

RESOLUTION NO. 2025-____-(R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE (1) A PURCHASE AND SALE AGREEMENT AND (2) AN INTERLOCAL AGREEMENT WITH THE MCKINNEY INDEPENDENT SCHOOL DISTRICT FOR THE ACQUISITION OF LAND DESCRIBED AS APPROXIMATELY 110.42 ACRES OUT OF THE CUNIS TARLTON SURVEY, ABSTRACT A0211, TRACTS 10 AND 22, LOCATED IN THE CITY OF MCKINNEY, COLLIN COUNTY, TEXAS FOR CURRENT AND FUTURE PUBLIC USES; AND PROVIDING FOR AN EFFECTIVE DATE HEREOF.

WHEREAS, the City of McKinney (“City”) and McKinney Independent School District (“MISD”) agree to the purchase and sale of land described as approximately 110.42 acres out of the Cunis Tarlton Survey, Abstract A0211, Tracts 10 and 22, (the “Property”) whereby the City will 1) pay \$7,500,000 in cash and 2) provide in-kind consideration to MISD for the non-exclusive rights to use the multi-generational facility; and

WHEREAS, pursuant to Chapter 791 of the Texas Government Code, City and MISD desire to enter into an Interlocal Agreement providing governmental functions and providing services for the construction of a multi- generational recreational center to serve the needs of MISD students and citizens in McKinney, Texas; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS THAT:

- Section 1. The City Council finds that the recitals made in the preamble of this Resolution are true and correct and incorporates such recitals into the body of this Resolution as if copied in their entirety.

- Section 2. The City Council hereby authorizes the City Manager or designee to execute the Purchase and Sale Agreement with McKinney Independent School District, a copy of said agreement being attached hereto as Exhibit A.

- Section 3. The City Council hereby authorizes the City Manager or designee to execute the Interlocal Agreement with McKinney Independent School District pursuant to Section 791 of the Texas Government Code, a copy of said agreement being attached hereto as Exhibit B.

- Section 4. City Manager, or designee, is hereby authorized and directed to consummate and accept the purchase, grant, and conveyance to City of the Property.

- Section 5. The City Manager is hereby authorized to execute all documents necessary appropriate and convenient to consummating this transaction for the sale and conveyance of the Property.

- Section 6. This Resolution shall be effective immediately upon its passage.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS ON THE 20th DAY OF JANUARY 2026.

[Signatures to appear on the following page.]

CITY OF McKINNEY, TEXAS

Bill Cox, Mayor

ATTEST:

EMPRESS DRANE, City Secretary
TENITRUS BETHEL, Deputy City Secretary

DATE: _____

APPROVED AS TO FORM:

MARK S. HOUSER, City Attorney

EXHIBIT A
(Purchase and Sale Agreement)

PURCHASE AND SALE AGREEMENT

THIS **PURCHASE AND SALE AGREEMENT** (“*Agreement*”) is made and entered into as of this _____ day of _____ 2026, by and between the **MCKINNEY INDEPENDENT SCHOOL DISTRICT**, a Texas independent school district (the “*Seller*”); and the **CITY OF MCKINNEY**, a Texas home rule municipal corporation of the State of Texas (the “*Buyer*”).

RECITALS

WHEREAS, Seller owns land described as approximately 110.42 acres out of the Cunis Tarlton Survey, Abstract A0211, Tracts 10 and 22, City of McKinney, Collin County, Texas (the “*Land*”); and

WHEREAS, Seller desires to sell to Buyer, and Buyer desires to buy from Seller, the Land, together with any and all rights or interests of Seller in and to adjacent streets, alleys, and rights of way and together with all and singular the improvements and fixtures thereon and all other rights and appurtenances to the Land (collectively, the “*Property*”).

ARTICLE I.

PURCHASE PRICE, EARNEST MONEY, AND EFFECTIVE DATE

1.1 Agreement to Sell and Purchase. In accordance with and subject to the terms and conditions of this Agreement, on the date of Closing (as hereinafter defined), Seller agrees to sell to Buyer, and Buyer agrees to purchase from Seller all of that certain real estate and improvements, being approximately *110.42 acres, more or less, located in Collin County, Texas*, which property is more particularly described in Exhibit “A” and shown on the attached ALTA/NSPS Land Title Survey (the “*Survey*”) performed by _____, Registered Professional Land Surveyor on _____, 2026, and incorporated herein by this reference, together with all and singular, the rights, benefits, privileges, easements, tenements, hereditaments, appurtenances and interests thereon or in anywise appertaining thereto with all improvements located thereon (the “*Property*”).

1.2 Purchase Price. The purchase price (the “*Purchase Price*”) to be paid by Buyer to Seller for the Property is the amount of *Nineteen Million and No/100 Dollars* (\$19,000,000.00), to be paid partially in cash in the amount of *Seven Million, Five Hundred Thousand and No/100 Dollars* (\$7,500,000.00) and the balance paid with In-Kind Consideration as described in Section 1.4 below. The cash portion of the Purchase Price shall be paid by Buyer at Closing, subject to all the terms and conditions set forth herein and any adjustments or prorations at Closing, as follows:

(a) Buyer shall deliver to Seller \$7,500,000 in cash.

1.3 Earnest Money. Buyer shall deposit the sum of One Thousand and No/100 Dollars (\$1,000.00), as Earnest Money (herein so called) with Reunion Title located at 1700 Redbud Blvd., Suite 300, McKinney, Texas 75069; Attn: Kathy Ruiz (“*Title Company*”), as escrow agent, within three (3) calendar days after the Effective Date hereof. All interest earned thereon shall become part of the Earnest Money and shall be applied or disposed of in the same manner as the original Earnest Money deposit, as provided in this Agreement. If the purchase contemplated hereunder is consummated in accordance with the terms and the provisions hereof, the Earnest Money, together with all interest earned thereon, shall be applied to the Purchase Price at Closing. In all other events, the Earnest Money, and the interest accrued thereon, shall be refunded to the Buyer by the Title Company as provided in this Agreement.

1.4 In-Kind Consideration. As non-cash consideration, Buyer and Seller agree to execute an Interlocal Agreement, as referenced in Article II, 2.6(b)(ii) below, memorializing the terms and conditions for the Buyer to:

- (a) Construct, develop, staff and operate a multi-generational recreation facility (the “Facility”), inclusive of a heated competition swimming pool, (the “Pool”) on the Property. The Pool will include ten (10) or more 25-yard competition swim lanes with 2.5 meters of width per lane, and with a 2-meter minimum depth and a 3.5 meter minimum pool base. In addition to the foregoing, the Facility shall also include certain agreed competition equipment. At the request of Purchaser, Seller has agreed to design and construct the Facility and the Pool to be larger than was originally contemplated by Seller. Seller and Purchaser agree that the additional scope and upsizing of the Facility and the Pool is valued at \$3,300,000.00
- (b) Grant Seller a non-exclusive right to occupy, program, and utilize up to ten (10) swimming pool lanes and related areas within the Facility for ten (10) hours per week over a period of 50 years. (Agreed value: \$4,700,000.00)
- (c) Grant Seller a non-exclusive right to occupy, program, and utilize up to seven (7) swimming pool lanes and related areas within the existing Apex Centre Pool for ten (10) hours per week for a term of 52 years commencing on the Closing Date. (Agreed value: \$3,500,000.00)

1.5 Purchase Price and Consideration. The Purchase Price and In-Kind Consideration shall be considered and represents the fair market value of the Property.

1.6. Effective Date. The effective date of this Agreement shall be the date this Agreement is delivered to the Title Company after the same has been executed by the Seller and the Buyer.

ARTICLE II. ADJUSTMENTS

2.1 Adjustments. The following items shall be credited, debited, and otherwise adjusted, and the resulting calculation shall be an adjustment to the Purchase Price payable at Closing pursuant to this Agreement hereof (where appropriate, such adjustments shall be made on the basis of a year of 12 months, 30 days to the month, Seller to have the last day, unless otherwise provided):

- (a) The Buyer being a tax exempt entity, general property taxes (state, county, municipal, school, and fire district) for the then current tax year based upon the latest available tax bills or assessment information (applying all agricultural and open space exemptions), whether for that tax year or the preceding tax year, shall be collected and paid at Closing through the date of Closing pursuant to Section 26.11 of the Texas Property Tax Code (“Tax Code”). The parties anticipate that no property taxes will be due and owing for the Property based on the Seller’s tax-exempt status.

(b) If there are any unpaid rollback taxes for the Property for any period of time prior to closing, the Seller shall be responsible for those taxes. If there is any liability for rollback taxes for the Property arising due to a change of use after closing and assessed against the then Owner/Buyer, the Buyer shall be responsible for those taxes. Notwithstanding the foregoing, Buyer does not waive any exemption or other exception it, or the Property, may have from rollback taxes pursuant to Section 23.55(f) of the Tax Code or other applicable law.

(c) Any other special taxes or assessments, if any, upon the Property assessed or becoming a lien prior to the date hereof (but only a pro rata share of the then current installment of such special taxes or assessment, if any, shall be charged as a credit against the Purchase Price, Seller agreeing to assume all liability, if any, for future installments and deferred payments).

(d) Seller shall be responsible for all electricity, water, sewer, gas, and other utility charges accruing on or before the date of Closing, and Buyer shall be responsible for all liability for such utility charges accruing after the date of Closing. Seller's utility company deposits, if any, shall not be assigned, and Buyer shall post its own deposits with such utility companies, if required to do so by such companies. Buyer shall bear sole responsibility for opening its own accounts with utilities as of the date of Closing.

(e) Seller shall be solely responsible for the cost of the survey at Closing.

2.3 In the event, on the date of Closing, the precise figures necessary for any of the foregoing adjustments are not capable of determination, the adjustments shall be made on the basis of the good faith estimates of Buyer and Seller (using the most recent available information) and final adjustments shall be made promptly after precise figures are determined or available. **In addition, certain costs incidental hereto and to the transactions contemplated hereby shall be borne such that at (or prior to) the date of Closing, Seller shall pay the cost of the survey described herein and the base title insurance premium (Buyer shall pay all title insurance premiums for additional coverages and endorsements), all mortgage taxes or intangible taxes, and all transfer taxes or revenue stamps incidental to the recordation of the deed, any mortgage, or otherwise, and all recording fees and costs. Seller and Buyer shall share equally the escrow fees, if any, charged by the Title Company.**

Except as expressly provided in this Section or as expressly provided elsewhere in this Agreement, Buyer and Seller shall pay their own respective costs and expenses, including attorneys' fees, incidental to this Agreement and the transactions contemplated hereby.

2.4 Possession. Seller shall transfer possession of the Property to Buyer on the date of Closing, subject to the Permitted Exceptions (as hereinafter defined).

2.5 Closing. The consummation of the transactions contemplated by this Agreement (the "**Closing**") shall be 30 days after the Due Diligence Date, between the hours of 9 a.m. and 4 p.m. (Central Standard Time) on said date. The Closing shall take place through escrow at the Title Company.

2.6 Documents at Closing.

(a) On the date of Closing, Seller shall execute and deliver or cause to be delivered to Buyer, the following documents:

(i) A special warranty deed, transferring and conveying to Buyer title to the Property (Seller's record title to govern for purposes of the legal description, but Seller shall provide an executed special warranty deed with respect to Seller's surveyed legal

description), subject to the lien of general real estate taxes for the then current tax fiscal year, and those easements, restrictions, conditions, and other exceptions described on Schedule B of the Title Commitment hereto and incorporated herein by reference (“*Permitted Exceptions*”), which special warranty deed shall be in the form attached hereto as **Exhibit “B”**.

(ii) A standard form affidavit from Seller, against mechanic’s liens and against parties in possession, and such other documents, if any, as may be required by the Title Company, on forms customarily used by the Title Company and reasonably satisfactory to Seller, in order to issue an owner’s policy of title insurance.

(iii) An affidavit from Seller, in a form reasonably satisfactory to Buyer, affirming that Seller is not a foreign person under the Foreign Investment in Real Property Tax Act of 1980, as amended, and that no taxes or withholding shall be assessed or applied to Buyer in connection with the Closing and the transactions contemplated hereby.

(iv) Other items reasonably requested by the Title Company as administrative requirements for consummating the Closing.

(b) On the date of Closing, Buyer shall execute and deliver or cause to be delivered to Seller, the following documents:

- (i) The cash portion of the Purchase Price (adjusted as set forth herein above); and
- (ii) The Interlocal Agreement referenced in Article I, 1.4(a); and
- (iii) Evidence of Buyer’s authority and capacity to close this transaction; and
- (iv) All other documents required by the Title Company from Buyer to close.

ARTICLE III

REPRESENTATIONS, DISCLAIMERS, AGREEMENTS AND WARRANTIES OF SELLER

3.1 Seller’s Representations and Disclaimers. Seller represents to Buyer the following are true as of the Effective Date and shall be true and correct on the Closing Date, unless Seller has given Buyer notice of any changes prior to the Closing Date that such circumstances have changed due to causes not within Seller’s control:

(a) To Seller’s current actual knowledge, there are no defaults under any existing mortgages secured by the subject tract and no default shall be created because of this sale; and

(b) Seller has received an initial offer letter from North Texas Municipal Water District (“NTMWD”) regarding an easement that NTMWD has asked Seller to grant, a copy of such initial offer letter to be provided to Buyer as part of the Seller’s Disclosures as described in Section 6.1(e) of this Contract. Except as described in the preceding sentence, to Seller’s current actual knowledge, there are no claims, actions, suits nor pending or threatened condemnation or similar proceeding or assessment affecting the Property or any part of the Property, nor to Seller’s current actual knowledge is any such proceeding or assessment contemplated by any government authority; and

(c) The Property has full and free access to and from public highways, streets, or roads, and to Seller's current actual knowledge there is no pending or threatened governmental proceeding which would impair or result in the termination of such access; and

(d) No work has been performed or is in progress by Seller at and no materials have been furnished to the land or improvements or any portion of them which might give rise to mechanic's, materialmen's, or other liens against the land or improvements or any portion of them.

(e) If prior to the Closing Date Seller discovers one or more of such representations to be untrue or inaccurate, Seller shall inform Buyer in writing of the discovery. Seller's representations shall not survive the Closing except to the extent that Seller has actual knowledge of an untruth or inaccuracy and fails to reveal that knowledge to Buyer prior to the Closing. Notwithstanding the immediately preceding sentence, if within 10 days from the date this Agreement is fully executed Seller gives written notice that any representation is incorrect, Seller shall not be bound by that representation; however, within 10 days after Seller's delivery of notice to Buyer, Buyer may terminate this Agreement and all earnest monies previously deposited with the Title Company shall be immediately returned to Buyer.

(f) Seller does not have current actual knowledge of any current violations of any applicable federal, state, and local laws, ordinances, codes, regulations, rulings, orders, case law, and other legal requirements affecting the Property, except as previously disclosed by Seller to Buyer in writing or disclosed in the Environmental Reports (as hereinafter defined).

(g) Seller has not granted any options or rights of first refusal to purchase with respect to the Property.

(h) There are no service, supply, maintenance, parking, leasing, or management agreements affecting the Property or the operation of any part thereof which shall be binding upon the Property after Closing. Seller shall provide copies of current agreements to Buyer in its possession governing the Property.

(i) Except as previously disclosed to Buyer or as disclosed in the environmental reports to be provided to Buyer in accordance with this Agreement, if any, (collectively, the "***Environmental Reports***"), to Seller's current actual knowledge without duty of inquiry or investigation, the Property has been and is in compliance in all material respects with all applicable environmental laws, and there has been no release of hazardous materials on the Property.

(j) Except as otherwise provided herein, all representations, warranties, covenants, and agreements of Seller and Buyer contained in this Agreement shall survive the Closing for a period of one (1) year, and shall not, in any circumstance, be merged with the Special Warranty Deed, as described in Article II, Section 2.6(a)(i).

(k). .

3.2 Authority. Seller represents and warrants as to that Seller that:

(a) Seller has all necessary power and authority to own, use, and transfer its properties (including the Property) and to transact the business in which it is engaged, and has full power and authority to enter into this Agreement, to execute and deliver the documents required of Seller herein, and to perform its obligations hereunder.

(b) Seller is duly authorized to execute, deliver, and perform this Agreement and all documents and instruments and transactions contemplated hereby or incidental hereto.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF BUYER

4.1 Buyer makes the following representations and warranties, which representations and warranties are true and correct on the date hereof and shall be true and correct on the date of Closing, and which representations and warranties shall survive the Closing for a period of one year from the date of Closing.

(a) Authority. Buyer represents and warrants that:

(i) Buyer is a municipal corporation organized and operating under the laws of the State of Texas.

(ii) Buyer has all the necessary power and authority to enter into this Agreement, to execute and deliver the documents and instruments required of Buyer herein, and to perform its obligations hereunder.

(iii) Buyer is duly authorized to execute and deliver this Agreement and all documents and instruments and transactions contemplated hereby or incidental hereto, and upon executing this Agreement, this Agreement shall be binding and enforceable against Buyer in accordance with its terms.

(b) Commissions. Buyer represents that it is not represented by a Broker.

ARTICLE V

CONDITIONS TO OBLIGATIONS

5.1 Conditions to Buyer's Obligations. The obligations of Buyer to consummate the transactions provided for in this Agreement shall be subject to the satisfaction of each of the following conditions on or before the dates specified, subject to the right of Buyer to expressly waive in writing any one or more of such conditions:

(a) Seller shall have obtained a commitment (the "***Title Commitment***") in favor of Buyer for a current TLTA owner's policy of title insurance from the Title Company with respect to the Property, which Title Commitment shall be in the amount of the Purchase Price, shall show Seller as the owner of the Property and name Buyer as the insured, and shall include copies of all documents supporting exceptions ("***Exceptions***") set forth in the Title Commitment and copies of all documents from which any requirements set forth in the Title Commitment arise. Within twenty (20) days after the Effective Date, Seller agrees to cause the Title Company to prepare the Title Commitment, together with copies of all exceptions referred to thereon (and Seller agrees to cause the Title Company to furnish Buyer with copies thereof promptly upon receipt). Buyer agrees to review and approve the Title Commitment and the Exceptions shown thereon, the updated Survey (referenced in 5.1(b) below) and the Phase I Environmental Report (referenced in 5.1 (d) below) (or disapprove the same and thereby terminate this Agreement) on or before sixty (60) days from

receipt of the Title Commitment and Exceptions and the Survey (the “***Due Diligence Date***”) (Buyer hereby agreeing that it shall not disapprove the lien of general real estate taxes for the current tax year); provided, however, that in the event Buyer disapproves the status of title as shown on the Title Commitment or any Exceptions referred to in the Title Commitment and does not terminate this Agreement under 5.3(a) below, Seller may, without being required to do so, on or before the date of Closing, at its own expense and effort, cure such status of title, to Buyer’s satisfaction, or cause to be released of record or removed (by endorsement) from the Title Commitment such disapproved Exceptions, whereupon this condition shall not be deemed unsatisfied by reason of Buyer’s disapproval of such status of title or such Exceptions. Buyer shall be deemed to have approved the Title Commitment and all Exceptions listed in the Title Commitment, other than any Exceptions that Buyer expressly objects to in writing on or before the Due Diligence Date.

(b) Survey. At Seller’s cost, Seller shall provide an updated ***Survey*** of the Property bearing a then current certification date, which survey shall verify the location of the Property and shall show the location of all improvements and easements. Seller shall provide Survey to Buyer within 30 days of the effective date of this Agreement. Buyer agrees to review and approve such survey (or disapprove the same and thereby terminate this Agreement) on or before the Due Diligence Date.

(c) Title Insurance. The Title Company shall be unconditionally committed to issuing at Closing an Owner’s title policy in the amount of the Purchase Price, subject only to those Exceptions approved or deemed approved by Buyer as described in subsection 5.1(a) and Section 5.3.

(d) Phase I Environmental Report. At Buyer’s cost, Buyer may obtain a Phase I Environmental Report on the Property prior to the Due Diligence Date. Buyer shall provide a copy of said report to Seller. If obtained by Buyer, Buyer agrees to review such report (or disapprove the same, in its sole discretion, and thereby terminate this Agreement) on or before the Due Diligence Date.

(e) McKinney City Council Approval. The Buyer, through its City Manager, shall have received approval to close from the McKinney City Council in the open session of a called public meeting prior to the Closing Date.

5.2 Conditions to Seller’s Obligations. The obligations of Seller to consummate the transactions provided for in this Agreement shall be subject to the satisfaction of each of the following conditions on or before the dates specified, subject to the right of Seller to waive any one or more of these conditions:

(a) Buyer shall have, on or before the date of Closing, performed all of its covenants, obligations, and agreements under this Agreement in all material respects.

(b) Seller shall have, on or before the date of Closing, fulfilled all requirements applicable to the sale of real property in Texas, including, but not limited to, the termination of all leases on the Property.

(c) Seller, through its Superintendent and Board President, shall have received approval to close from the McKinney Independent School District Board of Trustees in the open

session of a called public meeting prior to the Closing Date.

5.3 Failure of Satisfaction of Conditions.

(a) In the event that any one or more of the matters referenced in each of the subsections of Section 5.1 (a)-(c) has not been timely provided by Seller to Buyer on or before the Due Diligence Date or Seller fails to timely cure those items to which Buyer has disapproved regarding the condition of title or survey, Seller shall be in Default and, Buyer may, at its option, i) elect to terminate this Agreement, and except as otherwise expressly provided in this Agreement, the parties shall have no further liability to one another under this Agreement OR, ii) in the alternative, Buyer may seek specific performance. In the event Buyer has disapproved the Phase I Environmental Report, Seller shall be in Default and, Buyer may, at its option, elect to terminate this Agreement, and except as otherwise expressly provided in this Agreement, the parties shall have no further liability to one another under this Agreement. If Buyer terminates under this paragraph, the Earnest Money shall be immediately returned to Buyer by Title Company. In the event that on or prior to the expiration of the Due Diligence Date any such condition precedent is not expressly designated as unsatisfied in writing by Buyer, then such condition precedent shall be conclusively deemed satisfied.

(b) In the event that any one or more of the matters referenced in each of the subsections of Section 5.2 has not been satisfied on or before the date of Closing (or if earlier, the date for satisfaction thereof) for any reason other than owing to a failure of performance by Seller, Seller may, at its option, elect to terminate this Agreement, and except as otherwise expressly provided in this Agreement, the parties shall have no further liability to one another under this Agreement.

ARTICLE VI
COVENANTS OF SELLER

6.1 Seller covenants and agrees that from and after the date of this Agreement and until the date of Closing:

(a) Operation of Property. Seller shall use reasonable efforts to maintain the Property in substantially the same condition and repair as of the date hereof, normal wear and tear and casualty and/or condemnation damage accepted, and with no substantial alterations.

(b) Insurance of Property. Seller shall cause the Property to be insured in accordance with its current insurance practice.

(c) No Liens or Encumbrances. Seller agrees that it shall not voluntarily encumber the Property with any liens or encumbrances against the Property arising subsequent to the date hereof that shall be binding upon the Property subsequent to Closing without the prior written approval of Buyer.

(d) No Leases or Contracts. Seller shall not: (i) enter into any lease affecting all or any portion of the Property; (ii) enter into any service, supply, parking or maintenance contracts pertaining to the operation of the Property that shall be binding upon Buyer subsequent to Closing; or (iii) construct or install or contract for the construction or installation of any improvements without, in each instance, obtaining the prior written consent of Buyer.

(e) Seller's Disclosures. Seller, within fifteen (15) business days after the date hereof, shall exercise reasonable efforts to deliver and/or otherwise make available to Buyer complete and legible copies of all surveys, investigative reports, title commitments, and architectural plans in Seller's possession which relate to the Property or to the condition, use, operation, occupancy, and/or enjoyment thereof. Seller, within fifteen (15) business days after the date hereof, shall provide Buyer with copies of all final Environmental Reports, studies, and investigations in Seller's possession or control relating to any release of hazardous materials or enforcement actions or remedial actions associated with the Property.

ARTICLE VII

COVENANTS OF BUYER

7.1 Post Termination Covenants. Buyer covenants and agrees that in the event Closing does not occur due to the failure of a condition precedent to Buyer's or Seller's obligations, then at the option and written request of Seller, Buyer shall transfer to Seller copies of all surveys, reports, and the like in the possession of Buyer and submitted to Buyer in the course of the inspections and evaluations of the Property, at Seller's cost of reproduction and delivery.

7.2 Restoration of Property. Buyer shall, in connection with its studies and investigations of the Property contemplated hereunder, promptly restore the Property to its condition existing immediately prior to such studies and investigations. Buyer or such person or entity actually doing any work contemplated hereunder shall secure and maintain, at Buyer's or such other person or entity's sole cost and expense, the following policies of insurance, each of which shall name Seller as an additional insured or loss payee as the case may be: (i) comprehensive public liability and property damage insurance, with limits of \$1,000,000 for bodily injury to, or death of, any one person, and \$2,000,000 for bodily injury to, or death of, more than one person on an occurrence basis, (ii) property damage insurance with limits of \$1,000,000 for each accident, and \$1,000,000 policy limit for aggregate operations on an occurrence basis, (iii) comprehensive automobile liability insurance with limits of \$1,000,000 for injury to, or death of, any one person, and \$2,000,000 for bodily injury to, or death of, more than one person, and (iv) workers' compensation and employer's liability insurance in accordance with the provisions of Texas law.

ARTICLE VIII

CASUALTY; CONDEMNATION

8.1 Casualty. Subject to Buyer's right to terminate under this Agreement, in the event of the damage or destruction of all or any part of the Property, Buyer shall have no right to terminate this Agreement on account thereof, and Seller shall assign to Buyer its interest in and to any insurance policies and proceeds thereof payable as a result of such damage or destruction less such portion thereof as shall first be reimbursed to Seller for the reasonable out-of-pocket costs of any restoration work incurred by Seller prior to Closing, and Buyer shall receive at Closing, as a credit against the Purchase Price, an amount equal to any uninsured loss, by reason of deductible or otherwise, relating to such damage or destruction. Seller shall not, in any event, be obligated to make any repair, replacement, or restoration, but may do so at its option.

8.2 Condemnation. Subject to Buyer's right to terminate under this Agreement, in the event of the taking of all or any part of the Property prior to Closing, by eminent domain or condemnation, Buyer shall have no right to terminate this Agreement on account thereof, and Seller shall assign to Buyer its interest in and to any award and proceeds thereof payable as a result of such taking.

ARTICLE IX

MISCELLANEOUS PROVISIONS

9.1 Binding Agreement. This Agreement shall be binding on and inure to the benefit of the parties named herein and to their respective heirs, administrators, executors, personal representatives, successors, and assigns.

9.2 Assignment. Neither Buyer nor Seller may assign its rights and interests hereunder without the prior written consent of the other party.

9.3 Notices. All notices, requests, demands, and other communications required hereunder shall be deemed to have been duly given if in writing and delivered personally (which shall include delivery by national overnight courier service) or sent by registered or certified mail, postage prepaid, and addressed as set forth below:

If to Seller: Shawn Pratt, Superintendent
McKinney Independent School District
One Duvall Street
McKinney, Texas 75069

With a copy to: Abernathy, Roeder, Boyd & Hullett, P.C.
1700 Redbud Blvd., Suite 300
McKinney, Texas 75069
Attn: Chris Zillmer

If to Buyer: City of McKinney, Texas
401 E Virginia
McKinney, Texas 75069
Attn: City Manager

With a copy to: Brown & Hofmeister, L.L.P.
740 E. Campbell, Suite 800
Richardson, Texas 75081
Attn: Mark S. Houser

Buyer and Seller may change the address to which notices are to be addressed by giving the other party notice in the manner herein set forth.

9.4 Environmental Review.

(a) At Buyer's sole cost and expense, Buyer may, on or before the Due Diligence Date, inspect and survey the Property and perform tests and analyses of any kind relating to the Property's physical quality or physical condition at a time mutually convenient to Seller and Buyer. At its option and at the same time, Seller may perform similar tests and analyses including, but not limited to, the taking of split samples with Buyer.

(b) Except as expressly provided in this Agreement, Seller expressly disclaims any warranties as to: (i) the presence or release of hazardous materials on, in, under, or adjacent to the Property, (ii) the Property's compliance with Environmental Laws, and (iii) any potential environmental liability associated with the Property or any activities conducted on the Property.

(c) The provisions of this Section 9.4 shall survive the termination of this Agreement for any reason and shall survive the Closing of the transactions contemplated herein.

9.5 Governing Law. This Agreement shall be construed and interpreted according to the laws of the State of Texas.

9.6 Time of the Essence. It is expressly agreed between Buyer and Seller that time is of the essence with respect to each and every provision of this Agreement.

9.7 Performance on Business Days. If any date for the occurrence of an event or act under this Agreement falls on a Saturday or Sunday or legal holiday in the State of Texas, then the time for the occurrence of such event or act shall be extended to the next succeeding business day.

9.8 Entire Agreement. This Agreement, together with all the Exhibits attached hereto and incorporated by reference herein, constitutes the entire undertaking between the parties hereto, and supersedes any and all prior agreements, arrangements, and understandings between the parties.

9.9 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall constitute an original.

9.10 Confidentiality. Subject to the provisions and exceptions of the Texas Public Information Act and the Texas Open Meetings Act, Buyer and Seller agree that all of the terms, conditions, and other provisions of this Agreement and all surveys, reports, and the like, including, without limitation, the Environmental Reports ("***Confidential Information***"), submitted to Buyer in the course of the inspections and evaluations of the Property shall be held in strict confidence and shall not be disclosed, except as required to by law, rule, regulation, court order, or any governmental, judicial, or regulatory process and except for disclosures to Buyer's agents, advisors, officers, employees, attorneys, and the like on a need-to-know basis, provided Buyer's agents, advisors, officers, employees, attorneys, and the like shall be advised of the confidential nature of the Confidential Information in accordance with this Agreement. This Section 9.11 shall survive the termination of this Agreement and shall survive the Closing of the transactions contemplated herein.

9.11 Severability. The provisions of this Agreement shall be deemed severable and the invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of the remaining provisions.

9.12 Future Sale to Third Party. If the Buyer elects to sell, in fee simple, any portion of the Property to a third party and the sale price exceeds Four Dollars (\$4.00) per square foot, then the Buyer shall pay to the Seller, at the closing of such sale, an amount equal to fifty percent (50%) of the portion of the sale proceeds that exceeds \$4.00 per square foot (each a "Delta Payment "). Notwithstanding the foregoing, at no point shall the Delta Payments collectively exceed Eight Million and NO/100 Dollars (\$8,000,000.00). Buyer's obligations under this Section 9.12 to make Delta Payments to Seller shall expire on the fifteenth (15th) anniversary of the Closing Date. After the fifteenth (15th) anniversary of the Closing Date, Seller shall have no further right or interest in, or claim to, any proceeds from any subsequent sale of the Property. The terms and obligations set forth in this Section 9.12 shall survive the Closing of the transactions contemplated herein.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

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

BUYER:

CITY OF MCKINNEY, TEXAS, a Texas municipal corporation

By: _____

Name: _____

Its: _____

SELLER:

MCKINNEY INDEPENDENT SCHOOL DISTRICT

By: _____

Shawn Pratt, Superintendent

McKinney Independent School District

TITLE COMPANY ACCEPTANCE

The Title Company acknowledges receipt of the executed Agreement and Earnest Money on _____, 2026 at _____ (a.m./p.m.) and has accepted the Escrow Deposit subject to the terms and conditions set forth in this Agreement.

