

AGREEMENT TO PURCHASE

Date: July 28, 2020

The party(ies) signing below as Buyer(s) (hereinafter "Buyer", whether one or more) hereby agree(s) to purchase from the Trustee of the William H. Snodgrass Irrevocable Trust Agreement dated June 30, 2011 ("Seller"), and Seller agrees to sell to Buyer, the real estate located in Whitley County, Indiana and described as follows: Lot #3 in the Plat of Shady Park as shown by the plat recorded at Plat Book "C" page 15, including the improvements and any permanent fixtures on said lot, being the real estate identified as Whitley County Tax Parcel No. 92-03-28-106-003.000-011, located at 2504 N. State Road 109, Columbia City, Indiana (the "Property"), and being the real estate put up for bids via online auction conducted by Schrader Real Estate and Auction Company, Inc. ("Auction Company"). This offer incorporates the terms and conditions set forth herein and the bidding procedures and auction terms set forth in the attached **Addendum A** (collectively, this "Agreement").

1. **PURCHASE PRICE.** The purchase price is \$ _____, to be paid via wired funds at closing (plus expenses charged to Buyer, less applied Earnest Money and any other credits due Buyer, as provided in this Agreement).
2. **EARNEST MONEY.** Buyer shall deliver to Auction Company an earnest money deposit in the amount of \$ _____ ("Earnest Money") **on or before Wednesday, July 29, 2020**, to be held in escrow and applied to the purchase price at closing.
3. **TAXES; ASSESSMENTS.** "Seller's Taxes" refers to the real estate taxes assessed against and attributable to the Property for the first part of the calendar year in which the closing occurs, **prorated** on a calendar year basis to the date of closing, and all prior years. Any unpaid Seller's Taxes shall be withheld from Seller's proceeds at closing and paid directly to the county treasurer; *provided, however*, any portion of Seller's Taxes that is not payable at the time of closing shall be estimated based on 100% of the amount last billed for a calendar year and the amount thus estimated (and prorated to the date of closing) shall be paid via credit against the sums due from Buyer at closing, with no further settlement or adjustment after closing. Buyer shall then pay all real estate taxes attributable to the Property which become due after closing. Buyer shall pay any special assessments (including drainage assessments) and/or user fees, if any, that are last payable without a penalty after closing.
4. **SURVEY.** The Property will be conveyed using the existing legal description without obtaining a new survey.
5. **DEED; TITLE INSURANCE.** The Property shall be conveyed by Trustee's Deed (subject to the Permitted Exceptions), to be furnished at Seller's expense. Seller shall furnish a commitment, updated to a date after the Auction and prior to closing, for the issuance of a standard owner's title insurance policy in the amount of the purchase price insuring marketable title to the Property in Buyer's name, subject to standard exceptions, conditions and requirements and subject to the Permitted Exceptions (the "Final Title Commitment"). At closing, Seller shall pay for the cost of issuing a standard owner's title insurance policy in accordance with the Final Title Commitment.
6. **PERMITTED EXCEPTIONS.** Buyer agrees to accept title, title insurance and any survey subject to and notwithstanding: (a) any existing road, utility or drain; (b) any visible or apparent use; (c) any variation between a deeded boundary line and a fence line, field line, ditch line or other visible or apparent occupancy or occupancy line; (d) any easement, condition, restriction or other matter (except liens) appearing of record; (e) any outstanding right or severance as to minerals; (f) any recorded oil and gas lease, active or not; (g) the lien for current, non-delinquent property taxes and assessments; (h) any matter disclosed in Addendum A; and/or (i) any matter (except liens) referenced in the preliminary title insurance schedules described in Addendum A (collectively, the "Permitted Exceptions").
7. **CLOSING.** Closing shall be held **on or before August 28, 2020** (or as soon as possible after said date upon completion of the survey, if applicable, the Final Title Commitment and Seller's closing documents) at the office of **Gates Land Title Corp.**, 232 W. Van Buren, Ste. 106, Columbia City, IN (Tel: 260-244-5127). If Seller is unable to convey the Property in conformance with the requirements of this Agreement, either party may terminate this Agreement by written notice to the other and, in the event of such termination by either party, Buyer shall receive the Earnest Money as Buyer's sole and exclusive remedy; *provided, however*, prior to any such termination by Buyer, Buyer must give Seller sufficient written notice of the nonconformity to enable Seller to cure the nonconformity and Seller shall have the right to extend the closing date for up to 30 days after receiving such notice in order to cure such nonconformity.
