

**THIS IS A DRAFT AND WILL BE REPLACED BY THE FINAL, SIGNED
ORDINANCE OR RESOLUTION ADOPTED BY CITY COUNCIL.**

AN ORDINANCE

**DECLARING AS SURPLUS AN IMPROVED 0.66 ACRE TRACT OF
CITY OWNED PROPERTY INCLUDING FURNITURE, FIXTURES
AND EQUIPMENT, LOCATED AT 1502 FITCH STREET IN COUNCIL
DISTRICT 5 AND AUTHORIZING ITS SALE TO HARLANDALE
INDEPENDENT SCHOOL DISTRICT FOR \$250,000.00**

* * * * *

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The City Manager and her designee, severally, are authorized and directed to sell to the Harlandale Independent School District the 0.66 acres, more or less, described in **Exhibit A** for \$250,000.00. The City Manager and her designee, severally, are authorized and directed, to execute a contract and deed in substantially the same form shown in **Exhibit B**, which is incorporated herein by reference for all purposes as if it were fully set forth. The City manager and her designee, severally, are further authorized and directed to take all other actions reasonably necessary or convenient to effect the transaction, including delivering ancillary documents and instruments conducive to effectuating the transaction.

SECTION 2. Funds generated by this ordinance will be deposited into Fund 11001000, Internal Order 256000000001 and General Ledger 4903101.

SECTION 3. The disposition of surplus property must be coordinated through the City's Finance Department to assure the removal of these assets out of the City's financial records and to record the proper accounting transactions.

SECTION 4. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance, may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

SECTION 5. This ordinance becomes effective 10 days after passage, unless it receives the eight votes requisite to immediate effectiveness under San Antonio Municipal Code § 1-15, in which case it becomes effective immediately.

PASSED AND APPROVED this _____ day of _____, 2014.

M A Y O R
Ivy R. Taylor

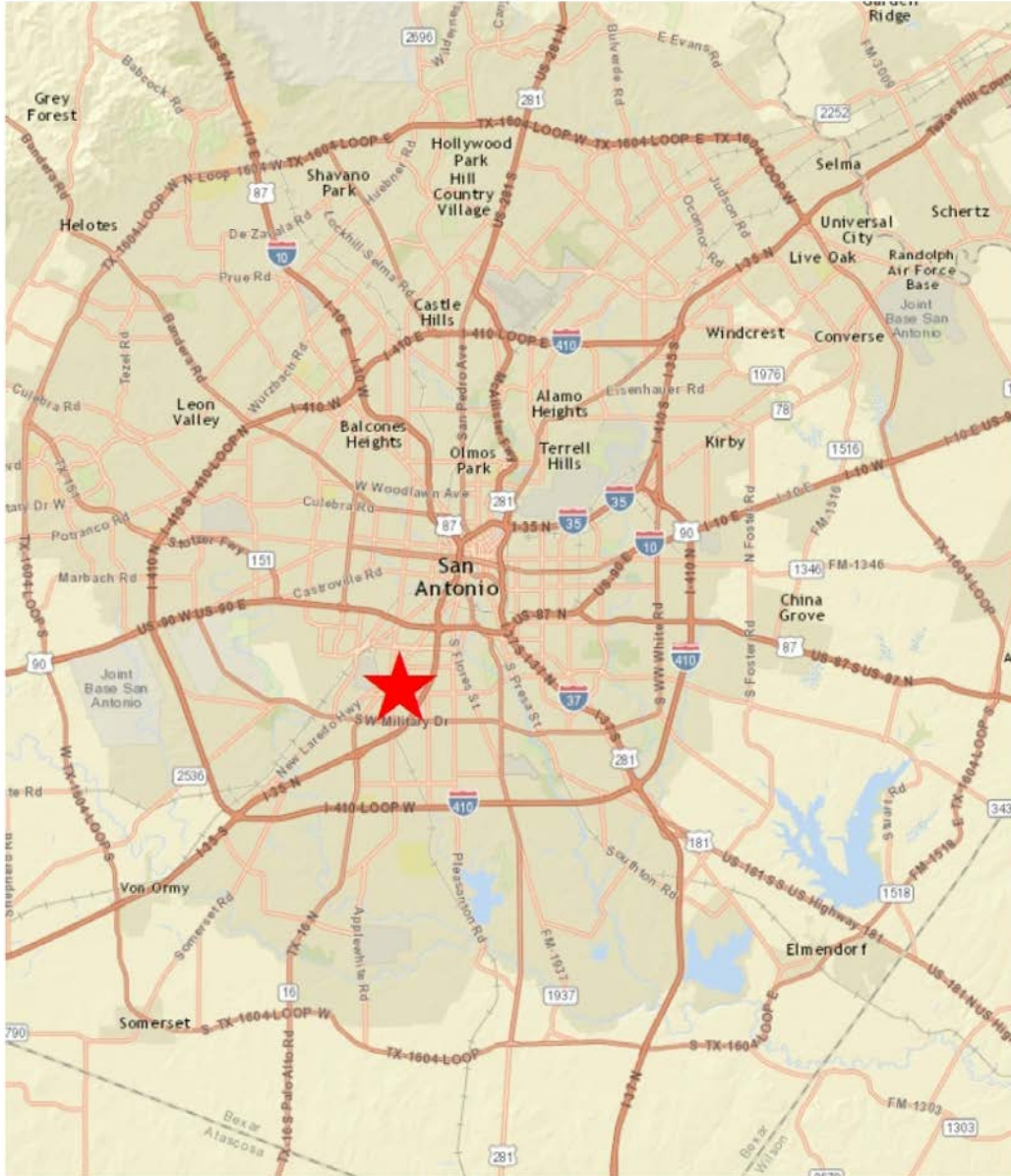
ATTEST:

APPROVED AS TO FORM:

Leticia M. Vacek, City Clerk

Robert F. Greenblum, City Attorney

Exhibit A



Site Map of Subject Property



Map of Subject Property



Aerial Photograph of Subject Property



Legal Description

Being a 0.66 of an acre tract comprised of 0.53 of an acre out Lots 5 through 12, Block 87, of N.C.B. 7957, and 0.13 of an acre out of Lardner Street closed by City Ordinance SP.88.12.02 and quitclaimed by the City of San Antonio, Bexar County, Texas, said 0.66 of an acre being more particularly described by metes and bounds as follow;

COMMENCING at a 1/2 inch Iron Rod found at the Northeasternmost corner of Columbia Heights Elementary School Subdivision as recorded in Volume 9567, Page 173, Deeds and Plats Records of Bexar County, Texas, for the Southeast corner and POINT OF BEGINNING of the tract herein described;

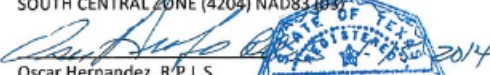
THENCE, N 89°49'24" W, along the common line of the said Columbia Heights Elementary School Subdivision and the South line of Lot 5 through 12, Block 87, N.C.B. 7957, a distance of 50.0 feet pass the West right of way line of the abandoned Lardner Street, and continuing to a distance of 250.00 feet to a 1/2 Iron Rod found for a corner of said Columbia Heights Elementary School Subdivision and the Southwest corner of the tract herein described;

