

**MEMORANDUM**

**TO: INTERESTED SURPLUS PROPERTY BIDDERS FOR MURPHEY  
MIDDLE SCHOOL AND ADJOINING SITE**

**FROM: LEONARD O. FLETCHER, BOARD ATTORNEY FOR THE COUNTY  
BOARD OF EDUCATION OF RICHMOND COUNTY, GEORGIA**

**DATE: MARCH 30, 2017**

**RE: SALE OF SURPLUS PROPERTY BY COMPETITIVE SEALED BIDS**  
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The Board of Education thanks you for taking an interest in the above stated surplus property that is currently available. As you may have been informed, the property will be sold through a competitive sealed bid process.

Enclosed please find a Notice of Sale of Surplus Property by Competitive Sealed Bids which lists the surplus property that is available for bid and in which you have expressed an interest. This document also includes the contact information for those who have knowledge of the properties and bid process.

**Please note the following important dates and procedure information:**

**Registration Deadline: Monday, May 1, 2017, at 11:00 a.m.** (A copy of the Bidder Application form is attached hereto. It should be completed and delivered to the office of Fletcher, Harley & Fletcher, LLP at 3529 Walton Way Extension, Augusta, Georgia 30909. Applications may also be submitted by fax to (706) 724-4730 or email to [stephanie@fhflaw.com](mailto:stephanie@fhflaw.com).)

**Bid Submission Deadline: Tuesday, May 2, 2017, at 3:00 p.m.** (See Property Fact Sheet for information on bidding procedures. Bids should be submitted by hard copy to the office of Fletcher, Harley & Fletcher, LLP at 3529 Walton Way Extension, Augusta, Georgia 30909.)

Should you have any additional questions, please feel free to contact my Administrative Assistant, Stephanie Nelson, at (706) 724-0558 or by email at [stephanie@fhflaw.com](mailto:stephanie@fhflaw.com).

*County Board of Education of Richmond County*

# **SALE OF SURPLUS PROPERTY BY COMPETITIVE SEALED BIDS**

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County Board of Education of Richmond County  
Office of Controller, Gene Spires  
864 Broad Street  
Augusta, Georgia 30901  
[www.rcboe.org](http://www.rcboe.org)

**THURSDAY, MARCH 30, 2017**

Murphey Middle School  
2610 Milledgeville Road  
Augusta, Georgia 30904

The elected County Board of Education of Richmond County (hereinafter referred to as the "Board") has determined this Sealed Bid Sale includes and imposes certain restrictions on communications between Board Members and a Bidder during the public sale process. A Bidder is restricted from making contacts to Board Members other than designated staff from the earliest Notice of Intent to Solicit Offers through final approval of the Sale Agreement by the Board. Designated staff are identified on a Fact Sheet that is included in the attached informational package. Board employees and professionals are also required to obtain certain information during the bid period to make a determination of the responsibility of the Bidder. Certain findings of non-responsibility can result in rejection of the Sale Agreement.

Contact Benton Starks, Senior Director of Maintenance and Facilities, for additional information on the building and site or to view the property at (706) 737-7189. For technical issues, contact Board Attorney, Leonard O. Fletcher, Jr. at (706) 724-0558. For general questions, contact Deputy Superintendent, Dr. Kenneth Bradshaw at (706) 826-1000.

**TERMS:** The real estate property will be sold in its "as is, where is" condition with no warranties or representations of any kind as to the condition of the property or as to the status of title. Conveyance will be by Limited Warranty Deed. Terms of sale are 10% down on the date of the naming of the successful bidder and the balance of the purchase price shall be due and payable by wire on the date of closing. The closing shall be held within sixty (60) days of the award of the contract to the successful bidder, unless such time period for good course is mutually extended.

The information herein is deemed reliable but not guaranteed. Buyer is to verify immediately all information contained in print. Announcements made the day of the Competitive Sealed Bid take priority over all advertising. The Board reserves the right to reject the final bid on the day of the sealed bid process.