TITLE COMPANY:

By: _____
_____, Escrow Officer

EXHIBIT "A"
LEGAL DESCRIPTION OF PROPERTY
(Exhibit to be attached)

EXHIBIT "B"
FORM OF SPECIAL WARRANTY DEED

AFTER RECORDING, RETURN TO:

"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

STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF COLLIN §

THAT _____ ("Grantor") for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) cash, and other good and valuable consideration paid to Grantor by _____, a _____ corporation, having an address of _____ ("Grantee"), the receipt and sufficiency of which are hereby acknowledged and confessed, has GRANTED, SOLD, and CONVEYED, and by these presents does hereby GRANT, SELL, and CONVEY, unto Grantee, certain real property in Collin County, Texas, being more particularly described in **Exhibit "A"** attached hereto and made a part hereof for all purposes, (the "Land"), together with any and all rights or interests of Grantor in and to adjacent streets, alleys, and rights of way and together with all and singular the improvements and fixtures thereon and all other rights and appurtenances thereto (collectively, the "Property").

This conveyance is made and accepted subject to the matters shown in **Exhibit "B"** attached hereto and made a part hereof for all purposes ("Permitted Exceptions").

GRANTOR IS NOT MAKING ANY WARRANTIES OR REPRESENTATIONS OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, WITH RESPECT TO THE PROPERTY, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OR REPRESENTATIONS AS TO MATTERS OF TITLE, ZONING, TAX CONSEQUENCES, PHYSICAL OR ENVIRONMENTAL CONDITION, ABSENCE OF LATENT DEFECTS, OPERATING HISTORY OR PROJECTIONS, VALUATION, GOVERNMENTAL APPROVALS, GOVERNMENTAL REGULATIONS OR ANY OTHER MATTER OR THING RELATING TO OR AFFECTING THE PROPERTY. THAT WITH GRANTEE HAS CONDUCTED SUCH INSPECTIONS AND INVESTIGATIONS OF THE PROPERTY, INCLUDING, BUT NOT LIMITED TO, THE PHYSICAL AND ENVIRONMENTAL CONDITIONS THEREOF, AND RELIES UPON SAME, AND SHALL ASSUME THE RISK THAT ADVERSE MATTERS REGARDING LATENT DEFECTS AND ADVERSE PHYSICAL AND ENVIRONMENTAL CONDITIONS, MAY NOT HAVE BEEN REVEALED BY GRANTEE'S INSPECTIONS AND INVESTIGATIONS. GRANTEE ACCEPTS THE PROPERTY "AS IS, WHERE IS", WITH ALL FAULTS AND THERE ARE NO ORAL OR WRITTEN AGREEMENTS, WARRANTIES OR REPRESENTATIONS, COLLATERAL TO OR AFFECTING THE PROPERTY BY GRANTOR OR ANY THIRD PARTY.

EXHIBIT B
(Interlocal Agreement)

INTERLOCAL AGREEMENT FOR THE DEVELOPMENT, CONSTRUCTION AND OPERATION OF A MULTI-GENERATIONAL RECREATIONAL CENTER

This Interlocal Agreement for the Purchase and Sale of property for the development, construction and operation of a multi-generational recreational center (the “Agreement”) is made by and between the City Of McKinney, Texas (the “City”), a Texas municipal corporation and the McKinney Independent School District (the “District”), a political subdivision of the State of Texas (each a “Party” and collectively the “Parties), acting by and through their duly authorized representatives.

RECITALS

WHEREAS, District owns land described as approximately 110.42 acres out of the Cunis Tarlton Survey, Abstract A0211, Tracts 10 and 22, Collin County Appraisal District’s Assessor Parcel Nos. 2680185 and 2567497, City of McKinney, Collin County, Texas (the “Property”), more particularly described in Exhibit A attached hereto and made a part hereof; and

WHEREAS, District desires to sell to the City the Property for the construction, development, staffing, and operating a multi-generational recreation facility on the Property which includes a heated, competition swimming pool (“Multi-Generational Recreation Center” or “MGC”); and

WHEREAS, the District and City recognize the need for the construction of a Multi-Generational Recreational Center to serve the needs of District students and citizens in McKinney, Texas; and

WHEREAS, City and District have executed a purchase and sale agreement for the Property whereby the City will 1) pay \$7,500,000 in cash and 2) provide in-kind consideration to District for the non-exclusive rights to use identified swimming pool lanes over a period of 52 years (“PSA”); and

WHEREAS, there is a valid governmental purpose served by the construction of an Multi-Generational Recreational Center for the parties, to provide athletic/recreational opportunities to the District’s students and for use by the citizens of the City; and

WHEREAS, the Interlocal Cooperation Act, Chapter 791.001 et seq., Texas Government Code, authorizes the City and the District to enter into this Agreement for purposes of providing governmental functions and providing the services represented by this undertaking;

NOW, THEREFORE, and in consideration of the mutual consideration, terms, and provisions contained herein, City and District hereby enter into this Agreement as follows:

Section One General Provisions

A. Legislative Findings. All of the findings stated above are hereby found to be true and correct and are fully incorporated into the body of this Agreement.

B. Effective Date. This Interlocal Agreement (together with any attached exhibits) is hereby made and entered into to be effective on the ____ day of ____, 2026, by and between the District and the City, both of which are political subdivisions of the State of Texas.

C. Purpose. To memorialize the in-kind consideration and terms by which the City will purchase and utilize approximately 110.42 acres of land for the construction, development, and operation of the Multi-Generational Facility on the Property to serve both the citizens and students in the City of McKinney, Texas.

D. Authority. The needs of the District and of the City for access to a Multi-Generational Recreation Center for use by the District's students and the City's citizens are consistent with the mutually beneficial governmental purposes and functions of both the District and the City.

E. Location. The Multi-Generational Recreational Center will be generally located at the east side of FM 1461 and north of Bloomdale Road, McKinney, Collin County, Texas.

F. Multi-Generational Recreational Center. The facility will provide world-class amenities, including an indoor heated competition swimming pool, indoor and outdoor leisure pool, play areas, party rooms, multi-floor fitness hub catering to all fitness levels, fitness and cardio studio rooms, personal training, fitness and youth programming, camps, a dry sauna, gymnasium, basketball courts, and an indoor track.

G. Term. The term of this Agreement shall commence on the Effective Date and terminate May 31, 2078, unless sooner terminated by the terms of this Agreement.

Section Two City Responsibilities

The City shall:

A. Have the authority to engage in all necessary activities and provide all services necessary to execute the terms of this Agreement, oversee and perform the design and construction of the Multi-Generational Recreational Center and contract with persons and other entities to carry out these responsibilities.

B. Design, construct, develop, staff and operate the MGC, inclusive of a University Interscholastic League ("UIL") compliant competition heated swimming pool, on the Property.

C. Provide final City-approved plans, specifications and project timelines for the MGC to District by August 31, 2027. Additionally, during the design phase, the City shall keep the District apprised of the preliminary plans for the MGC and seek the District's input regarding the design, while understanding that the City will have ultimate authority regarding the design, so long as the City constructs the MGC in compliance with the other terms of this Agreement.

D. MGC Completion Deadline; Delay Remedies

City shall complete construction of the MGC no later than August 1, 2030 (the “MGC Completion Deadline”). In the event construction of the MGC is not completed by the MGC Completion Deadline, City shall pay to the District the amount of Eight Million and NO/100 (\$8,000,000.00) which is equal to the amount of In-Kind Consideration described in Section 4(A)(1)(a)(i-ii) below (the “District Exclusive Remedy”).