THENCE, N 00°10'36" E, along the common line of the said Columbia Heights Elementary School Subdivision and the East line of Lot 5, Block 87, N.C.B. 7957, a distance of 115.00 feet to a point on the South right of way of Fitch Street (having 50.0' ROW) for a corner of said Columbia Heights Elementary School Subdivision and the Northeast corner of the tract herein described;

THENCE, S 89°49'24" E, along the South right of way line of said Fitch Street a distance of 200.0 feet pass the West right of way line of said abandoned Lardner Street and continuing to a total distance of 250.00 feet to a 1/2 inch Iron Rod w/ plastic cap set at the Northwest corner of said Women's Division of Christian Services and the East right of way line of said abandoned Lardner Street for the Northeast corner of the tract herein described;

THENCE, S 00°10'36" W, leaving the South right of way of said Fitch Street and along the common line of said Women's Division of Christian Services and the East right of way line of said abandoned Lardner Street, a distance of 115.00 feet to the POINT OF BEGINNING; CONTAINING, an area of 28750 square feet, 0.66 of an acre of land more or less;

BASIS OF BEARINGS ON THIS SURVEY ARE AS PER THE TEXAS STATE PLANE COORDINATE SYSTEM – SOUTH CENTRAL ZONE (4204) NAD83 (03)


Oscar Hernandez, R.P.L.S.
R.P.L.S. Number 5005



115 East Travis St. Suite 1120
Off#: 210-208-9400

Milam Building

San Antonio, Tx 78205
Fax#: 210-208-9401

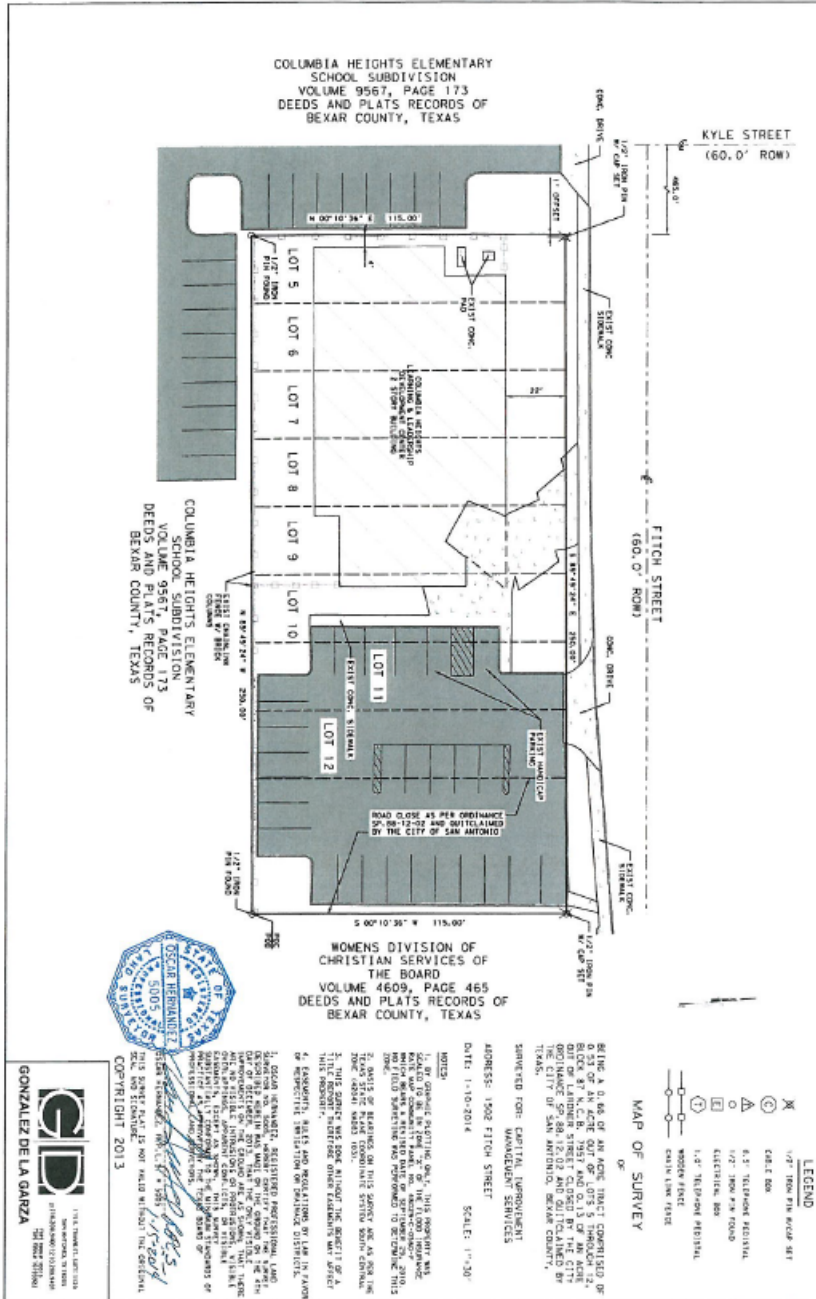


EXHIBIT B

Real Estate Sales Contract

(Harlandale/COSA)

Table of Contents

1. Deadlines and Other Dates.....	3
2. Closing Documents.....	4
3. Exhibits.....	4
4. Purchase and Sale of Property.....	5
5. Earnest Money.....	6
6. Title and Survey.....	6
7. Inspection Period.....	7
8. Representations.....	8
9. Condition until Closing; No Recording of Contract.....	8
10. Termination.....	9
11. Closing.....	10
12. Default and Remedies.....	11
13. Prohibited Interests in Contracts.....	12
14. Dispute Resolution.....	13
15. Miscellaneous Provisions.....	13
16. Public Information.....	17
Title Company Acknowledgment and Receipt.....	18
Title Company Receipt for Earnest Money.....	19
Exhibit A: Property Description.....	20
Exhibit B: Representations.....	22
Exhibit C: Form of Deed.....	25

Authorizing Ordinance:

Authority for Negotiated Sale: Local Government Code § 272.001 (a)

SP/Parcel No.: 1780

Seller: City of San Antonio

Address: P.O. Box 839966, San Antonio, Texas 78283-3966
(Attention: Jesse Quesada, East Point)

Phone: 207-6971

Fax: 207-7888

Email: Jesse.quesada@sanantonio.gov

Type of Entity: Texas municipal corporation

Seller's Counsel: Kenneth L. Bennight, Jr.