8. **RISK OF LOSS.** The Property shall be conveyed at closing in substantially its present condition, normal wear and tear excepted. Seller assumes the risk of loss and damage until closing. Seller's insurance may be canceled as of the closing date.
9. **POSSESSION.** Possession shall be delivered at closing. Seller shall pay for all utilities until possession is delivered.
10. **INCLUDED / EXCLUDED ITEMS.** Notwithstanding any other provision, the "Property" includes or excludes any item that is specifically included or excluded according to Addendum A. Any propane tank is excluded unless otherwise provided.
11. **THE PROPERTY IS SOLD "AS IS, WHERE IS". ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE CONDITION OF THE PROPERTY, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, ARE HEREBY DISCLAIMED. IN NO EVENT SHALL SELLER OR AUCTION COMPANY BE LIABLE FOR CONSEQUENTIAL DAMAGES.**
12. **REMEDIES.** If the Earnest Money is not effectively paid in accordance with this Agreement *or* if this sale fails to close due to Buyer's default (each a "Buyer Default"), Seller shall have the right to recover 10% of the purchase price as liquidated damages and the right to give notice terminating Buyer's right to acquire the Property (without prejudice to the right to recover liquidated damages). Upon such termination, Seller shall have the absolute and unconditional right to re-sell the Property free and clear of any right or claim of Buyer. Buyer agrees that 10% of the purchase price is fairly proportionate to the amount of Seller's damages due to a Buyer Default, which damages would otherwise be uncertain and difficult to ascertain. If such liquidated damages are adjudicated as unenforceable, Seller may recover actual damages plus attorney fees and expenses. If this sale fails to close due to Seller's default: (a) Buyer shall have the right to demand and receive a refund of the Earnest Money and, upon such demand and receipt, this Agreement shall be terminated in all respects; or (b) at any time prior to such termination, Buyer may elect instead to seek specific performance. If this sale fails to close, the Earnest Money shall be retained in escrow pending disbursement instructions: (i) signed by both parties (or by one party authorizing disbursement to the other); or (ii) in a final court order. In the event of a Buyer Default, Buyer agrees to sign and deliver a release of the Earnest Money for payment of the liquidated damages due Seller and, if Buyer fails to do so, Seller shall have the right to recover (in addition to any other recovery) attorney's fees and other expenses thereafter incurred by Seller in seeking to enforce any right or remedy. In a lawsuit to enforce a right or remedy under this Agreement, the prevailing party shall recover attorneys' fees and expenses and **ANY RIGHT TO A TRIAL BY JURY IS WAIVED.**
13. **AGENCY.** Auction Company and its affiliated agents represent only Seller, not Buyer. This Agreement is between Buyer and Seller. Auction Company and its agents and representatives shall not be liable for any defect or deficiency in any land, improvements, fixtures or equipment.
14. **1031 EXCHANGE.** Each party shall reasonably cooperate if another party intends to structure the transfer or acquisition of the Property as part of an exchange under 26 U.S.C. § 1031 ("Exchange"). This Agreement may be assigned for purposes of an Exchange, but the assignor shall not be released from any obligation. A party is not required to assume or incur any additional obligation in connection with another party's Exchange.
15. **GENERAL PROVISIONS.** This Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, personal representatives and successors. This Agreement constitutes the entire agreement between Buyer and Seller regarding the Property. Neither party is relying upon any other statement or promise and neither shall be bound by any purported oral modification or waiver. Time is of the essence. All terms and conditions of this Agreement (including Addendum A) shall survive the closing. This Agreement to Purchase and Addendum A shall be read and construed together as a harmonious whole. This Agreement may be executed in multiple counterparts, all of which together shall constitute the same instrument and, for such purposes, the electronic transmission of a signed counterpart via email, fax or a commonly-used electronic signature service such as DocuSign® shall have the same effect as the delivery of an original signature.

