the flow of water after giving the owners written notice of such obstruction and the owners fail to remove such obstruction. Should the City of Denton be compelled to remove any obstruction to the flow of water, after giving the owners written notice of such obstruction and owners fail to remove such obstruction, the City of Denton shall be reimbursed by the owners for reasonable costs for labor, materials, and equipment for each instance. The natural drainage through the Drainage and Detention Easement is subject to storm water overflow and natural bank erosion to an extent which cannot be definitely defined. The City shall not be held liable for any damages of any nature resulting from the occurrence of these natural phenomena or resulting from the failure of any structure or structures, within the easement or otherwise.”

TO HAVE AND TO HOLD the Property, together with all and singular the rights and appurtenances thereto in anywise belonging unto Grantee and Grantee’s successors and assigns forever; and Grantor does hereby bind Grantor and Grantor’s successors and assigns to WARRANT AND FOREVER DEFEND all and singular the Property unto Grantee and Grantee’s successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof when the claim is by, through, or under Grantor.

EXECUTED the \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_.

BY:

\_\_\_\_\_

#### ACKNOWLEDGMENT

THE STATE OF \_\_\_\_\_ §

COUNTY OF \_\_\_\_\_ §

This instrument was acknowledged before me on \_\_\_\_\_, 20\_\_ by

\_\_\_\_\_ on behalf of \_\_\_\_\_.

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

My commission expires: \_\_\_\_\_

Upon Filing Return To:  
City of Denton  
Real Estate Division  
401 N. Elm Street  
Denton, TX 76201  
Attn: DeAnna Cody

Property Tax Bills To:  
City of Denton Finance Department  
215 E. McKinney Street  
Denton, Texas 76201

**EXHIBIT “A”  
to  
District Warranty Deed  
Legal Description**

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**EXHIBIT “B”  
to  
District Warranty Deed  
Survey**

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**EXHIBIT “C”**  
**to**  
**District Warranty Deed**  
**Document Number 2025-131, Real Property Records, Denton County, Texas**

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**NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.**

THE STATE OF TEXAS       §  
                                          §       KNOW ALL BY THESE PRESENTS:  
COUNTY OF DENTON       §

THE STATE OF TEXAS           §  
COUNTY OF DENTON       §

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared Sara Hensley, City Manager of the City of Denton, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me execution of the same for the purposes and consideration therein expressed, in the capacity therein stated, and as the act and deed of said City of Denton.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this \_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Notary Public in and for the State of Texas  
My Commission Expires: \_\_\_\_\_

AFTER RECORDING RETURN TO: