

ACTION MEMORANDUM

TO: Bibb County Board of Education

FROM: Sam Kitchens, Executive Director of Capital Programs

SUBJECT: Request to Sell Surplus Property – 2312 Shurling Drive

Summary

The District requests the Board of Education to authorize the sale of surplus property located at 2312 Shurling Drive.

Background

The property, located at 2312 Shurling Drive, is the former Ellsworth Hall Elementary School site. The school was taken out of service in 2015 and has not served any useful purpose since this time. The facility has experienced massive damage from theft and vandalism in recent years. In 2019, Capital Programs retained estimates for electrical damage, and the board approved reducing the value of this property. However, the buyer did not complete transactions during the closing process, and the property was placed back on the surplus list. The current offer is to purchase the property at the same value approved in 2019. Per Board Policy – DFN, the property value is less than \$100,000.00 and would not require an independent appraisal.

Pertinent Information

- Elimination of maintenance costs and upkeep associated with the property.
- Neighborhood and community improvements for the area.
- Parcel added back to the tax digest.

Recommendation

It is recommended that the Bibb County Board of Education adopt the resolution authorizing the Board President and Superintendent to sell surplus property located at 2312 Shurling Drive to Paid in Full Investors for \$75,000.00.

Superintendent's Comments and Approval

<u>Superintendent's Comments</u>	
Dr. Curtis L. Jones, Jr.	Approved



**THE BOARD OF PUBLIC EDUCATION FOR BIBB COUNTY
RESOLUTION TO SELL REAL PROPERTY**

WHEREAS, the Bibb County School District (the "School District") is the owner of the fee simple title to that certain real property lying and being in Macon-Bibb County, Georgia known as the former Hall Elementary School and located under the current street numbering system for Macon-Bibb County at 2312 Shurling Drive, Macon, GA 31211 ; and

WHEREAS, the Bibb County School District ("District"), buy and through the Superintendent, has previously determined that the Property is no longer needful or necessary for school purposes and that it is in the best interest of the School District to sell and dispose of the Property; and

WHEREAS, the Public Board of Education for Bibb County ("the Board") having determined that it is in the best interest to sell the property; and

WHEREAS, the Board authorized the Superintendent to enter into negotiation with Paid in Full Investors for the private sale of the property in the amount of \$75,000.00.

NOW, THEREFORE, be it resolved by the Board as follows:

1. The President of the Board of Education and Superintendent of the Board are hereby authorized to execute and deliver all documents and agreements necessary to effectuate the Sales Contract and the closing of the sale of the Property pursuant to the contract, and to take any and all actions necessary in order to consummate the closing of the sale of the Property in accordance with the terms of the Contract.
2. All formal actions of this Board concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Board and all deliberations of this Board and any of its committees that resulted in such formal action were in meetings open to the public or in executive session as permitted by applicable law and in accordance with Board policies.
3. This Resolution shall become effective immediately upon its adoption.

SO ADOPTED AND APPROVED, this 22nd day of October 2020.

Daryl J. Morton, President of the Board
of Public Education for Bibb County

Dr. Curtis L. Jones, Jr., Superintendent
of Bibb County School District

SALES CONTRACT

THIS SALES CONTRACT (the "Contract") is made and entered into as of the Effective Date hereof by and between BOARD OF PUBLIC EDUCATION FOR BIBB COUNTY, the governing body of the Bibb County School District, a political instrumentality of the State of Georgia ("Seller"), and ~~Marvin Collins, Jr.~~ of 1015 Master Drive, Macon, GA 31220 ("Buyer").

*PAID IN FULL INVESTOR
M.C.J. 9-22-20*

For and in consideration of the premises, Seventy-Five Thousand and No/100 Dollars (\$75,000.00) in hand paid by Buyer to Seller, and for other good and valuable consideration, the receipt, adequacy and sufficiency of which are acknowledged, Seller and Buyer agree as follows:

1. Sale and Purchase of the Property. Seller is the owner of the fee simple title to that certain real property, 2312 Shurling Drive, Macon, GA 31211, lying and being in Macon-Bibb County, Georgia, and being more particularly described on Exhibit A attached and incorporated hereto (the "Property"). Seller agrees to sell and convey to Buyer, and Buyer agrees to purchase from Seller, upon the terms and conditions contained herein, subject only to the Permitted Exceptions (as hereinafter defined), good, marketable fee simple title to the Property, together with all fixtures, landscaping, improvements, and appurtenances in accordance with the provisions of this Contract.

2. Purchase Price. The purchase price to be paid by Buyer to Seller for the Property shall be Seventy-Five Thousand and No/100 Dollars (\$75,000.00) (the "Purchase Price"). The Purchase Price shall be paid in cash at the consummation or the purchase and sale of the Property (the "Closing"), which payment shall be subject to appropriate adjustments and prorations set forth in this Contract.

3. Earnest Money. Buyer shall pay an earnest money deposit in the amount of Five Thousand and 00/100 Dollars (\$5,000.00) (the "Earnest Money") within two (2) business days following the Effective Date of this Agreement to be held in trust by Jones Cork LLP at its office located at 435 Second Street, Macon, Georgia 31201 ("Escrow Agent") and disbursed in accordance with the terms of this Contract.

4. Inspection. Seller grants permission to Buyer, Buyer's agents and any independent contractor selected by Buyer to enter upon the Property for a period beginning on the Effective Date and ending sixty (60) days following the Effective Date (the "Inspection Period") to conduct surveying, zoning or other non-invasive studies of the Property; provided, that Buyer shall and does hereby agree to indemnify, defend and hold Seller harmless from and against any and all claims, loss, cost, damages or expenses and property damage arising out of the exercise of such privilege by Buyer (but excluding any of the foregoing arising out of the existing environmental condition of the Property, a release of existing or in-place hazardous or toxic substances on or under the Property or the negligence or misconduct of Seller), and Buyer will fully compensate Seller, based on repair costs, for damage resulting therefrom to the Property, in the event the Closing is not consummated. During the Inspection Period, Buyers have the right to terminate this Contract for any reason (or no reason) upon written notice to Seller (the "Inspection Contingency"). In the event Buyers choose to waive the Inspection Contingency and proceed to Closing, the Earnest Money shall be non-refundable to Buyers, except as otherwise specifically set forth herein.

5. Title Insurance.

(a) Buyer shall obtain within sixty (60) days following the Effective Date (the "Title Exam Period") a title insurance commitment to issue an ALTA owner's title insurance policy in the amount of the Purchase Price from a title insurance company selected by Buyer. Buyer shall pay the reasonable title policy premium at closing.

(b) In the event the title insurance commitment does not show good, marketable and insurable fee simple title to the Property to be vested in Seller, subject only to (x) liens, encumbrances, exceptions and qualifications which in Buyer's reasonable judgment do not interfere with or impair Buyer's intended use of the Property and (y) exceptions permitted by the provisions of this Agreement (collectively referred to as the "Permitted Exceptions"), Buyer shall notify Seller in writing to that effect prior to expiration of the Title Exam period specifying such defects (the "Title Defects"). Should Buyer fail to notify Seller of any Title Defects within such period, Buyer shall be deemed to have waived such Title Defects. Any Title Defect that is waived or accepted by Buyer shall also constitute a Permitted Exception to title. Seller shall have ten (10) days from receipt of such notice ("Seller's Title Cure Period") to advise Buyer whether or not Seller will cure any Title Defect (but Seller shall be under no obligation to cure any Title Defect other than Monetary Defects (as hereinafter defined)). The failure of Seller to provide written notice, on or before the expiration of Seller's Title Cure Period, of Seller's agreement to cure any Title Defect shall constitute Seller's election not to cure any such Title Defect. If Seller elects not to cure the Title Defects, Buyer, as its sole and exclusive remedy, shall have the option of (i) accepting the title subject to the Title Defects without a reduction in the Purchase Price, or (ii) terminating this Agreement within ten (10) days after the expiration of Seller's Title Cure Period, whereupon the Earnest Money shall be returned to Buyer, and thereupon Buyer and Seller shall each be released from all further obligations to each other respecting matters arising from this Agreement, except with regard to such provisions as expressly provide for survival of termination. Buyer's failure to terminate this Agreement within ten (10) days after the expiration of Seller's Title Cure Period shall result in Buyer's waiver of its uncured objections to title, its agreement to accept title subject to such Title Defects and its agreement to close on or before the date specified in Paragraph 6 hereof.

