Cherokee County School District

Agenda Request Form

Meeting Date	Agenda Item Number
June 17, 2021	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

The School Board is requested to approve the purchase of approximately 40.70 acres +/- from the Cherokee County government, located north of the intersection of Highway 20 and Highway 372 near the current Free Home Elementary School location. The property cost is $40,000 per acre.

Priority Area

Organizational and Operational Effectiveness

Financial Impact

$40,000 per acre

Exhibits: (List)

Contract for Sale of Realty and Location Map

Source of Additional Information

Tom Roach	770.479.1406
Dr. Brian V. Hightower	770.479.1871
William J. Sebring	770.479.1871

CONTRACT FOR SALE OF REALTY

Date: June 1, 2021

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.907, 908, 965, and 966 of the 3rd District, 2nd Section, Cherokee County, Georgia consisting of approximately 40.7 acres, more or less, and being more particularly described in Exhibit "A" attached hereto and made a part hereof including all structures, improvements, plants, trees and shrubbery now on the premises.

The purchase price of said Property shall be:

Forty Thousand ($40,000.00) Dollars per acre.

The purchase price shall be based on a per acre price to the nearest one-hundredth of an acre based upon a survey to be obtained by Purchaser, with the final purchase price to be subject to such survey and 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 **One Thousand Dollars ($1,000.00),** 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 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 **ninety (90) days** after acceptance of this Contract ("Condition Satisfaction Period") in which to examine title, inspect the subject property, and satisfy Special Stipulations 6, 8, 9, 10, 11, and 14, use good faith efforts to satisfy Special Stipulations 5, 12, 13, and 15, 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; provided, however, that Purchaser shall have the option to extend the Condition Satisfaction Period by up to 30 days, but in no event later than through September 29, 2021, by submitting written notice to Seller at least one (1) business day in advance of the then-current Condition Satisfaction Period. At the conclusion of the Condition Satisfaction Period, the Purchaser's right to terminate the Contract shall expire, provided that if Seller is unable to satisfy title objections raised in the Statement of Objections, Purchaser shall retain the right to terminate as set forth below.

Seller shall have **ten (10) consecutive calendar 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 either (1) in person; (2) by a prepaid overnight delivery service; (3) by facsimile 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 fax produces a written confirmation with the date, time, and telephone number to which the notice was sent. Receipt of notice by the broker representing a party as a client shall be deemed to be notice to that party for all purposes herein.

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 facsimile or other electronic transmission or bearing a copy of either an original signature or a facsimile or other 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, if any.

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

3) Sale shall be closed on or before September 30, 2021.

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 Board of Education. In the event the State Board of Education does not approve said tract 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, 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, and if no survey exists at the time Purchaser terminates this Contract, Purchaser shall provide Seller with any information in Purchaser's possession indicating or confirming the presence of historical artifacts or other items of archeological significant on said tract. 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 Purchaser agrees 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 shall be cancelled 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 Seller/Cherokee County, Georgia for sight distances and road/highway suitability. In the event Seller/Cherokee County does not approve the sight distances and road/highway suitability, this Contract may be cancelled at the Purchaser's election, and the Seller shall immediately return all earnest monies to Purchaser.

10) This Contract is subject to and contingent upon the Cherokee County School District 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 and the Seller shall immediately return all earnest monies to Purchaser.

11) This Contract is subject to and contingent upon the viability of building an eight hundred fifty (850) 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 and all earnest monies paid shall be immediately returned to Purchaser.

12) This Contract is subject to and contingent upon the Purchaser's sole determination that the subject property and site may be appropriately served by septic system upon the subject property, which septic system shall be sufficient to support an eight hundred fifty (850) FTE elementary school and which septic system shall also be acceptable to the State of Georgia and Cherokee County/Seller. Said septic system shall be of sufficient size and installed at an acceptable location as deemed necessary by Purchaser. If Purchaser determines that the site is not suitable for septic system at a reasonable cost as determined solely by Purchaser, then this Contract shall be cancelled, and all earnest monies paid shall be immediately returned to Purchaser.

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, 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, 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 an eight hundred fifty (850) FTE school, which water system shall also be acceptable to the Cherokee County Water and Sewerage Authority and the Purchaser. In the event that Purchaser determines the site is not suitable under the above-stated

conditions, then this contract shall become null and void, 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.

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

CHEROKEE COUNTY SCHOOL DISTRICT

BY:_____(SEAL)

ATTEST:_____

PURCHASER

_____
Witness

_____
Notary Public
My Commission Expires: April 23, 2025

CHYNNA MURTAGH NOTARY PUBLIC CHEROKEE COUNTY, GEORGIA MY COMMISSION EXPIRES APRIL 23, 2025

CHEROKEE COUNTY, GEORGIA

BY:_____(SEAL)

ATTEST:_____

SELLER

_____
Witness

_____
Notary Public
My Commission Expires:_____

KRISTIN A COLEMAN NOTARY PUBLIC CHEROKEE COUNTY, GEORGIA MY COMMISSION EXPIRES OCTOBER 22, 2024

CHEROKEE COUNTY CHARTERED DECEMBER 26, 1831 GEORGIA