The District acknowledges and agrees that the District Exclusive Remedy shall constitute its sole and exclusive remedy for any and all damages, losses, or claims arising from or related to City’s failure to complete the MGC by the MGC Completion Deadline, regardless of the cause.

Upon City’s payment in full of \$8,000,000 to the District, City’s obligations under this Agreement to design and construct the MGC shall automatically terminate and expire, and neither party shall have any further obligations hereunder related to the MGC. Such payment shall not in any way invalidate, diminish, or otherwise affect any terms, conditions, or obligations of either party related to the Apex Centre or the Apex Pool, including, but not limited to, Section 6 of this Agreement.

E. Provide District with a non-exclusive right to use certain swimming pool lanes and related areas within the MGC over a period of 50 years, as provided in Section 5 below.

F. Provide District with a non-exclusive right to use certain swimming pool lanes and related areas within the existing Apex Centre Pool for a term of 52 years as provided in Section 6 below.

**Section Three
District Responsibilities**

The District shall:

A. Convey the Property to the City as provided for in the purchase and sale agreement.

**Section Four
Sale Transaction**

A. District, as Seller, will sell, grant and convey to City, and City as Buyer, shall purchase, the Property in accordance with following:

1. Purchase Price/Consideration. The consideration for the sale and purchase of the Property shall be the sum of Nineteen Million and No/100 Dollars (\$19,000,000.00), to be paid partially in cash in the amount of Seven Million, Five Hundred Thousand and No/100 Dollars (\$7,500,000.00) and the balance paid with In-Kind Consideration as described below.

a. In-Kind Consideration. As non-cash consideration, City and District agree to execute this Interlocal Agreement memorializing the terms and conditions for the City to:

- i. Construct, develop, staff and operate a multi-generational recreation facility, inclusive of a competition swimming pool, (the “Facility”). The City will design and construct the Facility, and the competition swimming pool within, at a larger size than originally planned, and the. the Parties agree that this expanded scope is valued at \$3,300,000.00; and
- ii. Grant District a non-exclusive right to use certain swimming pool lanes and related areas within the Facility over a period of 50 years. (Agreed value: \$4,700,000.00)
- iii. Grant District a non-exclusive right to use certain swimming pool lanes and related areas within the existing Apex Centre Pool for a term of 52 years. (Agreed value: \$3,500,000.00)

2. Closing. The consummation of the purchase and sale of the Property in accordance with the PSA (“Closing”) shall take place at the offices of the title company on the date that is 30 days following the City’s completion of due diligence on the Property (the “Closing Date”).

3. District Deliverables. . On the Closing Date, District shall deliver or cause to be delivered to City or the title company each of the following items:

- a. A Special Warranty Deed approved as to form by the City Attorney (the “Deed”); and
- b. Such evidence or documents as may be reasonably required by the title company evidencing the status and capacity of District and the authority of the person or persons who are executing the various documents on behalf of the District in connection with the sale of the Property.

4. City Deliverables. . On the Closing Date, City shall deliver to District or the title company each of the following items:

- a. The Purchase Price;
- b. In-Kind Consideration; and
- c. Such evidence or documents as may reasonably be required by the title company evidencing the status and capacity of City and the authority of the person or persons who are executing the various documents on behalf of the City in connection with the acquisition of the Property.
- d. Future Sale to Third Party. If the City elects to sell, in fee simple, any portion of the

Property to a third party and the sale price exceeds Four Dollars (\$4.00) per square foot, then the City shall pay to District, at the closing of such sale, an amount equal to fifty percent (50%) of the portion of the sale proceeds that exceeds \$4.00 per square foot (each a "Delta Payment"). Notwithstanding the foregoing, at no point shall the Delta Payments collectively exceed Eight Million and NO/100 Dollars (\$8,000,000.00). The City's obligations under this Section 4(A)(4)(d) to make Delta Payments to the District shall expire on the fifteenth (15th) anniversary of the Closing Date. After the fifteen (15th) anniversary of the Closing Date, the District shall have no further right or interest in, or claim to, any proceeds from any subsequent sale of the Property.

Section Five

Pool Use Agreement For Multi-Generational Recreation Center ("MGC Pool Use")

In furtherance of the public purpose of promoting athletic and recreational opportunities for the general public and District students, the City and District wish to establish the terms and conditions under which the District may use the City's new Multi-Generational Recreational Center pool facilities ("MGC Pool"). In consideration of the mutual covenants and agreements, and subject to the terms and conditions set forth in Section 5 herein, the City and District agree as follows:

A. Premises. The Multi-Generational Recreational Center will be located generally at the east side of FM 1461 and north of Bloomdale Road, McKinney, Collin County, Texas.

B. Use of Premises. Subject to the terms, conditions and covenants set forth in Section 5 of this Agreement, the City agrees to provide the District and its Guests (as defined below in subsection E of this Section) access to the Premises for the use of up to ten (10) lanes of the MGC Pool for ten (10) hours per week, between August 1 and May 31 of each year. Along with use of lanes, the District shall also have the right to utilize any meeting or gathering space with the MGC before and after District use of lanes at the MGC Pool. Subject to Section C herein, the City retains the sole discretion over scheduling, lane allocation, hours, Guests, lockers and storage at the MGC Pool. Subject to Section H below and as part of the District's right to use the MGC Pool, the District will not be required to purchase memberships for its Guests annually during the Annual District MGC Pool Use Submission for use of the MGC Pool pursuant to this Agreement. The City shall be responsible, at the City's cost, for providing lifeguards to the MGC Pool at all times, including during the District's use of the MGC Pool.

C. Times and Scheduling. Not later than July 1 of each year, the District shall submit its schedule of days and times for the District's exclusive use of up to ten (10) lanes for up to ten (10) hours per week at the MGC Pool, along with an itemized list of Guests (provided, however, that the District may provide updated lists of Guests periodically throughout each MGC Pool Use Period based on changes to the rosters of the District's swim teams), dates and times for District Swim Meets as described in subsection H below, and an itemized list of District pool equipment requiring storage at MGC Pool Facilities ("Annual District MGC Pool Use Submission"). This submission shall cover the usage of the MGC Pool from August 1st through May 31st of each year during the term ("MGC Pool Use Period").

D. Term. The initial term for MGC Pool Use shall begin August 1 of the year that the MGC Pool is completed and has received of all necessary certificates of occupancy to allow the MGC Pool to be used by the District for the purposes described herein (the “MGC Completion Date”), provided, however, that if the MGC Completion Date is after August 1 of any year, then the initial term for MGC Pool Use shall begin August 1 of the following year. The initial term for MGC Pool Use will continue for fifty (50) years. The Parties shall conduct a comprehensive review of MGC Pool Use, including all terms, conditions, and operational standards at least once every ten (10) years from the Effective Date. The purpose of this review is to ensure the MGC Pool Use reflects current facility operations and usage remains relevant to both Parties needs, and addresses any performance or service concerns identified during the preceding decade.

E. Guests. The District, through its Athletic Director, may permit the District’s swim team students (the “Guests”) to access and use the Premises in accordance with this Agreement, subject to the following conditions:

1. The District’s Athletic Director, or a designated representative, must accompany all Guests upon entry to the Premises and remain on-site for the entire duration of their presence.

F. Locker Room. The District and its Guests will have access to a boys locker room and a girls locker room at the MGC during the first thirty (30) minutes and the last thirty (30) minutes of the District’s use of the MGC on each day of the District’s Use of the MGC as part of the District’s ten (10) hours per week of exclusive use of up to ten (10) lanes so that the District’s Guests will be able to change clothes, shower, etc.

G. Storage Area. Subject to City approval of the Annual District MGC Pool Use Submission, which approval shall not be unreasonably withheld, conditioned, or delayed, the District will have the right to store certain equipment, including, but not limited to, kickboards, at the MGC. The District would store such equipment within a storage cart or similar storage container to be provided by the District, which will be placed and kept at an area within the MGC that may be accessed by the District during the District’s MGC Pool Use.

H. District Swim Team Meets. The District shall have the right to host swim meets, including, but not limited to, tri-meets as part of the District’s MGC Pool Use. The District shall indicate on its Annual District MGC Pool Use Submission the dates and times that the District intends to host such swim meets. During such meets, members of the District’s swim teams, as well as other school districts’ swim teams, will be present at the MGC and swimming in the MGC Pool. Such meets shall be conducted during the District’s ten (10) hours per week of exclusive use of up to ten (10) lanes and will not entitle the District to any additional hours of exclusive use at the MGC Pool. During such meets, the District may request the use of meeting spaces and/or request the right to bring in temporary seating/bleachers for attendees of the meet to utilize. During such meets, additional people may be invited to attend who are not members of any participating swim teams, including, but not limited to, family members and friends of the swim team members and faculty members of the participating schools (collectively, the “Non-Participant Limited Access Guests”). These Non-Participant Limited Access Guests shall have the right to enter the MGC to observe the meet but will not be given access to swim or otherwise utilize the MGC Pool.

I. Additional Services. Upon reasonable request, the City may provide additional services to the District, at District's expense, in accordance with MGC Pool rules, guidelines, and applicable fees, as amended. Notwithstanding the foregoing, any requests not submitted under the Annual District MGC Pool Use Submission shall be deemed an Additional Service under this Section.

J. Non- Exclusive Use. District recognizes, understands, and acknowledges that except for the District's right to exclusively use of up to ten (10) lanes for up to ten (10) hours per week at the MGC Pool as described in this Agreement, which does not entitle the District to exclusively use the entire MGC Pool or the entire MGC facility, its use of the MGC Pool is non-exclusive and that the City maintains the Premises for public recreational purposes. The District further agrees and accepts that all rights, privileges, and permissions granted under this Agreement are, and shall remain at all times, expressly subject to the City's ownership, operation, management, and control of the Premises, including the City's right to regulate access, establish policies, and modify schedules or operations as necessary to serve the public interest, subject to the Annual District MGC Pool Use Submission and the other rights expressly granted to the District hereunder.

K. No Assignment. The rights granted herein for use of MGC Pool are not assignable.

L. Assumption of the Risk. **THE DISTRICT ACKNOWLEDGES AND UNDERSTANDS THAT SWIMMING INVOLVES INHERENT RISKS, INCLUDING BUT NOT LIMITED TO, THE RISK OF SERIOUS BODILY INJURY, DEATH OR PERMANENT DISABILITY ARISING FROM THE PARTICIPATION IN SWIMMING ACTIVITIES. SUCH RISKS MAY RESULT FROM ACCIDENTS, COLLISIONS, FALLS, DROWNING, OVEREXERTION, OR OTHER UNFORESEEN RISKS.**

M. **INDEMNITY. TO THE EXTENT PERMITTED BY LAW, THE DISTRICT AGREES TO RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS THE CITY, ITS OFFICERS, AGENTS, AND EMPLOYEES AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM FOR WHICH RECOVERY OF DAMAGES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY OR CAUSED IN CONNECTION WITH THE ACTS OR OMISSIONS OF THE DISTRICT OR THE DISTRICT'S EMPLOYEES, AGENTS, STUDENTS AND CONTRACTORS, OR BY ANY NEGLIGENT OR STRICTLY LIABLE ACT OR OMISSION OF DISTRICT IN CONNECTION WITH USE OF MGC POOL. THIS INDEMNIFICATION CLAUSE IS VALID ONLY TO THE EXTENT PERMITTED BY THE LAWS AND CONSTITUTION OF THE STATE OF TEXAS, AND WITH THE UNDERSTANDING THAT THE DISTRICT IS A POLITICAL SUBDIVISION OF THE STATE OF TEXAS AND THAT THIS EXECUTORY INDEMNITY OBLIGATION CANNOT BE PAID FROM CURRENT REVENUES AND THAT NO TAX NOR INTEREST AND SINKING FUND HAS BEEN SET, ADOPTED OR ESTABLISHED FOR THE PAYMENT OF THIS EXECUTORY INDEMNITY OBLIGATION.**

- N. **Termination Upon Payment.** In the event City is required to pay District a cumulative amount of Eight Million and NO/100 Dollars (\$8,000,000.00) pursuant to Section 2(D) of this Agreement during the term of this Agreement, all rights granted to District under this Section 5 shall automatically terminate, and thereafter neither party shall have any further rights, duties or obligations under this Section 5.

Section Six

Pool Use Agreement For The Apex Centre Pool- Gabe Nesbitt Community Park ("Apex Pool Use")

In furtherance of the public purpose of promoting athletic and recreational opportunities for the general public and District students, the City and District wish to establish the terms and conditions under which the District may use the City's existing Apex Centre pool facilities at Gabe Nesbitt Community Park ("Apex Pool"). In consideration of the mutual covenants and agreements, and subject to the terms and conditions set forth Section 6 herein, the City and District agree as follows:

A. Premises.

Apex Centre, Gabe Nesbitt Community Park
3003 Alma Road.
Mckinney, TX 75070

- B. Use of Premises. Subject to the terms, conditions and covenants set forth in Section 6 of this Agreement, the City agrees to provide the District and its Guests (as defined below in subsection E of this Section) access to the Premises for the use of up to seven (7) lanes of the Apex Pool for ten (10) hours per week, between August 1 and May 31 of each year. Along with use of lanes, the District shall also have the right to utilize any meeting or gathering space with the Apex Centre before and after District use of lanes at the Apex Pool. Subject to Section C herein, the City reserves the sole discretion over scheduling, lane allocation, hours, Guests, lockers and storage at the Apex Pool. Subject to Section H below and as part of the District's right to use the Apex Pool, the District will not be required to purchase memberships for its Guests annually during the Annual District Apex Pool Use Submission for use the Apex Pool pursuant to this Agreement. The City shall be responsible, at the City's cost, for providing lifeguards to the Apex Pool at all times, including during the District's use of the Apex Pool.
- C. Times and Scheduling. Not later than July 1 of each year, the District shall submit its schedule of days and times for the District's exclusive use of up to seven (7) lanes for up to ten (10) hours per week at the Apex Pool, along with an itemized list of Guests (provided, however, that the District may provide updated lists of Guests periodically throughout each Apex Pool Use Period based on changes to the rosters of the District's swim teams) and an itemized list of District pool equipment requiring storage at the Apex Pool ("Annual District Apex Pool Use Submission"). This submission shall cover the usage of the Apex Pool from August 1st through May 31st of each year during the term ("Apex Pool Use Period").
- D. Term. The initial term for Apex Pool Use shall begin August 1, 2026 and continue for fifty-two (52) years. The Parties shall conduct a comprehensive review of Apex Pool Use, including

all terms, conditions, and operational standards at least once every ten (10) years from the Effective Date. The purpose of this review is to ensure the Apex Pool Use reflects current facility operations and usage remains relevant to both Parties needs, and addresses any performance or service concerns identified during the preceding decade.

- E. Guests. The District, through its Athletic Director, may permit the District's swim team students (the "Guests") to access and use the Premises in accordance with this Agreement, subject to the following conditions:
 - 1. The District's Athletic Director, or a designated representative, must accompany all Guests upon entry to the Premises and remain on-site for the entire duration of their presence.
- F. Locker Room. The District and its Guests will have access to a boys locker room and a girls locker room at the Apex Centre during the first thirty (30) minutes and the last thirty (30) minutes of the District's use of the Apex Centre on each day of the District's Use of the Apex Centre as part of the District's ten (10) hours per week of exclusive use of up to seven (7) lanes so that the District's students and Guests will be able to change clothes, shower, etc.
- G. Storage Area. Subject to City approval of the Annual District Apex Pool Use Submission, which approval shall not be unreasonably withheld, conditioned, or delayed, the District will have the right to store certain equipment, including, but not limited to, kickboards, at the Apex Centre. The District would store such equipment within a storage cart or similar storage container to be provided by the District, which will be placed and kept at an area within the Apex Centre that may be accessed by the District during the District's Apex Pool Use.
- H. Additional Services. Upon reasonable request, the City may provide additional services to the District, at District's expense, in accordance with Apex Centre's rules, guidelines, and applicable fees, as amended. Notwithstanding the foregoing, any requests not submitted under the Annual District Apex Pool Use Submission shall be deemed an Additional Service under this Section.
- I. Non- Exclusive Use. District recognizes, understands, and acknowledges that except for the District's right to exclusively use of up to seven (7) lanes for up to ten (10) hours per week at the Apex Pool as described in this Agreement, which does not entitle the District to exclusively use the entire Apex Pool or the entire Apex Centre facility, its use of the Apex Pool is non-exclusive and that the City maintains the Premises for public recreational purposes. The District further agrees and accepts that all rights, privileges, and permissions granted under this Agreement are, and shall remain at all times, expressly subject to the City's ownership, operation, management, and control of the Premises, including the City's right to regulate access, establish policies, and modify schedules or operations as necessary to serve the public interest, subject to the Annual District Apex Pool Use Submission and the other rights expressly granted to the District hereunder.
- J. **ASSUMPTION OF THE RISK. THE DISTRICT ACKNOWLEDGES AND UNDERSTANDS THAT SWIMMING INVOLVES INHERENT RISKS, INCLUDING BUT NOT LIMITED TO, THE RISK OF SERIOUS BODILY INJURY, DEATH OR**

PERMANENT DISABILITY ARISING FROM THE PARTICIPATION IN SWIMMING ACTIVITIES. SUCH RISKS MAY RESULT FROM ACCIDENTS, COLLISIONS, FALLS, DROWNING, OVEREXERTION, OR OTHER UNFORESEEN RISKS.

K. No Assignment. The rights granted herein for Apex Pool Use are not assignable.

L. **INDEMNITY. TO THE EXTENT PERMITTED BY LAW, THE DISTRICT AGREES TO RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS THE CITY, ITS OFFICERS, AGENTS, AND EMPLOYEES AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM FOR WHICH RECOVERY OF DAMAGES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY OR CAUSED IN CONNECTION WITH THE ACTS OR OMISSIONS OF THE DISTRICT OR THE DISTRICT'S EMPLOYEES, AGENTS, STUDENTS AND CONTRACTORS, OR BY ANY NEGLIGENT OR STRICTLY LIABLE ACT OR OMISSION OF DISTRICT IN CONNECTION WITH THE USE OF APEX POOL. THIS INDEMNIFICATION CLAUSE IS VALID ONLY TO THE EXTENT PERMITTED BY THE LAWS AND CONSTITUTION OF THE STATE OF TEXAS, AND WITH THE UNDERSTANDING THAT THE DISTRICT IS A POLITICAL SUBDIVISION OF THE STATE OF TEXAS AND THAT THIS EXECUTORY INDEMNITY OBLIGATION CANNOT BE PAID FROM CURRENT REVENUES AND THAT NO TAX NOR INTEREST AND SINKING FUND HAS BEEN SET, ADOPTED OR ESTABLISHED FOR THE PAYMENT OF THIS EXECUTORY INDEMNITY OBLIGATION.**

Section Seven
Miscellaneous

A. **INDEMNIFICATION.** THE DISTRICT AND ANY CONTRACTOR, SUBCONTRACTOR, AGENT, OR EMPLOYEE ACTING ON ITS BEHALF, AGREES TO INDEMNIFY TO THE EXTENT ALLOWED BY LAW AND HOLD CITY HARMLESS FROM ANY AND ALL CLAIMS, SUITS AND CAUSES OF ACTION OF ANY NATURE WHATSOEVER ARISING OUT OF ITS OBLIGATIONS HEREUNDER, INCLUDING ITS PRESENCE AND ACTIVITY I, AS WELL AS WRONGFUL DEATH, PROPERTY DAMAGE OR OTHER HARM WHICH IS FOUND BY A COURT OF COMPETENT JURISDICTION TO BE CAUSED BY THE NEGLIGENT ACT, ERROR OR OMISSION OF THE DISTRICT, OR ANY AGENT, OFFICER, DIRECTOR, REPRESENTATIVE, EMPLOYEE, AFFILIATE, CONTRACTOR OR SUBCONTRACTOR OF THE DISTRICT, OR ITS RESPECTIVE OFFICERS, DIRECTORS, REPRESENTATIVES, EMPLOYEES, AFFILIATES, CONTRACTORS OR SUBCONTRACTORS IN CONNECTION WITH THE DESIGN AND CONSTRUCTION OF THE MULTI-GENERATIONAL RECREATION CENTER. THIS INDEMNIFICATION CLAUSE IS VALID ONLY TO THE EXTENT PERMITTED BY THE LAWS AND CONSTITUTION OF THE STATE OF TEXAS, AND WITH THE UNDERSTANDING THAT THE DISTRICT IS A POLITICAL SUBDIVISION OF THE STATE OF TEXAS AND THAT THIS EXECUTORY INDEMNITY OBLIGATION

CANNOT BE PAID FROM CURRENT REVENUES AND THAT NO TAX NOR INTEREST AND SINKING FUND HAS BEEN SET, ADOPTED OR ESTABLISHED FOR THE PAYMENT OF THIS EXECUTORY INDEMNITY OBLIGATION

B. General Provisions.

1. This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created by this Agreement are performable in Collin County, Texas.

2. This Agreement is entered into by the duly authorized officials of each respective governmental entity.

3. In case any one or more of the provisions hereof concerning the design and construction of the Multi-Generational Recreation Center should be held to be illegal, invalid or unenforceable in any respect, it is the intent of the parties hereto that the remaining portions shall remain valid and in full force and effect to the extent possible without altering the nature or intent of this Agreement. If that is not possible or feasible, the parties agree to make a good faith effort to re-negotiate another Agreement to fulfill the purpose and intent of this Agreement.

4. This Agreement represents the entire Agreement between the parties hereto with respect to the subject matter hereof, and supersedes all prior understandings or written or oral agreements between the parties. No amendment, modification or alteration of the terms of this Agreement shall be binding on any participant unless the same is in writing, dated subsequent to the date hereof, and is duly executed by both parties.

5. Each person signing this Agreement hereby confirms that any requisite approvals from the governing body of such signatory have been obtained, and all prerequisites to the execution, delivery and performance hereof have been obtained by or on behalf of that participant.

6. This Agreement is not intended to extend the liability of the parties beyond that provided by law. It is expressly understood and agreed that, in the execution of this Agreement, no party waives, nor shall be deemed hereby to have waived any immunity or defense that would otherwise be available to it against claims by third parties arising in the exercise of governmental powers and functions. By entering into this Agreement, the parties do not create any obligations, express or implied, other than those set forth herein, and this Agreement shall not create any rights in parties not signatories hereto.

7. Unless otherwise provided herein, any notice permitted or required under the terms hereof shall be in writing and shall be deemed delivered three (3) days following the deposit of the same, properly addressed with postage prepaid, into the care and custody of the United States Postal Service, by registered or certified mail, return receipt requested, to the party to whom notice is to be given addressed as shown on the signature page hereof.

Duplicate originals DATED to be EFFECTIVE as of _____, 2026.

EXECUTED this _____ day of _____, 2026.

CITY OF MCKINNEY, TEXAS

By: _____
Paul G. Grimes, City Manager

Approved as to form:

Mark S. Houser, City Attorney

EXECUTED this _____ day of _____, 2026.

MCKINNEY INDEPENDENT SCHOOL DISTRICT

By: _____
Name: _____
Title: _____

EXHIBIT A
(Exhibit to be attached)