Cherokee County School District

# Agenda Request Form

| Meeting Date | Agenda Item Number |
|---|---|
| December 10, 2020 | H-1 |

## Title

Property Purchase for Future Cherokee County School District (CCSD) Use

## Requested Action

School Board Consideration of Approval of Property Purchase for Future Cherokee County School District (CCSD) Use

## Summary Explanation and Background

As was authorized by a unanimous vote by the School Board following an Executive Session at its September 17, 2020 School Board meeting, the School Board is requested to approve the purchase of approximately 88.00 acres +/- (previously designated as 20-B) located north of Dr Martin Luther King Jr Blvd, adjacent to the current Teasley Middle School site, for future use by CCSD. The property cost is $87,500 per acre.

## Priority Area

Organizational and Operational Effectiveness

## Financial Impact

$87,500 per acre

## Exhibits: (List)

Contract for Sale of Realty and Location Map

## Source of Additional Information

| | |
|---|---|
| Tom Roach, School Board Attorney | 770.479.1406 |
| Dr. Brian Hightower, Superintendent | 770.479.1871 |
| Bill Sebring, Chief Support Services Officer | 770.479.1871 |

# CONTRACT FOR SALE OF REALTY

Date: November 18, 2020

The undersigned Purchaser agrees to buy, and the undersigned Seller agrees to sell:

> All that tract or parcel of land lying and being in Land Lot Nos. 191,192, 205 and 206 of the 14th District, 2nd Section, Cherokee County, Georgia and being approximately 88 acres, more particularly described in a plat of survey prepared for the Cherokee County School District by Mitchell Surveying and Consulting, L.L.C., dated November 4, 2020 attached hereto as Exhibit "A" attached hereto and made a part hereof,

including all plants, trees and shrubbery now on the premises.

The purchase price of said Property shall be:

**Eighty-Seven Thousand Five Hundred Dollars ($87,500.00)** per acre.

The purchase price shall be based on a per acre price to the nearest one-hundredth of an acre based upon that boundary survey attached hereto as Exhibit "A" to be paid as follows:

ALL CASH AT CLOSING

Purchaser has paid to the undersigned Seller, receipt whereof is hereby acknowledged by such Seller, the sum of **Fifty Thousand Dollars ($50,000.00),** as earnest money, which earnest money is to be applied as part payment of the purchase price of said Property at the time sale is consummated.

Seller agrees to furnish good and marketable title to said Property and agrees to convey said Property by limited warranty deed to Purchaser at time sale is consummated, subject to:
(1) All valid restrictions of record; (2) Zoning ordinances affecting the same; and (3) Existing leases.

The Purchaser shall have until **December 10, 2020** ("Condition Satisfaction Period") in which to examine title and inspect the subject property and in which to furnish Seller with a written statement of objections affecting the marketability of said title or use of the Property as a school ("Statement of Objections"), if any.

Seller shall have **five (5) business days** after receipt of such written objections, if any, ("Sellers Response Period") to either (i) satisfy such objections; (ii) notify Purchaser in

writing that Seller agrees to satisfy such objections at or prior to closing; or (iii) notify Purchaser that Seller either cannot or will not satisfy such objections. Notwithstanding anything contained herein to the contrary, Seller shall satisfy, cure or cause to be released or bonded off of the Property, at or prior to closing (i) all materialmen's and mechanic's liens affecting the Property and arising out of work done for or on behalf of Seller, (ii) the lien and interest of any other person or any other entity securing a loan to Seller, (iii) any tax liens affecting the Property, and (iv) any judgment lien against Seller which attaches to the Property prior to closing. Seller shall have no obligation to cure any other title objections except (i) matters which Seller causes to be placed on the Property after the date hereof without the written consent of Purchaser; and (ii) those objections which Seller has agreed to satisfy. In the event that Seller does not provide to Purchaser, prior to the expiration of Seller's Response Period, a written response to a title objection as to which Purchaser has provided timely written notice in the Statement of Objections, Seller shall be deemed to have refused to satisfy the same.

In the event that, prior to the expiration of Seller's Response Period, Seller notifies Purchaser that Seller either cannot or will not satisfy, or is deemed to have refused to satisfy, an objection described in the Statement of Objections, then Purchaser may elect to (i) waive any such objection and proceed to closing; or (ii) terminate this Contract by giving written notice of such termination to Seller, in which case Seller shall return all earnest monies to Purchaser, and all rights and obligations of the parties shall expire and this Contract shall become null and void, except for provisions herein which are specified to survive termination of this Contract. Said election shall be made by Purchaser by giving written notice thereof to Seller no later than **ten (10) days** following the expiration of Seller's Response Period. In the event that Purchaser does not provide to Seller, prior to the expiration of said period, a written notice of Purchaser's election, Purchaser shall be deemed to have elected to waive any such objection and proceed to closing. Any matters as to which Purchaser does not make timely objection as hereinabove provided, and any matters waived by Purchaser pursuant to clause (i) of this paragraph, shall be deemed to be "Permitted Title Exceptions".

Seller and Purchaser agree that such papers as may be legally necessary to carry out the terms of this Contract shall be executed and delivered by such parties at time sale is consummated.

**Time is of the essence in this contract.**

This Contract constitutes the sole and entire agreement between the parties hereto and no modification of this Contract shall be binding unless attached hereto and signed by all parties to this Contract. No representation, promise, or inducement not included in this Contract shall be binding upon any party hereto.

All notices, including demands, required or permitted hereunder shall be in writing and delivered to the address below each party's signature either (1) in person; (2) by a prepaid overnight delivery service; (3) by electronic transmission; or (4) by the United States Postal Service, postage prepaid, registered or certified return receipt requested. Notice shall be

deemed as to have been given as of the date and time it is transmitted if the sending electronic mail produces a written confirmation with the date, time, and address to which the notice was sent.

In the event that the last day for closing falls on a Saturday, Sunday or legal holiday, the last day for closing shall automatically be extended to the next succeeding regular business day. Whenever the last day, for the exercise of any privilege or the discharge of any duty hereunder, shall fall upon a Saturday, Sunday or legal holiday, the party having such privilege or duty shall have until the next succeeding regular business day to exercise such privilege or to discharge such duty.

Separate counterparts of this Contract may be executed by the parties, and any such counterpart(s) into which a full complement of signatures has been inserted, whether or not those signatures are contained on separate signature pages, shall be deemed a valid original hereof. A counterpart bearing a signature sent by electronic transmission or bearing a copy of either an original signature or electronically transmitted signature shall be deemed to bear a valid original signature.

The following stipulations shall, if conflicting with printed matter, control:

## SPECIAL STIPULATIONS

1) Seller shall pay Georgia real estate transfer tax and any brokerage fees or commissions, if any.

2) Purchaser shall pay closing costs, including title examination fees and title insurance premiums.

3) Sale shall be closed on or before **December 31, 2020** (the "Closing Date").

4) Taxes for the current year shall be prorated as of the date of closing.

5) This Contract is subject to and contingent upon approval of the above described tract by the State Department of Education. In the event the State Department of Education does not approve said tract on or before the Closing Date, then in that event this Contract shall become null and void and all earnest monies paid herein shall be immediately returned to Purchaser.

6) This Contract is subject to and contingent upon an archeological survey of subject tract for Native American or historically significant artifacts. In the event historical artifacts or other items of archeological significance are located on said tract, this Contract may be rescinded at the option of the Purchaser on or

before the Closing Date, and all earnest monies paid herein shall be immediately returned to Purchaser. If Purchaser terminates this Contract, Purchaser agrees to provide Seller with a copy of the archeological survey, provided a survey exists at the time Purchaser terminates this Contract. Purchaser shall have no duty to provide said archeological survey or pay for completion of same if the survey does not exist or is not completed at the time this Contract is terminated.

7) Seller hereby authorizes Purchaser to enter into and upon said real property for purposes of conducting surveys, engineering studies or any other testing deemed necessary by Purchaser and all of its agents and contractors agree to hold Seller harmless from all claims, injuries and damages arising out of or related to the exercise of these rights.

8) This Contract is subject to and contingent upon an engineering analysis and site suitability report prepared by a certified engineer designated by Purchaser. Purchaser shall review said analysis and report, and Purchaser shall have absolute discretion in determining whether the Property is suitable for Purchaser's purpose. If Purchaser determines the subject Property is not suitable for Purchaser's purpose, then this Contract may be cancelled by Purchaser during the Condition Satisfaction Period, and all earnest monies paid shall be immediately returned to Purchaser. If Purchaser terminates this Contract, Purchaser agrees to provide Seller with a copy of the engineering analysis and site suitability report, provided a report exists at the time Purchaser terminates this Contract. Purchaser shall have no duty to provide said report or pay for completion of same if the report does not exist or is not completed at the time this contract is terminated.

