

Spring Branch Independent School District
Agenda Item Information

Date of Board Meeting: January 24, 2011

Subject: Request for Approval of Purchase and Sale Agreement with City of Houston for
Kendall Branch Library Site

Administrator Responsible:

Name: Duncan Klussmann, Ed.D.

Position: Superintendent of Schools

Purpose of Agenda Item: Consent

ADDITIONAL INFORMATION AND/OR BACK-UP:

PURCHASE AND SALE AGREEMENT

This Purchase and Sale Agreement (this "Agreement") is made and entered into by and between **CITY OF HOUSTON, TEXAS**, a municipal corporation situated in Harris, Fort Bend and Montgomery Counties ("Seller"), and **SPRING BRANCH INDEPENDENT SCHOOL DISTRICT**, a political subdivision of the State of Texas ("Purchaser").

AGREEMENT:

Seller and Purchaser hereby agree as follows:

1. Sale and Purchase. Seller agrees to sell, convey, and assign to Purchaser, and Purchaser agrees to purchase and accept from Seller, for the Purchase Price (as hereinafter defined) and subject to terms and conditions herein set forth, a tract or parcel of land designated as:

All that certain 1.001 acre (43,610 square feet), more or less, situated in the William Hardin Survey, Abstract 24, Houston, Harris County, Texas and being more particularly described by metes and bounds in **EXHIBIT "A"** attached hereto and made a part hereof;

together with all rights and interests appurtenant thereto, including all of Seller's right, title and interest as the owner of fee simple title in the Land, if any, in and to adjacent streets, alleys, rights-of-way, easements, any adjacent strips or gores of land; any awards made or to be made as a result or in lieu of condemnation; and any awards for damage to such tract or parcel or any part thereof by reason of casualty (collectively, the "Land"); all improvements of every kind and description including but not limited to the ±9,260 square feet one-story building previously used by Seller as a public library, parking lots, walkways, driveways, curb stops and landscaping located in, on, over, and under the Land (collectively, the "Improvements"); and all tangible personal property located on and used in connection with the ownership, maintenance, or operation of the Land or Improvements (collectively, the "Personalty"). Seller excepts from the Personalty all proprietary lock cylinders from entry door locks to the building, which locks Seller shall remove prior to Closing (as hereinafter defined). The Land, Improvements, and Personalty are herein collectively called the "Property." All of the Property shall be conveyed, assigned and transferred to Purchaser at Closing free and clear of all liens, claims, easements and encumbrances whatsoever, except for the Permitted Encumbrances (as hereinafter defined).

2. Purchase Price. The price ("Purchase Price") for which Seller agrees to sell and convey the Property to Purchaser, and which Purchaser agrees to pay to Seller, subject to the terms hereof, is: **Nine Hundred Thousand and No/100's Dollars (\$900,000.00)**. Purchaser shall pay the Purchase Price to Seller in good funds on the Closing Date (as hereinafter defined), subject to any adjustments provided for in this Agreement.

3. Seller's Representations, Warranties and Covenants. Seller hereby represents and warrants to, and covenants with Purchaser that:

a. Seller will have as of the Closing Date good and indefeasible title in fee simple to the Land, subject only to the Permitted Encumbrances, and free and clear of all liens;

b. There are no and, as of the Closing Date, there will be no leases, franchises, licenses, occupancy agreements, or other agreements demising space in, providing for the use or occupancy of, or otherwise similarly affecting or relating to, the Land, or any prepaid rents or deposits, security or otherwise, made by tenants;

c. There are no and, as of the Closing Date, there will be no actions, suits, claims, assessments, or proceedings pending or, to the actual knowledge of Seller, threatened that could materially adversely affect the ownership, operation, or maintenance of the Property or Seller's ability to perform hereunder;

d. Seller shall use good faith efforts to promptly notify Purchaser of any material change with respect of the Property or with respect to any information heretofore or hereafter furnished by Seller to Purchaser respecting the Property;

e. From the date hereof until the Closing Date, Seller shall:

(i) maintain and operate the Property in a good and business-like manner in accordance with good and prudent business practices, and not commit or consent to be committed any waste to the Property,

(ii) not enter into any agreement or instrument or take any action that would constitute an encumbrance of the Property, that would bind Purchaser or the Property after Closing, or that would be outside the normal scope of maintaining and operating the Property, without the prior written consent of Purchaser, and

(iii) afford Purchaser and its representatives the continuing right to inspect the Property at reasonable hours, upon reasonable notice and upon commercially reasonable terms, and any and all books, records, contracts, and other documents or data pertaining to the ownership, insurance, operation, or maintenance of the Property;

f. All bills and other payments due from Seller with respect to the ownership, operation, and maintenance of the Property have been (or by the Closing Date will be) paid by Seller and no liens or other claims for the same have been (or by the Closing Date will be) filed or asserted against any part of the Property;

g. Seller has full right, power and authority to execute, deliver, and perform this Agreement subject to approval of this Agreement by the City Council of the

City of Houston, Texas, the signature of the Mayor and the countersignature of the City Controller of the City of Houston, Texas on this Agreement, but otherwise without obtaining any consents or approvals from, or the taking of any other actions with respect to, any third parties (or if any such consents, approvals, or other actions are required, the same will be accomplished prior to the expiration of the Feasibility Period (as defined in Section 7.a));

h. Seller is not a “foreign person” (as defined in Internal Revenue Code Section 1445(f)(3) and the regulations issued thereunder);

i. Seller (i) is not in receivership or dissolution, (ii) has not made any assignment for the benefit of creditors, (iii) has not admitted in writing its inability to pay its debts as they mature, (iv) has not been adjudicated a bankrupt, (v) has not filed a petition in voluntary bankruptcy, a petition or answer seeking reorganization, or an arrangement with creditors under the federal bankruptcy law, or any other similar law or statute of the United States or any state, or (vi) does not have any such petition described in (v) filed against Seller; and

j. Seller has provided to Purchaser, to the extent they were in Seller’s possession, copies of: (i) a land survey of the Property; (ii) any soil, engineering, and environmental reports on the Property, including a Phase I environmental site assessment, asbestos inspection report, and a lead based paint inspection report; and (iii) any contracts encumbering the Property that are not cancelable upon notice of thirty (30) days or less.

4. Purchaser’s Representations, Warranties, and Covenants. Purchaser hereby represents and warrants to, and covenants with, Seller that (i) Purchaser is a governmental entity that has the power of eminent domain, and (ii) Purchaser has full right, power, and authority to execute, deliver, and perform this Agreement, subject to approval of this Agreement by the Purchaser’s Board of Trustees, and the signature of Purchaser’s Superintendent of Schools on this Agreement. This Agreement, when executed and delivered by Seller and Purchaser, in the manner and subject to the approvals described above, will constitute the valid and binding agreement of Seller and Purchaser, enforceable against each in accordance with its terms.

5. Earnest Money. Within ten (10) days following the Effective Date, Purchaser shall deposit the amount of **One Hundred and No/100’s Dollars (\$100.00)** (the “Earnest Money”) in escrow with the AmeriPoint Title Houston (the “Title Company”), at 800 W. Sam Houston Pkwy. N., Suite 210, Houston, Texas 77024-3920, attention: Escrow Officer: Lesley J. Mann (phone: 713/464-9933, fax: 713/622-1770, e-mail: lmann@ljmlaw.com). The Title Company shall acknowledge receipt of the Earnest Money in writing and hold the Earnest Money to bind the transaction contemplated hereby. Unless otherwise delivered to Seller or Purchaser pursuant to the terms hereof, the Earnest Money, together with all interest thereon, shall be credited to the Purchase Price at the Closing.

6. As-Is, Where-Is. Purchaser and its representatives, prior to the date of Closing, will have been afforded the opportunity to make such inspections of the Property and matters related thereto as Purchaser and its representatives desire. Purchaser acknowledges and agrees that the Property is to be sold and accepted by Purchaser in an “as-is” condition, with all faults except for (a) Seller’s representations, warranties and covenants set forth in Section 3, and (b) the warranty of title in the Deed referred to in Section 8(b)(i).

7. Feasibility Period.

a. Purchaser shall have a period of forty (40) days (the “Feasibility Period”) from the Effective Date to conduct, at Purchaser’s sole cost and expense, such inspections, studies and evaluations of the Property as Purchaser shall deem necessary or desirable to assist Purchaser in determining the suitability and condition of the Property (the written products of such inspections, studies and evaluations being hereinafter collectively referred to as the “Environmental Reports”). Such studies and evaluations may include, without limitation, an environmental study conducted by an environmental engineering company selected by Purchaser, and may include such soil testing and other invasive and non-invasive procedures as may be indicated to detect the presence of environmental pollutants or hazards on or under the Property, within any surface or underground water on the Property or within the structure of any building or other improvements on the Property.

b. Purchaser shall have the right and option, at its sole and absolute discretion, to terminate this Agreement at any time on or before the expiration of the Feasibility Period, whereupon:

i. this Agreement shall be terminated and both parties fully and finally released therefrom;

ii. Purchaser shall restore the Property to the condition it was in prior to the commencement of the Feasibility Period, including but not limited to, the filling of all holes and the resurfacing of said holes and area inspected, if necessary; and,

iii. the Earnest Money shall be retained by Seller as independent consideration for the grant of rights during the Feasibility Period.

8. Closing. The consummation by the parties of the transaction contemplated by this Agreement is herein called the “Closing.” Closing shall take place on or before the fifth day after the end of the Feasibility Period, with the exact time and date (the “Closing Date”) of Closing to be specified in a written notice from Purchaser to

Seller at least two (2) days in advance of such date. The time, date or location of Closing may be modified by agreement of the parties.

