

PROPOSED FORM PURCHASE AGREEMENT FOR

SALE OF SURPLUS PROPERTY

**IPS – 1840 North Meridian Street and 1839 North Illinois Street
Indianapolis, Indiana**

The attached purchase agreement is the preferred IPS form. Changes to the purchase agreement proposed by bidders will not automatically exclude their bid. All changes should be shown in a “blackline” or “redline” format. However, in calculating the “highest and best bid” IPS will consider the comparative changes to the form purchase agreement made by all bidders. Bidder are expected to do as much investigation as possible before submitting bids and therefore additional conditions, such as zoning, financing or incentives should be as narrow as possible. Please note the \$5,000.00 down payment is due with the bid and that the down payment is nonrefundable to the winning bidder for any reason regardless of whether the transaction closes. The down payment for bids not accepted will be returned.

PURCHASE AGREEMENT

THIS AGREEMENT (the "Agreement") is made between the Board of School Commissioners of the City of Indianapolis ("Vendor"), and _____ ("Purchaser"), and the parties hereby agree as follows:

1. **Property to be Sold.**

Vendor shall sell and convey to Purchaser, and Purchaser shall purchase from Vendor, for the consideration, and upon and subject to the terms and conditions, hereinafter set forth, the real estate commonly known as 1840 North Meridian Street and 1839 North Illinois Street, a legal description of which is attached as Exhibit A (the "Land"), together with all tenements, hereditaments, rights, privileges, interests, easements and appurtenances belonging or in any wise pertaining thereto (the "Appurtenances"; the Land and the Appurtenances being hereinafter referred to collectively as the "Property"). The Property shall expressly exclude any furnishings, equipment and personal property on the Property, which shall be removed by Vendor prior to closing.

2. **Purchase Price.**

(a) **Purchase Price.** The purchase price for the Property shall be the total sum of _____ Dollars (\$ _____) (the "Purchase Price").

(b) The Purchase Price shall be paid in the following manner:

(i) A down payment in the amount of Five Thousand Dollars (\$5,000.00) previously paid by Purchaser to Vendor, the receipt of which is hereby acknowledged by Vendor (the "Down Payment"). The Down Payment shall be non-refundable if the transaction does not close for any reason other than Vendor's default.

(ii) Within two (2) business days of the execution of this Agreement by Vendor, Purchaser shall deposit with Vendor the additional sum of _____ Dollars (\$ _____) the "Earnest Money".

(iii) The Earnest Money shall be (x) applied to the Purchase Price if the transaction contemplated hereby (the "Transaction") is consummated; (y) returned immediately to Purchaser if this Agreement terminates or is terminated as a result of a default by Vendor, by the failure of Vendor to satisfy the condition in Section 13 below or if terminated by Purchaser prior to the end of the Due Diligence Period, to the extent permitted below; or (z) disbursed to Vendor, following a default by Purchaser which shall be used to offset Vendor's actual damages suffered as a result of Purchaser's breach. The Earnest Money shall in no way restrict Vendor's rights and remedies available by law or in equity or under this Agreement, including Vendor's right to recover all of Vendor's expenses, including attorney fees, incurred in enforcing this Agreement.

(iv) At the Closing, Purchaser shall pay Vendor the entire Purchase Price, less the Earnest Money and Down Payment and subject to the prorations provided for in this Agreement.

3. **Conditions to Closing.**

(a) **Title and Survey:** As a condition to Purchaser's obligations to purchase the Property, Vendor shall provide Purchaser with marketable title to the Property. A title commitment and survey of the Property (the "Title Commitment" and "Survey," respectively) have been provided to Purchaser and Purchaser has consented to all matters disclosed thereon. Purchaser may obtain, at its sole cost and expense, an updated commitment for an owner's policy of title insurance, issued by the title company providing the

current commitment (the "Title Company"), in which the Title Company shall agree to insure marketable title to the fee simple estate in the Property, for the full amount of the Purchase Price in favor of Purchaser. In the event that matters are disclosed in the updated commitment or survey which are not disclosed in the current Title Commitment and which affect marketable title to the Property, then Purchaser may object to the same, not later than the earlier of (i) the end of the Due Diligence Period and (ii) five (5) days prior to Closing. If so objected, Vendor may, at its election, attempt to cure the objection. If Vendor has not cured the objection within thirty (30) days of notice or elects not to cure the objection, this Agreement shall terminate and the Earnest Money shall be paid to Purchaser. All title related expenses including all premiums, title search or preparation fees and all copy fees shall be paid by Purchaser.