9) This Contract is subject to approval by the City of Canton for sight distances and road/highway suitability. In the event that the City of Canton does not approve this Contract for sight distances and road/highway suitability, Purchaser may cancel this Contract on or before the Closing Date, and the Seller shall immediately return all earnest monies to Purchaser.

10) This Contract is subject to and contingent upon the Cherokee County School System acquiring a sufficient amount of right-of-way to provide adequate access to bus traffic. If Purchaser determines that a sufficient amount of right-of-way cannot be acquired, then this Contract shall be cancelled on or before the Closing Date, and the Seller shall immediately return all earnest monies to Purchaser.

11) This Contract is subject to and contingent upon the viability of building a three thousand (3000) FTE school on subject Property, as determined to be necessary by the Purchaser. In the event that Purchaser determines said Property is not suitable for said purposes, then this Contract shall be cancelled on or before the Closing Date, and all earnest monies paid shall be immediately returned to Purchaser.

12) This Contract is subject to and contingent upon the Purchaser's determination that sufficient sanitary sewerage capacity in both the transmission pipeline and the City of Canton's wastewater treatment facility is available at reasonable cost to and upon the subject Property, which sanitary sewerage capacities shall be sufficient to support a three thousand (3000) FTE school, and which sanitary sewerage capacities shall be acceptable to the City of Canton and the Purchaser. Said sanitary sewerage system shall be a gravity sewerage system of a sufficient size and installed at an acceptable location as deemed necessary by the Purchaser. If Purchaser determines that sanitary sewerage service is not available at a reasonable cost, then this Contract shall be cancelled on or before the Closing Date, and all earnest monies paid shall be immediately returned to Purchaser. This Contract is therefore contingent upon the receipt by Purchaser of reasonable assurance of pipeline and treatment facility capacity from the City of Canton.

13) This Contract is subject to and contingent upon approval of the above-described tract by the Georgia Department of Transportation. In the event the Georgia Department of Transportation does not approve said tract on or before the Closing Date, then this Contract shall become null and void, and all earnest monies paid herein shall be immediately returned to Purchaser.

14) This Contract is subject to and contingent upon a final vote by the members of the Cherokee County Board of Education to approve the purchase of the subject real property. In the event that the Board of Education does not vote to approve the purchase of the subject Property on or before the Closing Date, then this Contract shall become null and void, and all earnest monies paid shall be immediately returned to Purchaser.

15) This Contract is subject to and contingent upon the Purchaser's site determination that the subject site may be appropriately served with a sufficient amount of water volume and water pressure to support a three thousand (3000) FTE school, which water system shall also be acceptable to the City of Canton and the Purchaser.

In the event that Purchaser determines the site is not suitable under the above-stated conditions, then Purchaser may cancel this contract during the Condition Satisfaction Period, and all earnest monies shall be immediately returned to the Purchaser.

16) The Parties recognize and understand that the Purchaser is being represented by **Thomas A. Roach, Jr.**, of Roach, Caudill & Frost, LLP, 111 West Main Street, Canton, Georgia 30114 and the closing shall take place at said office or such other offices as designated by Thomas A. Roach, Jr.

17) Seller may elect to structure the sale of the Property as part of a "deferred like-kind exchange of real property" (a "1031 Exchange") as governed by Section 1031 of the Internal Revenue Code of 1986, as amended. Accordingly, Purchaser shall cooperate with respect to any such 1031 Exchange requested by Seller, provided there is no additional cost or liability to Purchaser or release of Seller, and each party shall execute any and all documents which may be reasonably required to effectuate any such 1031 Exchange.

18) The parties hereto acknowledge that the Seller has marketed and sold surrounding properties pursuant to a common scheme of development. Although Seller has not encumbered his property with restrictive covenants, Seller has required other purchasers to be bound by a common set of development standards. The parties hereto agree that except as set forth herein, the Purchaser shall not be bound by restrictive covenants, development standards or a community scheme of development. Should any prior purchaser of Seller's land contest the school system's right to use the subject property for a public school based upon the common scheme of development, Seller shall hold the school system and its Board, agents and representatives harmless and further shall fully indemnify them for any claim, damage, judgment, penalty, or award including reasonable attorney's fees rendered as a result of said claims, damages, penalties, suits, judgments or awards made.

