

**SALE OF REAL PROPERTY
BID PACKAGE**

I. INVITATION FOR BID

The Board of Trustees of the Mesquite Independent School District (“MISD”) hereby serves notice that it will accept sealed bids for the following real property and any and all improvements to the real property:

The surface only and any improvements thereto together with any and all improvements on the real property, described as being a certain lot, tract or parcel of land lying and being situated in Balch Springs, Dallas County, Texas, and being all of an approximately 370 acre tract of land conveyed to J.A. Irwin Inc., by C.C. Renfro, Trustee, by deed dated September 27, 1951, recorded in Volume 3565, Page 507 of the Deed Records of Dallas County, Texas and later conveyed by deed dated April 2, 1985, to the City of Mesquite & Mesquite ISD jointly as recorded in Volume 85095, Pages 1261-1264 of the Deed Records of Dallas County, Texas (“the Property”) described by metes and bounds as follows: BEGINNING at a point in the Northwest line of Post Road, said point going 165 feet south 44 deg. 32 min. west of the intersection of the northwest line of Post Road with the southwest line of McKenzie Road;

THENCE, South 44 deg. 32 min. West 100 feet to point for corner;

THENCE, North 45 deg. 28 min. West 249 feet to point for corner: in the south line of McKenzie Road;

THENCE, South 45 deg. 28 min. east 193.4 feet to the place of beginning, and being known as Lot 2 in Block “C” of the unrecorded plat of Meadow Lake Farms Addition.

ALSO KNOWN AS: MEADOWLAKE ADD.LT 2 BLK C.

Interested parties may inspect the Property the week of December 3, 2018. The Property does not include the mineral estate.

The Property is being sold “as is and where is, with any and all latent and patent defects and faults.” There is no warranty of any kind by MISD, including that the Property is fit for a particular purpose. In addition, the Property is being sold subject to the conditions, exceptions and reservations contained in the invitation to bid, instruction to bidders, and exhibits thereto, and subject to all recorded interests.

Sealed bids will be received until:

Thursday, December 13, 2018, AT 2:00 P.M.

Mailing and Physical address:
 Mesquite Independent School District
 Attn: Darci Hooten, Director of Purchasing
 3819 Towne Crossing Blvd, Suite 203
 Mesquite, Texas 75150

Bid envelopes must be plainly marked on the outside as follows:

SEALED BID - DO NOT OPEN
SALE OF SURPLUS: REAL PROPERTY, 109 POST ROAD, BALCH SPRINGS, TX
LOT C, BLOCK C MEADOW LAKE FARMS ADDITION
RFP# 2019-010
OPENED AT 2:00 P.M Thursday December 13, 2018

All bids received at or prior to such time will be opened and read aloud. The Board of Trustees plans to take action on bids at a board meeting in October 2018, or the next scheduled meeting after the bid opening. MISD reserves the right to reject any and all bids and to waive any informality in bids received. **Bids received after the deadline or faxed bids shall not be considered.**

BID RESPONSES MUST BE SUBMITTED ON BID FORMS INCLUDED IN THE BID PACKAGE. THE BID PACKAGE CONTAINS REQUIRED BID TERMS AND DESCRIPTIVE INFORMATION ABOUT THE PROPERTY. BID RESPONSES NOT MADE AS SET FORTH BY THE BID PACKAGE MAY BE DEEMED NON-RESPONSIVE AND MAY NOT BE CONSIDERED.

Bidder agrees, if the bid is accepted by MISD, to enter the Real Estate Sales Contract in a form substantially similar to the one included in this Bid Package as **Exhibit "B"** within five (5) calendar days of written notice of acceptance of the bid by MISD. Bidder's failure to execute the Real Estate Sales Contract within such five (5) day period is deemed a default by bidder, bidder will forfeit the Earnest Money, and MISD will have no obligation to such bidder.

After execution of the Real Estate Sales Contract by the bidder, if the bidder terminates the contract pursuant to any right to terminate contained in the Real Estate Sales Contract, except Seller's default, bidder will not recover the Earnest Money.

II. INSTRUCTIONS TO BIDDERS

1. SPECIAL WARRANTY DEED: A draft copy of the Special Warranty Deed is included in this Bid Package as **Exhibit "A"**. MISD will consider proposed changes to the form

of Deed; however, MISD reserves the right to reject any proposed changes that materially change the terms of the sale.

2. REAL ESTATE SALES CONTRACT: A REAL ESTATE SALES CONTRACT and related documents are included in this Bid Package as **Exhibit “B”**. MISD will consider proposed changes to the form of the Real Estate Sales Contract; however, MISD reserves the right to reject any proposed changes that materially change the terms of the sale.

3. EARNEST MONEY: The Bid must be accompanied by a money order or cashier’s check in the amount One-Thousand Dollars (\$1,000.00), payable to MISD. (Cash is **NOT** acceptable.)

4. TIME FRAME FOR CLOSING: Bids will be presented to the Board of Trustees for acceptance at the first Regular Board meeting after bids are opened. Closing should occur as provided in the Real Estate Sales Contract.

5. BID DOCUMENTS: A complete bid response should include:

- The Bid Form, properly completed, and
- Earnest Money in the amount set out in Paragraph 3 above (Cash is **NOT** acceptable).

6. WITHDRAWAL OF BIDS: Bidder may request permission to withdraw a bid prior to the actual time for bid opening. Such request must be made in person or in writing at the same location designated to receive the bid. MISD will return the bid documents unopened at that time.

7. OTHER CONDITIONS OF SALE: The Property is sold subject to the exclusions, exceptions, conditions and stipulations of record and contained in the Title Search prepared by the Title Company.

8. PERMITTED EXCEPTIONS: The exclusions, exceptions, conditions and stipulations set out above, to the extent they are still in effect, shall be Permitted Exceptions in the Real Estate Sales Contract and the Deed.

9. MINERALS: The conveyance is of the surface only, all oil, gas, and other mineral interests are reserved by the Grantor.

10. OTHER INFORMATION: MISD believes the information included in this Bid Package is materially accurate, however, MISD does not warrant this information to be free from errors or omissions. Offerors are encouraged to inspect the premises prior to placing a bid.

III. BID FORM

IMPORTANT: A bid, to be valid, must be manually signed in ink by an authorized person in the space provided. By such signature, bidder agrees to strictly abide by the terms, conditions, and specifications embodied in this bid.

Entity, Company or Firm Name: _____

Contact Person: _____

Address: _____

Telephone #: _____

Fax: _____

Date: _____

Signature: _____

Printed Name: _____

Title: _____

BID AMOUNT

Purchase price offered by Bidder:

_____ DOLLARS

(\$ _____)

EXHIBIT A

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

Date: _____

Grantor: BOARD OF TRUSTEES OF THE MESQUITE INDEPENDENT SCHOOL DISTRICT

Grantor's Mailing Address: 3819 Towne Crossing Blvd., Suite 200, Mesquite, Texas 75150

Grantee:

Grantee's Mailing Address (including County):

Consideration: TEN AND NO/100 DOLLARS (\$10.00) and other valuable consideration.

Property (including improvements):

The surface only and any improvements thereto together with any and all improvements on the real property, described as being a certain lot, tract or parcel of land lying and being situated in Balch Springs, Dallas County, Texas, and being all of an approximately 370 acre tract of land conveyed to J.A. Irwin Inc., by C.C. Renfro, Trustee, by deed dated September 27, 1951, recorded in Volume 3565, Page 507 of the Deed Records of Dallas County, Texas and later conveyed by deed dated April 2, 1985, to the City of Mesquite & Mesquite ISD jointly as recorded in Volume 85095, Pages 1261-1264 of the Deed Records of Dallas County, Texas ("the Property") described by metes and bounds as follows: BEGINNING at a point in the Northwest line of Post Road, said point going 165 feet south 44 deg. 32 min. west of the intersection of the northwest line of Post Road with the southwest line of McKenzie Road;

THENCE, South 44 deg. 32 min. West 100 feet to point for corner;

THENCE, North 45 deg. 28 min. West 249 feet to point for corner: in the south line of McKenzie Road;

THENCE, South 45 deg. 28 min. east 193.4 feet to the place of beginning, and being known as Lot 2 in Block "C" of the unrecorded plat of Meadow Lake Farms Addition.

ALSO KNOWN AS: MEADOWLAKE ADD.LT 2 BLK C.

Reservations from and Exceptions to Conveyance:

[Other Permitted Reservations and Exceptions]

Validly existing easements, rights-of-way, and prescriptive rights, whether of record or not; all presently recorded and validly existing restrictions, reservations, covenants, conditions, oil and gas leases, mineral interests outstanding in persons other than Grantor, and other instruments, other than conveyances of the surface fee estate, that affect the Property; validly existing rights of adjoining owners in any walls and fences situated on a common boundary; any discrepancies, conflicts, or shortages in area or boundary lines; any encroachments or overlapping of improvements; all rights, obligations, and other matters arising from and existing by reason of any Dallas County water or utility district; and taxes for 2018, which Grantee assumes and agrees to pay, and subsequent assessments for that and prior years due to change in land usage, ownership, or both, the payment of which Grantee assumes.

All remaining oil, gas, and other minerals interests in and under and that may be produced from the Property, including production, any lease, and all benefits from it, are reserved to Grantor.

THE PROPERTY IS SOLD AND CONVEYED TO AND ACCEPTED BY GRANTEE IN ITS PRESENT CONDITION, AS IS, WHERE IS, WITH ALL FAULTS AND WITHOUT ANY REPRESENTATIONS OR WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, OTHER THAN THE LIMITED SPECIAL WARRANTY OF TITLE INCLUDED HEREIN, AND GRANTEE EXPRESSLY ACKNOWLEDGES THAT THE SALES PRICE REFLECTS SUCH CONDITION. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, EXCEPT FOR THE LIMITED SPECIAL WARRANTY OF TITLE INCLUDED HEREIN AND THE LIMITED WARRANTIES AND REPRESENTATIONS CONTAINED IN THE CONTRACT OF SALE AND PURCHASE BY AND BETWEEN GRANTOR AND GRANTEE, THE SALE OF THE PROPERTY IS WITHOUT ANY EXPRESS OR IMPLIED WARRANTY, REPRESENTATION, AGREEMENT, STATEMENT OR EXPRESSION OF OPINION (OR LACK THEREOF) OF OR WITH RESPECT TO: (I) THE CONDITION OF THE PROPERTY OR ANY ASPECT THEREOF, INCLUDING, WITHOUT LIMITATION, ANY AND ALL EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES RELATED TO SUITABILITY FOR HABITATION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE; (II) THE SOIL CONDITIONS, DRAINAGE, TOPOGRAPHICAL FEATURES OR OTHER CONDITIONS OF THE PROPERTY OR WHICH AFFECT THE PROPERTY; (III) ANY CONDITIONS RELATING TO OR ARISING FROM ANY ARCHEOLOGICAL OR HISTORIC SITE, CEMETERY, BURIAL GROUND, ENDANGERED SPECIES HABITAT, OR OTHER SUCH CONDITION WHICH MAY AFFECT THE PROPERTY; (IV) AREA, SIZE, SHAPE, CONFIGURATION, LOCATION, CAPACITY, QUANTITY, QUALITY, VALUE, CONDITION OR COMPOSITION OF THE

PROPERTY; (V) ANY ENVIRONMENTAL, GEOLOGICAL, METEOROLOGICAL, STRUCTURAL OR OTHER CONDITION OR HAZARD OR THE ABSENCE THEREOF HERETOFORE, NOW OR HEREAFTER AFFECTING IN ANY MANNER ANY OF THE PROPERTY; AND (IV) ALL OTHER EXPRESS OR IMPLIED REPRESENTATIONS AND WARRANTIES BY GRANTOR WHATSOEVER. GRANTEE HAS MADE ITS OWN PHYSICAL INSPECTION OF THE PROPERTY AND HAS SATISFIED ITSELF AS TO THE CONDITION OF THE PROPERTY FOR GRANTEE'S INTENDED USE. GRANTOR MAKES NO EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES AS TO THE NATURE OR QUANTITY OF THE INTERESTS THEY OWN IN ANY OIL, GAS AND OTHER MINERALS. AFTER CLOSING, AS BETWEEN GRANTEE AND GRANTOR, THE RISK OF LIABILITY OR EXPENSE FOR ENVIRONMENTAL PROBLEMS, EVEN IF ARISING FROM EVENTS BEFORE CLOSING, WILL BE THE SOLE RESPONSIBILITY OF GRANTEE, REGARDLESS OF WHETHER THE ENVIRONMENTAL PROBLEMS WERE KNOWN OR UNKNOWN AT CLOSING. ONCE CLOSING HAS OCCURRED, GRANTEE INDEMNIFIES, HOLDS HARMLESS, AND RELEASES GRANTOR FROM LIABILITY FOR ANY LATENT DEFECTS AND FROM ANY LIABILITY FOR ENVIRONMENTAL PROBLEMS AFFECTING THE PROPERTY, INCLUDING LIABILITY UNDER THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA), THE RESOURCE CONSERVATION AND RECOVERY ACT (RCRA), THE TEXAS SOLID WASTE DISPOSAL ACT, OR THE TEXAS WATER CODE. **GRANTEE INDEMNIFIES, HOLDS HARMLESS, AND RELEASES GRANTOR FROM ANY LIABILITY FOR ENVIRONMENTAL PROBLEMS AFFECTING THE PROPERTY ARISING AS THE RESULT OF GRANTOR'S OWN NEGLIGENCE OR THE NEGLIGENCE OF GRANTOR'S REPRESENTATIVES.** GRANTEE INDEMNIFIES, HOLDS HARMLESS, AND RELEASES GRANTOR FROM ANY LIABILITY FOR ENVIRONMENTAL PROBLEMS AFFECTING THE PROPERTY ARISING AS THE RESULT OF THEORIES OF PRODUCTS LIABILITY AND STRICT LIABILITY, OR UNDER NEW LAWS OR CHANGES TO EXISTING LAWS ENACTED AFTER THE EFFECTIVE DATE THAT WOULD OTHERWISE IMPOSE ON GRANTORS IN THIS TYPE OF TRANSACTION NEW LIABILITIES FOR ENVIRONMENTAL PROBLEMS AFFECTING THE PROPERTY. GRANTEE FURTHER AGREES TO DEFEND, AT ITS OWN EXPENSE, AND ON BEHALF OF GRANTOR AND IN THE NAME OF GRANTOR, ANY CLAIM OR LITIGATION BROUGHT IN CONNECTION WITH ANY SUCH ENVIRONMENTAL PROBLEMS AFFECTING THE PROPERTY.

Grantor, for the consideration and subject to the reservations from conveyance and exceptions to conveyance and warranty, grants, and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in anywise belonging unto the said Grantee, their heirs, beneficiaries, successors and assigns forever; and it does hereby bind itself and its successors to WARRANT AND FOREVER DEFEND all and singular the said premises unto the said Grantee, their heirs, beneficiaries, successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the reservations from and exceptions to conveyance and warranty, when the claim is by, through or under Grantor but not otherwise.

When the context requires, singular nouns and pronouns include the plural.

BOARD OF TRUSTEES OF THE
MESQUITE INDEPENDENT SCHOOL DISTRICT

By: EXHIBIT ONLY - NOT FOR SIGNATURE
President, Board of Trustees

THE STATE OF TEXAS §
 § ACKNOWLEDGMENT
 COUNTY OF DALLAS §

BEFORE ME, a Notary Public, on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument, and having been sworn, upon his oath stated that she is the President of the Board of Trustees of the Mesquite Independent School District; that she was authorized to execute such instrument pursuant to resolution of the Board of Trustees adopted on _____, 20__, and _____, 20__; and that said instrument is executed as the free and voluntary act and deed of such governmental unit for the purposes and consideration expressed therein.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the _____ day of _____, 20__.

EXHIBIT ONLY – NOT FOR SIGNATURE
 Notary Public, State of Texas

Return to Grantee's Address:

EXHIBIT B**REAL ESTATE SALES CONTRACT**

This contract to buy and sell real property is between Seller and Buyer as identified below, and is effective on the date ("Effective Date") of the last of the signatures by Seller and Buyer as parties to this contract.

Seller: BOARD OF TRUSTEES OF THE MESQUITE INDEPENDENT SCHOOL DISTRICT("MISD")
3819 Towne Crossing Blvd., Suite 200
Mesquite, Texas 75150

Type of entity: Independent School District and political subdivision of the State of Texas

Seller's Attorney: Gary Grimes
SCHUERENBERG & GRIMES, A PROFESSIONAL CORP.
120 W Main at Galloway, Suite 201
Mesquite, Texas 75149

Buyer:
Address: _____

Phone: _____
Fax: _____

Buyer's Attorney: _____
Address: _____

Phone: _____
Fax: _____

Property: The surface only and any improvements thereto together with any and all improvements on the real property, described as being a certain lot, tract or parcel of land lying and being situated in Balch Springs, Dallas County, Texas, and being all of an approximately 370 acre tract of land conveyed to J.A. Irwin Inc., by C.C. Renfro, Trustee, by deed dated September 27, 1951, recorded in Volume 3565, Page 507 of the Deed Records of Dallas County, Texas and later conveyed by deed dated April 2, 1985, to the City of Mesquite & Mesquite ISD jointly as recorded in Volume 85095, Pages 1261-1264 of the Deed Records of Dallas County, Texas ("the Property") described by metes and bounds as follows: BEGINNING at a point in the Northwest line of Post Road, said point going 165 feet south 44 deg. 32 min. west of the intersection of the northwest line of Post Road with the southwest line of McKenzie Road;

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ALSO KNOWN AS: MEADOWLAKE ADD.LT 2 BLK C.

Title Company: To Be Determined

Purchase Price: \$ _____

Earnest Money: ONE THOUSAND AND NO/100 DOLLARS (\$1,000.00).

County for Performance: This Contract shall be performed in Dallas County, Texas.

A. Deadlines and Other Dates

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

1. Earnest Money Deadline: Earnest Money must be tendered with the Buyer's Bid for the property, and must be in the amount and form set forth above and in the Bid Package. The Earnest Money deposit of the bidder approved by the Board of Trustees shall be tendered to the Title Company within two (2) business days after the Effective Date.

2. Delivery of Title Commitment: ten (10) days after the Effective Date.

3. Delivery of Survey: not applicable.

4. Delivery of UCC Search: not applicable.

5. Delivery of legible copies of instruments referenced in the Title Commitment and Survey: twelve (12) days after the Effective Date.

6. Delivery of Title Objections: ten (10) days after delivery of the Title Commitment, Survey, and legible copies of the instruments referenced in them.

7. Delivery of Seller's Records specified in Exhibit C: ten (10) days after the Effective Date.

8. End of Inspection Period: twenty-five (25) days after the Effective Date.

9. Closing Date: thirty (30) days after the Effective Date.

10. Closing Time: 4:00 p.m. unless otherwise agreed by Seller and Buyer.

B. Closing Documents

1. At closing, Seller will deliver the following items:
 - Special Warranty Deed in the form set forth in the Bid Package.
 - Evidence of Seller's authority to close this transaction
 - Lien release, if any, as required by paragraph K(2)(f).
2. At closing, Buyer will deliver the following items:
 - Purchase price in cash or cash equivalent
 - Evidence of Buyer's authority to consummate this transaction
 - Lien release, if any, as required by paragraph K (2)(d)

The documents listed in this section B are collectively known as the "Closing Documents".