At the Closing, the following (which are mutually concurrent conditions) shall occur:

a. Purchaser, at its sole cost and expense, shall deliver or cause to be delivered to Seller, through the Title Company:

(i) The balance due for the Purchase Price, adjusted as provided for herein, such amount to be paid in good funds;

(ii) Evidence satisfactory to Seller and the Title Company that the person executing the Closing documents on behalf of Purchaser has full right, power, and authority to do so; and

(iii) Such other instruments duly executed by Purchaser as are customarily executed in Harris County, Texas to effectuate the conveyance of property similar to the Property, as may be reasonably required by the Title Company.

b. Seller, at its sole cost and expense, shall deliver or cause to be delivered to Purchaser, through the Title Company, the following:

(i) A Special Warranty Deed in form and substance substantially equivalent to the form shown on **EXHIBIT "B"** attached hereto and incorporated herein, fully executed and acknowledged by Seller, conveying to Purchaser good and indefeasible fee simple title in and to the Land and any Improvements thereon, subject only to the Permitted Encumbrances, which shall be set forth in an exhibit thereto and attached prior to recordation of such instrument;

(ii) A Bill of Sale and Assignment, in the form and substance substantially equivalent to the form shown on **EXHIBIT "C"** attached hereto and incorporated herein, fully executed by Seller, assigning, conveying, and transferring to Purchaser Seller's interest in and to all of the Personalty subject only to the Permitted Encumbrances;

(iii) An executed and acknowledged affidavit that Seller is not a "foreign person" as described in Section 3(k) herein;

(iv) A certificate, executed and sworn to by Seller, confirming that there are no unpaid bills, claims, debts, or liens relating to the Property arising through or under Seller as of the Closing Date except with respect to specified bills, claims, debts, or liens; and,

(v) Such other instruments duly executed by Seller as are customarily executed in Harris County, Texas to effectuate the conveyance of property

similar to the Property, as may be reasonably required by the Title Company with the effect that, after the Closing, Purchaser will have succeeded to all of the rights, titles and interests of Seller related to the Property and Seller will no longer have any rights, titles or interests in and to the Property.

c. Seller shall pay, in addition to any other costs to be paid by Seller as provided elsewhere herein, (i) Seller's own attorneys' fees, (ii) the cost to cure or otherwise obtain releases of Encumbrances, and (iii) the premium for a basic owner's policy of title insurance.

d. Purchaser shall pay, in addition to any other costs to be paid by Purchaser as provided elsewhere herein, (i) the premium for any title insurance endorsements desired by Purchaser, (ii) any costs of Purchaser's inspection or evaluation of the Property, (iii) any escrow fees and delivery fees charged by the Title Company, (iv) any costs of inspecting or evaluating the Property, (v) the costs for obtaining tax certificates, recording and filing the Special Warranty Deed and recording and filing any releases of Encumbrances (but not the cost to cure or otherwise obtain any such release), and (vi) Purchaser's own attorneys' fees

All normal and customarily proratable items, including but not limited to real estate and personal property taxes, rents, and utility bills, if any, shall be prorated as of the Closing Date, Seller being charged and credited for all of the same up to such date and Purchaser being charged and credited for all of same on and after such date. Seller and Purchaser hereby acknowledge that each is not subject to ad valorem taxes.

e. On or before the Closing Date, Seller and its agents, employees, tenants and occupants, shall vacate the Property and on the Closing Date, Seller shall deliver to Purchaser possession of the Property with all parts of the Property in the same condition as of the Effective Date, excepting normal wear and tear.

9. Notices. Any notice provided or permitted to be given under this Agreement must be in writing and may be served by depositing same with the United States Postal Service, addressed to the party to be notified, postage prepaid and in registered or certified form, with return receipt requested, or by deposit with Federal Express for overnight delivery, or other reputable overnight courier, facsimile (with retained receipt) or email (with retained receipt). Notice given as aforesaid shall be effective on the date actually received at the address to which such notice was sent, or if delivery is refused or not accepted, such notice shall be effective on the date of such refusal or failure to accept delivery. Notice given in any other manner shall be effective only upon receipt by the party to whom it is addressed. For purposes of notice, the addresses of the parties shall be as follows:

If to Seller, to: City of Houston, Texas
Attention: Forest R. Christy, Jr.
Director Real Estate
General Services Dept.
900 Bagby St., 2nd Floor
Houston, TX 77002
Telephone: 832/393-8013
Fax: 832/393-8012
Email: Bob.Christy@HoustonTX.gov

and to Seller's attorney:

Robert R. Johnson
Senior Assistant City Attorney
City of Houston
Legal Department
P. O. Box 368
Houston, TX 770001-0368
Telephone: 832/393-6284
Fax: 832/393-6259
Email: Robert.Johnson@HoustonTX.gov

If to Purchaser, to: Spring Branch Independent School District
Attention: Duncan F. Klussmann, Ed.D.
Superintendent of Schools
955 Campbell Road
Houston, TX 77024
Telephone: 713/464-1511
Fax: 713/365-4664
Email: Duncan.Klussmann@springbranchisd.com

and to Purchaser's attorney:

Michelle Morris
Rogers, Morris & Grover, L.L.P.
5718 Westheimer Road, Suite 1200
Houston, TX 77057
Telephone: 713/960-6009
Fax: 713/960-6025
MMorris@rmllp.com

Either party may change its address to another location in the continental United States, upon five (5) days prior written notice to the other given in the manner provided above.

10. Brokerage. Purchaser shall be solely responsible for compensating Consolidated Property Advisors, Ltd., the consultant engaged by Purchaser in connection with the transaction, and Seller shall have no responsibility therefor.

11. Assignment. Neither Seller nor Purchaser may assign this Agreement or any right or interest hereunder without the prior written consent of the other party. Subject to the foregoing, this Agreement shall inure to the benefit of and be binding on the parties hereto and their respective legal representatives, successors and permitted assigns.

12. Governing Law; Enforcement.

a. This Agreement shall be governed and construed in accordance with the laws of the State of Texas and is further subject to all terms and provisions of the Charter and Code of Ordinances of the City of Houston, Texas. Any action brought to enforce or interpret this Agreement shall be brought in the court of appropriate jurisdiction in Houston, Harris County, Texas.

b. Should any provision of this Agreement require judicial interpretation, Seller and Purchaser hereby agree and stipulate that the court interpreting or considering the same shall not apply the presumption that the terms hereof shall be more strictly construed against a party by reason of any rule or conclusion that a document should be construed more strictly against the party who prepared the same, it being agreed that all parties hereto have participated in the preparation of this Agreement and that each party had full opportunity to consult legal counsel of its choice before the execution of this Agreement.

c. The City Attorney or his or her designee shall have the right to enforce all legal rights and obligations under this Agreement without further authorization from other City officials, and Seller covenants to provide the City Attorney with all documents and records that the City Attorney reasonably deems necessary to assist in determining Seller's compliance with this Agreement, with the exception of those documents made confidential by federal or State law or regulation.

13. Remedies.

a. If Purchaser fails or is unable to perform its obligations pursuant to this Agreement for any reason other than Purchaser's termination hereof pursuant to a right granted to Purchaser in this Agreement to do so, or breach by Seller of its representations, warranties or agreements hereunder, then Seller, as its sole and exclusive remedy, shall have the right to terminate this Agreement by giving Purchaser written notice thereof, in which event neither party hereto shall have any further rights, duties, or obligations hereunder, and the Title Company shall deliver the Earnest Money and interest thereon to Seller as liquidated damages (and not as penalty) for the breach

by Purchaser (Seller and Purchaser hereby acknowledging that the amount of damages resulting from a breach of this Agreement by Purchaser would be difficult or impossible to accurately ascertain).

b. If Seller fails or is unable to perform any of its obligations or agreements hereunder, either prior to or at Closing, or if any of Seller's representations or warranties made hereunder, or any of the information furnished by Seller pursuant hereto, should be either false or misleading in any material respect, Purchaser shall have the right and option, as its sole and exclusive remedy, to terminate this Agreement by giving Seller written notice thereof, in which event neither party hereto shall have any further rights, duties, or obligations hereunder, and the Title Company shall deliver the Earnest Money and all interest thereon, to Purchaser.

14. Damage or Taking Prior to Closing. Prior to Closing, risk of loss with regard to the Property shall be borne by Seller. If, prior to Closing, the Property, or any portion thereof, is materially damaged or becomes subject to a taking (other than by the Purchaser) by virtue of eminent domain, Purchaser shall have the option, which must be exercised by it within fifteen (15) business days (and the Closing will be automatically extended, if necessary, to provide Purchaser with such fifteen (15) business day period) after its receipt of written notice from Seller advising of such damage or taking (which Seller hereby agrees to give), to terminate this Agreement or to proceed with the Closing. If Purchaser elects to terminate this Agreement, all rights, duties, obligations and liabilities created hereunder shall cease, and the Earnest Money and any interest thereon, shall be returned to Purchaser. If Purchaser elects to proceed with the Closing, all rights, duties, obligations and liabilities created hereunder shall continue, and (a) Purchaser shall be entitled to any and all insurance proceeds or condemnation awards payable as a result of such damage or taking, and (b) Seller shall assign to Purchaser at Closing all of Seller's rights to such proceeds or awards.

15. Entire Agreement. This Agreement is the entire agreement between Seller and Purchaser concerning the sale of the Property and no modification thereof or subsequent agreement relative to the subject matter hereof shall be binding on either party unless in writing and signed by the party to be bound.

16. Exhibit. Attached hereto and incorporated herein by this reference for all purposes is the following exhibits:

Exhibit "A"	LEGAL DESCRIPTION OF THE LAND
Exhibit "B"	SPECIAL WARRANTY DEED
Exhibit "C"	BILL OF SALE AND ASSIGNMENT

17. Miscellaneous.

a. The captions used herein are for convenience only and do not limit or amplify the provisions hereof.

b. Each and every agreement contained in this Agreement is, and shall be construed as, a separate and independent agreement. If any provision of this Agreement should be held to be invalid or unenforceable, the validity and enforceability of the remaining provisions of this Agreement shall not be affected thereby.

c. The obligations of the Agreement that cannot be performed before termination of this Agreement or before Closing will survive termination of this Agreement or Closing, and the legal doctrine of merger will not apply to these matters. However, if there is any express conflict between the closing documents provided pursuant to Section 8 hereinabove and this Agreement, the closing documents will control.

d. Time is of the essence in this Agreement.

e. Following the execution of this Agreement by Seller through its Mayor, the Director of the General Services Department for the City of Houston, Texas, shall have the authority to act on the behalf of Seller in making extensions to the Closing Date or to make other modifications to this Agreement for the purposes of enabling the achievement of the Seller's objectives to convey the Property to Purchaser.

f. In the event that this Agreement is not duly executed by the Seller within thirty (30) days after it is executed by the Purchaser, this Agreement shall be void.

EXECUTED IN MULTIPLE ORIGINAL COUNTERPARTS, each of which shall be an original, which together shall constitute but one and the same instrument, effective as of the date of countersignature by Purchaser's City Controller.

"SELLER"

CITY OF HOUSTON, TEXAS

ATTEST:

Anna Russell
City Secretary

Annise D. Parker
Mayor of the City of Houston

APPROVED AND RECOMMENDED:

Forest R. Christy, Jr.
Director Real Estate

COUNTERSIGNED

Scott Minnix
Director
General Services Dept.

Ronald C. Green
Controller

Countersignature Date:

APPROVED AS TO FORM:

Robert R. Johnson
Senior Assistant City Attorney
LD # 033-1000088-001
H:\Kendall Library Site Sale.doc
Parcel SY9-055

“PURCHASER”

**SPRING BRANCH INDEPENDENT SCHOOL
DISTRICT**

ATTEST:

Wayne Schaper, Secretary
Board of Trustees

Mike Falick, President
Board of Trustees

EXHIBIT "A"

LEGAL DESCRIPTION OF THE LAND

City of Houston
Kendall Library
Parcel No. SY9-055
1.001 Acre (43,610 Square Feet)
William Hardin Abstract-24
Harris County, Texas
Drawing No. 46945
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Being a 1.001 acre, (43,610 square feet) tract of land, being all of a tract of land conveyed by deed to the City of Houston, Vol. 6595, Pg. 379, Harris County Deed Records, executed December 9, 1966, in the William Hardin Survey, Abstract-24, and being more particularly described by metes and bounds as follows (all bearings and coordinates are based upon the Texas Plane Coordinate System, South Central Zone, N.A.D.83);

COMMENCING at a City of Houston monument, number 4857-7812, located near the northeast corner of the intersection of Apple Tree Road (60' feet wide) and Apple Tree Court (60' feet wide) in Nottingham Forest Section 4 Subdivision, recorded in Vol. 130, Pg. 58, Harris County Map Record (H.C.M.R.), recorded August 3, 1965 (Coordinates X=3,048,047.10, Y=13,843,042.61);

THENCE, North 51°51'49" West, 479.40' feet to the northwest corner of the intersection of Memorial Drive, 100' feet wide per City of Houston Drawing No.8462 and Fern Drive, 60' feet wide, Conveyed by the following deeds to the City of Houston, **1.** Recorded in Harris County Clerk File (H.C.C.F.) #C419784, Film Code (F.C.) #064-38-0371, dated December 9, 1966, **2.** Recorded in H.C.C.F. #C420787, F.C. #064-40-0606, dated December 12, 1966, **3.** Recorded in H.C.C.F. #C426052, F.C. #065-31-0655, dated December 22, 1966 and a set 5/8-inch iron rod with cap marked City of Houston, being a point on a curve to the left along aforesaid Memorial Drive and being the **POINT OF BEGINNING**, and the southeast corner, from which a found 1/2-inch iron rod bears North 16°40'18" West, 2.70 feet, (Coordinates X=3,047,670.06, and Y = 13,843,338.62);