19) All parking lot lighting shall be a dark bronze shoebox type fixture mounted on a 40' dark bronze round tapered steel pole with LED lamps or an equivalent fixture. The terms of this Paragraph 19 shall survive closing.

20) Prior to the end of the Condition Satisfaction Period Purchaser will provide Seller with a proposed grading plan for the Property. At closing Seller will reserve a grading easement along the eastern property line of the Property to allow Seller to grade along such property line. The terms of such grading easement will be finalized prior to the Closing Date.

21) The parties acknowledge that it is necessary to maintain access to the Hickory Log cemetery that is adjacent to the subject property. From the date of this contract until completion of construction of the school, the Seller shall provide a temporary easement for Purchaser's use in constructing a permanent road for ingress and egress to said cemetery. Following construction of the school, permanent access to the cemetery shall be provided by both Purchaser and Seller to allow access. The permanent access road shall be constructed by Purchaser during the construction of the proposed school. The terms of this Paragraph 21 shall survive closing.

22) Purchaser agrees to use its best efforts to follow the landscaping guidelines shown on Exhibit "B" and landscape the Property in a manner like Teasley Middle School. The terms of this Paragraph 22 shall survive closing.

23) Purchaser shall cause the road frontages immediately adjacent to the subject property to be lit with dark bronze LED fixtures spaced approximately 140' apart. The fixtures shall be installed by the Georgia Power Company. Purchaser agrees to pay for installation of said light fixtures; however, Purchaser shall have no duty to maintain or operate said light fixtures following installation. Prior to closing, the Seller must obtain a letter from the City of Canton agreeing to accept the lights for maintenance and operation upon their installation. The terms of this Paragraph 23 shall survive closing.

[Signatures appear on the following 2 pages.]

IN WITNESS WHEREOF, the parties have hereunto set their hands and affixed their seals the day and year first above written.

**CHEROKEE COUNTY SCHOOL SYSTEM**

BY: _____ (SEAL)
William J. Sebring, Chief Support Services Officer

ATTEST: _____
Mitch Hamilton, Supervisor, Planning/Facilities/Compliance

Address:
Cherokee County School District
Attn: William J. Sebring
200 Mountain Brook Ct.
Canton, GA 30115
Email: bill.sebring@cherokeek12.net

