

## LEASE AGREEMENT

This Lease Agreement (the "Agreement") is made as of the 12<sup>th</sup> day of June, 2012, between the BOARD OF EDUCATION OF JEFFERSON COUNTY, KENTUCKY, a public body corporate and political subdivision of the Commonwealth of Kentucky and (hereafter referred to as "JCPS"), and LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT, a consolidated local government and political subdivision of the Commonwealth of Kentucky (hereafter referred to as "Metro").

### RECITALS:

1. JCPS is the owner of certain property located at 10104 Mitchell Hill Road, Louisville, Jefferson County, Kentucky, a portion of which is shown on Exhibit A hereto.

2. Metro is the owner of certain property located at 10616 West Manslick Road, Louisville, Jefferson County, Kentucky, a portion of which is shown on Exhibit B hereto.

3. JCPS and Metro each desire to lease a portion of the property of the other, and JCPS has obtained the approval of the Kentucky Department of Education to enter into this Lease Agreement.

### WITNESSETH:

In consideration of the covenants, conditions, terms, and provisions herein stated, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, JCPS hereby leases to Metro the premises designated on Exhibit A attached hereto, including any vehicular and pedestrian access to and from said premises across property owned by JCPS that currently exists or may be approved by JCPS in the future, and Metro hereby leases to JCPS the premises designated on Exhibit B, including any vehicular and pedestrian access to said premises across property owned by Metro that currently exists or may be approved by Metro in the future, and each party agrees to the following terms for such leases.

### 1. TERM

The initial term of this Lease shall be for one (1) year beginning on June 12, 2012, unless sooner terminated pursuant to the terms of this Lease Agreement. This

Lease may be extended for successive terms of one year each, up to a maximum of ninety-nine (99) years, contingent on approval by the Board of Education of Jefferson County, Kentucky on an annual basis. Either party shall have the right at any time to elect to terminate the Lease for any reason whatsoever, with or without cause, by giving the other party thirty (30) days written notice in accordance with Section 15 of this Agreement.

## **2. DEMISED PREMISES**

The premises leased to Metro are designated on Exhibit A, and are located at the north end of 10104 Mitchell Hill Road, Louisville, Kentucky 40118, consisting of approximately 9,000 square feet, and including any vehicular and pedestrian access to and from said premises across property owned by JCPS that currently exists or may be approved by JCPS in the future. The premises leased to JCPS are shown in Exhibit B, and are located at the southwest end of 10616 West Manslick Road, Louisville, Kentucky 40118, consisting of approximately 9,000 square feet, and including any vehicular and pedestrian access to and from said premises across property owned by Metro that currently exists or may be approved by Metro in the future.

## **3. RENT**

Because each party is leasing premises of equal size to the other party, the parties agree that no rent shall be paid by either party.

If the lease for the premises on Exhibit A is terminated for any reason, then the lease for premises on Exhibit B shall terminate at the same time. Likewise, if the lease for the premises on Exhibit B is terminated for any reason, then the lease for premises on Exhibit A shall terminate at the same time.

## **4. UTILITIES & SERVICES**

JCPS shall not be required to provide any utilities or services for premises leased to Metro, and Metro shall not be required to provide any utilities or services for premises leased to JCPS.

## **5. USE OF PREMISES**

Metro shall use the premises leased to it as a staffed recycling drop-off facility and collection point for glass, paper, plastic, metal, and aluminum materials only. No medical waste or hazardous materials of any kind may be accepted, kept, or stored for any period of time on the premises leased to Metro, except that Metro may accept household batteries (sizes AAA, AA, C and D) for recycling, provided such is done in strict conformance with all applicable federal, state, and local laws and regulations. Metro shall not use the premises leased to it for any other use without the prior written

consent of JCPS, which JCPS agrees not to unreasonably withhold or delay. Anything herein to the contrary notwithstanding, Metro may not use the premises in any way that JCPS determines, in its sole discretion, is disruptive to or interferes with any educational programs conducted by JCPS on the remainder of the property owned by JCPS.

JCPS shall use the premises leased to it as a passageway for vehicles and/or vehicular parking only. JCPS shall not use the premises leased to it for any other use without the prior written consent of Metro, which Metro agrees not to unreasonably withhold or delay.

## **6. IMPROVEMENTS**

Metro agrees to accept the premises leased to Metro in its "as-is" condition from JCPS. Metro may, at its own expense, alter, make additions and improvements to the premises leased to it upon the prior written consent of JCPS, which JCPS agrees not to unreasonably withhold or delay.

JCPS agrees to accept the premises leased to JCPS in its "as-is" condition from Metro.

