REAL ESTATE SALE CONTRACT

THIS REAL ESTATE SALE CONTRACT (this "**Agreement**"), is made and entered into as of _____, 2021(the "**Effective Date**"), by and between Unified School District No. 259, Sedgwick County, Kansas, party of the First Part, hereinafter referred to as "**Seller**", and the City of Wichita, Kansas, a municipal corporation of the State of Kansas, party of the Second Part, hereinafter referred to as "**Buyer**".

WITNESSETH: In consideration of the mutual promises, covenants and payments hereinafter set out herein, the parties hereto do hereby contract to and with each other, and agree as follows:

1. The Seller does hereby agree to sell and convey to the Buyer, by a General Warranty Deed, the following described real property, situated in Sedgwick County, Kansas, together with all improvements of any kind located thereon, all surface rights, all subsurface and mineral rights thereunder, and any appurtenant easements and rights of access (all hereinafter referred to as the "**Property**"):

   A portion of Lot 1, Southeast High Addition to Wichita, Sedgwick County, Kansas generally described as follows:

   Beginning at the northwest corner of Lot 1, thence easterly along the north line of Lot 1 approximately 400 feet to the west edge of the existing drive lane: thence southerly and southeasterly following the west edge of the existing drive lane approximately 500 feet: thence west parallel to the north line of Lot 1 to a point on the west line of Lot 1; thence north along the west line of Lot 1 to the point of beginning.

   Property consists of approximately five (5.0) acres.

   The exact legal description shall be determined by survey prior to Closing, which shall be deemed to be incorporated herein.

2. Subject to the terms and conditions hereinafter set forth, Buyer hereby agrees to purchase the Property, and pay to the Seller, as consideration for the conveyance to it of the Property, the sum of Two Hundred Seventeen Thousand Eight Hundred Dollars and Zero Cents ($217,800) (the "**Purchase Price**"), payable on the Closing Date (as hereinafter defined) in cash, by cashier's or certified check, subject to any prorations set forth in this Agreement. The Purchase Price is predicated on a Property size of five (5.0) acres and a unit value of One Dollar and Zero Cents ($1) per square foot. The Purchase Price shall be adjusted based on the final Property size as determined by the above referenced survey.

3. As of the Closing Date, Seller shall cause to be issued and delivered to Buyer, an ALTA owner's policy of title insurance (the "**Title Policy**") in the amount of the Purchase Price and naming Buyer as the insured. Seller shall provide to Buyer, within fifteen (15) days following the Effective Date, a commitment from First American Title Insurance Company (the "**Title Company**") setting forth the basis on which the Title Company is willing to insure title to the Property, together with legible copies of all documents identified therein as exceptions to title. The cost of the Title Policy shall be split evenly between Buyer and Seller.

4. The Seller will file of record with Sedgwick County, Kansas Register of Deeds prior to closing Protective Restrictive Covenants in a form as contained in **Exhibit "A"** to this Agreement, which is incorporated by reference into this Agreement. The Restrictive Covenants contained in Exhibit A are acceptable to Buyer and Buyer understands that Buyer's purchase and use of the Property is

subject to the Restrictive Covenants contained in Exhibit A.

5. A duly executed copy of this Agreement shall be delivered to the parties hereto.

6. Seller shall pay all taxes, general and special, against the Property which are due and have accrued before the Closing Date, and Buyer shall assume all of such taxes and assessments becoming due and accruing on the Closing Date and thereafter, except that all general state, county, school and municipal taxes (exclusive of rebates, penalties and interest) becoming due and accruing during the calendar year in which the Closing Date occurs shall be prorated between Seller and Buyer on the basis of said calendar year as of the Closing Date. If the amount of any such tax or assessment to be prorated cannot be then ascertained, proration shall be computed on the basis of the rate(s) for the preceding year applied to the last assessed valuation known prior to the Closing Date, without any right to subsequent adjustment once the actual amounts are known. Seller represents that there are no special assessments or other impositions of any nature which are pending with respect to the Property or any portion thereof.

7. The Seller further agrees to convey the Property and deliver possession of the same in the same condition as now exists as of the Effective Date, reasonable wear and tear excepted.

8. Seller shall place no encumbrances (including, without limitation, any easement, license, or right-of-way) on the Property or any portion thereof during the period from the Effective Date of this Agreement through the Closing Date, nor shall Seller grant, convey, lease or dispose of, or negotiate or contract to sell, grant, convey, lease or dispose of the Property, or any part thereof, during such period.