Address: 2914 Trailend Dr., San Antonio, Texas 78209-3034

Phone: 875-6654

Email: klbennightjr@gmail.com

Buyer: Harlandale Independent School District

Address: 102 Genevieve, San Antonio, Texas 78214-2997

Phone: 989-4300

Fax: 921-4356

Email: purchasing@harlandale.net

Type of Entity: Texas independent school district

Buyer's Counsel: Winifred Dominguez

Address: Walsh, Anderson, Gallegos, Green & Trevino, 100 N.E.
Loop 410, Suite 900, San Antonio, Texas 78216

Phone: 979-6633

Fax: 979-7024

Email: wdominguez@wabsa.com

Property: An approximately 0.66-acre tract comprised of 0.53 acres out of Lots 5 through 12, Block 87, NCB 7957, and 0.13 acres out of a closed segment of Lardner Street, and all being more particularly described in **Exhibit A**.

Title Company: Alamo Title Company

Address: 434 N. Loop 1604 W., Suite 2208, San Antonio, Texas
78232

Phone: 340-0456

Fax: 499-4097

Purchase Price: \$250,000

Earnest Money: \$10,000

Surveyor: Gonzalez de la Garza

Effective Date: The later of (A) the effective date of the Authorizing Ordinance and (B) the date a representative of the Title Company signs a receipt for this fully executed contract

County for Performance Bexar County, Texas

1. Deadlines and Other Dates.

All deadlines in this contract expire at 5:00 P.M. local time where the Property is located. If a deadline falls on a Saturday, Sunday, or federal or local holiday, the deadline will be extended to the next day that is not a Saturday, Sunday, or holiday. Time is of the essence.

- | | | | |
|-------|-------------------------------|-----|---|
| 1.01. | Earnest Money Deadline | 10 | Days after the Effective Date |
| 1.02. | Delivery of Title Commitment | 30 | Days after the Effective Date |
| 1.03. | Buyer's Objection Deadline | 20 | Days after the receipt of Title Commitment and Survey |
| 1.04. | Seller's Cure Notice Deadline | 30 | Days after Buyer's Objection Deadline |
| 1.05. | Buyer's Termination Deadline | 10 | Days after Notice of Cure Deadline |
| 1.06. | End of Inspection Period | 120 | Days after the Effective Date |

- 1.07. Closing Date 30 days after the Inspection Period
- 1.08. Closing Time 10:00 A.M.

1.09. The deadlines may be altered by the mutual agreement of the parties. The Director of East Point may consent to such changes on behalf of Seller without further authorization of City Council.

2. Closing Documents.

2.01. At closing, Seller will deliver the following items:

Deed Without Warranty

IRS Nonforeign Person Affidavit

Evidence of Seller's authority to close this transaction

2.02. At closing, Buyer will deliver the following items:

Evidence of Buyer's authority to consummate this transaction

Purchase Price in immediately available funds

2.03. The documents listed above are collectively known as the "Closing Documents." Unless otherwise agreed by the parties in writing before closing, the deed will be substantially in the form attached as **Exhibit C**.

3. Exhibits.

The following are attached to and are part of this contract for all purposes as if fully set forth:

Exhibit A—Description of the Land

Exhibit B—Representations

Exhibit C—Form of Deed

4. Purchase and Sale of Property.

4.01. Seller will sell and convey the Property to Buyer, and Buyer will buy and pay Seller for the Property. The promises by Buyer and Seller stated in this contract are the consideration for the formation of this contract.

4.02. The Property includes all improvements situated on it, together with all right, title, and interest of Seller, if any, in and to all appurtenances, strips or gores, roads, easements, streets, and rights-of-way bounding the land; all utility capacity, water rights, licenses, permits, entitlements, and bonds, if any, and all other rights and benefits attributable to the land; and all rights of ingress and egress thereto (collectively, the “**Additional Interests**”); except that the Additional Interests do not include, and Seller specifically reserves, such of the following interests as Seller holds by virtue of being a municipality as opposed to the owner of the fee-simple interest in the Property: utility easements, drainage easements, streets, alleys, and other rights-of-way dedicated for public use.

4.03. The deed from Seller to Buyer will have the following restriction:

At all times beginning not later than 120 days after the recordation of this deed, Grantee must use the Property for conducting adult basic-education programs as defined below. This requirement continues until the passage of 10 years after recordation of the deed, after which time Grantor imposes no further usage restriction.

“Adult basic-education programs” means education programs providing English language proficiency, basic academic and literacy functional skills, and high school equivalency for individuals who are beyond the age of compulsory school attendance and who function at less than a high-school completion level

“Conducting adult literacy programs means Grantee must provide adult basic-education classes on the Property not fewer than twelve times each calendar month, except December.

If, within ten years of the date of filing this deed, Grantor fails to conduct the required number of classes for three consecutive months (not counting December) or for four

months in any running 12-month period (not counting December), Grantor shall provide notice to the Grantee of its intent to re-enter with a copy of the notice of re-entry attached at the following address:

Harlandale ISD
Attn: Superintendent of Schools
102 Genevieve
San Antonio, Texas 78214-2997

Ten (10) business days after deposit of such notice of intent to re-enter in the U.S Mail bearing the correct postage and properly addressed as provided above, Grantor may re-enter the Property by filing a notice of re-entry in the Bexar County deed records. Thereafter, if Grantee remains in possession of the Property, Grantee is Grantor's tenant at sufferance.

After ten years from the date of filing this deed, Grantor's right of re-entry lapses, and Grantee's title to the Property will be unencumbered by the right of re-entry.

5. Earnest Money.

Buyer must deposit the Earnest Money with the Title Company no later than the Earnest Money Deadline. Title Company must execute and deliver to both Buyer and Seller an earnest money receipt substantially in the form attached at the end of this contract.

6. Title and Survey.

6.01. *Review of Title.* The following statutory notice is provided to Buyer on behalf of the real estate licensees, if any, involved in this transaction: **Buyer is advised that it should either have the abstract covering the Property examined by an attorney of Buyer's own selection or be furnished with or obtain a policy of title insurance.**

6.02. *Title Commitment; Title Policy.* "Title Commitment" means a Commitment for Issuance of an Owner Policy of Title Insurance by Title Company, as agent for underwriter, stating the condition of title to the Land. The "effective date" stated in the Title Commitment must be after the Effective Date of this contract. "Title Policy" means an Owner Policy of Title Insurance issued by Title

Company, as agent for underwriter, in conformity with the last Title Commitment delivered to and approved by Buyer.

6.03. *Delivery of Title Commitment, Survey.* Seller must deliver the Title Commitment to Buyer by the deadline stated in section 1. Buyer acknowledges prior receipt of a survey.

6.04. *Buyer's Objections.* Buyer has until the Buyer's Objection Deadline to review the Survey, Title Commitment, and legible copies of the title instruments referenced in them and notify Seller of Buyer's objections to any of them ("Buyer's Objections"). Buyer will be deemed to have approved all matters reflected by the Survey and Title Commitment to which Buyer has made no Buyer's Objection by the Buyer's Objection Deadline. The matters that Buyer either approves or is deemed to have approved are "Permitted Exceptions."