6. Closing.

(a) Closing Date. The closing shall be held on or before the date that is ninety (90) days following the Effective Date at the offices of Jones Cork LLP, 435 2nd Street, Suite 500, Macon, GA 31201, or such earlier date and time and at such location as may be mutually agreed upon by Seller and Buyer (the "Closing").

(b) Closing Documents. At the Closing, Seller shall deliver to Buyer the following, in addition to all other documents reasonably necessary to consummate the sale and purchase of the Property:

(i) Full and exclusive possession of the Property,

(ii) A limited warranty deed in proper recordable form, duly executed and acknowledged by Seller (the "Deed"), conveying the Property subject only to the Permitted Exceptions, and with the description being that set forth on Exhibit A hereto and/or set forth in the Seller's vesting deed(s);

(iii) In the event that Buyer's survey description of the Property differs from the legal description of the Property as set forth in this Contract, a quitclaim deed containing a legal description of the Property based upon Buyer's survey;

(iv) A non-foreign affidavit sufficient to establish that this transaction is not subject to the withholding requirements of Section 1445(a) of the Internal Revenue Code of 1986, as amended;

(v) Such affidavits and other documentation as Buyer may reasonably request for Buyer to comply with applicable law relating to withholding tax on transfer of real property and related tangible personal property, or to determine what is necessary for such compliance or both; and

(vi) A standard owner's affidavit, as may reasonably be required by a nationally recognized title insurance company for Buyer to obtain a standard ALTA owner's policy of title insurance.

(c) Closing Costs. Seller shall pay (i) for recording any and all documents to cure any defects in title, and (ii) the required real estate transfer tax payable upon recording of the Deed, if applicable, and (iii) Seller's attorneys' fees. Buyer shall pay (i) for recording the Deed, (ii) for the costs and expenses of any and all inspections that may be performed by Buyer, (iii) for all costs and expenses related to title insurance, and (iv) Buyer's attorneys' fees.

7. Real Estate Taxes, Assessments and Prorations. Seller shall pay all due and unpaid real estate taxes on the Property prior to or at closing. Real estate taxes on the Property which are not due and payable for the year of closing shall be prorated as of the date of closing on the basis of maximum discounts allowed by taxing authorities. If the amount of taxes for the year of closing cannot be ascertained, rates, millages and assessed valuations for the previous year, with known changes, shall be used for proration purposes at closing. However, said real estate taxes shall thereafter, upon the demand of either Seller or Buyer, be rep prorated by and between Seller and Buyer upon receipt by Seller or Buyer of the statement or statements therefor from the proper taxing authority or authorities.

8. Warranties and Representations.

(a) Ownership of Property. Seller warrants that Seller presently has title to the Property.

(b) Leases. Seller warrants that there are no leases pertaining to the Property and no tenants, lessees or other occupants of all or any part of the Property. Prior to Closing, Seller shall not enter into any new leases pertaining to the Property.

(c) Property Sold "As Is." Seller makes no warranties or representations concerning the condition, status or other conditions at the Property or any structures, equipment, or other materials at the Property. BUYER WARRANTS AND ACKNOWLEDGES TO AND AGREES WITH SELLER THAT BUYER IS PURCHASING THE PROEPRTY IN AN "AS IS" CONDITION "WITH ALL FAULTS" AND SPECIFICALLY AND EXPRESSLY WITHOUT ANY WARRANTIES, REPRESENTATIONS OR GUARANTEES, WITHER EXPRESS OR IMPLIED, OF ANY KIND, NATURE OR TYPE WHATSOEVER FROM OR ON BEHALF OF SELLER. Seller shall have no obligation to make repairs to the Property.