THENCE, in a westerly direction along the northerly right-of-way line of said Memorial Drive, being along the arc of a curve to the left, having a central angle of 1°29'13", a radius of 5779.65 feet, and an arc length of 150.00 feet and being subtended by a chord of South 88°56'26" West, 150.00 feet, to a point marking the southeast corner of a tract conveyed by deed to George J. and Robin K. Mueck, recorded in H.C.C.F. #P536687, F.C. #174-43-2500, Official Public Record of Real Property (O.P.R.R.P), executed November 1, 1993, being a portion of Memorial Country Place Reserve "A", H.C.C.F. #D519430, Vol. 187, Pg. 127, Harris County Map Record (H.C.M.R.), recorded February 11, 1972, and being the southwest corner, from which a found 1/2-inch pinch-top pipe bears South 42°27'31" West, 1.21' feet;

THENCE North 2°39'04" West, a distance of 291.20' feet along the easterly line of aforesaid Mueck tract to a set 5/8 inch iron rod with cap marked City of Houston, and being the southwest corner of a tract of land conveyed by deed to Ruma Acharya and Asoke K. Deysarkar, H.C.C.F. #R536542, F.C. #505-01-2021, O.P.R.R.P., executed August 11, 1995, and being the northwest corner;

THENCE North 88°57'41" East, a distance of 150.00' feet along the southerly line of aforesaid Deysarkar tract, to a 3/4-inch iron rod found in the westerly right-of-way line of aforesaid Fern Drive and being the northeast corner;

THENCE South 2°39'04" East, a distance of 291.14' feet along the westerly right-of-way line of aforesaid Fern Drive to the **POINT OF BEGINNING** and containing 1.001 acre (43,610 square feet) of land.

Notes: This metes and bounds description was prepared in conjunction with a plat of this property, which same can be found in the City of Houston File Room, Drawing# 46945. All bearings are referenced to Texas Plane Coordinate System, South Central Zone. Coordinates and reference bearings are base upon GPS field observation dated March 24, 2010.

All distances shown herein are surface distances and can be converted to grid distances by multiplying them by a combined scale factor of 0.99989217. All coordinates herein are true grid coordinates.

Checked by 

Date 04/30/10

Compiled by _____

Approved 

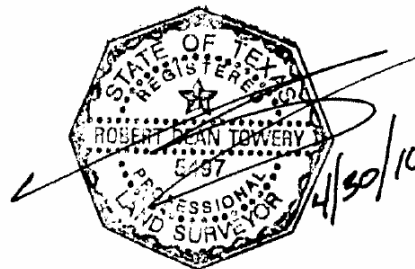


EXHIBIT "B"
SPECIAL WARRANTY DEED

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

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

GRANTOR:

THE CITY OF HOUSTON, TEXAS, a municipal corporation situated in Harris, Fort Bend and Montgomery Counties, Texas

GRANTOR'S MAILING ADDRESS:

 P.O. Box 1562
 Houston, Harris County, Texas 77251
 Attn: Real Estate Branch, Public Works and Engineering Dept

GRANTEE:

SPRING BRANCH INDEPENDENT SCHOOL DISTRICT, a political subdivision of the State of Texas

GRANTEE'S MAILING ADDRESS:

 955 Campbell Road
 Houston, Harris County, Texas 77024

CONSIDERATION:

 Ten and No/100's Dollars (\$10.00) and other good and valuable consideration, the receipt of which is acknowledged

PROPERTY:

 All that certain 1.001 acre (43,610 square feet), more or less, tract or parcel of land situated in the William Hardin Survey, Abstract 24, Houston, Harris County, Texas and being more particularly described by metes and bounds in **EXHIBIT "A"** attached hereto and made a part.

RESERVATIONS FROM AND EXCEPTIONS TO CONVEYANCE AND WARRANTY:

This conveyance is made by Grantor and accepted by Grantee subject to (i) all matters of record with the County Clerk of Harris County, Texas, affecting the Property and all matters affecting the Property that are visible on the ground or that would be shown on a current survey of the Property, but only to the extent the same are valid, enforceable against political subdivisions and relate to the Property; (ii) the reservation by Grantor, its successors and assigns, of all the oil, gas and other minerals in, on and under the Property without, however, any right of ingress or egress and without any right to use the surface of the Property for any purpose incident to such oil, gas and mineral reservation, and (iii) a restriction that the Property shall be used, if used at all, for education purposes only for five (5) years from the date of this conveyance.

Grantor, for the consideration, and subject to the reservations from and exceptions to conveyance and warranty set forth above, grants, sells and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in anywise belonging, to have and to hold it to Grantee and Grantee's successors and assigns forever. Grantor binds Grantor and Grantor's successors and assigns to warrant and forever defend all and singular the Property to Grantee and Grantee's 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 set forth above, by, through or under Grantor, but not otherwise.