6.05. If Buyer notifies Seller of any Buyer's Objections, Seller has until Seller's Cure Notice Deadline to notify Buyer whether Seller agrees to cure the Buyer's Objections before closing ("Cure Notice"). If Seller does not timely give its Cure Notice or timely gives its Cure Notice but does not agree to cure all the Buyer's Objections before closing, Buyer may, on or before Buyer's Termination Deadline, notify Seller that this contract is terminated. In absence of such timely notice, Buyer will proceed to close, subject to Seller's obligations to resolve the items listed in Schedule C of the Title Commitment, remove the liquidated liens, remove all exceptions that arise by, through, or under Seller after the Effective Date, and cure only the Buyer's Objections that Seller has agreed to cure in the Cure Notice.

6.06. At or before closing, Seller must resolve the items that are listed on Schedule C of the Title Commitment, remove all liquidated liens, remove all exceptions that arise by, through, or under Seller after the Effective Date of this contract, and cure the Buyer's Objections that Seller has agreed to cure.

7. Inspection Period.

7.01. *Entry onto the Property.* Buyer may enter the Property before closing to inspect it, subject to the following:

- a. Buyer must deliver evidence to Seller that Buyer has insurance for its proposed inspection activities, in amounts and with coverages that are substantially the same as those maintained by Seller or in such lesser amounts or with such lesser coverages as are reasonably satisfactory to Seller;

- b. Buyer may not unreasonably interfere with existing operations or occupants of the Property;
- c. Buyer must notify Seller in advance of Buyer's plans to conduct tests so that Seller may be present during the tests;
- d. If the Property is altered because of Buyer's inspections, Buyer must return the Property to its preinspection condition promptly after the alteration occurs;
- e. Buyer must deliver to Seller copies of all inspection reports that Buyer prepares or receives from third-party consultants or contractors within three days of their preparation or receipt; and
- f. Buyer must abide by any other reasonable entry rules imposed by Seller.

7.02. *Buyer's Right to Terminate.* Buyer may terminate this contract for any reason by notifying Seller before the end of the Inspection Period.

7.03. *Buyer's Release of Seller.* Buyer releases Seller and those persons acting on Seller's behalf from all claims and causes of action (including claims for attorney's fees and court and other costs) resulting from Buyer's investigation of the Property.

8. Representations.

The parties' representations stated in Exhibit B are true and correct as of the Effective Date and must be true and correct on the Closing Date.

9. Condition until Closing; No Recording of Contract.

9.01. *Maintenance and Operation.* Until closing, Seller will (a) maintain the Property as it existed on the Effective Date, except for reasonable wear and tear and casualty damage; (b) operate the Property in the same manner as it was operated on the Effective Date; and (c) comply with all contracts and governmental regulations affecting the Property.

9.02. *Casualty Damage.* Seller will notify Buyer promptly after discovery of any casualty damage to the Property. Seller will have no obligation to repair or replace the Property if it is damaged by casualty before closing. Buyer may terminate

this contract if the casualty damage that occurs before closing would materially affect Buyer's intended use of the Property, by giving notice to Seller within 15 days after receipt of Seller's notice of the casualty (or before closing if Seller's notice of the casualty is received less than fifteen days before closing). If Buyer does not terminate this contract, Seller will convey the Property to Buyer in its damaged condition.

9.03. *Condemnation.* Seller will notify Buyer promptly after Seller receives notice that any part of the Property has been or is threatened to be condemned or otherwise taken by a governmental or quasi-governmental authority. Buyer may terminate this contract if the condemnation would materially affect Buyer's intended use of the Property by giving notice to Seller within 15 days after receipt of Seller's notice to Buyer (or before closing if Seller's notice is received less than fifteen days before closing). If Buyer does not terminate this contract, (a) Buyer and Seller will each have the right to appear and defend their respective interests in the Property in the condemnation proceedings, (b) any award in condemnation will be assigned to Buyer, and (c) if the taking occurs before closing, the description of the Property will be revised to delete the portion taken.

9.04. *No Recording.* Buyer may not file this contract or any memorandum or notice of this contract in the real property records of any county. If, however, Buyer records this contract or a memorandum or notice, Seller may terminate this contract and record a notice of termination.

10. Termination.

10.01. *Disposition of Earnest Money after Termination.*

- a. *To Buyer.* If Buyer terminates this contract in accordance with any of Buyer's rights to terminate, Seller will, within five days of receipt of Buyer's termination notice, authorize Title Company to deliver the Earnest Money to Buyer.
- b. *To Seller.* If Seller terminates this contract in accordance with any of Seller's rights to terminate, Buyer will, within five days of receipt of Seller's termination notice, authorize Title Company to pay and deliver the Earnest Money to Seller.

10.02. *Duties after Termination.* If this contract is terminated, Buyer will promptly return to Seller all documents relating to the Property that Seller has delivered to Buyer and all copies that Buyer has made of the documents. After return

of the documents and copies, neither party will have further duties or obligations to the other under this contract, except for those obligations that cannot be or were not performed before termination of this contract.

11. Closing.

11.01. *Closing.* This transaction will close at Title Company's offices at the Closing Date and Closing Time. At closing, the following will occur:

- a. *Closing Documents.* The parties will execute and deliver the Closing Documents.
- b. *Payment of Purchase Price.* Buyer will deliver the Purchase Price and other amounts that Buyer is obligated to pay under this contract to Title Company in funds acceptable to Title Company. The Earnest Money will be applied to the Purchase Price.
- c. *Disbursement of Funds; Recording; Copies.* Title Company will be instructed to disburse the Purchase Price and other funds in accordance with this contract, record the deed and the other Closing Documents directed to be recorded, and distribute documents and copies in accordance with the parties' written instructions.
- d. *Possession.* Seller will deliver possession of the Property to Buyer, subject to the Permitted Exceptions existing at closing.
- e. Buyer need not close if Seller cannot or does not deliver indefeasible title at closing. If Buyer does not close for want of indefeasible title, the earnest money is returned to Buyer.

11.02. *Transaction Costs.*

- a. Buyer will pay:
 - i. the basic charge for the Title Policy;
 - ii. one-half of the escrow fee charged by Title Company;
 - iii. the costs to record all documents to cure Title Objections agreed to be cured by Seller;

- iv. All fees or additional premiums for endorsements to the title policy requested by Buyer;
 - v. the costs to obtain the Survey and certificates or reports of ad valorem taxes; and
 - vi. Buyer's expenses and attorney's fees.
- b. Seller will pay:
- i. one-half of the escrow fee charged by Title Company;
 - ii. the cost to obtain, deliver, and record all documents other than those to be recorded at Buyer's expense;
 - iii. Seller's expenses and attorney's fees.
- c. *Ad Valorem Taxes.* Property owned by Seller is exempt under Texas Property Tax Code § 11.11. At closing property taxes will be prorated according to Texas Tax Code § 26.10. Seller assumes no responsibility for ad valorem taxes for any period, rollback or otherwise, not otherwise imposed on it by law.
- d. *Postclosing Adjustments.* If errors in the prorations made at closing are identified within ninety days after closing, Seller and Buyer will make postclosing adjustments to correct the errors within fifteen days of receipt of notice of the errors.