*County Board of Education of Richmond County*

# **SALE OF SURPLUS PROPERTY BY COMPETITIVE SEALED BIDS**

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MURPHEY MIDDLE SCHOOL  
2610 MILLEDGEVILLE ROAD  
AUGUSTA, GEORGIA 30904

**Registration Deadline: Monday, May 1, 2017, at 11:00 a.m.**

**Bid Submission Deadline: Tuesday, May 2, 2017, at 3:00 p.m.**

**Minimum Bid: \$210,000.00**

County Board of Education of Richmond County  
Office of Controller, Gene Spires  
864 Broad Street  
Augusta, Georgia 30901  
[www.rcboe.org](http://www.rcboe.org)

Sealed Bids to be Sent to:

Leonard O. Fletcher, Jr., Attorney  
Fletcher, Harley & Fletcher, LLP  
3529 Walton Way Extension  
Augusta, Georgia 30909  
706.724.0558  
stephanie@fhflaw.com

General Information Contact:

Dr. Kenneth Bradshaw, Deputy Superintendent  
County Board of Education of Richmond County  
864 Broad Street  
Augusta, Georgia 30901  
706.826.1125  
bradske@boe.richmond.k12.ga.us

Building and Site Info Contact:

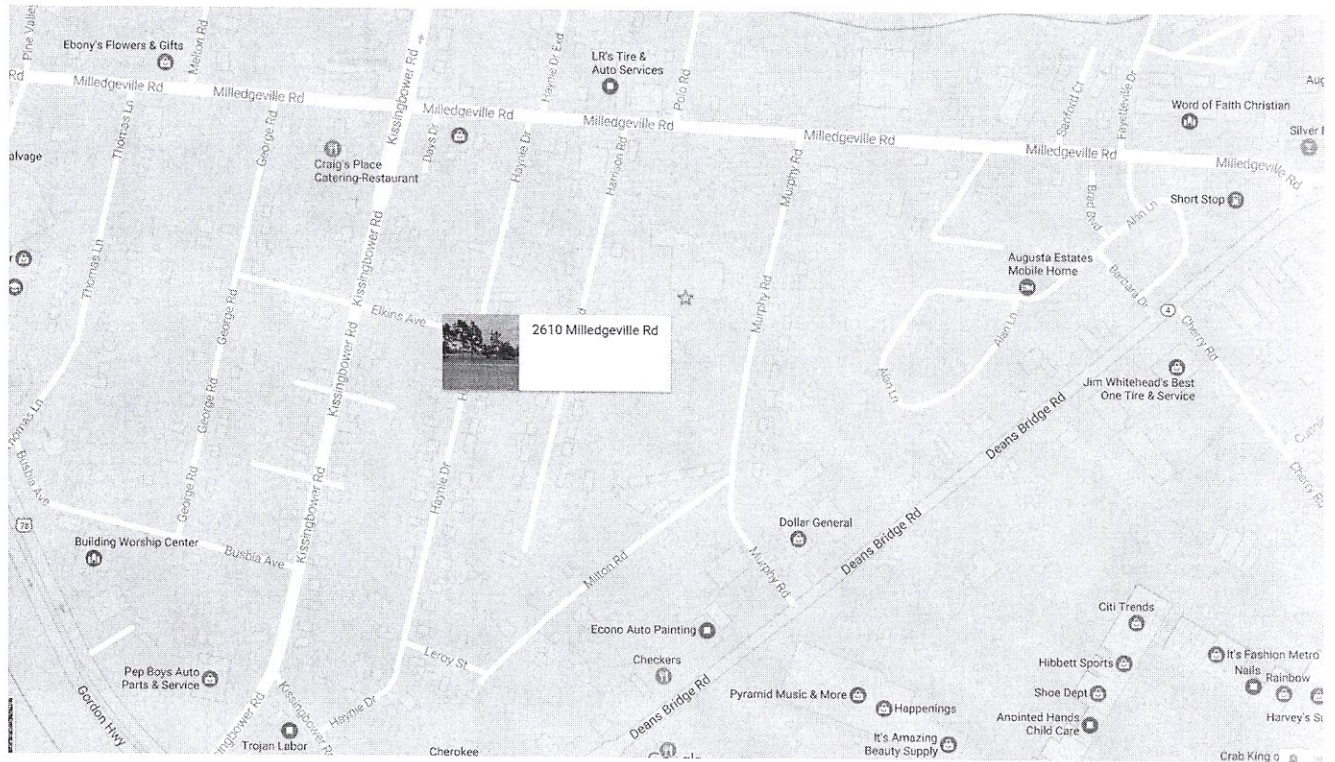
Benton Starks, Senior Director of Maintenance & Facilities  
County Board of Education of Richmond County  
1781 Fifteenth Street  
Augusta, Georgia 30901  
706.737.7188  
benton@boe.richmond.k12.ga.us