C. Exhibits

The following exhibits are attached, and are incorporated by reference to form a part of this contract:

Exhibit A -- Representations; Environmental Matters

Exhibit B -- Seller's Records

Exhibit C -- Buyer's Bid

Exhibit D -- Form of Special Warranty Deed

D. Purchase and Sale of Property

Seller agrees to sell and convey the Property to Buyer, and Buyer agrees to 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. The Form of Special Warranty Deed in Exhibit D will be used to convey the property.

E. Interest on Earnest Money

Seller may direct Title Company to invest the Earnest Money in an interest-bearing account in a federally insured financial institution by giving notice to Title Company and satisfying Title Company's requirements for investing the Earnest Money in an interest-bearing account. Any interest earned on the Earnest Money will be paid to the party that becomes entitled to the Earnest Money.

F. Title and Survey

1. **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.
2. **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. "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.
3. **Survey.** "Survey", if required, means an on-the-ground, staked plat of survey and metes-and-bounds description of the Land, prepared by Surveyor or another surveyor satisfactory to Title Company, dated after the Effective Date, and certified to comply with the current standards and specifications as published by the Texas Society of Professional Surveyors for the Survey Category.
4. **Delivery of Title Commitment.** Seller must deliver the Title Commitment to Buyer by the deadline stated in section A.2. Buyer must cause the Survey to be completed by the deadline stated in section A.3. Seller must deliver legible copies of the instruments referenced in the Title Commitment and Survey by the deadline stated in section A.5.
5. **Title Objections.** Buyer has until the deadline stated in section A.6. ("Title 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 ("Title Objections"). Buyer will be deemed to have approved all matters reflected by the Survey and Title Commitment to which Buyer has made no Title Objection by the Title Objection Deadline. The matters that Buyer either approves or is deemed to have approved are "Permitted Exceptions". If Buyer notifies Seller of any Title Objections, Seller has five (5) days from receipt of Buyer's notice to notify Buyer whether Seller agrees to cure the Title 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 Title Objections before closing, Buyer may, within five (5) days after the deadline for the giving of Seller's Cure Notice, notify Seller that either this contract is terminated or 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 Title Objections that Seller has agreed to cure in the Cure Notice. 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 Title Objections that Seller has agreed to cure.

G. Inspection Period

1. Review of Seller's Records. Seller will deliver to Buyer copies of Seller's records specified in Exhibit B, or otherwise make those records available for Buyer's review, by the deadline stated in section A.7.

2. Entry onto the Property. Buyer may enter onto the Property prior to closing for purposes of conducting a boundary or environmental survey, or otherwise to inspect the property, subject to the following:

a. Buyer must deliver evidence to Seller that Buyer has insurance for its proposed survey or 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, if any;

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 (3) days of their preparation or receipt by Buyer; and

f. Buyer must abide by any other reasonable entry rules imposed by Seller.

3. Buyer's Right to Terminate. Buyer may terminate this contract for any reason by notifying Seller before the end of the Inspection Period. Unless Buyer terminates because of Seller's default, the Earnest Money shall be paid to Seller.

4. Buyer Indemnity and Release of Seller

a. Indemnity. Buyer will indemnify, defend, and hold Seller harmless from any loss, attorney's fees, expenses, or claims arising out of Buyer's investigation of the Property, including, but not limited to, claims alleged to have arisen in whole or in part as a result of Seller's negligence.

b. Release. 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, including, but not limited to, claims alleged to have arisen in whole or in part as a result of Seller's negligence.

H. Representations

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

I. Condition of the Property until Closing; Cooperation; No Recording of Contract

1. 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. Until the end of the Inspection Period, Seller will not enter into, amend, or terminate any contract that affects the Property other than in the ordinary course of operating the Property and will promptly give notice to Buyer of each new, amended, or terminated contract, including a copy of the contract, in sufficient time so that Buyer may consider the information before the end of the Inspection Period. If Seller's notice is given within three (3) days before the end of the Inspection Period, the Inspection Period will be extended for three (3) days. After the end of the Inspection Period, Buyer may terminate this contract if Seller enters into, amends, or terminates any contract that affects the Property without first obtaining Buyer's written consent.

2. 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 fifteen (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 (15) days before closing). If Buyer does not terminate this contract, Seller will (a) convey the Property to Buyer in its damaged condition, (b) assign to Buyer all of Seller's rights under any property insurance policies covering the Property, and (c) pay to Buyer the amount of the deductibles and coinsurance provisions under any insurance policies covering the Property, but not in excess of the cost to repair the casualty damage and less any amounts previously paid by Seller to repair the Property.

3. 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 fifteen (15) days after receipt of Seller's notice to Buyer (or before closing if Seller's notice is received less than fifteen (15) 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.