9. Default; Remedies.

(a) Remedies of Seller. In the event all covenants and agreements to be performed at or before Closing by Seller are fully performed, and the sale is not consummated through default on the part of the Buyer within the period of time provided for Closing hereunder, Seller may terminate this Contract by written notice to Buyer, in which case the Earnest Money shall be paid to Seller as liquidated damages for the Buyer's default. The amount of the Earnest Money is agreed upon by and between the Seller and Buyer as liquidated damages due to the difficulty and inconvenience of ascertaining and measuring actual damages and the uncertainty thereof. No other damages, rights or remedies shall in any case be collectible, enforceable, or available to Seller for Buyer's default described in this Section. Seller hereby expressly waives any and all rights to specific performance. Upon such termination all rights and obligations of the parties under this Contract shall be terminated.

(b) Remedies of Buyer. In the event all covenants and agreements to be performed at or before Closing by Buyer are fully performed, and the sale is not consummated through default on the part of the Seller within the period of time provided for Closing hereunder, Buyer may terminate this Contract by written notice to Seller and have the Earnest Money returned to Buyer, or Buyer may obtain specific performance of this Contract; provided, however, that said remedies shall be distinct, separate and cumulative and shall not be deemed to be inconsistent with each other, and none of the same, whether or not exercised, shall be deemed to be in exclusion of any other legal or equitable remedy, and any two or more of such rights and remedies may be exercised at the same time.

10. Brokers. Seller and Buyer each represents and warrants to the other that there are no real estate brokers, finders or other persons or entities involved with this transaction that are entitled to a real estate commission, finder's fee or other fee. Seller and Buyer each hereby indemnifies and agrees to hold harmless the other against any claim of any broker, finder or other person or entity claiming a real estate commission or fee in connection with this sale by, through or under such indemnifying party, including all costs and reasonable attorneys' fees expended by the party so indemnified in the defense of any such claim.

11. Survival. It is understood and agreed that whether or not it is specifically so provided herein, any provision of the Agreement which by its nature and effect is required to be observed, kept or performed after the closing of the purchase of the Property as herein provided shall

survive the closing of the purchase of the Property as herein provided and the delivery of the deed hereunder, and shall not be merged therein but shall remain binding upon and for the benefit of the parties hereto and their respective successors and assigns until fully observed, kept or performed.

12. Notices. Any notice or demand that may be given hereunder shall be deemed complete (i) upon depositing any such notice or demand in the United States mail with proper postage affixed thereto, certified, return receipt requested, or (ii) upon depositing any such notice or demand with an expedited mail or package delivery service, or (iii) upon hand-delivery to the appropriate address provided below. Any party hereto may change said address by notice in writing to the other parties in the manner herein provided.

If to Seller:

Attn: Dr. Curtis Jones, Jr., Superintendent
484 Mulberry Street
Macon, Georgia 31201
Telephone: (478) 765-8501

With copy to:

Attn: Sam Kitchens, Executive Director, Capital Programs
484 Mulberry Street
Third Floor, Room 330
Macon, Georgia 31201
(478) 765-8545

If to Buyer:

Marvin Collins, Jr.
1015 Master Drive
Macon, GA 31220

Telephone: 478-951-2654

13. Miscellaneous.

(a) No agreements, unless incorporated in this Agreement, shall be binding upon the parties hereto.

(b) This Agreement shall apply to, inure to the benefit of, and be binding upon and enforceable against Seller and Buyer and their respective successors and assigns to the same extent as if specified at length throughout this Agreement. Buyer shall have the right to assign its interest in this Agreement to any entity which is related to or controlled by Buyer, provided, however, that no such assignment shall be effective as to Seller until an executed counterpart of the instrument of assignment has been delivered to Seller and provided, further, that no such assignment shall relieve Buyer of its obligations under this Agreement.