Printed Name(s) of Buyer(s): _____

Signature(s) of Buyer(s): _____

Address: _____ **Phone:** _____

Deed to: _____ **Lender/Contact:** _____

SIGNED BY SELLER on the _____ day of July, 2020: **EARNEST MONEY** in the amt. of \$ _____ was received by the Auction Company on the _____ day of July, 2020.

Sign: _____ Schrader Real Estate and Auction Company, Inc.

Meggan A. Hoag, as Trustee

By: _____

Buyer(s): _____

Seller: _____

ADDENDUM A

BIDDING PROCEDURES AND AUCTION TERMS

For online auction conducted by:
Schrader Real Estate and Auction Company, Inc.

On behalf of:

The Trustee of the William H. Snodgrass Irrev. Trust Agreement dtd 6/30/2011 ("Seller")

Online Bidding Ends: July 28, 2020 at 6:00 p.m.

1. Bidding is online only and is open to anyone who has:
 - a. Obtained an Online Bidding Number by successfully applying for access to Online Bidding Services and agreeing to the Online Bidding Terms and Conditions through the Auction Company's website (<http://www.schraderauction.com> and/or <https://schrader.nextlot.com>); and
 - b. Successfully registered to participate in this auction and agreed to the particular Auction Terms that apply to this auction.
2. The Auction Terms that apply to this auction ("Auction Terms") consist of the provisions contained in the Agreement to Purchase and this Addendum A, both of which have been posted to the auction website. The Auction Terms contained in the Agreement to Purchase and this Addendum A are non-negotiable and they supersede and control over any oral statements and any other written terms stated in the auction brochure and/or the auction website or otherwise.
3. This is an absolute auction. The Property is offered without reserve and will be sold to the highest bidder, regardless of price.
4. Bidding will close at 6:00 o'clock p.m. on Tuesday, July 28, 2020. After the close of bidding, a purchase contract shall be executed by the high bidder ("Buyer") and Seller in the form of the Agreement to Purchase posted to the auction website and this Addendum A.
5. Buyer shall deliver an earnest money deposit to Auction Company in the amount of 10% of the purchase price. The earnest money may be delivered by check or wire transfer, but it must be received by Auction Company on or before **Wednesday, July 29, 2020**.
6. The balance of the purchase price is due in cash at closing. Bidding is not contingent on financing. Each bidder is responsible for having arranged any financing prior to bidding.
7. The closing will be scheduled in accordance with Section 7 of the Agreement to Purchase. The targeted closing period is on or before August 28, 2020. Delivery of title and possession will be effective upon completion of the closing.
8. Real estate taxes will be prorated to the date of closing. The closing agent's fee to administer the closing will be shared equally (50:50) between Buyer and Seller. Buyer will pay all costs of any loan obtained by Buyer.
9. At closing, Seller will furnish the deed and owner's title insurance at Seller's expense in accordance with the terms of Section 5 of the Agreement to Purchase.

10. Preliminary title insurance schedules dated June 26, 2020 have been prepared by Gates Land Title Corp. and posted to the auction website, along with copies of the recorded documents listed as exceptions.
11. Buyer agrees to accept the title and acquire the Property subject to all "Permitted Exceptions" as defined in Section 6 of the Agreement to Purchase, including but not limited to all matters appearing of record and referenced in the preliminary title insurance schedules.
12. The Property will be conveyed using the existing legal description without obtaining a new survey.
13. The advertised lot size is approximate and is based on the county's tax parcel data showing .88 acres. The recorded plat shows .87 acres. No warranty or authoritative representation is made as to the number of acres included with the Property. The purchase price shall not be subject to adjustment regardless of the number of acres shown in any survey or other record prepared before or after the auction.
14. If a dispute arises prior to closing as to the location of any boundary, the Auction Company may (but need not) terminate the purchase contract by giving written notice of termination to Buyer, but only with the Seller's consent. In the event of such termination, the earnest money shall be refunded to Buyer and the Property may be re-sold free and clear of any claim of Buyer. In lieu of consenting to such termination, Seller may elect instead to enforce the purchase contract according to its terms.
15. The driveway used for access between the Property and Hwy 109 is a shared driveway and is not maintained as a public road. Upon completion of the closing, Buyer will automatically assume any obligation, as the owner of the Property, to contribute to the cost of future maintenance of the shared driveway.
16. The lead-based paint disclosure form and the Whitley County On-Site System Disclosure Form have been completed and signed by Seller and posted to the auction website. These forms shall be signed by the Buyer at the time of signing the purchase contract.
17. The Property is owned by the trustee of a trust with multiple beneficiaries. No person may bid on behalf of the trust. However, bona fide bidding by a beneficiary of the trust is permitted on the beneficiary's own behalf.
18. Buyer's obligation to purchase and acquire the Property at closing is not contingent upon any post-auction inspection, investigation or evaluation of the condition of the Property. Buyer is responsible for having completed all such inspections, investigations and evaluations before bidding. Buyer acknowledges that Buyer has either completed all such inspections, investigations and evaluations or has knowingly and willingly elected to purchase the Property without having done so. In either case, Buyer assumes all risks and agrees to acquire the Property "AS IS".
19. Without limiting the foregoing provisions, Seller and Auction Company and their respective agents and representatives make no warranty or authoritative representation as to: (a) zoning matters; (b) whether or not the Property qualifies for any particular use; (c) the availability or location of utilities; (d) the availability of any building permit, driveway permit, septic permit or any other permit; or (e) the accuracy of any materials or information prepared or provided by any third party regarding the auction and/or the Property.
20. Schrader Real Estate and Auction Company, Inc. and its agents and representatives are exclusively the agents of the Seller.