4. Claims; Hearings. Seller will notify Buyer promptly of any claim or administrative hearing that is threatened, filed, or initiated before closing that affects the Property.

5. Cooperation. Seller will cooperate with Buyer (a) before and after closing, to transfer the applications, permits, and licenses held by Seller and used in the operation of the Property and to obtain any consents necessary for Buyer to operate the Property after closing and (b) before

closing, with any reasonable evaluation, inspection, audit, or study of the Property prepared by, for, or at the request of Buyer.

6. *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.

J. Termination

1. *Disposition of Earnest Money after Termination.* Buyer and Seller agree that if this contract is terminated by either party prior to closing, Buyer shall not be entitled to the Earnest Money. Buyer hereby authorizes the Title Company to deliver the Earnest Money to Seller upon receipt by Title Company of written notice from Seller that the contract is terminated.

2. *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.

K. Closing

1. *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 Consideration.* Buyer will deliver the Consideration 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 paid to Buyer.

c. *Disbursement of Funds; Recording; Copies.* Title Company will be instructed to disburse 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. *Delivery of Originals.* Seller will deliver to Buyer the originals of Seller's Records.

e. *Possession.* Seller will deliver possession of the Property to Buyer, subject to the Permitted Exceptions existing at closing.

2. *Transaction Costs*

a. *Seller's Costs.* Seller will pay the costs to prepare the deed; the costs to obtain, deliver, and record releases of all liens to be released at closing; the costs to record all documents to cure Title Objections agreed to be cured by Seller; the costs to deliver copies of the instruments described in section A.5.; and Seller's expenses and attorney's fees.

b. Buyer Costs. Buyer will pay the basic charge for the Title Policy; the escrow fee charged by Title Company; Title Company's inspection fee to delete from the Title Policy the customary exception for parties in possession; the costs to obtain, deliver, and record all documents other than those to be recorded at Seller's expense; the costs to obtain the Survey and certificates or reports of ad valorem taxes; the additional premium for the "survey/area and boundary deletion" in the Title Policy, if the deletion is requested by Buyer; the costs of work required by Buyer to have the survey reflect matters other than those required under this contract; the costs to obtain financing of the Purchase Price, including the incremental premium costs of mortgagee's title policies and endorsements and deletions required by Buyer's lender; and Buyer's expenses and attorney's fees.

c. Ad Valorem Taxes. Seller represents that it is entitled to an exemption from ad valorem taxes during the time it owned the Property. If this sale or Buyer's use of the Property results in the assessment of any ad valorem taxes for the Property for the calendar year of closing, all such taxes and any associated costs will be paid by the Buyer. Buyer shall be responsible for notifying all taxing units having jurisdiction over the property of the change of ownership, and Buyer shall be responsible for any and all taxes, late fees or penalties assessed against the Property by reason of Buyer's failure to so note the change of ownership. Seller will, upon request, provide to Buyer proof of Seller's ownership of the property prior to the date of closing, and will assist Buyer in demonstrating Seller's exemption from ad valorem taxes.

d. Brokers' Commissions. To the extent permitted by law, Buyer and Seller each indemnify and agree to defend and hold the other party harmless from any loss, attorney's fees, and court and other costs arising out of a claim by any person or entity claiming by, through, or under the indemnitor for a broker's or finder's fee or commission because of this transaction or this contract, whether the claimant is disclosed to the indemnitee or not. At closing, each party will provide the other party with a release of broker's or appraiser's liens from all brokers or appraisers for which each party was responsible.

3. Issuance of Title Policy. Seller will cause Title Company to issue the Title Policy to Buyer as soon as practicable after closing.

L. Default and Remedies

1. Seller's Default. If Seller fails to perform any of its obligations under this contract or if any of Seller's representations are not true and correct as of the Effective Date or on the Closing Date ("Seller's Default"), Buyer may as its sole and exclusive remedy terminate this contract by giving notice to Seller on or before the Closing Date and Closing Time and have the Earnest Money, less \$100.00 as independent consideration for the right granted by Seller to Buyer to terminate this contract returned to Buyer.

2. 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 as liquidated damages.

b. *Specific Performance.* Seller may enforce 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.

3. *Liquidated Damages.* The parties agree that just compensation for the harm that would be caused by a default by either party cannot be accurately estimated or would be very difficult to accurately estimate and that the Earnest Money is a reasonable forecast of just compensation to the non-defaulting party for the harm that would be caused by a default.

M. Miscellaneous Provisions

1. *Notices.* Any notice required by or permitted under this contract must be in writing. Any notice required by this contract will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this contract. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, or other commercially reasonable means and will be effective when actually received. Any address for notice may be changed by written notice delivered as provided herein. Copies of each notice must be given by one of these methods to the attorney of the party to whom notice is given, if the attorneys have been identified by the parties.

2. *Entire Contract.* This contract, together with its exhibits, and any Closing Documents delivered at closing constitute the entire agreement of the parties concerning the sale of the Property by Seller to Buyer. There are no oral representations, warranties, agreements, or promises pertaining to the sale of the Property by Seller to Buyer not incorporated in writing in this contract.