(c) In computing any period of time prescribed by the terms of this Agreement, the day from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday or legal holiday; in which event the period shall run until the end of the next day which is not a Saturday, Sunday or legal holiday. In the event any day on which any act is to be performed by Seller or Buyer under the terms of this Agreement is a Saturday, Sunday or legal holiday, the time for the performance by Seller or Buyer of any such act shall be extended to the next day which is not a Saturday, Sunday or legal holiday. "Business Days" are defined as Monday through Friday

exclusive of legal holidays.

(d) This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument; and any party or signatory hereto may execute this Agreement by signing any such counterpart.

(e) This Agreement shall be binding upon and its benefits and advantages shall inure to the successors and assigns of the parties hereto. Whenever used herein the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

(f) The "Effective Date" of this agreement shall be deemed to be the date of the last to execute this Agreement of Buyer and Seller, as shown by the dates set forth opposite the places provided for their execution.

(g) Time is of the essence in complying with the terms, conditions and agreements of this Agreement.

[EXECUTIONS APPEARS ON FOLLOWING PAGES]

I:\Surplus & Vacant Properties\Hall Building - 2312 Shurling Dr\Sale to Collins 2020\Sale Contract_Draft_09142020.docx

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IN WITNESS WHEREOF, the parties have hereunto set their hands and affixed their seals as of the date and year shown below.

BUYER

Prud In Full Investor

Typed Name: Managing Member:

Man (sewing)

Executed by Buyer on September 22, 2020.

[EXECUTIONS CONTINUED ON FOLLOWING PAGE]

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[EXECUTIONS CONTINUED FROM PREVIOUS PAGE]

SELLER:

BOARD OF PUBLIC EDUCATION FOR

BIBB COUNTY, the governing body of the
Bibb County School District

By: _____
[Name]
President

Attest: _____
Dr. Curtis Jones, Jr.
Superintendent

Executed by Seller on _____, 2020.

I:\Surplus & Vacant Properties\Hall Building - 2312 Shurling Dr\Sale to Collins 2020\Sale Contract_Draft_09142020.docx

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EXHIBIT A

PROPERTY DESCRIPTION

All that tract or parcel of land lying and being in Land Lot 23 of the Macon Reserve East of Macon-Bibb County, Georgia, containing 9.60 acres, more or less, being the same property described in the corrective warranty deed from Francis F. Shurling and W.M. Shurling to The Board of Public Education and Orphanage for Bibb County dated March 15, 1954 and recorded in Deed Book 680, Pages 339-340, Clerk's Office, Bibb Superior Court, and being more particularly described according to said deed as follows:

Commencing at a point on the north side of the proposed road leaving from New Clinton Road in front of and on the south side of the Cross Keys School property, which point is 673.4 feet from the edge of the pavement on New Clinton Road as measured along a line which constitutes a prolongation of the south line of said school property; thence north 01 degrees 06 minutes east 213.8 feet; thence north 09 degrees 30 minutes west 379.5 feet; thence south 88 degrees 48 minutes east 801.7 feet; thence south 0 degrees 54 minutes west 557.2 feet to the north side of said proposed road; thence south 88 degrees 53 minutes west 734.4 feet to the point of beginning.

"Cross Keys School" later became known as Ellsworth Hall Elementary School.

Said property is shown upon a plat of Property of Bibb County Board of Education prepared by F.B. West, Jr. dated November 25, 1953, a copy of which is attached to that certain Affidavit Regarding Real Property executed by Steve Wilson dated January 16, 2019 and recorded in Deed Book 10277, Pages 30-32, Clerk's Office, Bibb Superior Court.

There is specifically excepted from the above-described property the 0.32 acre portion thereof described in the Right of Way Deed from Board of Public Education & Orphanage for Bibb County to State Highway Department of Georgia dated February 12, 1953 and recorded in Deed Book 656, Page

459, Clerk's Office, Bibb Superior Court.

The area described above contains 9.60 acres, more or less, consisting of the 9.92 acres shown on said plat minus the 0.32 acre conveyed by said Right of Way Deed.