12. Default and Remedies.

12.01. *Seller's Default.* If Seller fails to perform any of its obligations under this contract or if any of Seller's representations is not true and correct as of the Effective Date or on the Closing Date ("Seller's Default"), Buyer may elect either of the following as its sole and exclusive remedy:

- a. *Termination.* Buyer may terminate this contract by giving notice to Seller on or before the expiration of the Inspection Period and have the Earnest Money returned to Buyer.
- b. *Specific Performance.* Buyer may seek specific performance.

12.02. *Buyer's Default.* If Buyer fails to perform any of its obligations under this contract ("Buyer's Default"), Seller may elect either of the following as its sole and exclusive remedy:

- a. *Termination; Liquidated Damages.* Seller may terminate this contract by giving notice to Buyer on or before the Closing Date and Closing Time and have the Earnest Money paid to Seller.
- b. *Specific Performance.* Seller may seek specific performance of Buyer's obligations under this contract. If title to the Property is awarded to Buyer, the conveyance will be subject to the matters stated in the Title Commitment.

13. Prohibited Interests in Contracts.

13.01. The Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as defined in Section 2-52 of the Ethics Code, from having a financial interest in any contract with the City or any City agency such as city owned utilities. An officer or employee has a "prohibited financial interest" in a contract with the City or in the sale to the City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale:

- (i) a City officer or employee;
- (ii) his parent, child or spouse;
- (iii) a business entity in which the officer or employee, or his parent, child or spouse owns (i) 10% or more of the voting stock or shares of the business entity, or (ii) 10% or more of the fair market value of the business entity;
- (iv) a business entity in which any individual or entity above listed is a (i) subcontractor on a City contract, (ii) a partner, or (iii) a parent or subsidiary business entity.

13.02. Buyer warrants and certifies as follows:

- (i) Buyer and its officers, employees and agents are neither officers nor employees of the City.
- (ii) Buyer has tendered to the City a Discretionary Contracts Disclosure Statement in compliance with the City's Ethics Code.

13.03. Buyer acknowledges that City's reliance on the above warranties and certifications is reasonable.

14. Dispute Resolution.

14.01 As a condition precedent to bringing any action arising out of or relating to this contract or any aspect thereof, including an action for declaratory relief but not an action specifically excepted below, the disputants must first submit in good faith to mediation. The parties may not assert limitations, laches, waiver, and estoppel based upon attempts to mediate.

14.02. Filing suit on a claim that should be mediated hereunder waives the filer's right to demand mediation. But one party's waiver does not affect another party's right. A defendant does not waive mediation for so long as, within a reasonable time after appearing, the defendant gives written notice to the plaintiff or its counsel of intent to require compliance with this paragraph.

14.03. Mediation must be conducted in San Antonio, Bexar County, Texas.

14.04. The party desiring relief has the burden to initiate mediation. Waiting for another party to initiate mediation does not waive the right to it.

14.05. If the parties can otherwise agree on a mediator, they may do so. Alternatively, either party may petition any court of competent jurisdiction to appoint a mediator. The only predicate issues the court need consider before appointing a mediator are whether (i) the copy of the contract before the court is authentic and (ii) the contract was duly signed and delivered by all parties to be bound to mediate. If neither of those issues is denied under oath, the court may appoint a mediator upon motion, without trial.

14.06. Mediator fees must be borne equally.

14.07. The parties need not mediate before going to court for either party to seek emergency injunctive relief.

15. Miscellaneous Provisions.

15.01. *Applicable Law.* This contract is entered into in San Antonio, Bexar County, state of Texas. **THE CONSTRUCTION OF THIS CONTRACT AND THE RIGHTS, REMEDIES, AND OBLIGATIONS ARISING THEREUNDER**

ARE GOVERNED BY THE LAWS OF THE STATE OF TEXAS. But the Texas conflicts of law rules must not be used to apply the laws of a jurisdiction other than Texas. The obligations performable hereunder by both parties are performable in San Antonio, Bexar County, Texas.

15.02. *Severability.* If any portion hereof is determined to be invalid or unenforceable, such determination does not affect the remainder hereof.

15.03. *Successors.* This Contract inures to the benefit of and is binding on the heirs, representatives, successors, and permitted assigns of each party. This clause does not authorize any assignment not otherwise authorized.

15.04. *Integration.* This Written Contract Represents The Final Agreement Between The Parties And May Not Be Contradicted By Evidence Of Prior, Contemporaneous, Or Subsequent Oral Agreements Of The Parties. There Are No Oral Agreements Between The Parties.

15.05. *Modification.*

15.05.01. This Contract may not be changed orally but only by a written agreement, signed by the party against whom enforcement of any modification is sought. Subject to the foregoing, any of the terms of this Agreement may be modified at any time by the party entitled to the benefit thereof, but no such modification, express or implied, affects the right of the modifying party to require observance of either (i) the same term or condition as it applies on a subsequent or previous occasion or (ii) any other term hereof.

15.05.02. The Director of East Point may, without further action of City Council, agree on behalf of Seller to extensions of deadlines or other non-material modifications to the rights and obligations of the parties under this Contract.

15.06. *Third Party Beneficiaries.* This Contract is intended for the benefit of the parties hereto and their successors and permitted assigns only. There are no third party beneficiaries hereof.

15.07. *Notices.* Any notice provided for or permitted hereunder must be in writing and by certified mail, return receipt requested, addressed to the parties at their respective addresses set forth in the preamble hereof. If the addressee is a

corporation, notices must be addressed to the attention of its President. Notice is complete three days after deposit, properly addressed and postage prepaid, with the United States Postal Service. Failure to use certified mail does not defeat the effectiveness of notice actually received, but such notice is effective only on actual receipt. Address for notice may be changed by giving notice hereunder.

15.08. *Pronouns.* In construing this Contract, plural constructions include the singular, and singular constructions include the plural. No significance attaches to whether a pronoun is masculine, feminine, or neuter. The words "herein," "hereof," and other, similar compounds of the word "here" refer to this entire Contract, not to any particular provision of it.

15.09. *Captions.* Paragraph captions in this Contract are for ease of reference only and do not affect the interpretation hereof.

15.10. *Counterparts.* This Contract may be executed in multiple counterparts, each of which is an original, whether or not all parties sign the same document. Regardless of the number of counterparts, they constitute only one agreement. In making proof of this contract, one need not produce or account for more counterparts than necessary to show execution by or on behalf of all parties.

15.11. *Further Assurances.* The parties must execute and deliver such additional documents and instruments as may be required to effect fully the provisions hereof. No such additional document(s), however, shall alter the rights or obligations of the parties as contained in this contract

15.12. *Assignment.* With Seller's consent, which is not to be unreasonably withheld, Buyer may assign this contract and Buyer's rights under it only to an entity in which Buyer can, directly or indirectly, direct or cause the direction of its management and policies, whether through the ownership of voting securities or otherwise. Any other assignment is void.

15.13. *Survival.* The obligations of this contract that cannot be performed before termination of this contract or before closing survive termination of this contract or closing, and the legal doctrine of merger does not apply to these matters. If there is any conflict between the Closing Documents and this contract, the Closing Documents control.

15.14. *Ambiguities Not to Be Construed against Party Who Drafted Contract.* The rule of construction that ambiguities in a document will be construed against the party who drafted it will not be applied in interpreting this contract.

15.15. *No Special Relationship.* The parties' relationship is an ordinary commercial relationship, and they do not intend to create the relationship of principal and agent, partnership, joint venture, or any other special relationship.

15.16. *Confidentiality.* The parties will keep confidential this contract, this transaction, and all information learned in the course of this transaction, except to the extent disclosure is required by law or court order or to enable third parties to advise or assist Buyer to investigate the Property or either party to close this transaction.

15.17. *Waiver of Consumer Rights.* **Buyer Waives Its Rights Under The Texas Deceptive Trade Practices-Consumer Protection Act, Section 17.41 et seq. of The Texas Business and Commerce Code, A Law That Gives Consumers Special Rights and Protections. After Consultation With an Attorney of Its Own Selection, Buyer Voluntarily Consents To This Waiver.**

15.18. *Incorporation by Reference.* All exhibits to this Contract are incorporated into it by reference for all purposes as if fully set forth.

15.19. *Replating.* Seller makes no representation whether the Property needs to be replatted.

15.20. *Administrative Agreements.* The Director of East Point may, without further council action, agree to, sign, and deliver on behalf of the City all consents, certificates, memoranda, estoppels, and modifications of nonmaterial rights and obligations arising under this contract and may declare defaults and pursue remedies for such defaults.

16. Public Information.

Buyer acknowledges that this instrument is public information within the meaning of Chapter 552 of the Texas Government Code and accordingly may be disclosed to the public. Nothing in this contract waives an otherwise applicable exception to disclosure.

Seller:

City of San Antonio, a Texas municipal corporation

By: _____

Printed Name: _____

Title: _____

Date: _____

Buyer:

Harlandale Independent School District, a Texas independent school district

By: Reynaldo Madrigal

Printed Name: Reynaldo Madrigal

Title: Superintendent

Date: 9/8/14

Approved as to Form:

City Attorney

Title Company Acknowledgment and Receipt

Seller: City of San Antonio

Address: P.O. Box 839966, San Antonio, Texas 78283-3966

Buyer: Harlandale Independent School District

Address: 102 Genevieve, San Antonio, Texas 78214-2997

Property: An approximately 0.66-acre tract comprised of 0.53 acres out of Lots 5 through 12, Block 87, NCB 7957, and 0.13 acres out of a closed segment of Lardner Street

Title Company agrees to act as escrow agent according to the terms of this Contract. Further, Title Company acknowledges receipt from Buyer of three fully executed counterpart originals of the Contract on the same date, with one fully executed original Contract being returned to each of Seller and Buyer.

Alamo Title Company

By: Kelly Brister

Printed

Name: Kelly Brister

Title: Escrow Officer

Date: 9-15-14

Receipt of \$10,000.00 check #278625
for earnest money

Alamo Title Company
434 N. Loop 1604 W. #2208
San Antonio, TX 78232

Title Company Receipt for Earnest Money

Seller: City of San Antonio

Address: P.O. Box 839966, San Antonio, Texas 78283-3966

Buyer: Harlandale Independent School District

Address: 102 Genevieve, San Antonio, Texas 78214-2997

Property: An approximately 0.66-acre tract comprised of 0.53 acres out of Lots 5 through 12, Block 87, NCB 7957, and 0.13 acres out of a closed segment of Lardner Street

Title Company acknowledges receipt from Buyer of earnest money in the amount set forth below:

Amount: 10,000.00

Alamo Title Company

By: Kelly Brunster

Printed
Name: Kelly Brunster

Title: EGROW OFFICER

Date: 9-15-14

THIS CHECK HAS A COLORED BACKGROUND AND CONTAINS MULTIPLE SECURITY FEATURES. SEE BACK FOR DETAILS.

WELLS FARGO BANK
SAN ANTONIO, TEXAS

No. 278625

DATE: 09/11/2014
CHECK NO: 278625

AMOUNT: ****10,000.00

*****10,000 DOLLARS AND *NO* CENTS

TO THE ORDER OF: ALAMO TITLE COMPANY
434 N. LOOP 1604 W.
SAN ANTONIO, TX

REGINALD MADRUGAL
Superintendent

Assistant Superintendent

HEAT SENSITIVE RUBBER STAMP

22451

102 Genevieve (210) 989-4306
San Antonio, TX 78214-2997

⑆ 278625⑆ ⑆ 111900659⑆ 9568134009⑆

Exhibit A: Property Description

Legal Description

Being a 0.66 of an acre tract comprised of 0.53 of an acre out Lots 5 through 12, Block 87, of N.C.B. 7957, and 0.13 of an acre out of Lardner Street closed by City Ordinance SP.88.12.02 and quitclaimed by the City of San Antonio, Bexar County, Texas, said 0.66 of an acre being more particularly described by metes and bounds as follow;

COMMENCING at a ½ Inch Iron Rod found at the Northeasternmost corner of Columbia Heights Elementary School Subdivision as recorded in Volume 9567, Page 173, Deeds and Plats Records of Bexar County, Texas, for the Southeast corner and POINT OF BEGINNING of the tract herein described;

THENCE, N 89°49'24" W, along the common line of the said Columbia Heights Elementary School Subdivision and the South line of Lot 5 through 12, Block 87, N.C.B. 7957, a distance of 50.0 feet pass the West right of way line of the abandoned Lardner Street, and continuing to a distance of 250.00 feet to a ½ Iron Rod found for a corner of said Columbia Heights Elementary School Subdivision and the Southwest corner of the tract herein described;

THENCE, N 00°10'36" E, along the common line of the said Columbia Heights Elementary School Subdivision and the East line of Lot 5, Block 87, N.C.B. 7957, a distance of 115.00 feet to a point on the South right of way of Fitch Street (having 50.0' ROW) for a corner of said Columbia Heights Elementary School Subdivision and the Northeast corner of the tract herein described;

THENCE, S 89°49'24" E, along the South right of way line of said Fitch Street a distance of 200.0 feet pass the West right of way line of said abandoned Lardner Street and continuing to a total distance of 250.00 feet to a ½ Inch Iron Rod w/ plastic cap set at the Northwest corner of said Women's Division of Christian Services and the East right of way line of said abandoned Lardner Street for the Northeast corner of the tract herein described;

THENCE, S 00°10'36" W, leaving the South right of way of said Fitch Street and along the common line of said Women's Division of Christian Services and the East right of way line of said abandoned Lardner Street, a distance of 115.00 feet to the POINT OF BEGINNING; CONTAINING, an area of 28750 square feet, 0.66 of an acre of land more or less;

BASIS OF BEARINGS ON THIS SURVEY ARE AS PER THE TEXAS STATE PLANE COORDINATE SYSTEM - SOUTH CENTRAL ZONE (4204) NAD83 (08)


Oscar Hernandez, R.P.L.S.
R.P.L.S. Number 5005



115 East Travis St. Suite 1120
Office: 210-208-9400

Millam Building

San Antonio, Tx 78205
Fax#: 210-208-9401

Exhibit B: Representations

Representations; Environmental Matters

A. Seller's Representations to Buyer

Seller represents to Buyer that the following are true and correct as of the Effective Date and will be true and correct on the Closing Date.