(b) **Condition of Property:** Purchaser expressly acknowledges that it will have the opportunity to conduct any and all investigation of the Property which it desires and acknowledges that it relies on the results of its investigation and not on any statement or documents made by, or provided by, Vendor. The Property is being sold in an "AS IS" condition and "WITH ALL FAULTS" as of the date of this Agreement and as of Closing. Except as expressly set forth in this Agreement, no representations or warranties have been made or are made and no liability or responsibility has been or is assumed by Vendor or by any manager, officer, employee, person, firm, agent or representative acting or purporting to act on behalf of Vendor (collectively, "Vendor's Parties") with respect to the Property, including, without limitation, as to any fact, condition or repair which has or might affect the Property or any portion thereof. The parties agree that all agreements made between them or their respective agents are merged in this Agreement, which alone completely expresses their agreement. Vendor and the Vendor's Parties are not liable or bound in any manner by any verbal or written statements, representations, or information pertaining to the Property. Neither Vendor nor any of Vendor's Parties has made any representations or warranties as to whether the Property contains asbestos, lead based paint or any other harmful substances or pertaining to the extent or nature of same. Further, to the extent that the Vendor or any of the Vendor's Parties has provided to Purchaser information from any inspection, engineering or environmental reports concerning asbestos or harmful or toxic substances, Vendor makes no representations or warranties with respect to the accuracy, completeness, or otherwise concerning such reports.

(c) **Additional Conditions:** In addition to the condition above, Purchaser's obligations under this Agreement are subject to its reasonable determination, made in good faith on or prior to one hundred eighty (180) days after the date Vendor executes this Agreement (or such shorter period as is set forth in Exhibit B) (the "Due Diligence Period"), that the conditions required for the use of the Property intended by Purchaser as set forth in Exhibit B hereto (the "Conditions") have been satisfied. Purchaser agrees to work diligently to satisfy the Conditions and use all commercially reasonable efforts to do so. Purchaser acknowledges and agrees that it is expected to have completed all customary due diligence reviews, including a review of the Title Commitment, Survey and Phase I report and building plans, prior to bidding on the Property; based on such initial steps, Purchaser acknowledges that it has a reasonable expectation of satisfying the Conditions prior to the end of the Due Diligence Period. In the event that Purchaser has not provided Vendor with timely notice of its termination of this Agreement, then the Conditions shall be deemed to have been waived.

4. **Closing and Post-Closing Occupancy.** The Transaction shall be consummated at a closing (the "Closing") to be held at the offices of Title Company, fifteen (15) days after the end of the Due Diligence Period, or if there are no Conditions, fifteen (15) days after the date Vendor executes this Agreement (the "Closing Date") unless delayed due to Vendor's request, in which case the Closing may be delayed for up to an additional thirty (30) days. Time is of the essence hereof.

5. **Vendor's Considerations.** At the Closing, Vendor shall execute and/or deliver to Purchaser the following instruments, documents and other considerations:

(a) **Deed:** A limited warranty deed conveying the fee simple estate in the Land to Purchaser, subject to real estate taxes, not yet due and payable, rights of way and all matters of record.

(b) **Vendor's Affidavit:** A vendor's affidavit in the form required by the Title Company to remove the non-survey, standard exceptions.

(c) **Nonforeign Affidavit:** An affidavit by Vendor stating, under penalty of perjury, Vendor's United States taxpayer identification number and that Vendor is not a "foreign person," as defined in Section 1445(f)(3) of the Internal Revenue Code of 1986, as amended.

(d) **Disclosure Form:** A disclosure of sales information form as required by the State of Indiana.

At the Closing, Purchaser shall deliver to Vendor the balance of the Purchase Price and provide all documentation as may be necessary or required to consummate the Transaction. All costs of Closing, other than Vendor's legal fees, shall be paid by Purchaser.

6. **Condemnation and Casualty.** In the event of any condemnation, fire or other casualty affecting all or a material part of the Property prior to the Closing, Purchaser shall purchase the residue of the Property or the Property as damaged by the casualty for the Purchase Price and receive (y) a credit on the Purchase Price for all proceeds, awards and damages payable in respect of such condemnation or casualty collected by Vendor before the Closing Date, and (z) an assignment of all of Vendor's rights, titles and interests in and to all such proceeds, awards and damages not collected by Vendor before the Closing Date; in the event the scope of condemnation or damage is in excess of 10% of the Purchase Price, Purchaser may also terminate this Agreement by providing written notice within ten (10) days of first receiving notice of the condemnation or casualty, in which event the Earnest Money shall be returned to Purchaser.

7. **Notices.** All notices shall be deemed delivered to Vendor when deposited in the U.S. mail, addressed to Vendor, c/o Scott Martin, Deputy Superintendent of Operations, 120 E. Walnut St., Indianapolis, IN 46204, with a copy to Mark C. Sausser, Esq., Faegre Baker Daniels, 300 North Meridian Street, Suite 2700, Indianapolis, Indiana 46204, and to Purchaser when so deposited and addressed to Purchaser, _____, _____. Notice may be sent by national overnight delivery or by certified mail, and shall be deemed received upon the following business day for overnight delivery and upon the date that delivery is first attempted for certified mail.