# PROPERTY LOCATION

## For Subject Property:

MURPHEY MIDDLE SCHOOL  
2610 MILLEDGEVILLE ROAD  
AUGUSTA, GEORGIA 30904



## FACT SHEET

<b>Property:</b>	Murphey Middle School 2610 Milledgeville Road Augusta, Georgia 30904
<b>Tax Map ID:</b>	07-3-193-00-0
<b>Lot Size:</b>	13.74 acres
<b>Zoning:</b>	School Board Property is exempt from local zoning. However, the subject property is within an R-1A zone. All prospective bidders are strongly encouraged to discuss any “grandfathered” uses with the Richmond County Planning and Zoning Commission. For complete information, and discussion of other possible uses, contact Brendon Cunningham, Zoning Administrator at the Richmond County Planning and Zoning Commission, 706-821-1796.
<b>Utilities:</b>	Public water, sewer and all available utilities serve the property, and drainage appears to be adequate.
<b>Site Data:</b>	This property comprises 13.74 acres of land and is rectangular in shape.
<b>Building:</b>	A 36,464 square foot school building. Of this total, there is 17,438 square feet of gymnasium area and 19,493 square feet of classroom area. Construction is brick and concrete block with flat membrane roof. The building is heated and cooled with central HVAC. Note: There is no electrical service currently. The main electrical panels have been disengaged and/or removed.
<b>Location:</b>	The property is located in the central part of Richmond County.
<b>Ownership:</b>	The property is currently owned by the County Board of Education of Richmond County.
<b>Taxes:</b>	The property is currently exempt from property and school taxes. For information regarding assessment fees, please call the Richmond County Tax Commissioner at 706-821-2391.
<b>Access:</b>	Primary access to the property is on Milledgeville Road.

**Easements:** For information regarding easements or encroachments contact the Clerk of the Superior Court of Richmond County, Georgia, Real Estate Record Room, 706-821-2493.

**Underground Tanks:** Seller not aware of any.

**Aboveground Tanks:** Seller not aware of any.

**Wetlands:** There are no known wetlands on the subject property.

**Floodplain:** The property is not located in a floodplain.

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PLEASE NOTE: THE INFORMATION CONTAINED HEREIN IS BELIEVED TO BE CORRECT, BUT IS NOT WARRANTED AND IS FOR GENERAL INFORMATIONAL PURPOSES ONLY. PROSPECTIVE BIDDERS ARE URGED TO OBTAIN INDEPENDENT, PROFESSIONAL LEGAL, ENGINEERING AND OTHER ADVICE, PRIOR TO THE PUBLIC SALE, IN ORDER TO ASSESS THE SITE'S ENVIRONMENTAL CONDITION, POTENTIAL FOR USE, CONDITION OF THE BUILDING AND MECHANICAL COMPONENTS, AS WELL AS COMPLIANCE WITH HEALTH AND BUILDING CODES FOR ANY PLANNED USE OF THE PROPERTY.

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**For further information contact:**

Leonard O. Fletcher, Jr., Attorney  
Fletcher, Harley & Fletcher, LLP  
706.724.0558  
stephanie@fhflaw.com

Dr. Kenneth Bradshaw, Deputy Superintendent  
County Board of Education of Richmond County  
706.826.1125  
bradske@boe.richmond.k12.ga.us

Benton Starks, Senior Director of Maintenance & Facilities  
County Board of Education of Richmond County  
706.737.7188  
benton@boe.richmond.k12.ga.us



*County Board of Education of Richmond County*

**SALE OF SURPLUS PROPERTY  
BY COMPETITIVE SEALED BIDS**

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*Procedures and Requirements*

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**MURPHEY MIDDLE SCHOOL  
2610 MILLEDGEVILLE ROAD  
AUGUSTA, GEORGIA 30904**

**Background Facts**

The County Board of Education of Richmond County (the “Board”) is authorized to dispose or sell surplus property owned by it as it deems best. The Board has determined to sell the above Board property by the sealed bid process.

The property available for purchase through this competitive sealed bid process has been determined by the Board to be a surplus property.

The sale will be held on and conducted as more fully described in this introductory brochure.

The highest offer responsible bid for the parcel, in accordance with the terms of the sealed bid process, will be accepted contingent upon the Board approving such sale. Anticipated approval by the Board will be May, 2017.

The Maintenance and Facilities Department of the County Board of Education of Richmond County, located at 1781 Fifteenth Street, Augusta, Georgia 30901, is the location where bidders may pick up information on the site. All prospective participants will be entitled to review and make a copy of any of the property documents at the rate of (i) 75 cents for the first ten pages; (ii) 50 cents per page for pages 11-20 and (iii) 25 cents per page for each additional page thereafter. Each participant specifically acknowledges and understands that the Board has made available the property documents without any representation of warranty that such property



documents are accurate, complete or up-to-date. To the Board's knowledge, but without any independent investigation, the property documents contain the information readily available to the Board for disclosure and review by all prospective participants.

The information contained in this brochure is subject to independent inspection and verification by all parties relying on it. The County Board of Education of Richmond County assumes no liabilities for its accuracy, errors or omissions. This offering may be withdrawn or modified without notice at any time.