**PURCHASER**

**{Signature of Seller on following page.}**

**BRIGHT-SASSER CANTON, L.L.C.**

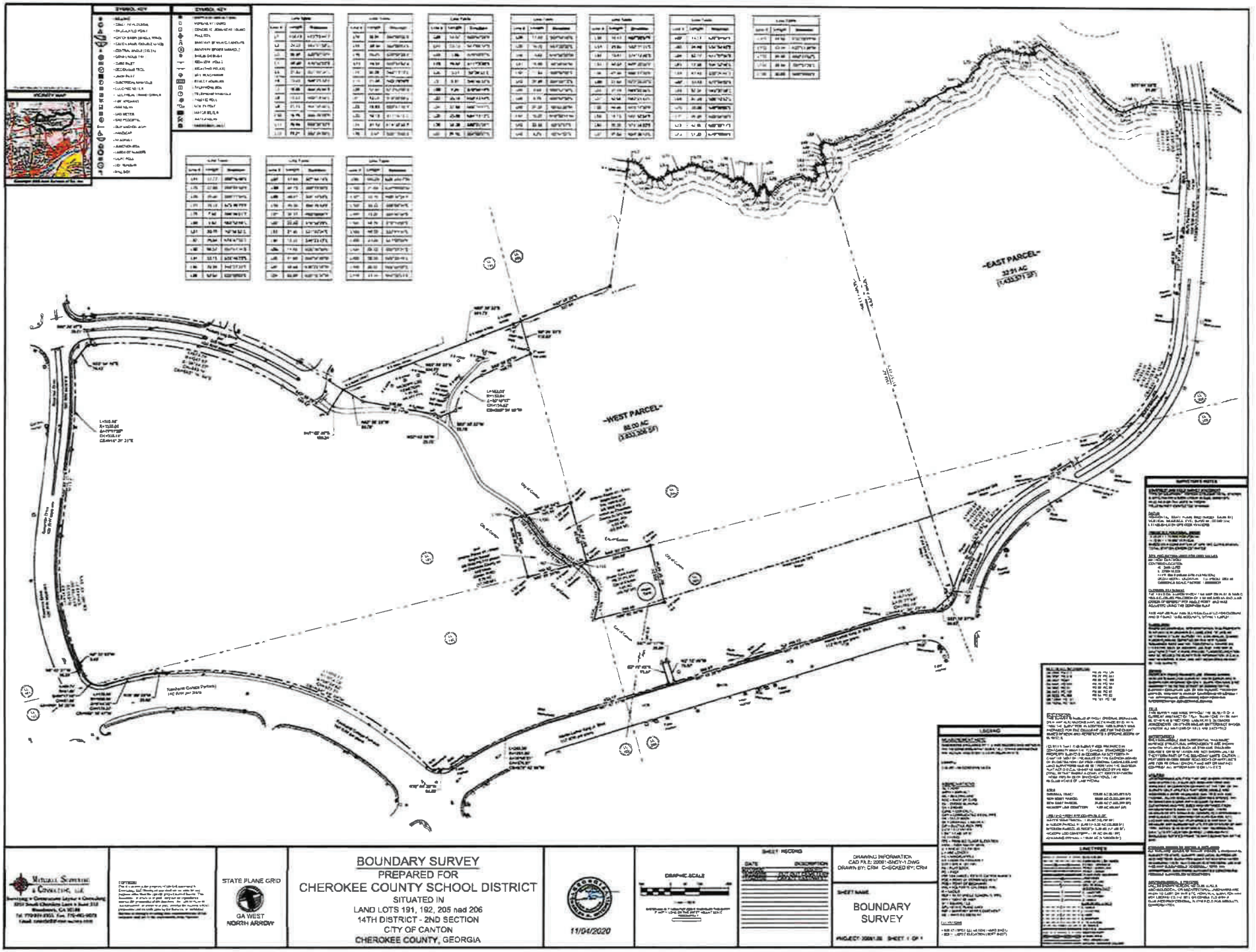
BY: _____(SEAL)

ATTEST: _____

Address:
Bright-Sasser Canton, L.L.C.
Attn: Matt Sasser
5881 Glenridge Drive, Suite 220
Atlanta, GA 30328
Email: matt@meyersbrothers.com

**SELLER**

**EXHIBIT "A"**
**Plat of Survey of Subject Property**




Mitchell Surveying & Consulting, LLC

STATE PLANE GRID

GA WEST

NORTH ARROW

# BOUNDARY SURVEY

PREPARED FOR

CHEROKEE COUNTY SCHOOL DISTRICT

SITUATED IN

LAND LOTS 191, 192, 205 and 206

14TH DISTRICT - 2ND SECTION

CITY OF CANTON

CHEROKEE COUNTY, GEORGIA

11/04/2020

GRAPHIC SCALE

SHEET RECORD

| DATE | DESCRIPTION |
|---|---|

DRAWING INFORMATION

CAD FILE: 220081-SURVEY-1.DWG

DRAWN BY: CRM CHECKED BY: CRM

SHEET NAME

BOUNDARY SURVEY

PROJECT: 220081.00 SHEET 1 OF 1

## EXHIBIT "B"

## LANDSCAPING GUIDELINES

1) All peripheral road frontages (state, county and city roads) shall be planted with Pin Oak of 4-inch caliper (measured one foot above the root ball) with a minimum height of 12 feet on approximately 60-foot centers and a straight trunk and center leader.

2) All roads adjacent to the Property shall have a strip with a minimum width of 10 feet (as measured from the right-of-way line to the interior curb of the Property).

3) Each building to be located on the Property shall have a landscaped area on each side of the building (including the front and back of the building) with a width of at least 5 feet and a length of at least 30% of the building side.

4) All storage or service areas that are visible from peripheral or interior roads or from parking lots shall be completely screened from view by an evergreen hedge.

5) All interior and peripheral road frontage shall be grassed with Bermuda sod.




## Map Legend

Potential Property Aquisition

## Notes:

Site Acreage: Approx. 85 Acres
Contour Interval = 2'

## Location Map




Cherokee County School District

District Office
1205 Bluffs Parkway
Canton, GA 30114

Division of Support Services
200 Mountain Brook Court
Canton, GA 30115

Map Title:

# Potential Property Acquisition: Replacement Cherokee High School Site

N
W E
S

200 0 200 400 600 800
Feet