1. *Authority.* Seller is a municipal corporation duly organized, validly existing, and in good standing under the laws of the state of Texas with authority to convey the Property to Buyer. This contract is, and all documents required by this contract to be executed and delivered to Buyer at closing will be, duly authorized, executed, and delivered by Seller.

2. *Litigation.* There is no litigation pending or threatened against Seller that might affect the Property or Seller's ability to perform its obligations under this contract.

3. *Violation of Laws.* Seller has not received notice of violation of any law, ordinance, regulation, or requirements affecting the Property or Seller's use of the Property.

4. *Licenses, Permits, and Approvals.* Seller has not received notice that any license, permit, or approval necessary to operate the Property in the manner in which it is currently operated will not be renewed on expiration or that any material condition will be imposed in order to obtain their renewal.

5. *Condemnation; Zoning; Land Use; Hazardous Materials.* Seller has not received notice of any condemnation, zoning, or land-use proceedings affecting the Property or any inquiries or notices by any governmental authority or third party with respect to the presence of hazardous materials on the Property or the migration of hazardous materials from the Property.

6. *No Other Obligation to Sell the Property or Restriction against Selling the Property.* Seller has not obligated itself to sell the Property to any party other than Buyer. Seller's performance of this contract will not cause a breach of any other agreement or obligation to which Seller is a party or to which it is bound.

7. *No Liens.* On the Closing Date, the Property will be free and clear of all mechanic's and materialman's liens and other liens and encumbrances of any nature, and no work or materials will have been furnished to the Property that might give rise to mechanic's, materialman's, or other liens against the Property other than work or materials to which Buyer has given its consent.

8. *No Other Representation.* Except as stated above, Seller makes no representation with respect to the Property.

9. *No Warranty.* Seller has made no warranty in connection with this contract.

B. "As Is, Where Is"

This Contract Is An Arms-Length Agreement Between The Parties. The Purchase Price Was Bargained On The Basis Of An "As Is, Where Is" Transaction And Reflects The Agreement Of The Parties That There Are No Representations, Disclosures, Or Express Or Implied Warranties, Except For The Warranty Of Title Stated In The Closing Documents And Seller's Representations To Buyer Set Forth In Section A Of This Exhibit B.

The Property Will Be Conveyed To Buyer In An "As Is, Where Is" Condition, With All Faults. All Warranties Are Disclaimed.

C. Environmental Matters

After Closing, As Between Buyer And Seller, The Risk Of Liability Or Expense For Environmental Problems, Even If Arising From Events Before Closing, Will Be The Sole Responsibility Of Buyer, Regardless Of Whether The Environmental Problems Were Known Or Unknown At Closing.

D. Buyer's Representations to Seller

Buyer represents to Seller that the following are true and correct as of the Effective Date and will be true and correct on the Closing Date.

1. *Authority.* Buyer is an independent school district, duly organized, validly existing, and in good standing under the laws of the state of Texas with

authority to acquire the Property from Seller. This contract is, and all documents required by this contract to be executed and delivered to Seller at closing will be, duly authorized, executed, and delivered by Seller.

2. *Litigation.* There is no litigation pending or threatened against Buyer that might affect Buyer's ability to perform its obligations under this contract.

Exhibit C: Form of Deed

Notice of Confidentiality Rights: If You Are a Natural Person, You May Remove or Strike Any or All 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.

State of Texas }
 }
County of Bexar }

Deed Without Warranty

Authorizing Ordinance:

Statutory Authority: Local Government Code § 272.001(a)

SP No./Parcel:

Grantor: City of San Antonio

Grantor's Mailing Address: City Of San Antonio, P.O. Box 839966, San Antonio, Texas 78283-3966 (Attn: City Clerk)

Grantor's Street Address: City Hall, 100 Military Plaza, San Antonio, Texas 78205 (Bexar County)

Grantee:

Grantee's Mailing Address:

Consideration: \$10 in hand paid and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged.

Property: All of the following real property situated within the corporate limits of the City of San Antonio, Bexar County, Texas, being described as follows:

Draft. This is only to show the agreed form of the final document. This draft is neither ready nor suitable to be signed.

more particularly described by metes and bounds and shown by survey on **Exhibit "A"** attached hereto and incorporated herein verbatim for all purposes.

Grantor, for the Consideration, Grants, Bargains, and Conveys to Grantee, all of Grantor's right, title, interest, and estate, both at law and in equity, as of the date hereof, in and to the Property, together with all and singular the rights and appurtenances thereto in anywise belonging, To Have and To Hold unto Grantee, Grantee's successors and assigns forever, **Without Any Express Or Implied Warranty Whatsoever, Including But Not Limited to Warranties of Title, Condition, or Character.**

The Property is conveyed together with any and all improvements, structures and fixtures located thereon, and with all rights, privileges, rights of way, and easements appurtenant thereto, unless reserved unto other parties herein.

Restrictions, Exceptions, And Conditions To Conveyance: This conveyance is explicitly subject to the following:

A. Restrictions: Grantor reserves the following restriction:

At all times beginning not later than 120 days after the recordation of this deed, Grantee must use the Property for conducting adult basic-education programs as defined below. This requirement continues until the passage of 10 years after recordation of the deed, after which time Grantor imposes no further usage restriction.

"Adult basic-education programs" means education programs providing English language proficiency, basic academic and literacy functional skills, and high school equivalency for individuals who are beyond the age of compulsory school attendance and who function at less than a high-school completion level

"Conducting adult literacy programs means Grantee must provide adult basic-education classes on the Property not fewer than twelve times each calendar month, except December.

If, within ten years of the date of filing this deed, Grantor fails to conduct the required number of classes for three consecutive months (not counting December) or for four months in any running 12-month period (not counting December), Grantor shall provide notice to the Grantee of

its intent to re-enter with a copy of the notice of re-entry attached at the following address:

Harlandale ISD
Attn: Superintendent of Schools
102 Genevieve
San Antonio, Texas 78214-2997

Ten (10) business days after deposit of such notice of intent to re-enter in the U.S Mail bearing the correct postage and properly addressed as provided above, Grantor may re-enter the Property by filing a notice of re-entry in the Bexar County deed records. Thereafter, if Grantee remains in possession of the Property, Grantee is Grantor's tenant at sufferance.

After ten years from the date of filing this deed, Grantor's right of re-entry lapses, and Grantee's title to the Property will be unencumbered by the right of re-entry.

- B. Easements:** All recorded and unrecorded easements, whether or not open and obvious.
- C. Restrictions:** All covenants and restrictions affecting the Property.
- D. Exceptions:** All instruments affecting the Property, whether or not recorded.
- E. Conditions:** All conditions affecting the Property.