Grantor has executed and delivered this Deed and has granted, bargained, sold and conveyed the Property, and Grantee has received and accepted this Deed and has purchased the Property, AS IS, WHERE IS, AND WITH ALL FAULTS, AND WITHOUT ANY REPRESENTATIONS OR WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, WRITTEN OR ORAL, EXCEPT SOLELY THE WARRANTY OF TITLE EXPRESSLY SET FORTH HEREIN; IT BEING THE INTENTION OF GRANTOR AND GRANTEE TO EXPRESSLY REVOKE, RELEASE, NEGATE AND EXCLUDE ALL REPRESENTATIONS AND WARRANTIES, INCLUDING, BUT NOT LIMITED TO, ANY AND ALL EXPRESS OR IMPLIED REPRESENTATIONS AND WARRANTIES AS TO:

(i) THE CONDITION OF THE PROPERTY OR ANY ASPECT THEREOF, INCLUDING, WITHOUT LIMITATION, ANY AND ALL EXPRESS OR IMPLIED REPRESENTATIONS AND WARRANTIES RELATED TO SUITABILITY FOR HABITATION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE;

(ii) THE NATURE OR QUALITY OF CONSTRUCTION, STRUCTURAL DESIGN OR ENGINEERING OF THE IMPROVEMENTS;

(iii) THE QUALITY OF THE LABOR OR MATERIALS INCLUDED IN THE IMPROVEMENTS;

(iv) THE SOIL CONDITIONS, DRAINAGE, TOPOGRAPHICAL FEATURES OR OTHER CONDITIONS OF THE PROPERTY OR WHICH AFFECT THE PROPERTY;

(v) ANY CONDITIONS AT OR WHICH AFFECT THE PROPERTY WITH RESPECT TO ANY PARTICULAR PURPOSE, USE, DEVELOPMENTAL POTENTIAL, INGRESS, EGRESS OR OTHERWISE;

(vi) THE AREA, SIZE, SHAPE, CONFIGURATION, LOCATION, CAPACITY, QUANTITY, QUALITY, VALUE, CONDITION, MAKE, MODEL, COMPOSITION, AUTHENTICITY OR AMOUNT OF THE PROPERTY;

(vii) 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

(viii) ALL OTHER EXPRESS OR IMPLIED WARRANTIES AND REPRESENTATIONS BY GRANTOR WHATSOEVER, EXCEPT SOLELY THE WARRANTY OF TITLE EXPRESSLY SET FORTH HEREIN.

[Execution page follows]

IN WITNESS WHEREOF, these presents have been executed by Grantor this _____ day of _____, 2011.

“Grantor”

CITY OF HOUSTON, TEXAS

Annise D. Parker
Mayor of the City of Houston

APPROVED AS TO FORM:

Robert R. Johnson
Senior Assistant City Attorney
LD # 033-1000088-001

THE STATE OF TEXAS §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the _____ day of _____, 2011, by Annise D. Parker, Mayor, City of Houston, Texas, a Texas municipal corporation, on behalf of said municipal corporation.

Notary Public, State of Texas

(Notary Seal)

Exhibits:
A – Legal Description of the Land

**EXHIBIT "A" to
SPECIAL WARRANTY DEED**

LEGAL DESCRIPTION OF THE LAND

**City of Houston
Kendall Library
Parcel No. SY9-055
1.001 Acre (43,610 Square Feet)
William Hardin Abstract-24
Harris County, Texas
Drawing No. 46945
Page 1 of 2**

Being a 1.001 acre, (43,610 square feet) tract of land, being all of a tract of land conveyed by deed to the City of Houston, Vol. 6595, Pg. 379, Harris County Deed Records, executed December 9, 1966, in the William Hardin Survey, Abstract-24, and being more particularly described by metes and bounds as follows (all bearings and coordinates are based upon the Texas Plane Coordinate System, South Central Zone, N.A.D.83);

COMMENCING at a City of Houston monument, number 4857-7812, located near the northeast corner of the intersection of Apple Tree Road (60' feet wide) and Apple Tree Court (60' feet wide) in Nottingham Forest Section 4 Subdivision, recorded in Vol. 130, Pg. 58, Harris County Map Record (H.C.M.R.), recorded August 3, 1965 (Coordinates X=3,048,047.10, Y=13,843,042.61);

THENCE, North 51°51'49" West, 479.40' feet to the northwest corner of the intersection of Memorial Drive, 100' feet wide per City of Houston Drawing No.8462 and Fern Drive, 60' feet wide, Conveyed by the following deeds to the City of Houston, **1.** Recorded in Harris County Clerk File (H.C.C.F.) #C419784, Film Code (F.C.) #064-38-0371, dated December 9, 1966, **2.** Recorded in H.C.C.F. #C420787, F.C. #064-40-0606, dated December 12, 1966, **3.** Recorded in H.C.C.F. #C426052, F.C. #065-31-0655, dated December 22, 1966 and a set 5/8-inch iron rod with cap marked City of Houston, being a point on a curve to the left along aforesaid Memorial Drive and being the **POINT OF BEGINNING**, and the southeast corner, from which a found 1/2-inch iron rod bears North 16°40'18" West, 2.70 feet, (Coordinates X=3,047,670.06, and Y = 13,843,338.62);