8. **Specific Performance.** Vendor agrees that money damages are not an adequate remedy for breach of this Agreement by Vendor, and, in the event of a breach by Vendor, Purchaser, as its sole remedy under this Agreement, shall be entitled to: (a) the remedy of specific performance to enforce the terms hereof; or (b) cancel this Agreement and all of its obligations hereunder by written notice to Vendor, in which event, all Earnest Money and the Down Payment shall be refunded to Purchaser but Purchaser shall not be entitled to recover for any other loss or damage. Nothing in this Agreement shall limit Purchaser's or Vendor's recovery of its cost of enforcing this Agreement, including attorney fees.

9. **Assignment.** Purchaser may not assign or transfer all or any portion of its rights under this Agreement without the prior consent of Vendor.

10. **Authority.** Except as expressly provided otherwise herein, each undersigned person signing on behalf of any party that is a corporation, partnership or other entity certifies that: (a) he is fully empowered and duly authorized by any and all necessary action or consent required under any applicable articles of incorporation, bylaws, partnership agreement or other agreement to execute and deliver this Agreement for and on behalf of said party; (b) that said party has full capacity, power and authority to enter into and carry out its obligations under this Agreement; and (c) that this Agreement has been duly authorized, executed and delivered and constitutes a legal, valid and binding obligation of such party.

11. **Purchaser's Offer.** Purchaser acknowledges and agrees by its execution of this Agreement that it has submitted a binding and open offer to Vendor, that Purchaser shall not withdraw this offer for a period of one hundred (100) days after its execution of the same, and that any attempt to withdraw shall be treated as a default by Purchaser hereunder. In the event that Vendor has not executed and provided

a copy of the fully executed Agreement to Purchaser within said 100- day period, Purchaser may, at any time by providing written notice to Vendor, withdraw the offer represented by this Agreement.

12. **Vendor's Condition.** Vendor's obligations under this Agreement are conditioned on its obtaining the approval of this transaction by the Board of School Commissioners of the City of Indianapolis at a public hearing. If Vendor has not satisfied this condition within ninety (90) days after Vendor's execution of the same, this Agreement shall be deemed to have been terminated and the Earnest Money and Down Payment shall be returned to Purchaser.

13. **Miscellaneous.** Each party represents and warrants to the other that it has not engaged or otherwise dealt with any broker, finder or similar person in connection with the sale of the Property to Purchaser, except for Abbe Hohmann, whose fee is to be paid by Vendor. Purchaser acknowledges that it has submitted a bid for the Property to Vender in compliance with all laws and that Purchaser is not prohibited from making such a bid under Section 36-1-11-16 of the Indiana Code and has the financial and development wherewithal to complete its obligations under this Agreement.

No amendment or waiver of any provision of this Agreement shall be effective unless in writing and signed by each of the parties. Subject to the limitations set forth herein, this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns but no such assignment shall relieve or release a party from any of its liabilities and obligations hereunder. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision unless the essential object of this Agreement would be defeated. This Agreement, together with the exhibits thereto, constitutes the entire agreement between the parties with respect to the subject matter thereof and supersedes any and all prior or written arrangements, understandings or undertakings. This Agreement shall be governed by the laws of the State of Indiana and captions in this Agreement are for convenience and identification purposes only and are not an integral part hereto and are not to be considered an interpretation of any part thereof. This Agreement shall not be interpreted or construed against the party whose counsel prepared this Agreement or any earlier draft. If any action is instituted in connection with any claim or controversy arising out of or relating to this Agreement, the prevailing party shall be entitled to recover in addition to costs such sum as the court may adjudge as reasonable attorneys' fees in such action and on any appeal from any judgment or decree entered therein. In no event shall this Agreement or any memorandum hereof be recorded.

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties on the respective dates set forth below; it being agreed that the term “the date hereof” or similar verbiage shall be deemed and construed to mean to the later of such dates.

“Vendor”

“Purchaser”

The Board of School Commissioners
of the City of Indianapolis

By _____

By _____

Printed Name _____

Printed Name _____

Its _____

Its _____

Date _____

Date _____

EXHIBIT A
LEGAL DESCRIPTION

The land referred to in this Commitment, situated in the County of Marion, State of Indiana, is described as follows:

PARCEL 1:

Lots 47 and 48 in William H. Morrison's Second Addition to the City of Indianapolis, as per plat thereof recorded in Plat Book 3, page 124, in the Office of the Recorder of Marion County, Indiana.

Property Address: 1840 North Meridian Street, Indianapolis, IN

Tax Id No: 1097135 / 49-06-36-162-027.000-101.

PARCEL 2:

The South half of Lot 70, Lots 71 and 72 and the North 16.5 feet of Lot 73, in William H. Morrison's Second Addition to the City of Indianapolis, as per plat thereof recorded in Plat Book 3, page 124, in the Office of the Recorder of Marion County, Indiana.

Property Address: 1839 North Illinois Street, Indianapolis, Indiana

Tax ID No.: 1064245 / 49-06-36-162-011.000-101.

EXHIBIT B
LIST OF CONDITIONS

(if any - if none are listed below no conditions shall apply)
(if the Due Diligence Period will be less than one hundred eighty (180) days, please state so below)