3. *Amendment.* This contract may be amended only by an instrument in writing signed by the parties.

4. *Prohibition of Assignment.* Buyer may not assign this contract or any of Buyer's rights under it without Seller's prior written consent, and any attempted assignment is void. This contract binds, benefits, and may be enforced by the parties and their respective heirs, successors, and permitted assigns.

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

6. ***Choice of Law; Venue.*** This contract will be construed under the laws of the State of Texas, without regard to choice-of-law rules of any jurisdiction. Venue is in Collin County, Texas.

7. ***Waiver of Default.*** It is not a waiver of default if the non-defaulting party fails to declare immediately a default or delays taking any action with respect to the default.

8. ***No Third-Party Beneficiaries.*** There are no third-party beneficiaries of this contract.

9. ***Severability.*** The provisions of this contract are severable. If a court of competent jurisdiction finds that any provision of this contract is unenforceable, the remaining provisions will remain in effect without the unenforceable parts.

10. ***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.

11. ***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.

12. ***Counterparts.*** If this contract is executed in multiple counterparts, all counterparts taken together will constitute this contract.

13. ***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.**

14. ***Deed Restriction.*** The Property shall not be used as part of or in support of any entity offering pre-kindergarten through high school education.

N. Execution

This Agreement is entered into by and between the undersigned parties, and shall be effective on the date of the last of the signatures by Seller and Buyer. ("Effective Date")

SELLER:

BOARD OF TRUSTEES OF THE MESQUITE INDEPENDENT SCHOOL DISTRICT, a political subdivision of the State of Texas

By: EXHIBIT ONLY - NOT FOR SIGNATURE
Superintendent of Schools

Date: _____

BUYER:

By: EXHIBIT ONLY - NOT FOR SIGNATURE

Date: _____

Title Company acknowledges receipt of Earnest Money in the amount of ONE THOUSAND AND NO/100 DOLLARS (\$1,000.00) and a copy of this contract executed by both Buyer and Seller.

TITLE COMPANY - TO BE DETERMINED

By: EXHIBIT ONLY - NOT FOR SIGNATURE

Name: _____

Title: _____

Date: _____

**Exhibit A to Real Estate Sales Contract
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 an independent school district 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 an authorized representative of 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. Provided, however, that Seller's governmental exemption for *ad valorem* taxes is not transferable to Buyer, and Buyer will be responsible for all taxes and related charges arising from its purchase of the Property.

5. **Condemnation; Zoning; Land Use.** Seller has not received notice of any condemnation, zoning, or land-use proceedings affecting 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 any valid mechanic's and material man's liens and other liens and encumbrances of any nature except the Permitted Exceptions, and no work or materials will have been furnished to the Property that might give rise to mechanic's, material man'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 in this Exhibit A, Seller makes no representation with respect to the Property.

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

B. 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. **Receipt of Bid Package.** Buyer represents to Seller that Buyer has received and reviewed the Bid Package for the property, consisting of the following items:

- a. Invitation for Bid
- b. Instructions to Bidders
- c. Bid Form
- d. Special Warranty Deed
- e. This Contract

2. **Consultation with Attorney.** BUYER REPRESENTS TO SELLER THAT BUYER IS AWARE THAT THIS CONTRACT HAS IMPORTANT LEGAL CONSEQUENCES, AND THAT BUYER IS ENTITLED TO CONSULT AN ATTORNEY OF ITS CHOOSING PRIOR TO EXECUTING THIS CONTRACT. BUYER FURTHER REPRESENTS THAT TO THE EXTENT IT HAS ELECTED NOT TO CONSULT AN ATTORNEY, BUYER HAS DONE SO OF ITS OWN FREE WILL AND ACT.

C. PROPERTY SOLD "AS IS, WHERE IS;" NO WARRANTIES

NOTICE: THE PROPERTY WILL BE CONVEYED TO BUYER IN AN "AS IS, WHERE IS" CONDITION, WITH ALL FAULTS. ALL WARRANTIES ARE EXPRESSLY DISCLAIMED.

Buyer represents and agrees that Seller has not made, does not make and specifically negates and disclaims any representations, warranties, promises, covenants, agreements or guarantees of any kind or character whatsoever, whether expressed or implied, or written, past, present or future, of, as to, concerning or with respect to (A) the value, nature, quality or condition of the property, including without limitation, the water, soil and geology, (B) the income to be derived from the property, (C) the suitability of the property for any and all activities and uses which Buyer may conduct thereon, (D) the compliance with ordinances or regulations of any applicable governmental authority or body, (E) the habitability, merchantability, marketability, profitability or fitness for a particular purpose of the property, (F) the manner or quality of the construction or materials, if any, incorporated into the property, (G) the manner, quality, state of repair or lack of repair of the property, or (H) any other matter with respect to the property, and specifically, that Seller has not made, does not make and specifically disclaims any representations regarding compliance with any environmental protection, pollution or land use laws, rules, regulations, orders or requirements, including solid waste, as defined by the U.S. Environmental Protection Agency Regulations at 40 C.F.R., Part 261, or the disposal or existence, in or on the property of any hazardous substance, as defined by the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended, and regulations promulgated thereunder.