### **Registration Requirements**

In order to participate in the sealed bid process for the offered property, a party must first register by "hard copy" application, a copy of which is attached. All required information fields on the registration page must be completed in full. By registering, the participant represents that all of the information provided is true and correct as of the date of completion. All registrants have an ongoing duty to inform the Board if any information contained in the application changes and acknowledges that the Board shall rely upon the truthfulness of the statements set forth in the registration documents. **The hard copy may be submitted by e-mail by the specified deadline to [stephanie@fhflaw.com](mailto:stephanie@fhflaw.com).**

The participant will also be required to check the box on the registration page that such party has read and agreed to the terms and conditions of this document and the sealed bid process as well as the provisions of the Agreement of Sale (the "Agreement").

A deposit of Ten Percent (10%) of the total winning bid is due when the Agreement of Purchase and Sale is executed.

No interest on the ten percent deposit shall be due or payable to the interested party or bidder at any time.

The entire registration process must be completed in full by no later than 11:00 a.m. on Monday, May 1, 2017, the day prior to the sealed bid sale.

Bidders must submit their bids in writing on the official bid forms in hard copy by delivering such sealed bid to Leonard O. Fletcher, Jr., Fletcher, Harley & Fletcher, LLP, 3529 Walton Way Extension, Augusta, Georgia 30909, by 3:00 p.m. on Tuesday, January 31, 2017. Facsimile bids or e-mail bids will **not** be accepted as valid bids.

## **Property Information**

Attached hereto is a Property Information Sheet on the parcel of property to be included in the sealed bid process.

A pre-determined initial minimum bid has been established by the Board, in its sole discretion, for the property on the Property Information Sheet.

The Board shall determine, in its sole discretion, the time and duration of each sealed bid submission and all other requirements of each sealed bid process.

Sealed bids must be received by 3:00 p.m. on Tuesday, May 2, 2017. Paper or “hard copy” bids shall be mailed or hand delivered to Leonard O. Fletcher, Jr., Fletcher, Harley & Fletcher, LLP, 3529 Walton Way Extension, Augusta, Georgia 30909.

A bid cannot be withdrawn in any manner or under any circumstances once made and shall be considered to be an irrevocable offer to purchase the property bid upon.

Promptly after the conclusion of the public bid offering, each bidder on the property will be notified by e-mail as to whether the bid was the highest responsible bid submitted. The bidder that submitted the highest responsible bid will be submitted to the Board for approval, and if approved, will be awarded the purchase of the property (the “Successful Bidder”).

Notwithstanding the foregoing, in the event of a tie in the highest bid between two or more bidders, the first bidder to have submitted the highest bid will be awarded the purchase of the property, subject to the Board’s approval. It is anticipated that the Board will consider approval in May, 2017, or as soon thereafter as practicable.

Any dispute regarding the bidding process or award of sale of any property shall be resolved by the Board.

The Board reserves the right to reject any or all bids on any property for good cause or to waive any technicalities if in the best interest of the Board of Education.

## OBLIGATIONS OF SUCCESSFUL BIDDER

Each registered bidder that participates in the sealed bidding process and who becomes the Successful Bidder agrees to comply with the following requirements and obligations:

1. The Successful Bidder who is awarded the purchase of the property will be bound by and shall accept in full the terms of the Agreement for the Sale (hereinafter referred to as "Agreement") of Board Property without modifications unless such modifications are mutually agreed to. The bids will be opened and calculated by Gene Spires, Controller, or his designee.
2. **The Successful Bidder agrees to accept the awarded property in its "as-is", "where is" condition without warranties, including but not limited to the environmental status of the property or contingencies or rezoning requirements or a requirement to their financing. The Successful Bidder will be permitted a limited right of inspection of the awarded property (but not cancellation of the Agreement) as discussed below.**
3. The Board shall promptly forward to the Successful Bidder the Purchase and Sale Agreement, filled in with the property description, the purchase price, total deposit required, remaining deposit to be paid and closing date.
4. The Successful Bidder shall execute an Environmental Indemnity in favor of the Board at closing. (See sample attached.)
5. The entire deposit check, together with the executed Agreement and other fully completed documents, shall be forwarded by the Successful Bidder to the Board by personal delivery or recognized overnight carrier that provides proof of delivery to the address below. The documentation and funds must be received by the Board within ten (10) business days of the Successful Bidder's receipt of the completed Agreement (unless this time period is extended by the Board of good cause in its sole discretion):

Leonard O. Fletcher, Jr., Attorney  
Fletcher, Harley & Fletcher, LLP  
3529 Walton Way Extension  
Augusta, Georgia 30909

After reviewing the Agreement and other required documents for proper completion, the Board Attorney shall forward the deposit check to the Controller for said check to be processed and held according to the terms of the Contract.