Any alterations, additions, and improvements made to either premises after the effective date of this Agreement, shall be removed at the expense of the party that installed said items, and the premises shall be restored to its original condition on the effective date of this Agreement, immediately upon termination or expiration of this Agreement, unless both parties agree otherwise in writing. All other items that are not affixed to the premises that can be removed without substantially damaging or altering the premises shall remain the property of the party installing such items and shall be removed by that party at termination or expiration of the Agreement.

All work by a party shall be in accordance with all applicable laws and regulations for the type of occupancy contemplated in this Agreement.

## **7. ENVIRONMENTAL HAZARDS**

JCPS shall comply or cause compliance with all applicable governmental laws, rules, regulations and/or ordinances dealing with environmental matters with respect to the premises leased to JCPS. JCPS shall be responsible for the abatement of any environmental hazards on or about the premises leased to Metro not brought to the premises or generated by Metro at the commencement of and during the lease term. Metro shall be responsible for abatement of any environmental hazards on or about the premises leased to Metro brought to the premises by Metro or generated, caused or allowed by Metro on the premises leased to Metro during the lease term.



Metro shall comply or cause compliance with all applicable governmental laws, rules, regulations and/or ordinances dealing with environmental matters with respect to the premises leased to Metro. Metro shall be responsible for the abatement of any environmental hazards on or about the premises leased to JCPS not brought to the premises or generated by JCPS at the commencement of and during the lease term. JCPS shall be responsible for abatement of any environmental hazards on or about the premises leased to JCPS brought to the premises by JCPS or generated, caused, or allowed by JCPS on the premises leased to JCPS during the lease term.

## **8. INSURANCE REQUIREMENTS FOR METRO**

Pursuant to Ordinance No. 11, Series 2003, Metro is self-insured for all properly asserted General Liability claims brought against it to which Metro does not otherwise have a legal defense. In addition, Metro agrees to keep in full force and effect Excess Self Insurance coverage for all properly asserted claims brought against it to which Metro does not otherwise have a legal defense, covering Bodily Injury, Property Damage, and Personal Injury Liability under the "Louisville Area Governmental Self Insurance Trust", as long as such coverage is available. The Limit of Liability provided by such Excess coverage shall be at least \$1,000,000.00 per Occurrence under a Combined Single Limit format. Metro agrees to provide JCPS with a Certificate of Self Insurance from the Louisville Area Governmental Self Insurance Trust.

Metro acknowledges that it will make arrangements for insurance on its personal property within the premises leased to Metro to the extent desired by Metro.

## **9. INSURANCE REQUIREMENTS FOR JCPS**

A. Subject to the right of JCPS to self-insure as described in Subparagraph C below, JCPS shall, during the term of this Lease, insure against public liability insurance with reference to the premises leased to JCPS in minimum amounts of One Million Dollars (\$1,000,000.00) for personal injury or death and One Million Dollars (\$1,000,000.00) for property damage in respect of each occurrence.

B. Subject to the right of JCPS to self-insure as described in Subparagraph C below, all required insurance policies shall be with insurance companies qualified to do business in the Commonwealth of Kentucky, and may be written with exceptions and exclusions comparable to those in similar policies carried by others with respect to properties of similar size, character and other respects to the premises leased by JCPS. JCPS shall provide Metro with certificates of the respective insurers specifying that the required insurance is in full force and effect. The required insurance may be in the form of blanket insurance policies and may be provided by so-called umbrella coverage. All insurance claims may be adjusted by JCPS alone.



C. As an alternative to providing third party insurance coverage against the risks and in the amounts specified above, JCPS may provide equivalent coverage through an established program of self-insurance. JCPS shall provide Metro with a certificate of such self-insurance coverage describing the reserves maintained and any reinsurance in effect under JCPS's self-insurance program and certifying that such reserves and any such reinsurance in effect are adequate to provide for the estimated liabilities.

JCPS acknowledges that it will make arrangements for insurance on its personal property within the premises leased to JCPS to the extent desired by JCPS.

## **10. MAINTENANCE**

Metro, at its sole cost and expense, shall at all times during the term of this Agreement maintain the premises leased to Metro in a neat, clean, and safe condition and otherwise, in good order, condition and repair, excepting only reasonable wear and tear, and shall not suffer or permit to exist any nuisance or waste upon the premises leased to it. JCPS, at its sole cost and expense, shall at all times during the term of this Agreement maintain the premises leased to JCPS in a neat, clean, and safe condition and otherwise, in good order, condition and repair, excepting only reasonable wear and tear, and shall not suffer or permit to exist any nuisance or waste upon the premises leased to it.

At termination of this Agreement, each party shall return to the owner the leased premises in the same condition as at commencement of the Agreement, ordinary wear and tear excepted.

## **11. SIGNS**

Metro shall not paint, place or erect any sign on any part of the premises leased to Metro without obtaining appropriate permits and the prior written approval of JCPS, which approval shall not be unreasonably withheld or delayed.

JCPS shall not paint, place or erect any sign on any part of the premises leased to JCPS without obtaining appropriate permits and the prior written approval of Metro, which approval shall not be unreasonably withheld or delayed.

## **12. NON-ASSIGNMENT**

Metro shall not assign this lease or sublet the premises leased to Metro or any part thereof or permit any other person, firm or corporation to occupy the premises leased to Metro or any part thereof without written consent of JCPS, which consent shall not be unreasonably withheld or delayed.

JCPS shall not assign this lease or sublet the premises leased to JCPS or any part thereof or permit any other person, firm or corporation to occupy the premises leased to JCPS or any part thereof without written consent of Metro, which consent shall not be unreasonably withheld or delayed.

### **13. HOLD OVER TENANCY**

If, without the execution of a new lease or written extension, a tenant shall hold over after the expiration of the lease term, that tenant shall be deemed to be occupying the premises leased to it as a tenant from month to month, which tenancy may be terminated as provided by law. During such tenancy, that tenant agrees to pay to the owner of the leased premises a fair market rental, unless a different rate is agreed upon, and that tenant agrees to be bound by all other terms, covenants and conditions as herein specified.

### **14. NOTICES**

All notices provided for in the Lease shall be sent to the follow addresses:

JCPS:

Board of Education of Jefferson County, Kentucky  
VanHoose Education Center  
3332 Newburg Road  
Louisville, Kentucky 40218  
Attention: Michael Mulheirn

METRO:

LOUISVILLE/JEFFERSON COUNTY  
METRO GOVERNMENT  
444 S. 5<sup>th</sup> STREET, SUITE 400  
LOUISVILLE, KENTUCKY 40202  
ATTENTION: JOSH BERNSTEIN

The parties may by notice designate any further or different addresses to which subsequent notices or other communications shall be sent.

### **15. TERMINATION**

JCPS or Metro may terminate this Agreement for any reason upon thirty (30) days written notice from the terminating party to the non-terminating party. If the lease for the premises on Exhibit A is terminated for any reason, then the lease for premises on Exhibit B shall terminate at the same time. Likewise, if the lease for the premises on Exhibit B is

terminated for any reason, then the lease for premises on Exhibit A shall terminate at the same time.

#### **16. DEFAULT**

In the event that a party fails to comply with any term of this Agreement, written notice by certified mail shall be given to the defaulting party that it has 30 days (or a reasonable, shorter time in the case of an emergency) in which to cure the default or the Agreement shall terminate. If the default cannot reasonably be cured within 30 days, the Agreement shall not terminate if the defaulting party begins action within 30 days to cure the default and diligently pursues it to completion.

In lieu of terminating the Agreement, upon the failure of the defaulting party to take appropriate action to cure its default within 30 days (or shorter time period if appropriate), the non-defaulting party may undertake to cure the default and the defaulting party shall reimburse the non-defaulting party within 10 days of receipt of written notice of the cost incurred by the non-defaulting party.

#### **17. INSPECTION**

Each party shall have the right to inspect the premises owned by such party at any time with 24 hours notice.

#### **18. BINDING EFFECT**

This agreement shall be binding on the parties, their personal representatives, successors and assigns.

#### **19. ENTIRE AGREEMENT**

This Agreement contains all the terms of the agreement between the parties and there are no other written or verbal agreements, representations or warranties that are not a part of this Agreement. All prior negotiations between the parties are merged herein. Modifications to this Agreement must be in writing and signed by all parties to this Agreement.



**20. GOVERNING LAW**

This Agreement shall be governed by the law of the Commonwealth of Kentucky. The parties agree that venue for all disputes shall be in the courts of Jefferson County, Kentucky.

**21. SEVERABILITY**

If any provision of this Agreement shall be declared invalid or unenforceable, the remainder of the Agreement shall continue in full force and effect.

**22. COMMISSION**

Each party warrants to the other that it has not engaged anyone for which a claim for commission may be made regarding this transaction and agrees to hold harmless the other party for any claim for a commission.

IN TESTIMONY WHEREOF, WITNESS the signature of the parties hereto the day and year first above written.