Buyer further represents and agrees that, having been given the opportunity to inspect the property, Buyer is relying solely on its own investigation of the property and not on any information provided by Seller. Buyer further acknowledges and agrees that any information provided or to be provided with respect to the property was obtained from a variety of sources and that Seller has not made any independent investigation or verification of such information and makes no representations as to the accuracy or completeness of such information. Seller will not be liable or bound in any manner by any verbal or written statements, representations or information pertaining to the property, or the operation thereof, furnished by any real estate broker, agent, employee, servant or other person. Buyer further represents and agrees that to the maximum extent permitted by law, the sale of the property as provided for herein is made on an "as is" condition and basis with all faults. It is understood and agreed that the Consideration has been adjusted by prior negotiation to reflect that all of the property is sold by Seller and purchased by Buyer subject to the foregoing.

The provisions of this section C regarding the Property will be included in the deed with appropriate modification of terms as the context requires.

D. ENVIRONMENTAL MATTERS

ASBESTOS AND/OR ASBESTOS-CONTAINING MATERIALS AND OTHER HAZARDOUS MATERIALS MAY BE PRESENT ON THE PROPERTY, AND BUYER ACKNOWLEDGES THAT IT MAY PERFORM AN ENVIRONMENTAL SURVEY OF THE PROPERTY PRIOR TO BIDDING.

AFTER CLOSING, AS BETWEEN BUYER AND SELLER, THE RISK OF LIABILITY OR EXPENSE FOR ENVIRONMENTAL PROBLEMS, EVEN IF ARISING

FROM EVENTS OCCURRING BEFORE CLOSING, WILL BE THE SOLE RESPONSIBILITY OF BUYER, REGARDLESS OF WHETHER THE ENVIRONMENTAL PROBLEMS WERE KNOWN OR UNKNOWN AT CLOSING. ONCE CLOSING HAS OCCURRED, BUYER INDEMNIFIES, HOLDS HARMLESS, AND RELEASES SELLER FROM LIABILITY FOR ANY LATENT DEFECTS AND FROM ANY LIABILITY FOR ENVIRONMENTAL PROBLEMS AFFECTING THE PROPERTY, INCLUDING LIABILITY UNDER THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA), THE RESOURCE CONSERVATION AND RECOVERY ACT (RCRA), THE TEXAS SOLID WASTE DISPOSAL ACT, OR THE TEXAS WATER CODE. BUYER INDEMNIFIES, HOLDS HARMLESS, AND RELEASES SELLER FROM ANY LIABILITY FOR ENVIRONMENTAL PROBLEMS AFFECTING THE PROPERTY ARISING AS THE RESULT OF SELLER'S OWN NEGLIGENCE OR THE NEGLIGENCE OF SELLER'S REPRESENTATIVES. BUYER INDEMNIFIES, HOLDS HARMLESS, AND RELEASES SELLER FROM ANY LIABILITY FOR ENVIRONMENTAL PROBLEMS AFFECTING THE PROPERTY ARISING AS THE RESULT OF THEORIES OF PRODUCTS LIABILITY AND STRICT LIABILITY, OR UNDER NEW LAWS OR CHANGES TO EXISTING LAWS ENACTED AFTER THE EFFECTIVE DATE THAT WOULD OTHERWISE IMPOSE ON SELLERS IN THIS TYPE OF TRANSACTION NEW LIABILITIES FOR ENVIRONMENTAL PROBLEMS AFFECTING THE PROPERTY, INCLUDING BUT NOT LIMITED TO CLAIMS ALLEGED TO HAVE ARISEN AS A RESULT OF SELLER'S OWN NEGLIGENCE. BUYER FURTHER AGREES TO DEFEND, AT ITS OWN EXPENSE, AND ON BEHALF OF SELLER AND IN THE NAME OF SELLER, ANY CLAIM OR LITIGATION BROUGHT IN CONNECTION WITH ANY SUCH ENVIRONMENTAL PROBLEMS AFFECTING THE PROPERTY.

The provisions of this section D regarding the Property will be included in the deed with appropriate modification of terms as the context requires.

Exhibit B to Real Estate Sales Contract

Seller's Records

To the extent that Seller has possession of the following items pertaining to the Property, Seller will deliver or make the items or copies of them available to Buyer by the deadline stated in section A.7.:

Land

soil reports

environmental reports

engineering reports

prior surveys

site plans

deed and easement (also attached as Exhibit B-1 to the Real Estate Sales Contract)



Exhibit C to Real Estate Sales Contract

Buyer's Bid

**Exhibit D to Real Estate Sales Contract
SPECIAL WARRANTY DEED**

[See Bid Package Exhibit A]