6. Failure by the successful bidder to return the executed Agreement, the balance of the deposit and the fully completed documents within the ten (10) business day period (unless this time period is extended by the Board for good cause in its sole discretion) shall result in forfeiture of the registration fee to the Board, as the parties acknowledge that the amount of the damages to the Board resulting from such a breach would be difficult, if not impossible, to determine and the retention of the deposit would be justified and reasonable. If this event occurs, the Successful Bidder will have released the Board from any and all obligation to sell the property to this Successful Bidder and the property may, in the sole discretion of the board as determined in its best interest, be offered to the next highest bidder or will be offered for sale again by the Board pursuant to this sealed bid process.
7. Other than the above referenced requirements, the awarded purchase of the property is not contingent on any act of the Successful Bidder, including but not limited to the Successful Bidder obtaining financing for the balance of the purchase price.
8. The Successful Bidder will be responsible for obtaining a title search at its own cost and expense and delivering this search to the Board no later than forty-five (45) days after the full execution of the Agreement as more fully described therein. Where applicable, any approvals required to bring the Property into compliance with local, county and state regulations are also the responsibility of the Successful Bidder.
9. Inspection of the Property by the Successful Bidder and its consultant, if any, may be performed within fifteen (15) days after the full execution of the Agreement. No testing will be permitted without the prior written permission of the Board.
10. At the sale closing, the Board shall deliver to the Successful Bidder a Limited Warranty Deed without further covenants, and the parties will deliver to each other the additional documents set forth in the Agreement. The Successful Bidder shall also pay for all recording fees and real estate transfer taxes. All utilities and taxes, if any, shall be adjusted, or prorated, as appropriate, by the parties as of the date of the closing.



## APPLICATION

For potential bidders interested in submitting bids for:  
Murphey Middle School, 2610 Milledgeville Road, Augusta, Georgia 30904

Legal Name of Potential Bidder: \_\_\_\_\_

Business Address: \_\_\_\_\_

Work Phone Number: \_\_\_\_\_ Mobile/Alt. Phone Number: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

Year Business Organized: \_\_\_\_\_ Bidder Tax ID/EIN: \_\_\_\_\_

State(s) Incorporated or Register to do Business: \_\_\_\_\_

Type of Business: Real Estate Investor \_\_\_\_

General Contractor \_\_\_\_

Other (Please Explain) \_\_\_\_\_

Type of Business Organization: (e.g. Sole Proprietor, Partnership, Corporation, Limited Liability Company) \_\_\_\_\_

The full names and addresses of persons and firms interested in the foregoing bids as principals are as follows:

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This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_:

\_\_\_\_\_  
[SIGNATURE OF POTENTIAL BIDDER OR AUTHORIZED REPRESENTATIVE]

By: \_\_\_\_\_  
[PRINT NAME]

As its: \_\_\_\_\_  
[OFFICIAL CAPACITY OR TITLE]

**STATEMENT AND CERTIFICATION OF BIDDER'S QUALIFICATIONS**  
**AND BID**

Submitted for:

Murphey Middle School, 2610 Milledgeville Road, Augusta, Georgia 30904

Legal Name of Bidder: \_\_\_\_\_

Business Address: \_\_\_\_\_

Work Phone Number: \_\_\_\_\_ Mobile/Alt. Phone Number: \_\_\_\_\_

Bidder E-Mail Address: \_\_\_\_\_

Year Business Organized: \_\_\_\_\_ Bidder Tax ID/EIN: \_\_\_\_\_

State(s) Incorporated or Register to do Business: \_\_\_\_\_

Type of Business: Real Estate Investor \_\_\_\_\_

General Contractor \_\_\_\_\_

Other (Please Explain) \_\_\_\_\_

Type of Business Organization: (e.g. Sole Proprietor, Partnership, Corporation, Limited Liability Company) \_\_\_\_\_

The full names and addresses of persons and firms interested in the foregoing bids as principals are as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Bidder hereby renders a bid, according to the terms and conditions set forth in the bid packet, in the amount of \$\_\_\_\_\_.

Bidder is able to access adequate funds or credit to cover bid amount without acquiring financing through bank, lending institution or other organization:

Yes \_\_\_\_\_ No \_\_\_\_\_ If no, please explain: \_\_\_\_\_

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The bidder has never refused to sign a contract at the original bid.

True \_\_\_\_\_ False \_\_\_\_\_

The bidder has been declared in default on a contract.

Yes \_\_\_\_\_ No \_\_\_\_\_ If yes, please explain: \_\_\_\_\_

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By signing this document, I, the Bidder, certify that I expressly agree that I am not relying on any representation or warranty of the Board or any agent, employee, representative, director or officer of the Board, and that the Purchaser is buying and accepting the Property "as-is" and "where-is" subject to all faults and without any expressed or implied warrantied of any kind.

I hereby certify that the foregoing statement of qualifications is true and correct, and I acknowledge that incorrect or false information contained herein or on other bid or purchase documents shall cause my application to be determined invalid, nullifying any opportunity I may have to bid on this or any other County Board of Education of Richmond County, Georgia, property. Furthermore, I acknowledge that I have a duty to notify the Board of Education of any change to the information contained herein.

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_:

\_\_\_\_\_  
[SIGNATURE OF BIDDER OR AUTHORIZED REPRESENTATIVE]

By: \_\_\_\_\_  
[PRINT NAME]

As its: \_\_\_\_\_  
[OFFICIAL CAPACITY OR TITLE]



## ENVIRONMENTAL INDEMNITY

THIS ENVIRONMENTAL INDEMNITY (this "Indemnity") is made as of the \_\_\_\_ day of \_\_\_\_\_, 201\_, by \_\_\_\_\_, ("Buyer"), having its office at \_\_\_\_\_ Augusta, Georgia 30901, for the benefit of the **COUNTY BOARD OF EDUCATION OF RICHMOND COUNTY** (the "Board"), having its office at 864 Broad Street. Augusta, Georgia 30901.

### Preliminary Statement

**WHEREAS**, prior to the date of this Indemnity the Board was the owner of certain real property located at \_\_\_\_\_, Augusta, Richmond County, Georgia as is more particularly described on the attached Exhibit A (the "Property");

**WHEREAS**, the Board declared the Property to be surplus and put the Property up for sale pursuant to the powers contained in the governing Charter of the Board;

**WHEREAS**, Buyer made an offer to purchase the Property and Buyer's offer for purchase was accepted by the Board;

**WHEREAS**, the contract for the sale of the Property to Buyer, among other things, provided that the Property was to be sold "as is – where is" with no representations or warranties as to its environmental condition and that Buyer would be responsible for any and all environmental liabilities associated with the Property;

**WHEREAS**, the contract also provided that Buyer would execute this Indemnity in favor of the Board at closing;

**WHEREAS**, the Board would not have offered the Property for sale nor would it have entered into the contract with Buyer for the sale of the Property unless Buyer were willing to agree to the terms of this Indemnity and be bound thereby;

**WHEREAS**, Buyer wishes to provide this Indemnity in order to induce the Board to sell the Property to Buyer and to ensure the Board that Buyer shall hold harmless, indemnify and defend the Board from and against any claims or liabilities arising out of the environmental condition of the Property forevermore,

**NOW, THEREFORE**, in consideration of the promises and mutual covenants and agreements hereinafter set forth, the Parties hereby agree as follows:

- A. Buyer shall, at its sole cost and expense, indemnify, defend, protect, and hold harmless Indemnitees against and from any and all (collectively, the "Indemnified Expenses") (defined below) that may at any time be imposed upon, incurred by, or asserted or awarded against, Indemnitees or any such

members, officers, employees, attorneys or agents and that arise directly or indirectly from or out of any Environmental Problem (defined below), regardless of whether that Environmental Problem arises before or after the date hereof and regardless of whether or not the Environmental Problem was disclosed in any Environmental Report (defined below) and regardless of whether or not Indemnitees have actual or constructive knowledge of the Environmental Problem from any other source. Without limiting Buyer's indemnity obligations hereunder, if Buyer determines that persons or entities other than Buyer or Indemnitees are solely or jointly responsible for an Environmental Problem giving rise to an Indemnified Expense, Buyer shall have the right to pursue claims against such other parties for any and all of the costs of remedying the Environmental Problem and for reimbursement of the Indemnified Expense, both on its own behalf and as assignee of the claims of Indemnitees against any such parties. Indemnitees shall allow Buyer to pursue such claims in their names and shall make all reasonable efforts to cooperate with Buyer if it elects, in its sole discretion, to pursue such claims. Nothing in the foregoing shall require Indemnitees to expend any funds in such cooperation.