THENCE, in a westerly direction along the northerly right-of-way line of said Memorial Drive, being along the arc of a curve to the left, having a central angle of 1°29'13", a radius of 5779.65 feet, and an arc length of 150.00 feet and being subtended by a chord of South 88°56'26" West, 150.00 feet, to a point marking the southeast corner of a tract conveyed by deed to George J. and Robin K. Mueck, recorded in H.C.C.F. #P536687, F.C. #174-43-2500, Official Public Record of Real Property (O.P.R.R.P), executed November 1, 1993, being a portion of Memorial Country Place Reserve "A", H.C.C.F. #D519430, Vol. 187, Pg. 127, Harris County Map Record (H.C.M.R.), recorded February 11, 1972, and being the southwest corner, from which a found 1/2-inch pinch-top pipe bears South 42°27'31" West, 1.21' feet;

THENCE North 2°39'04" West, a distance of 291.20' feet along the easterly line of aforesaid Mueck tract to a set 5/8 inch iron rod with cap marked City of Houston, and being the southwest corner of a tract of land conveyed by deed to Ruma Acharya and Asoke K. Deysarkar, H.C.C.F. #R536542, F.C. #505-01-2021, O.P.R.R.P., executed August 11, 1995, and being the northwest corner;

THENCE North 88°57'41" East, a distance of 150.00' feet along the southerly line of aforesaid Deysarkar tract, to a 3/4-inch iron rod found in the westerly right-of-way line of aforesaid Fern Drive and being the northeast corner;

THENCE South 2°39'04" East, a distance of 291.14' feet along the westerly right-of-way line of aforesaid Fern Drive to the **POINT OF BEGINNING** and containing 1.001 acre (43,610 square feet) of land.


Notes: This metes and bounds description was prepared in conjunction with a plat of this property, which same can be found in the City of Houston File Room, Drawing# 46945. All bearings are referenced to Texas Plane Coordinate System, South Central Zone. Coordinates and reference bearings are base upon GPS field observation dated March 24, 2010.

All distances shown herein are surface distances and can be converted to grid distances by multiplying them by a combined scale factor of 0.99989217. All coordinates herein are true grid coordinates.

Checked by 

Date 04/30/10

Compiled by _____

Approved 

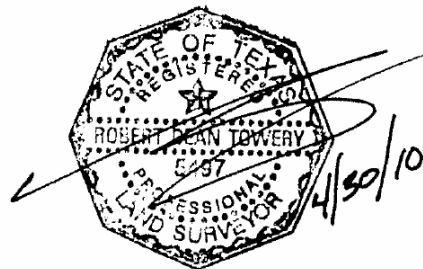


EXHIBIT "C"
BILL OF SALE AND ASSIGNMENT

THIS BILL OF SALE AND ASSIGNMENT is made and entered into this ____ day of _____, 2011, by and between the **CITY OF HOUSTON, TEXAS**, a municipal corporation situated in Harris, Fort Bend and Montgomery Counties ("Seller"), and the **SPRING BRANCH INDEPENDENT SCHOOL DISTRICT**, a political subdivision of the State of Texas ("Purchaser").

WHEREAS, by Special Warranty Deed of even date herewith, Seller is conveying to Purchaser that certain tract of land in Harris County, Texas, being designated as:

All that certain 1.001 acre (43,610 square feet), more or less, situated in the William Hardin Survey, Abstract 24, Houston, Harris County, Texas and being more particularly described by metes and bounds in **EXHIBIT "A"** attached hereto and made a part.

together with all improvements located thereon (the "Property"); and

WHEREAS, in connection with the above described conveyance, Seller desires to sell, transfer and assign to Purchaser certain rights and interests and items of personal property relating to the Property.

NOW, THEREFORE, Seller, for and in consideration of TEN AND NO/100s DOLLARS (\$10.00) and other good and valuable consideration in hand paid to Seller by Purchaser, does hereby grant, sell, assign, transfer, convey and deliver to Purchaser:

All tangible personal property and fixtures (the "Personalty") of any kind owned by Seller and attached to, located on or used in connection with the ownership, maintenance, or operation of the Real Property.

TO HAVE AND TO HOLD the Personalty unto Purchaser, its legal representatives, successors and assigns forever; and Seller does hereby bind itself, its legal representatives, heirs and assigns to WARRANT AND FOREVER DEFEND all and singular the Personalty unto Purchaser, its successors, and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof by, through, or under Seller but not otherwise.

EXECUTED as of the date first hereinabove written.

Seller:

CITY OF HOUSTON, TEXAS

Annise D. Parker
Mayor of the City of Houston

THE STATE OF TEXAS §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the _____ day of _____, 2011, by Annise D. Parker, Mayor, City of Houston, Texas, a Texas municipal corporation, on behalf of said municipal corporation.

Notary Public, State of Texas

(Notary Seal)