

OFFER TO PURCHASE AND CONTRACT

The Wake County Board of Education, a body corporate, as Buyer, hereby offers to purchase and **The Trustees of Wake Technical Community College**, a body corporate, as Seller, upon acceptance of said offer, agrees to sell and convey, all of that plot, piece or parcel of land described below, together with all improvements located thereon (collectively referred to as the "Property"), in accordance with the Standard Provisions below and upon the following terms and conditions:

1. **PROPERTY:** Located in or near the Town of Morrisville, Cedar Fork Township, County of Wake, State of North Carolina, and being a certain ±34.0 acre portion of that parcel of land and improvements located on the east side of NC Highway 54 and the southwestern side of Paramount Parkway and bearing a street address of 333 Knowledge Drive, Wake County, North Carolina ("the Property"), The Property has been assigned Wake County REID 0003943 and PIN 0746-86-7028, and is more particularly described by instruments recorded in Book 14577 at Page 1085; in Book 13173 at page 2657; in Book of Maps 2015 at page 1088; and in Book of Maps 2021 at page 730, Wake County Registry. The exact location and acreage shall be determined by a formal survey prior to closing. The Property is depicted and identified on Exhibit A attached hereto which is incorporated herein by reference.

2. **PURCHASE PRICE:** The Purchase Price for the Property is \$107,683.00 per acre for the acreage determined by a boundary survey to be obtained prior to closing, and shall be paid by Buyer to Seller as follows (using an estimated price of \$3,661,222 based upon ±34.0 acres):

- (a) \$ 5,000.00 as Initial Earnest Money;
- (b) \$ N/A as Additional Earnest Money, and
- (c) \$ 3,656,222.00 as the balance of the purchase price paid at closing (estimated and subject to survey).

Buyer shall tender the Initial Earnest Money with this offer and shall deliver the funds to the Escrow Agent within fourteen (14) business days of acceptance of the Offer by all parties. All earnest money shall be held by Howard, Stallings, From, Atkins, Angell & Davis, PA (Escrow Agent) until the sale is closed, at which time it will be credited to Buyer, or until this Contract is otherwise terminated. Buyer shall tender the Initial Earnest Money and Additional Earnest Money by check or by other means acceptable to all parties.

3. **SURVEY:** During the Examination Period, Buyer, at its sole discretion and expense, will obtain and deliver to Seller for its review and approval a current boundary survey of the Property prepared by a North Carolina registered land surveyor. The survey shall include a calculation of the exact acreage or square footage of the Property to support finalization of the Purchase Price and may also include such information as may be necessary and appropriate to support an exempt subdivision of the Property from the balance of Seller's property at Buyer's expense.

4. **EXAMINATION PERIOD:** Buyer shall have 180 days from the Effective Date of this Offer to inspect and examine the Property (the "Examination Period") consistent with Standard Provisions 1 and 3. Upon written notice to Seller, Buyer shall have the right to extend the Examination Period for an additional 30 days. **If Buyer chooses not to purchase the Property, for any reason or no reason, and provides written notice to Seller thereof prior to the expiration of the Examination Period, then this Agreement shall terminate, and Buyer shall receive a return of the Earnest Money.**

5. **CLOSING:** The parties agree to execute any and all documents and papers necessary in connection with the closing and transfer of title within thirty (30) days after all conditions have been met or waived, but not later than seven (7) months from the date of execution of this Offer to Purchase and Contract by all parties, at a time, date and place designated by Buyer. The deed is to be made to The Wake County Board of Education, 111 Corning Road, Suite 100, Cary, North Carolina, 27518, Attention: WCPSS Real Estate Services Senior Director. Seller shall deliver possession of the Property to Buyer at closing.

6. **OTHER PROVISIONS AND CONDITIONS:** All of the Standard Provisions that follow are understood and form a part of this Contract, except the following numbered Standard Provisions are deleted: (If none are to be deleted, state "None".) None. Any Non-Standard Provisions or Conditions that are understood to form a part of this contract are included on "Exhibit B" attached hereto which is incorporated herein by reference.

7. **TERM OF OFFER:** This offer is null and void if Buyer or Buyer's agent has not received a fully executed contract consistent with the below notice provisions by 5:00 p.m. on May 19, 2022.

8. **COUNTERPARTS:** This offer shall become a binding contract when signed by both Buyer and Seller (the "Effective Date") in counterparts with an executed counterpart being retained by each party. References herein to "this Contract" shall mean this Offer to Purchase and Contract.

9. **TIME IS OF THE ESSENCE:** Time is of the essence with regard to the terms and conditions contained in this Contract.

IN WITNESS WHEREOF, Buyer and Seller have executed this Contract under SEAL, as of the date written below.

BUYER:

THE WAKE COUNTY BOARD OF EDUCATION

By: _____(SEAL)
LINDSAY MAHAFFEY, Chair

Attest: _____(SEAL)
CATHY Q. MOORE, Secretary

Date of Execution: _____

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

_____(SEAL)
Finance Officer
Date of Execution: _____

SELLER:

THE BOARD OF TRUSTEES OF WAKE TECHNICAL COMMUNITY COLLEGE

_____(SEAL)
Chairman

Attest: _____(SEAL)
Secretary

_____(SEAL)
President

_____(SEAL)
Chief Financial Officer

Date of Execution: _____

Escrow Agent:

Howard, Stallings, From, Atkins, Angell & Davis, PA,

By: _____(SEAL)
Partner: Kenneth C. Haywood, Esquire

Date of Execution: _____

THE FOLLOWING ADDRESSES ARE VALID ADDRESSES FOR EACH PARTY FOR THE RECEIPT OF ANY NOTICE CONTEMPATED BY THIS CONTRACT:

BUYER NOTICE ADDRESSES

Wake County Board of Education
Attn: Superintendent
5625 Dillard Drive
Raleigh, NC 27518

Copy to:
Wake County Public School System
Attn: Real Estate Services Senior Director
111 Corning Road, Suite 100
Cary, NC 27518

And a copy to:
Kenneth C. Haywood, Esq.
Howard, Stallings, From, Atkins, Angell & Davis, PA
Post Office Box 12347
Raleigh, NC 27605

SELLER NOTICE ADDRESSES

Dr. Scott Ralls, President
Wake Technical Community College
9101 Fayetteville Road
Raleigh, NC 27603-5696

Copy to:
Darrell Williams
Director, Business Services
9101 Fayetteville Road
Raleigh, NC 27603-5696

And a copy to:
_____. Esq.

STANDARD PROVISIONS

1. **RIGHT OF ENTRY AND TESTING:** Buyer, its agents, employees or other representatives, shall have the right to go upon the Property for the purpose of appraising and evaluating the Property, and performing such engineering, topographical, geological and other tests and measurements including, but not limited to, soils tests, percolation tests and subsoil tests, as Buyer deems necessary or advisable, all at the sole cost of Buyer. Buyer shall pay for any damages to the Property caused while such tests are being made or in connection with any entry on the Property under this Standard Provision 1 and shall indemnify Seller against any claims or losses occasioned by the exercise of the right of entry and testing granted under the provisions hereof. This indemnity shall expressly survive this Contract and any termination hereof.

2. **EARNEST MONEY:** If any of the conditions of this contract are not satisfied, all of the earnest money shall be refunded to Buyer. If Seller breaches this Contract, then Buyer may elect either to terminate this Contract and obtain a refund of its earnest money or prosecute an action for specific performance of Seller's obligations hereunder, those being Buyer's sole and exclusive remedies. If, for any reason, Buyer fails to deposit any Additional Earnest Money with Escrow Agent prior to the expiration of the initial Examination Period, such failure will be conclusively deemed to constitute Buyer's termination of this Contract, in which event, Escrow Agent shall return the Initial Earnest Money to Buyer, save and except \$ N/A, which such \$ N/A shall be paid to Seller and this Contract will thereafter be null and void except for any indemnity obligation under Standard Provision 1. After the deposit of the Additional Earnest Money, if Buyer fails to close on the Property or otherwise breaches this Contract, then Escrow Agent shall pay to Seller all earnest money as liquidated damages for Buyer's breach and this Contract will thereafter be null and void except for any indemnity obligation under standard provision 1, this being Seller's sole and exclusive remedy.

3. **EXAMINATION PERIOD:** Buyer acknowledges that during the Examination Period, Buyer may inspect the Property to the extent it deems necessary to determine the suitability of the Property for Buyer's intended use. Until the expiration of the Examination Period, **TIME BEING OF THE ESSENCE**, Buyer has the right to terminate this Contract for any reason or no reason, whether related to the physical condition of the Property or otherwise, by either providing written notice to Seller or in the alternative, should an Additional Earnest Money Deposit be required, by failing to deposit with the Escrow Agent prior to the expiration of the Examination Period the Additional Earnest Money Deposit.

4. **NO WARRANTIES OR REPRESENTATIONS:** Except as specifically set forth in this Contract, Buyer acknowledges that it is not relying on any representations or warranties by Seller or Seller's agent regarding the condition or any other aspect of the Property, and that at closing, Buyer accepts the Property in "**as is**" condition, without warranties or any kind, express or implied, from Seller, including any regarding merchantability, fitness for a particular purpose, habitability, suitability, tenantability or regarding compliance with any state or federal laws, rules or regulations governing the disposal or presence of hazardous substances on the Property. Seller makes no representations of any kind whatsoever with respect to the condition of the Property except to the extent expressly provided in this Contract. Buyer is relying solely on its own inspections, engineering studies and reports, environmental audits, feasibility studies and examination of the property and Buyer's determination of the condition of the Property.

5. **PRORATIONS AND ADJUSTMENTS:** Unless otherwise provided, the following items shall be prorated and either adjusted between the parties or paid at closing: (a) ad valorem taxes on real property shall be prorated on a calendar year basis to the date of closing; (b) all late listing penalties, if any, shall be paid by Seller; and (c) rents, if any, for the Property shall be prorated to the date of closing. Buyer and Seller understand that the prorated amounts may be based upon tax rates and/or valuations that may change after closing but before the end of the year in which closing occurs. Should the actual tax bill be different than the amount estimated at closing, Buyer and Seller will promptly adjust and pay to the other party as appropriate any additional taxes prorated against the actual tax bill. As part of the consideration of this sale, this term and condition shall survive closing and shall not merge upon delivery of the deed;

6. CONDITIONS:

(a) The Property must be in substantially the same or better condition at closing as on the date of this offer, reasonable wear and tear excepted. The risk of loss or damage by fire or other casualty prior to closing shall be upon Seller.

(b) Title must be delivered at closing by general warranty deed and be fee simple marketable title, free of all encumbrances except ad valorem taxes for the current year (prorated to the date of closing) and such other easements, restrictions and other matters existing as of the expiration of the Examination Period, provided that unless otherwise being expressly assumed by Buyer at closing, all deeds of trust, liens and other charges against the Property and securing a sum must be paid and canceled by Seller prior to or at closing. The Property must have legal access to a public right of way.

(c) Seller shall pay all governmental assessments confirmed through the Closing Date, if any, and Buyer shall take title subject to all pending assessments, if any.

(d) The Wake County Board of Commissioners must approve Buyer's purchase of the Property under N.C.G.S. Section 115C-426; and disburse to Buyer sufficient funds to pay the full balance of the Partial Payment portion of the Purchase Price for the Property at or prior to closing.

(e) In the event the Property alone is insufficient to accommodate the Buyer's projected site needs for a school location, such additional parcel(s) needed are depicted and identified on Exhibit A. Board must in its sole discretion determine the suitability and sufficiency of acreage of the parcel(s) to accommodate the intended use(s) thereon during the Examination Period, and must be able to

acquire all parcels upon acceptable terms with closing occurring on or before the closing date described in Paragraph 5 of the Offer To Purchase and Contract.

7. **EXPENSES:** Seller shall pay for the preparation of deed, for the excise tax (revenue stamps) required by law and Seller's attorney's fees; and Buyer shall pay all other closing expenses and expenses incurred by Buyer in connection with its investigation of, entry on or testing of the Property.

8. **LABOR AND MATERIAL:** Seller shall furnish at closing an affidavit and indemnification agreement in form satisfactory to Buyer showing that all labor and materials, if any, furnished to the Property within 120 days prior to the date of closing have been paid for and agreeing to indemnify Buyer against all loss from any cause or claim arising therefrom.

9. **EVIDENCE OF TITLE:** Seller agrees to use his best efforts to deliver to Buyer as soon as reasonably possible after the acceptance of this offer, copies of all title information in possession of or available to Seller or Seller's attorneys, including but not limited to title insurance policies, attorney's opinions on title, surveys, covenants, deeds, notes and deeds of trust and easements relating to the Property.

10. **ASSIGNMENTS:** This Contract may not be assigned without the written agreement of all parties, but if assigned by agreement, then this Contract shall be binding on the assignee and his heirs and successors.

11. **PARTIES:** This Contract shall be binding upon and shall inure to the benefit of the parties and their heirs, successors and assigns. As used herein, words in the singular include the plural and the masculine includes the feminine and neuter genders, as appropriate.

12. **SURVIVAL:** If any provision herein contained which by its nature and effect is required to be observed, kept or performed after the closing, it shall survive the closing and remain binding upon and for the benefit of the parties hereto until fully observed, kept or performed.

13. **TAX-DEFERRED EXCHANGE:** If Buyer or Seller desires to affect a tax-deferred exchange in connection with the conveyance of the Property, Buyer and Seller agree to cooperate in effecting such exchange; provided, however, that the exchanging party shall be responsible for all additional costs associated with such exchange, and provided further, that a non-exchanging party shall not assume any additional liability with respect to such tax-deferred exchange. Seller and Buyer shall execute such additional documents, at no cost to the non-exchanging party, as shall be required to give effect to this provision.

14. **ENTIRE AGREEMENT:** This Contract contains the entire agreement of the parties and there are no representations, inducements or other provisions other than those expressed herein in writing. All changes, additions or deletions hereto must be in writing and signed by all parties. Nothing contained herein shall alter any agreement between a real estate broker and either the Buyer or the Seller as contained in any listing contract or other agreement between them.

15. **NOTICE AND ELECTION:** Any notice or communication to be given to a party may be given to the party or to such party's agent named in this Contract by sending or transmitting such notice to any mailing address, email address or fax number set forth in the Notice Address section above. This offer becomes a binding contract and effective when signed by both Buyer and Seller and such signing is communicated to the offering party. The Effective Date shall be the later date of execution as between Buyer and Seller.

16. **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 contract.

17. **CONDITION OF PREMISES AT VACATION.** Upon vacation of the Premises, the Property shall be left in a neat and clean condition by Seller. All debris shall be removed from the site and disposed of properly in accordance with all laws, regulations and ordinances including, but not limited to, trash, rubbish, building materials, chemicals, equipment, household appliances, and household items. No debris, trash, rubbish, or anything else shall be buried on site.

18. **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) 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) 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.

(c) To the best of Seller's knowledge, Seller has complied with all applicable laws, ordinances, regulations, statutes, rules and regulations affecting the Property and to the best of Seller's knowledge no portion of the Property has been used for the production, storage or disposal of toxic or hazardous waste materials of any kind.

(d) Seller is not a "foreign person" as defined in the Foreign Investor Reporting and Property Tax Act and shall provide an affidavit at least ten (10) days prior to closing in a form satisfactory to Buyer to such effect.

Exhibit B:
Non-Standard Provisions or Conditions

Post-Closing Covenants. The following covenants, provisions and conditions shall survive closing:

1. The Property includes a surface parking lot that is in regular use by Seller and its licensees, invitees, employees and guests pending Seller's construction of certain parking deck(s) upon its adjacent property pursuant to its Master Plan. To assure that the Seller's parking capacity necessary to its operations is not adversely affected, Buyer and Seller will continue to collaborate during the advance of their respective development plans for the adjacent properties. If it is determined that Buyer's construction schedule is likely to predate the completion of Seller's parking deck(s) as needed to replace the capacity of the surface lot, Buyer and Seller will collaborate to locate, design and construct a comparably sized parking lot on Seller's property at Buyer's expense and will enter an appropriate agreement to memorialize their respective rights and obligations. No additional expansion of the Parking Area or other construction by Seller on Board Property shall occur from or after the effective date of this Offer To Purchase and Contract without Buyer's prior written approval.
2. Seller, its licensees, invitees, contractors, employees and guests shall have a nonexclusive right to use of the surface parking lot, related stormwater devices and the driveway(s) on the Property (collectively "the Parking Area") under the following terms and conditions:
 - A. The term of Seller's use of the Parking Area shall be from the date of closing until Buyer's project enters its construction phase or completion of either the parking deck(s) or a suitable surface parking lot on Seller's property pursuant to Paragraph 1 hereinabove, whichever first occurs.
 - B. During the term of use, Buyer shall have the right to enter upon the Parking Area for the purpose of making such surveys, engineering, topographical, geological and other tests and measurements including, but not limited to, soil tests, percolation tests and subsoil tests as Buyer deems necessary or advisable.
 - C. Seller shall be solely responsible for the maintenance, upkeep and repair of the Parking Area and adjacent areas thereto that were disturbed during development of the Parking Area on the Property.
 - D. Upon vacation of the Parking Area, Seller shall leave it and adjacent areas thereto that were disturbed during development of the Parking Area in a neat and clean condition. All debris shall be removed and disposed of properly in accordance with all laws, regulations and ordinances. No debris, trash, rubbish, or anything else shall be buried on site.
 - E. Seller shall obtain and keep in force for the entire term of use a liability insurance policy in the amount of Two Million (\$2,000,000) Dollars insuring Buyer against any and all claims from any person, whomsoever, which may arise from the Seller's use of the Parking Area on the Property, including, but not limited to, injuries to, including but not limited to Seller, its licensees, invitees, contractors, employees, guests and trespassers, and any theft or damages, whatsoever, to any personal property. To the extent allowed by law, Seller hereby indemnifies and holds the Buyer harmless from any and all claims arising from the Seller's retaining possession and use of the Parking Area on the Property through the term.
 - F. In the event that this right to use is terminated by Seller prior to the end of the term described in Paragraph 2.A. hereinabove, Seller shall provide Board with notice of the event to the addresses on Page 3 of this Offer to Purchase and Contract.

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