- B. Indemnified Expenses shall include, without limitation, all of the following: (i) costs incurred in the removal of Hazardous Substances (defined below), costs incurred in investigation, monitoring, clean-up, and containment of Hazardous Substances, costs incurred to mitigate damages, closure costs, costs incurred for remediation and restoration, and other response costs; (ii) costs incurred to cure or prevent any violations of Environmental Laws (defined below); (iii) damages for personal injury or death or property loss (iv) loss of profits and loss of use; and (v) civil and criminal fines and penalties; (vi) costs incurred to remove any monetary liens imposed by law in favor of the federal or any state or local government or governmental agency or authority in connection with an Environmental Problem; (vii) reasonable attorneys', accountants', consultants', and experts' fees and disbursements, administrative costs, and other out-of-pocket expenses incurred in connection with any Environmental Problem or enforcement of this Indemnity; (viii) damages for injury to, destruction of, or loss of, natural resources; (ix) sums paid to tenants and other third parties (or offset against rents or other sums payable by such tenants and other third parties) for indemnification pursuant to leases or other agreements wherein such tenants or other third parties are entitled to indemnification or payment on account of Environmental Problems or pursuant to statutory or common law; (x) sums paid and any other liability to the federal government, any state or local government, any federal, state, or local governmental authority, or any other person or entity for any costs described above; (xi) sums paid in satisfaction of judgments; (xii) settlement costs; and (xiii) all other costs and expenses of any kind or nature.



C. Buyer and Indemnitees further agree as follows:

1. For purposes of this Agreement:

(a) "Environmental Laws" shall mean any and all present and future laws, statutes, ordinances, rules, regulations, orders, and determinations of any governmental authority, pertaining to health, Hazardous Substances, natural resources, conservation, wildlife, pollution, or the environment, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC §9601 et seq., as amended by the Superfund Amendments and Reauthorization Act of 1986, and as the same may be further amended (hereinafter collectively called "CERCLA"), the Resource Conservation and Recovery Act of 1976, 42 USC §6901 et seq., as the same may be further amended ("RCRA"), the Georgia Hazardous Site Response Act, O.C.G.A. § 12-8-90, et seq. ("HSRA"), and the Georgia Hazardous Waste Management Act, O.C.G.A. § 12-8-60, et seq.

(b) "Environmental Problem" shall mean any of the following:

(i) the presence of any Hazardous Substance on, in, under, or above the Property;

(ii) the violation, suspected violation, threatened violation, or alleged violation of any Environmental Law with respect to the Property arising from or in any way attributable to the presence on the Property of Hazardous Substances of the nature described in (i);

(iv) the failure, suspected failure, threatened failure, or alleged failure of Buyer to obtain or to abide by the terms or conditions of any permit, order, or other directive by the Georgia Environmental Protection Division or the U.S. Environmental Protection Agency required under any Environmental Law with respect to the Property.

A condition described above shall be deemed to be an Environmental Problem regardless of whether or not any federal, state, or local governmental authority or agency has taken any action in connection with the condition.

(c) "Environmental Reports" shall mean those certain environment reports, mainly related to an asbestos survey and asbestos removal, which are on file in the office of Benton Starks, Senior Director of Maintenance and Facilities, located at 1781 Fifteenth Street, Augusta, GA 30901.

(d) "Hazardous Substance" shall mean any chemical, compound, constituent, material, waste, contaminant (including, without limitation, petroleum, crude oil or any fraction thereof) or other substance as defined in or regulated by any of the following sources as amended from time to time: (i) RCRA; (ii) CERCLA;

(iii) the Hazardous Materials Transportation Act, 49 USC §1801, et seq.; (iv) the Toxic Substances Control Act, 15 USC §2601 et seq.; (v) the Clean Water Act, 33 USC §1251 et seq.; (vi) the Clean Air Act, 42 USC §1857 et seq.; (vii) all laws of the State of Georgia; and (viii) any federal, state or local regulation, rule or order issued or promulgated under or pursuant to any of the foregoing or otherwise by any department, agency or other administrative, regulatory or judicial body.

(e) "Indemnatee" or "Indemnitees" means, as the context may require, the Board as well as its officers, members, employees, agents, attorneys, representatives, successors, assigns and successors.

2. Buyer's obligations hereunder shall "run with the land" and shall be binding upon any subsequent purchaser of all or any portion of (or interest in) the Property.

3. Buyer's agrees that this Agreement shall inure to the benefit of and may be enforced by Indemnatee jointly and severally against Buyer and its successors, assigns and successors-in-title with respect to the Property.

4. This Indemnity shall not in any way restrict any other rights or remedies that the Board has or may have against Buyer at law or in equity (including, without limitation, any right of reimbursement or contribution pursuant to CERCLA or HSRA), and shall not in any way be deemed a waiver of any of such rights.