9. It is understood and agreed between the parties hereto that time is of the essence of this Agreement, and that this transaction shall be consummated on or before August 31, 2021 (the "**Closing**"); provided, however, that Buyer may extend the Closing until on or before September 30, 2021 by notifying Seller prior to August 31, 2021 of its desire to so extend. The date on which the Closing actually occurs is referred to herein as the "**Closing Date**".

10. Possession to be given to Buyer at closing.

11. Closing costs, if any, shall be paid 50% by Buyer and 50% by Seller.

12. The parties covenant and agree that except for the costs of closing and title insurance, each is solely responsible for the payment of any fee, if any, for brokerage, technical or other professional services relating to the execution and performance of this Agreement incurred by such party.

13. Buyer hereby acknowledges that, except as expressly set forth in Paragraph 15, neither Seller nor its agents make any representation, warranty or guarantee of any kind, express or implied, with respect to the Property, including as to the suitability of the Property for the intended use of Buyer and the Property is being sold "AS-IS, WHERE-IS, WITH ALL FAULTS". By execution hereof, Buyer represents and warrants to Seller and agrees, except as specifically provided in this Agreement, Buyer has not relied upon any representation or warranty of any kind which is not expressly set forth or provided for herein in connection with the sale of the Property or Buyer's actual purchase thereof.

14. Seller hereby grants to Buyer, and its contractors and agents, a non-exclusive right and license to enter the Property from time to time prior to the earlier of the Closing Date or the termination of this Agreement, for the purpose of permitting Buyer at Buyer's own expense, to conduct such inspections and investigations of the Property in order to determine such suitability including but

not limited to:

A. Soils data and geology, drainage, hydrology and topographical features that would affect any present or future intended use;
B. The presence or absence of any contamination by any hazardous substance;
C. The quality and quantity of water available by on-site water wells, and the availability of a permit or permits therefore;
D. The nature, extent, and cost of public utilities needed to serve all or a portion of the Property;
E. The extent and cost of compliance with subdivision regulations, building codes and other applicable rules and regulations involving public improvements, private improvements, access, building setbacks, public dedications, platting and replatting requirements of the Property;
F. The nature and extent of zoning and subdivision statutes, laws, ordinances and regulations affecting the present use, and the ease or difficulty involved in the zone-change and subdivision approval procedures necessary or desirable to allow for the Buyer's intended use or uses.

Buyer shall provide copies of all written communications and reports that are not subject to legal privilege in connection with any testing or investigation performed with respect to the Property. Buyer shall give Seller reasonable notice of its intended inspections. Buyer agrees to defend, indemnify and hold Seller harmless for and against any and all claims, damages, liabilities, costs, or expenses to the extent arising out of, relating to, or due to the act's or omission of Buyer, its employees, agents, and contractors in connection with such inspections or investigations, and Buyer shall promptly repair any damage to the Property occurring as a result of such inspections or investigations. Buyer's indemnification and repair obligations set forth in this subparagraph shall survive the Closing or termination of this Agreement.

15. Buyer shall have until 11:59 p.m. (Wichita, Kansas local time) on the day before the scheduled Closing Date (the "**Due Diligence Period**") to conduct such due diligence activities and inspections, pursue such governmental approvals, and conduct such other activities and reviews with respect to the Property and Buyer's intended use thereof as Buyer shall deem appropriate. If Buyer determines in its sole and absolute discretion, based on the results of tests and inspections performed by it, that the Property is unsuitable for its intended purposes, Buyer shall have the right to terminate this Agreement by giving written notice to Seller on or before the expiration of the Due Diligence Period. In the event of such termination, neither party shall have any further obligation hereunder, except for Buyer's indemnification and repair obligation set forth in this Agreement.

16. Seller represents that it is the fee simple owner of the Property, has the legal power and authority to enter into and perform this Agreement, and this Agreement has been duly executed and delivered by Seller, and constitutes the valid and binding obligation of Seller, enforceable against it in accordance with the terms hereof.

17. All notices and other communications required or desired to be given hereunder will be in writing, will be personally delivered or sent by overnight courier, or by registered or certified mail (postage prepaid; return receipt requested), or by e-mail delivery with an original to follow on the next business day via overnight courier, and addressed as follows:

If to the City:

City of Wichita, Kansas
Attn: John Philbrick, Real Estate Administrator

City Hall, 13th Floor
455 N. Main
Wichita, Kansas 67202
jphilbrick@wichita.gov

If to Buyer:

Unified School District No. 259
Attn: Patrick Greene, Clerk of the Board
903 South Edgemoor
Wichita, Kansas 67218

18. If any provisions of this Agreement or the application thereof to any party or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

19. This Agreement may be executed in several counterparts. All counterparts so executed shall constitute one agreement and shall be binding on all parties, even though all the parties did not sign the original or the same counterpart signature page. Hand signatures transmitted by fax or electronic mail in portable document format (PDF), or similar format, are also permitted as binding signatures to this Agreement.

WITNESS OUR HANDS AND SEALS the day and year first above written.

SELLER:
Unified School District No. 259,
Sedgwick County, Kansas

_____
Stan Reeser, President of the Board

ATTEST:

_____
Patrick Greene, Clerk of the Board

BUYER:
City of Wichita, Kansas, a municipal corporation

_____
Brandon J. Whipple, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to form:

_____

Jennifer Magana, City Attorney and Director of Law

EXHIBIT A
PROTECTIVE RESTRICTIVE COVENANTS DECLARATION

THIS DECLARATION made this _____ day of _____, 2021, by Unified School District No. 259, Sedgwick County, Kansas (the "District"):

RECITALS

WHEREAS, the District is the Owner of certain real estate that is legally described as follows, to-wit:

> A portion of Lot 1, Southeast High Addition to Wichita, Sedgwick County, Kansas generally described as follows:
>
> Beginning at the northwest corner of Lot 1, thence easterly along the north line of Lot 1 approximately 400 feet to the west edge of the existing drive lane: thence southerly and southeasterly following the west edge of the existing drive lane approximately 500 feet: thence west parallel to the north line of Lot 1 to a point on the west line of Lot 1; thence north along the west line of Lot 1 to the point of beginning.
>
> Property consists of approximately five (5.0) acres.

(the "Property"); and,

WHEREAS, the District has contracted with the City of Wichita to sell the Property; and,

WHEREAS, the Property is adjacent to other property that is owned by the District whereon a public high school may be located in the future, the property being legally described as follows, to-wit:

> Lot 1, Southeast High School Addition to Wichita, Sedgwick County, Kansas, except for the Property

(the "Adjacent Property"); and,

WHEREAS, the Property is currently vacant land; and,

WHEREAS, the District wants to ensure that any future use of the Property is a use that is compatible with the use of the Adjacent Property as a public high school or administrative building; and,
WHEREAS, the District Board of Education has determined that there are certain land uses for which the Property could be used that are compatible with the use of the Adjacent Property; and,

WHEREAS, based on the fact that the Property may be sold and disposed of in the future, the District desires to subject the Property to certain protective restrictive covenants that limit the development of the Property to certain land uses that the District Board of Education has determined are compatible with the use of the Adjacent Property,

NOW, THEREFORE, the District hereby declares that the Property shall be held, transferred, sold and conveyed subject to the conditions, covenants and restrictions hereinafter set forth:

SECTION 1. Permissible Uses. The use of the Property shall be limited to and only used for the following permitted land uses ("Permitted Land Uses"), and all other land uses shall be prohibited ("Prohibited Land Uses"):

a. ***Assisted Living***, which means dwelling units used by older persons, persons with disabilities or other persons needing or desiring assistance with day-to-day living matters, and may include supervised nursing care, and where skilled nursing care is not prohibited but is provided on an intermittent or limited term basis, or if limited in scope, on a regular basis. Typical uses include retirement communities in which housekeeping services, common dining facilities and recreational and social activities are offered to residents. The term "assisted living" does not include convalescent care facility, group home, group residence or hospital.

b. ***Church or Place of Worship***, which means a premises or site used primarily or exclusively for religious worship and related religious services or established place of worship, convent, seminary or similar facility owned or operated by a bona fide religious group for religious activities.

c. ***Convalescent Care Facility, General***, means an establishment providing room, board, personal services, bed care and in-patient nursing care services for six or more persons needing regular medical attention, but excluding "assisted living" dwelling units, a "group home", a "group residence", and a hospital facility providing surgical or emergency medical services or providing care for mental illness or communicable disease.

d. ***Convalescent Care Facility, Limited***, means an establishment providing room, board, personal services, bed care and in-patient nursing care services for five or fewer persons needing regular medical attention, but excluding "assisted living" dwelling units, a "group home", a "group residence", and a "hospital" facility providing surgical or emergency medical services or providing care for mental illness or communicable disease.

e. ***Day Care***, which means an establishment that provides care, protection and supervision for individuals on a regular basis away from their primary residence for less than 24 hours per day. The term does not include the following: (a) kindergartens or nursery schools or other daytime programs operated by public or private elementary or secondary schools or institutions of higher learning; (b) facilities operated in connection with a shopping center or other principal activity, where individuals are cared for temporarily while parents or custodians are occupied on the premises, or are in the immediate vicinity and readily available; or (c) special activity programs, including athletics, crafts instruction and similar activities conducted on a periodic basis by civic, charitable and governmental organizations.

f. ***Library***, which means a publicly operated facility housing a collection of books, magazines, audio and video tapes, or other material for borrowing and use by the general public.

g. ***Governmental Services***, which means buildings or facilities owned or operated by a governmental entity and providing services, including law enforcement services, for the public, and excluding utilities and recreational services. Typical uses include administrative offices of governmental agencies and utility billing offices.

h. ***Hospital***, which means an institution that: (1) offers services more intensive than those required for room, board, personal services and general nursing care; (2) offers facilities and beds for use beyond 24 hours by individuals requiring diagnosis, treatment or care for illness, injury, deformity, infirmity, abnormality, disease or pregnancy; and (3) regularly makes available at least clinical laboratory services, diagnostic x-ray services
may include offices for medical and dental personnel, central service facilities such as pharmacies, medical laboratories and other related uses.

i. ***Printing and Copying, Limited***, which means an establishment engaged in retail photocopying, reproduction, photo developing or blueprinting services.

j. ***Satellite College or University***, which means a satellite site for attendance by students enrolled to attend classes of an institution of higher education offering undergraduate or graduate degrees.

k. ***Parks and Recreation***, which means a park, playground or community facility that is owned by or under the control of a public agency or homeowners' association and that provides opportunities for active or passive recreational activities, and a cultural facility that provides cultural services to the public, including a museum, art gallery, observatory, planetarium, botanical garden, arboretum, zoo or aquarium that is owned by or under the control of a public agency. For purposes of this definition, Parks and Recreation shall include those parks, community facilities and cultural facilities that are owned by or under the control of a public agency and leased to private entities for recreational activities, including recreational and cultural uses that involve paid admission or that allow the sale of cereal malt beverages or alcoholic beverages for consumption on the premises.

l. ***Animal Care, Limited to Small Animals***, which means a use providing veterinary services for small animals (household pets) for which there are no outside animal runs, and for which inside boarding facilities may also be provided.

m. ***Automated Teller Machine (ATM)***, which means a mechanized consumer banking device operated by a financial institution for the convenience of its customers, whether outside or in an access-controlled facility. ATMs located within a building shall be considered accessory to the principal use unless the ATM is likely to be an independent traffic generator.

n. ***Bank or Financial Institution***, which means establishments engaged in deposit banking. Typical uses include commercial banks, savings institutions and credit unions. Bank or Financial Institution also includes automated teller machines.

o. ***Bed and Breakfast Inn***, which means the use of an owner-occupied or manager-occupied residential structure to provide rooms for temporary lodging or lodging and meals for not more than 15 transient guests on a paying basis.

p. ***Broadcast or Recording Studio***, which means an establishment primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms, including radio, television, film or sound recording studios.

q. ***Convenience Store***, which means an establishment, engaged in the retail sale of food, beverages, gasoline and other frequently or recurrently needed merchandise for household or automotive use and may include a car wash as an accessory use, but shall not include motor vehicle repair.

r. ***Funeral Home***, which means an establishment engaged in preparing the human deceased for burial or cremation and arranging and managing funerals.

s. ***Medical Service***, which means an establishment providing therapeutic, preventive, or corrective personal treatment services on an out-patient basis by physicians, dentists and other practitioners of the medical or healing arts, as well as the provision of medical testing and analysis services. Typical uses include medical and dental offices and clinics, blood banks and medical laboratories.

t. ***Nurseries and Garden Centers***, means a place of business where retail and wholesale products and produce are sold to the consumer. These centers, which may include a nursery and/or greenhouses, import most of the items sold, and may include plants, nursery products and stock and other garden and farm variety tools and utensils.

u. ***Office***, which means an establishment providing executive, management, administrative or professional services, but not involving medical or dental services or the sale of merchandise, except as incidental to a permitted use. Typical uses include real estate, insurance, property management, investment, employment, travel, advertising, law, architecture, design, engineering, accounting and the teaching of those and similar activities, and communication switching facilities and telecommunications carriers that are accompanied by office uses and with all facilities within the building or underground.

v. ***Personal Care Service***, which means an establishment primarily engaged in the provision of frequently or recurrently needed services involving the care of a person or his personal goods or apparel. Typical uses include beauty and barber shops, electrolysis studios, shoe shining and/or repair operations, tailors and neighborhood laundry and dry cleaning operations.

w. ***Post Office Substation***, which means a facility or structure owned by the U.S. Postal Service that is used for the collection, sorting and distribution of mail within several zip code areas and having limited retail services for the general public, such as the sale of stamps, postcards and postal insurance.

x. ***Recreation and Entertainment, Indoor***, which means a privately-owned establishment offering recreation, entertainment or games of skill to the general public or members that is wholly enclosed in a building. Typical uses include bowling alleys, indoor theaters, bingo parlors, pool halls, billiard parlors, video game arcades, racquetball and handball courts, and amusement rides. It does not include buildings typically accessory to a subdivision that are for use by the subdivision's residents and their guests.

y. ***Restaurant***, which means an establishment where the principal business is the sale of food and beverages in a ready-to-consume state, that may include the retail sale of alcoholic liquor or cereal malt beverages for consumption on the premises, that derives in a six-month period less than fifty percent (50%) of its gross revenues from the sale of alcoholic liquor or cereal malt beverages for consumption on the premises.

z. ***Retail, General***, which means the sale or rental of commonly used goods and merchandise for personal or household use. Typical uses include grocery stores, department stores, furniture stores, clothing stores and establishments providing the following products or services: household electronic equipment (including, but not limited to cell phones), sporting goods, bicycles, office supplies, home furnishings, household appliances, wallpaper, carpeting and floor coverings, art supplies, kitchen utensils, jewelry, drugs, cosmetics, books, notions, antiques or automotive parts and accessories.

aa. ***Monument Sales***, which means an establishment primarily engaged in the retail sale of monuments, such as headstones, footstones, markers, statues, obelisks, cornerstones and ledges, for placement on graves, including indoor or outdoor storage.

SECTION 2. Term. These conditions, covenants and restrictions are to run with the land and to the District including after the District is no longer the owner of the Property, and shall continue and be binding upon the District and upon its heirs, assigns and successors for a period of twenty-five (25) years from the date these conditions, covenants and restrictions are recorded, after which time, said conditions, covenants and restrictions shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the District and the then-owner(s) of the Property has been recorded wherein the District and the owner(s) have agreed to terminate the conditions, covenants and restrictions or change them wholly or in part. In addition, this Agreement shall terminate if and on the date that the District is no longer the owner of the Adjacent Land.

SECTION 3. Enforcement. Enforcement of these conditions, covenants and restrictions shall be by law or in equity against any entity, person or persons violating or attempting to violate any condition, covenant or restriction contained herein, e.g., attempting to use the Property for a Prohibited Land Use, the restraining of a violation of a condition, covenant and/or restriction, restoring of the Property to a use that is not a Prohibited Land Use, recovery of damages and/or by any other remedy allowable in law or in equity. The right to enforce these conditions, covenants and restrictions shall continue to run to the District after the District is no longer an owner of the Property. Such right of enforcement shall continue as long as the District continues to own the Adjacent Property.

SECTION 4. Severability. Invalidation of any one of the conditions, covenants and/or restrictions contained herein by judgment or court order shall in no way or nowise affect any of the other provisions which shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have caused this Protective Restrictive Covenants to be executed as of the day and year first above written.

SELLER:
Unified School District No. 259,
Sedgwick County, Kansas

_____
Stan Reeser, President of the Board

ATTEST:

_____
Patrick Greene, Clerk of the Board

ACKNOWLEDGMENT

STATE OF KANSAS)
) SS
SEDGWICK COUNTY)

BE IT KNOWN BY ALL PERSONS that on this _____ day of _____, 2021, before me, a Notary Public came Stan Reeser, President of the Board of Education of Unified School District No. 259, Sedgwick County Kansas, who is known to me and who personally acknowledged execution of the foregoing Protective Restrictive Covenants, and Patrick Greene, Clerk of the Board of Education of Unified School District No. 259, Sedgwick County, Kansas, who is known to me and who personally acknowledged attesting the signature of said Stan Reeser.

_____
Notary Public

My Appt. Expires: _____

City of Wichita, Kansas, a municipal corporation

By _____
Brandon J. Whipple, Mayor

ATTEST:

By _____
Karen Sublett, City Clerk

ACKNOWLEDGMENT

STATE OF KANSAS)
) SS
SEDGWICK COUNTY)

BE IT KNOWN BY ALL PERSONS that on this _____ day of _____ 2021, before me, a Notary Public came Brandon J. Whipple, as Mayor of the City of Wichita, Kansas, a municipal corporation who is known to me and who personally acknowledged execution of the foregoing Protective Restrictive Covenants on behalf of the City of Wichita, Kansas, a municipal corporation, and Karen Sublett, City Clerk of the City of Wichita, Kansas, a municipal corporation, who is known to me and who personally acknowledged attesting the signature of said Brandon J. Whipple.

_____
Notary Public

My Appt. Expires: _____

Reviewed as to Form:

_____
Jennifer Magana, City Attorney and Director of Law