This conveyance does not relieve Grantee of any building, zoning, or other city-imposed requirements, or other land use restrictions applicable to the Property or the obligation to pay any real estate taxes that may otherwise be due.

Grantor expressly disclaims any and all warranties arising by common law, statute (including without limitation the implied warranties of § 5.023, Texas Property Code or any successor statute), or otherwise.

Setting Out The Specific Reservations And Disclaimers Does Not Imply That The Property Is Free Of Other Encumbrances Or Adverse Claims Or Conditions. Grantor Specifically Disclaims Any Such Implication.

In Witness Whereof, Grantor has caused its representative to set its hand:

Grantor:

City of San Antonio, a Texas municipal corporation

By: _____

Printed
Name: _____

Title: _____

Date: _____

**Draft. This is only to show the
agreed form of the final
document. This draft is
neither ready nor suitable to
be signed.**

Approved As To Form:

By: _____
City Attorney

The State of Texas }

County of Bexar }

Before me, the undersigned authority, this instrument was this day acknowledged by _____, of and for the City of San Antonio, a Texas municipal corporation, on behalf of that entity in the capacity stated.

Date: _____

Notary

My Co

**Draft. This is only to show the
agreed form of the final
document. This draft is
neither ready nor suitable to
be signed.**

After Recording, Return To:

HECTOR K RODRIGUEZ

From: Claudia Sosa
Sent: Monday, September 08, 2014 9:29 AM
To: Marisa I. Ramirez2
Cc: Margaret Pena; HECTOR K RODRIGUEZ
Subject: FW: Harlandale/Real Estate Purchase- Columbia Heights Property
Attachments: Harlandale--COSA EMK 2014-09-04--RL(whd) to 7-31 version.pdf

Importance: High

Hi Marisa,

Margaret said we can do a request for payment for the earnest money. She asked me to send the contract to you so you can take care of it.

Thank you,

Claudia E. Sosa

Harlandale ISD – Purchasing Department
Administrative Assistant
12115 S.E. Loop 410 - San Antonio, TX 78221
(p) 210-989-4802 (f) 210-921-4400
purchasing@harlandale.net



From: RICARDO J HERNANDEZ
Sent: Monday, September 08, 2014 9:06 AM
To: Purchasing
Cc: Marisa I. Ramirez2; Elizabeth Guajardo; REYNALDO MADRIGAL; Robert Villafranca; Dominguez, Winnie; Margaret Pena
Subject: FW: Harlandale/Real Estate Purchase- Columbia Heights Property
Importance: High

Hector,
Please facilitate the process of completing the acquisition of the Wesley Community Center property. I have copied Margaret so she is aware of the budget code to charge. If you need Marisa to do anything please do not hesitate to call on us.

There are timelines on the closing documents please let me know if you need any assistance in meeting those timelines that are applicable to the District.

If you have any questions or concerns please do not hesitate to contact me.

Thanks,
Richard

Ricardo J. Hernandez, CPA
Assistant Superintendent for Business
Harlandale Independent School District
102 Genevieve
San Antonio, Texas 78249
Office: 210-989-4336



From: REYNALDO MADRIGAL
Sent: Friday, September 05, 2014 6:37 PM
To: RICARDO J HERNANDEZ
Cc: RICARDO J HERNANDEZ
Subject: Fwd: Harlandale/Real Estate Purchase- Columbia Heights Property

Mr. Hernandez:

FYI and review!

Sent from my iPhone

Begin forwarded message:

From: "Winifred Dominguez" <wdominguez@wabsa.com>
To: "RICARDO J HERNANDEZ" <RICARDO.HERNANDEZ@harlandale.net>, "Hector Benavides" <hbenavides@wabsa.com>
Cc: "Blanche Diaz" <blanche.diaz@harlandale.net>, "REYNALDO MADRIGAL" <rey.madrigal@harlandale.net>
Subject: Harlandale/Real Estate Purchase- Columbia Heights Property

Gentlemen. Attached is what I believe is the final contract for purchase of the Columbia Heights Property. I got a revised version of the Contract back earlier today and spoke with the City's outside counsel to negotiate a few items and get clarification on others. The only issues about which I still have a little concern, although I am not sure there is a lot we can do about them are as follows:

1. The Deed that the City is going to use to convey the property is a Deed Without Warranty. I generally would not recommend that the District accept a Deed Without Warranty from a private seller, in that the Seller, with their warranty in a Warranty Deed is confirming that they own the property and that the owners who conveyed the property to them BACK TO THE STATE had good title. In a Special Warranty Deed they make these representations only back to the person they took title from. So to get a deed without warranty is a less safe than either a Warranty Deed or Special Warranty Deed. Having said this, the City's attorney has indicated that in all the time he has worked either for or with the City he has NEVER conveyed a piece of

property by Warranty or Special Warranty Deed, and in fact, the City takes the position that it is not permitted to provide these warranties, as they are contingent liabilities which are prohibited by the Texas Constitution. (Rather an esoteric argument, but valid.) As a practical matter, we will be getting a Title Policy on the Property which will provide some protections in this regard and there is not a huge likelihood of a problem, and I don't recommend you back out of the deal on this basis, but I wanted to make sure you knew about this before you sign the contract.

2. The City is requiring that the District pay for the Survey update, if one is required by the Title Company. I do not expect that they will require one, or that it will be expensive if they do, but normally I would argue for the Seller to pay. The City has taken a hard line that you are getting the property for a song and should pay for this relatively minor cost. I have agreed to accept, pending your approval.

3. Lastly, the attorney has agreed at my request to make the reversion for failure to use the property for adult education require a notice to the District. I had asked for confirmation as to the time that the requirement applied under the Grant so we could limit the time for the reversion/restriction to remain in effect. The City responded by limiting the clause to 10 years but still was not able to confirm that this was the actual time period that applied under the grant. I have asked them again to make sure this is sufficient, or not overly broad, primarily because I do not want the Grant Authority to come back and ask for the property or their money from the District because the City did not require compliance. The attorney has assured me he will confirm this and let me know. I don't think this should be an issue in signing the contract as long as we get confirmation on this front prior to the expiration of the Inspection Period. So, the bottom line is that the contract, in its current form is ready for execution, assuming you are OK with the above issues. If that is the case, please have Mr. Madrigal sign on Page 17 where indicated and deliver a copy of the signed contract with the \$10,000 Earnest Money check to Alamo Title at the Address in the Contract and forward a scanned copy of the executed copy to me. I will have the attorney for the City have the contract signed separately and deliver the signature page to the Title Company to be joined to the Original Contract executed by the District.

As always, if you or Mr. Madrigal have any questions please do not hesitate to give me a call.
Winnie

Winifred H. Dominguez
Attorney | Shareholder
210.979.6633
210.979.7024 (fax)
www.walshanderson.com<<http://www.walshanderson.com>>

[<http://walshanderson.com/images/logo200.jpg>]<http://www.walshanderson.com/>>
100 N. E. Loop 410, Suite 900
San Antonio, TX 78216

CONFIDENTIALITY NOTICE: This email & attached documents may contain confidential