5. Indemnitees shall promptly notify Buyer of any claims, suits or other communications involving Indemnified Expenses within thirty (30) working days (or as otherwise reasonably practical) of Indemnitees' becoming aware of such claims, suits or communications, and shall provide Buyer the exclusive right to defend, settle or compromise any such claims or suits. Such right shall be exercised within thirty (30) days of the receipt of the notification by Buyer via Buyer's sending of a written notification to Indemnatee that Buyer is exercising its right. Buyer agrees that its failure to exercise its right to defend, settle or compromise the claim within thirty days shall give Indemnitees the right to defend, settle, or compromise and to sue Buyer for breach of this agreement. Buyer may defend, compromise or settle any action or proceeding covered hereby in any way it deems appropriate, except that Indemnatee shall have the right and reasonable opportunity to review any such settlement and to provide any comment within a reasonable amount of time which will not jeopardize the settlement. Under no circumstances, however, and notwithstanding the foregoing, may Buyer settle such an action or proceeding if such settlement requires any affirmative action or creates an obligation on Indemnitees' part except with Indemnitees' prior written consent which shall not be unreasonably withheld.

6. Buyer shall pay Indemnitees's attorneys' fees and all other costs and expenses actually and reasonably incurred by Indemnitees in the enforcement of this instrument or the collection of any sums due under this instrument unless it is determined



in a court of law that Indemnitees have sought such reimbursement or enforcement frivolously or in bad faith.

7. This Agreement and the rights and obligations of the parties hereunder shall in all respects be governed by, and construed and enforced in accordance with, the laws of the State of Georgia.

8. All notices or elections required or permitted by this Contract shall be in writing, signed by the party giving same and shall be given personally, by delivery by commercial courier or by mailing the same, postage prepaid, United States certified or registered mail, addressed to the party intended to receive such notice at the address specified below, or at such other address or to such other person as may be specified by any party by notice hereunder from time to time.

**As to Buyer:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**with a copy to:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**As to Indemnitees:**

County Board of Education of Richmond County  
Attn: Dr. Angela D. Pringle, Superintendent  
864 Broad Street, 4<sup>th</sup> Floor  
Augusta, GA 30901

**with a copy to:**

Leonard O. Fletcher, Jr., Board Attorney  
Fletcher, Harley & Fletcher, LLP  
3529 Walton Way Extension  
Augusta, GA 30909

Any such notice shall be deemed effective when received, if personally delivered or sent by certified or registered mail. If sent by commercial courier, such notice shall be effective as of the next business day following deposit with said commercial courier.

9. If any term of this Indemnity or any application of any such term shall be invalid, illegal, or unenforceable, the remainder of this Indemnity and any other application of such term shall remain effective.

10. Except as otherwise specifically set forth herein, no delay in exercising any right or power hereunder shall operate as a waiver, and no waiver of any right or power or consent by Indemnitees or Buyer shall be valid unless in writing. The failure of Indemnitees or Buyer to insist upon strict compliance with any of the terms of this Indemnity shall not be considered to be a waiver of any such terms, nor shall it prevent Indemnitees or Buyer from insisting upon strict compliance with this Indemnity Agreement at any time thereafter.

11. No provision of this Indemnity may be changed, waived, discharged or terminated except by an instrument in writing signed by the party against whom enforcement of the change, waiver, discharge, or termination is sought.

12. This Indemnity Agreement is for the sole benefit of Buyer and the Indemnitees and is not to be construed as benefiting any third party or serving as any admission of any factual or legal matter.

13. This Agreement constitutes the entire agreement and understanding of the parties pertaining to the subject matter hereof and all prior agreements, discussions, negotiations, statements and representations, whether oral or written, are merged into and superseded by this Agreement. All changes to the Agreement shall be in writing and signed by both parties.

**IN WITNESS WHEREOF**, the parties hereto have duly executed this Environmental Indemnity the day and year first above written.

WITNESS/ATTEST:

**COUNTY BOARD OF EDUCATION  
OF RICHMOND COUNTY**

\_\_\_\_\_  
Witness

BY: \_\_\_\_\_  
Marion E. Barnes, As its President

\_\_\_\_\_  
Notary Public

My commission expires:

BY: \_\_\_\_\_  
Dr. Angela D. Pringle, As its Secretary  
and Superintendent

\_\_\_\_\_  
[NOTARIAL SEAL]

WITNESS/ATTEST:

**PURCHASER**

\_\_\_\_\_  
Unofficial Witness

BY: \_\_\_\_\_  
As its \_\_\_\_\_

\_\_\_\_\_  
Notary Public

My commission expires:  
\_\_\_\_\_

[NOTARIAL SEAL]

Approved as to Form:  
Leonard O. Fletcher, Jr., Board Attorney

**EXHIBIT "A"**

**DESCRIPTION OF PROPERTY**