

NORTH CAROLINA

WAKE COUNTY

OFFER TO PURCHASE AND CONTRACT

WHEREAS, _____ (“Buyer”) hereby agrees to purchase and Wake County Board of Education (“Seller”) hereby agrees to convey a parcel of land at _____, _____, _____, being described as having Wake County PIN _____, totaling _____ acres more or less, further identified as located in the Town of _____, _____ Township, Wake County North Carolina, as shown in Deed Book _____, Page _____, Wake County Registry, and being more particularly described in Exhibit “A” as attached hereto and incorporated herein by reference, together with all improvements located thereon (except as hereinafter described) and all appurtenances thereto belonging or appertaining, and all right, title and interest which Seller may have in all creeks, streams, rights-of-way, easements, roads, streets and ways bounding said property (the “Property”).

NOW, THEREFORE, in consideration of the mutual covenants and undertakings herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby expressly acknowledged and confessed, the parties hereto agree to the following terms and conditions:

1. PURCHASE PRICE: The purchase price of _____ Dollars shall be paid as follows:

A. An initial good faith Earnest Money deposit of _____ Dollars shall be paid by Buyer to be delivered to _____, upon execution of this Contract by Buyer with the delivery of this contract, to be held in trust until the sale is closed, at which time it will be credited to Buyer. In the event Buyer fails, refuses or is unable to close the transaction in accordance with the terms of this Offer To Purchase and Contract, Seller will retain the deposit as liquidated damages.

B. Buyer shall pay Seller the balance of the purchase price at closing by certified check, official bank check, or wire transfer of funds, said amount being the sum of _____ Dollars.

2. CONDITIONS: The obligation of Buyer to purchase the Property is subject to the satisfaction at or prior to closing of the following conditions:

A. Title must be delivered at closing by Special Warranty Deed and must be fee simple marketable title, free of all encumbrances and assessments, utility easements and unviolated restrictive covenants, neither of which materially affect the value of the Property and such other encumbrances as may be assumed or specifically approved by Buyer. The Property must have legal access to a public right-of-way.

3. FAILURE OF CONDITIONS: If any of the conditions in this document are not met, Buyer has the option to waive the satisfaction of any unsatisfied conditions. If Buyer elects not to waive the satisfaction of any unsatisfied conditions, Buyer shall have the right to rescind the contract and recover all of its earnest money deposit.

4. SELLER REPRESENTATIONS AND WARRANTIES: Seller makes the following representations and warranties to and for the benefit of Buyer which shall be true on the date of closing as though such representations and warranties were made at such time and shall survive the passing of title:
 - A. ASSESSMENTS: Seller warrants that there are no encumbrances or special assessments, either pending or confirmed, for sidewalk, paving, sewer, water, or other improvements on or adjoining the Property.
 - B. CLAIMS AND SUITS: Seller has not entered into any agreement including leases or rental agreements with reference to the Property and neither Seller nor the Property are subject to any claim, demand, suit, unfiled lien, proceeding or litigation of any kind, pending or outstanding, or to the knowledge of Seller, threatened or likely to be made or instituted which would in any way be binding upon Buyer or its successors or assigns or affect or limit Buyer's full use and enjoyment of the Property or which would limit or restrict in any way Seller's right or ability to enter into this contract and consummate the sale and purchase contemplated hereby.
5. PRORATIONS AND ADJUSTMENTS: Unless otherwise provided, the following items shall be prorated and adjusted between the parties or paid at closing:
 - A. All late listing penalties, if any, shall be paid by Seller.
 - B. Seller shall not be responsible for any brokerage commission due as a result of this sale. Buyer by its execution hereof states that it has not been represented by any real estate broker in this transaction and Buyer agrees to indemnify and hold Seller harmless against any real estate commission claimed by any parties allegedly representing Buyer in this transaction.
6. LABOR AND MATERIAL: Seller shall furnish at closing an affidavit and indemnification agreement in a form satisfactory to Buyer showing that all charges for labor or materials, if any, furnished to the Property within 120 days before the date of closing have been paid and agreeing to indemnify Buyer against all loss from any claim arising therefrom.
7. CLOSING EXPENSES: Seller shall pay for the preparation of a deed which shall be prepared by Seller's attorney and for the revenue stamps required by law. Buyer shall pay for recording the deed. Buyer and Seller shall each pay their respective attorneys fees.
8. ASSIGNMENT: This contract may not be assigned without the written agreement of all parties, but if the same is assigned by agreement, then the same shall be binding on the assignee and his heirs.
9. BINDING EFFECT: This contract shall be binding and shall inure to the benefit of the parties and their heirs, successors and assigns.
10. SURVIVAL: Any provision of this agreement which by its nature and effect is required to be observed, kept or performed after the closing shall survive the closing and remain binding upon and for the benefit of the parties until fully observed, kept or performed.