BOARD OF EDUCATION OF JEFFERSON COUNTY, KENTUCKY

BY

Dr. Donna Hargens, Superintendent

DATE

6/11/12

LOUISVILLE/JEFFERSON COUNTY  
METRO GOVERNMENT

BY

Ted A Pull

TITLE

DIRECTOR

DATE

6/28/12

Approved as to form:

**MICHAEL J. O'CONNELL**  
**JEFFERSON COUNTY ATTORNEY**

By:

Edward S. Carle

**Edward S. Carle**

Assistant Jefferson County Attorney





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Louisville/Jefferson County Information Center  
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COUNTY GOVERNMENT, DISTRICT #000,  
LOUISVILLE METRO GOVERNMENT, AND  
LOUISVILLE WATER COMPANY, LLC,  
ADMINISTRATOR (PWN).  
All Rights Reserved.

Exhibit 'A'



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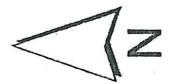
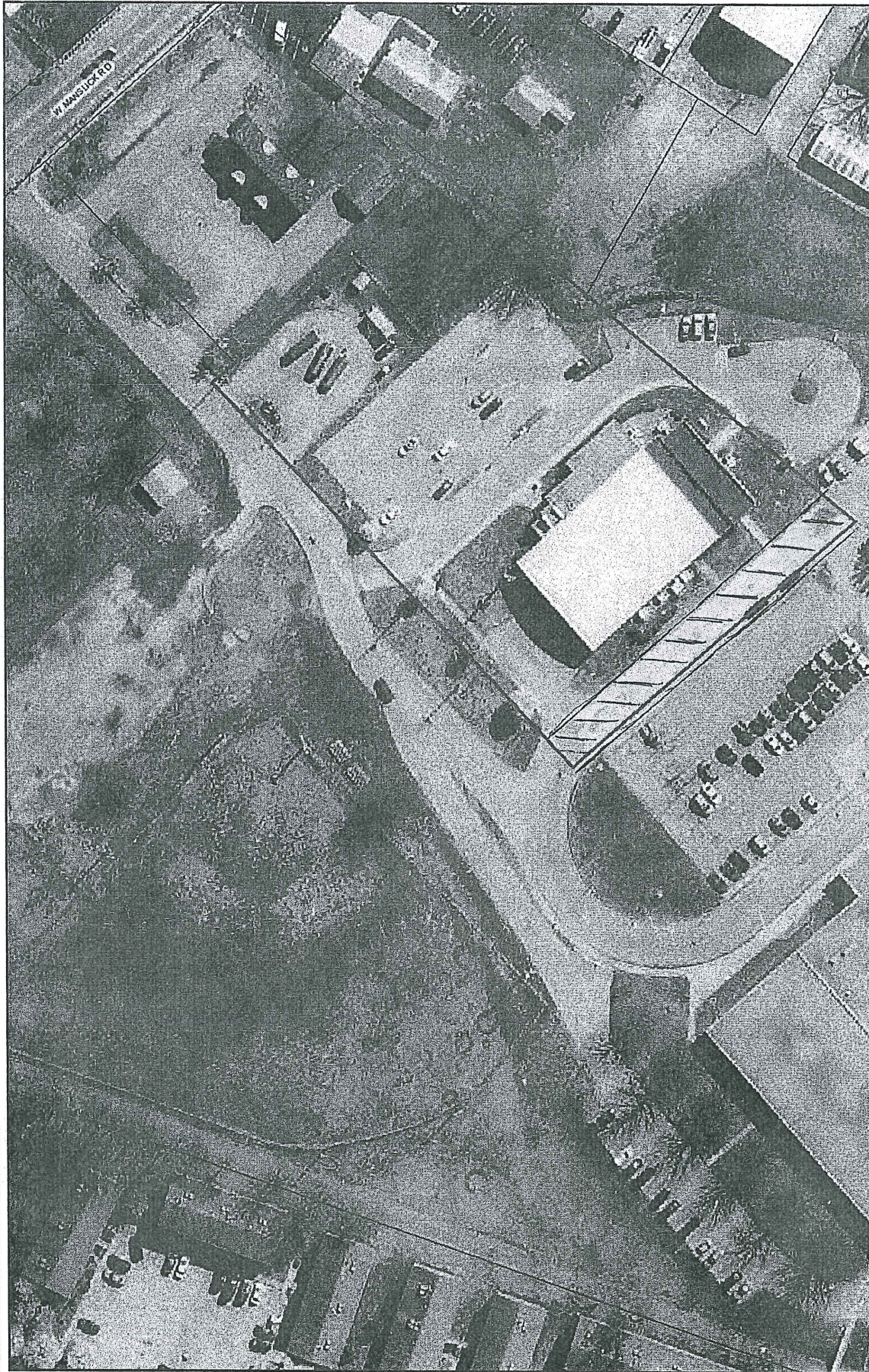
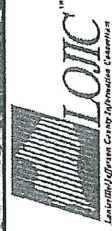


Exhibit 'B'

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