11. SELLER'S AUTHORITY: Seller warrants and represents that they have full and complete power and authority to enter into this contract in accordance with all the provisions contained herein and that there is no person or entity that has any interest in the Property other than the parties to this agreement.
12. RIGHTS OF BUYER PRIOR TO CLOSING FOR ENTRY AND INSPECTION: Buyer and Buyer's agents or employees shall have the right to enter upon the Property at reasonable times with the prior written authorization of Seller to survey the Property and to conduct such other inspections, tests and studies as Buyer may deem necessary (collectively, the "Inspections"). Buyer and/or its agents, representatives, contractors, subcontractors and consultants shall be adequately insured regarding such work. Seller shall grant Buyer's reasonable requests for entry upon the Property with the agreement that Buyer shall not unreasonably interfere with Seller's use of the Property or damage the Property and provided further that Buyer shall leave the property in substantially the same or better condition as it was prior to the entry thereon by Buyer or its agents or employees or, in the event of any damage to the Property, Buyer shall repair and restore the Property substantially to its prior condition. Buyer agrees to indemnify and hold harmless Seller from any loss or damage to persons or property, including reasonable attorneys' fees, arising out of the entry upon the property by Buyer, its agents or employees, or arising out of the inspections that Buyer, its agents or employees may conduct pursuant to this Paragraph.
13. CONDITION OF PROPERTY. Buyer shall purchase the Property in an "as-is, with all faults" condition and hereby acknowledges and agrees that it is relying solely upon its own inspections, investigations and analyses of the Property in entering into this Offer to Purchase and Contract and is not relying in any way upon any representations, statements, agreements, warranties, studies, reports, descriptions, guidelines or other information or material from Seller or its representatives, whether oral or written, express or implied, of any nature whatsoever regarding the Property.
14. RISK OF LOSS: The risk of loss prior to closing, which shall include personal property, shall be upon the Seller.
15. POSSESSION: Exclusive possession of the Property free and clear of occupancy by all persons, firms or corporations, whether or not under claim of right or color of title, shall be delivered to Buyer at closing on the conditions required in this Offer to Purchase and Contract.
15. TIME IS OF THE ESSENCE: Time is of the essence with regard to the terms and conditions contained in this Offer to Purchase and Contract.
16. CLOSING: The parties agree to execute any and all documents and papers necessary in connection with the closing and transfer of title on or before _____. The deed is to be made to _____.
18. COUNTERPARTS: This offer shall become a binding contract when signed by both Buyer and Seller in four (4) counterparts with an executed counterpart being retained by each party.
19. CONSTRUCTION. No provision of this Offer to Purchase and Contract shall be construed against or interpreted to the disadvantage of any party by any court or other governmental or judicial authority by reason of such party's having or being deemed to have prepared or imposed such provision.

- 20. SEVERABILITY. In case anyone or more of the provisions contained in this Offer to Purchase and Contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof and this Offer to Purchase and Contract shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
- 21. SELLER REMEDIES CUMULATIVE. The rights and remedies of Seller specified in this Offer to Purchase and Contract shall be cumulative and in addition to any other rights and/or remedies otherwise available, whether or not specified in this Offer to Purchase and Contract.
- 22. MEMORANDUM OF CONTRACT: Each party hereto reserves the right to obtain upon request the execution by the parties of a Memorandum of Contract suitable for recordation in the Office of the Register of Deeds of Wake County. The requesting party shall pay all expenses for preparation and recordation of said Memorandum(s). This contract itself may not be recorded without the prior written permission of Buyer and Seller. If Buyer records a memorandum of contract, Buyer shall furnish a notice of termination that Seller can record.
- 23. COMPLETE AGREEMENT: This Offer to Purchase and Contract contains the entire contract between the parties hereto regarding the subject matter hereof and each party acknowledges that neither has made (either directly or through any agent or representative) any representations or agreements in connection with this Offer to Purchase and Contract not specifically set forth herein. It may not be modified orally or in any manner except by agreement in writing by the parties hereto.

IN WITNESS THEREOF, the parties have hereunto set their hands and seal the day and year indicated below.

Date of Offer: _____

Date of Acceptance by Board of Education: _____

Buyer:

By: _____
Name/Title

Seller::

WAKE COUNTY BOARD OF EDUCATION

By: _____
Chair

Attest: _____
Superintendent

Exhibit "A"

Legal Description: