

## DECLARATION OF EASEMENT

**THIS DECLARATION OF EASEMENT** (the "Easement") is entered into and imposed as of the \_\_\_\_\_ day of \_\_\_\_\_, 2013, by **LOUISVILLE RENAISSANCE ZONE CORPORATION**, a Kentucky non-profit corporation, with an address at P.O. Box 9129, Louisville, Kentucky 40209 ("Declarant") and the **JEFFERSON COUNTY SCHOOL DISTRICT FINANCE CORPORATION**, with an address at 3332 Newburg Road, VanHoose Education Center, Louisville, KY 40218 (the "School District"). **RENAISSANCE SOUTH BUSINESS PARK OWNERS ASSOCIATION, INC.**, a Kentucky non-profit corporation, with an address at P.O. Box 9129, Louisville, Kentucky 40209 (the "Association") joins herein to agree to its obligations under this Easement.

### WITNESSETH:

**WHEREAS**, Declarant is the owner of property shown as "30' PUBLIC ACCESS AND UTILITY EASEMENT 'GRANTED'" on the plat attached hereto as EXHIBIT A and by this reference made part hereof (the "Easement Property"), which Property was acquired by deed dated February 9, 2007, and recorded in Deed Book 8985, Page 395 in the Office of the Clerk of Jefferson County, Kentucky; and

**WHEREAS**, by deed dated June 30, 2000, and recorded in Deed Book 7472, Page 643 in the Office of the Clerk of Jefferson County, Kentucky, School District acquired property adjoining the Easement Property (the "School District Property"); and

**WHEREAS**, School District currently operates Minors Lane Elementary School on the School District Property; and

**WHEREAS**, to proceed with the development of the Renaissance South Business Park (the "Business Park") (including, without limitation, the development of drainage infrastructure for the benefit of the Business Park), Declarant submitted an application to permanently close rights-of-way known as Lortay Road and Shuck Lane as shown on EXHIBIT B attached hereto (each, a "Former Street" and, collectively, the "Former Streets"), which Former Streets provided access to the School District Property from Minors Lane; and

**WHEREAS**, the ordinance closing the Former Streets dated \_\_\_\_\_ and recorded in Deed Book \_\_\_\_\_, Page \_\_\_\_\_ contains certain conditions for the benefit of the School District, namely (i) that a new access drive be provided in the location of the Easement Property, and (ii) that a fence located between the School District Property and the Easement Property be replaced (collectively, the "School District Closure Conditions"); and

**WHEREAS**, Declarant wishes to provide for a (i) nonexclusive easement over the Former Streets until such time as a new access drive is constructed on the Easement Property, and (ii) a nonexclusive easement over the Easement Property upon the completion of the new access drive; and

**WHEREAS**, the Association is joining in this Easement to evidence its agreement to comply with its obligations hereunder.

**NOW, THEREFORE**, for the purposes set forth in the Recitals and for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

**1. Easements.**

(a) Subject to the express conditions, limitations or reservations contained herein, Declarant hereby agrees that a temporary nonexclusive public access easement is hereby dedicated and reserved over the Former Streets (the "Temporary Easements").

(b) Subject to the express conditions, limitations or reservations contained herein, Declarant hereby agrees that a perpetual nonexclusive easement for access and for electric utilities is hereby dedicated and reserved on, over, and under the Easement Property (the "Permanent Easement").

**2. Reservation of Rights.** Declarant hereby expressly reserves for its benefit and for the benefit of its successors and assigns the right to use the Former Streets and the Easement Property for all purposes which are not inconsistent with the easement rights expressly granted hereunder.

**3. Restrictions on Use.** The rights granted herein shall be subject to the following:

(a) The access easement rights granted hereunder shall be used only for vehicular traffic for the purpose of ingress and egress between the School District Property and Minors Lane.

(b) No owner of the School District Property shall allow any of its employees, agents or invitees, to park, store, abandon, or otherwise allow any vehicles to remain within the boundaries of the Easement Property.

**4. Construction and Maintenance.**

(a) Until the termination of the Temporary Easements in accordance with Section 5 below, the Association shall cause the roads that are part of the Temporary Easements to be maintained as part of the "Common Areas" defined in that certain Declaration of Covenants, Conditions and Restrictions dated April 6, 2007, and recorded at Deed Book 9016, Page 791, in the Office of the Clerk of Jefferson County, Kentucky (as amended, the "Declaration").

(b) Declarant shall construct a 24' wide road and related improvements and shall install an electric utility line in the Easement Property, all in accordance with the construction plans by Sabak, Wilson & Lingo, Inc., dated October 3, 2013. The School District hereby grants the Declarant the right to enter upon the School District Property for the purpose of

completing the connection between the School District Property and the new road that is part of the Permanent Easement as shown on EXHIBIT B attached hereto. Upon the completion of the road that is part of the Permanent Easement, such road shall be insured, maintained, repaired, and/or replaced, as applicable, by and at the expense of the Association as part of the Common Areas, except that the Association shall not be responsible for snow removal. Notwithstanding the foregoing, School District shall not be subject to assessment by the Association as a result of such insurance, maintenance, repairs, or replacements, unless same are made necessary by the intentional or negligent act or omission of School District or its invitees, employees, agents, or representatives.

(c) In the event that the Association fails to perform its obligations set forth in this Section 4, the Declarant and the School District (each, an “Objecting Owner”) shall each have the right to give the Association written notice referring to this Agreement and such section, and describing the asserted failures with specificity. If the Association fails to cure the asserted failures within twenty days after receipt of such notice, or a reasonably shorter period of time set forth in such notice in the case of an emergency, or a reasonably longer period of time if there is no emergency and the asserted failures are not reasonably susceptible to cure within twenty days, the Objecting Owner may perform such obligations as will cure the asserted failures, and the Association shall reimburse the Objecting Owner for the reasonable cost of performing such obligations within thirty days after receipt of an invoice therefor. Notwithstanding anything herein to the contrary, neither Declarant nor the School District shall have the right to take any action against the Easement Property or the owner thereof (including, without limitation, filing a lien against the Easement Property) as a result of the Association’s failure to comply with its obligations under this Section 4, it being agreed that such obligations are personal to the Association and do not run with the land.

## **5. Termination.**

(a) The Temporary Easement shall terminate at such time as the road that is part of the Permanent Easement is complete and providing access to the School District Property. Such termination may be evidenced by the Declarant’s execution of an instrument of termination referencing the Temporary Easement and the recording of such instrument of termination in the Office of the Clerk of Jefferson County, Kentucky.

(b) The Permanent Easement shall terminate at such time as the School District Property is no longer used for Jefferson County School District purposes. Such termination may be evidenced by the execution of an instrument of termination by the Declarant and the School District referencing the Permanent Easement and the recording of such instrument of termination in the Office of the Clerk of Jefferson County, Kentucky.

**6. Fence Replacement.** Prior to the physical closure and removal of the Former Streets, the Declarant shall, at its sole cost and expense, remove the existing fence and clean up the fence line along the south property line of the School District Property, and shall install a new fence along the south property line of the School District Property. The exact location, type and height of the new fence shall be as shown on the construction plans by Sabak, Wilson & Lingo, Inc., dated October 3, 2013. Following installation of the new fence, it shall be

maintained, repaired, and replaced as necessary by the School District at the School District's expense.

7. **School District Conditions.** The School Board and LRZC agree that the execution and recording of this Easement satisfy the School District Closure Conditions.

8. **Binding Effect.** Subject to Section 4(c) and Section 5 above, the easements hereby granted and the obligations hereby imposed and all other terms of this instrument shall run with the land and be binding upon the present and future owners of the Easement Property and Former Streets and their respective successors and assigns. In the event of any conveyance of fee simple title to the Easement Property or Former Streets, then (i) the grantor under such conveyance shall be and hereby is entirely freed and relieved of all covenants and obligations hereunder first arising after the date of the conveyance with respect to the property conveyed, and (ii) it shall be deemed and construed without further agreement that the grantee in such conveyance has assumed and agreed to carry out all of the covenants and obligations of the grantor hereunder first arising after the date of the conveyance with respect to the property so conveyed.

9. **Governing Law.** This Easement shall be construed and interpreted in accordance with the laws of the Commonwealth of Kentucky.

**[end of page]**

IN WITNESS WHEREOF, Declarant, School District, and the Association have executed this instrument as of the year and date first above written.

**LOUISVILLE RENAISSANCE ZONE  
CORPORATION**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

COMMONWEALTH OF KENTUCKY     )

)

COUNTY OF JEFFERSON             )

The foregoing Easement was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_,  
2013, by \_\_\_\_\_, as \_\_\_\_\_ of  
**LOUISVILLE RENAISSANCE ZONE CORPORATION**, Kentucky non-profit corporation.

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

My Commission expires: \_\_\_\_\_

By: \_\_\_\_\_  
Donna Hargens, President

My Commission expires: \_\_\_\_\_.

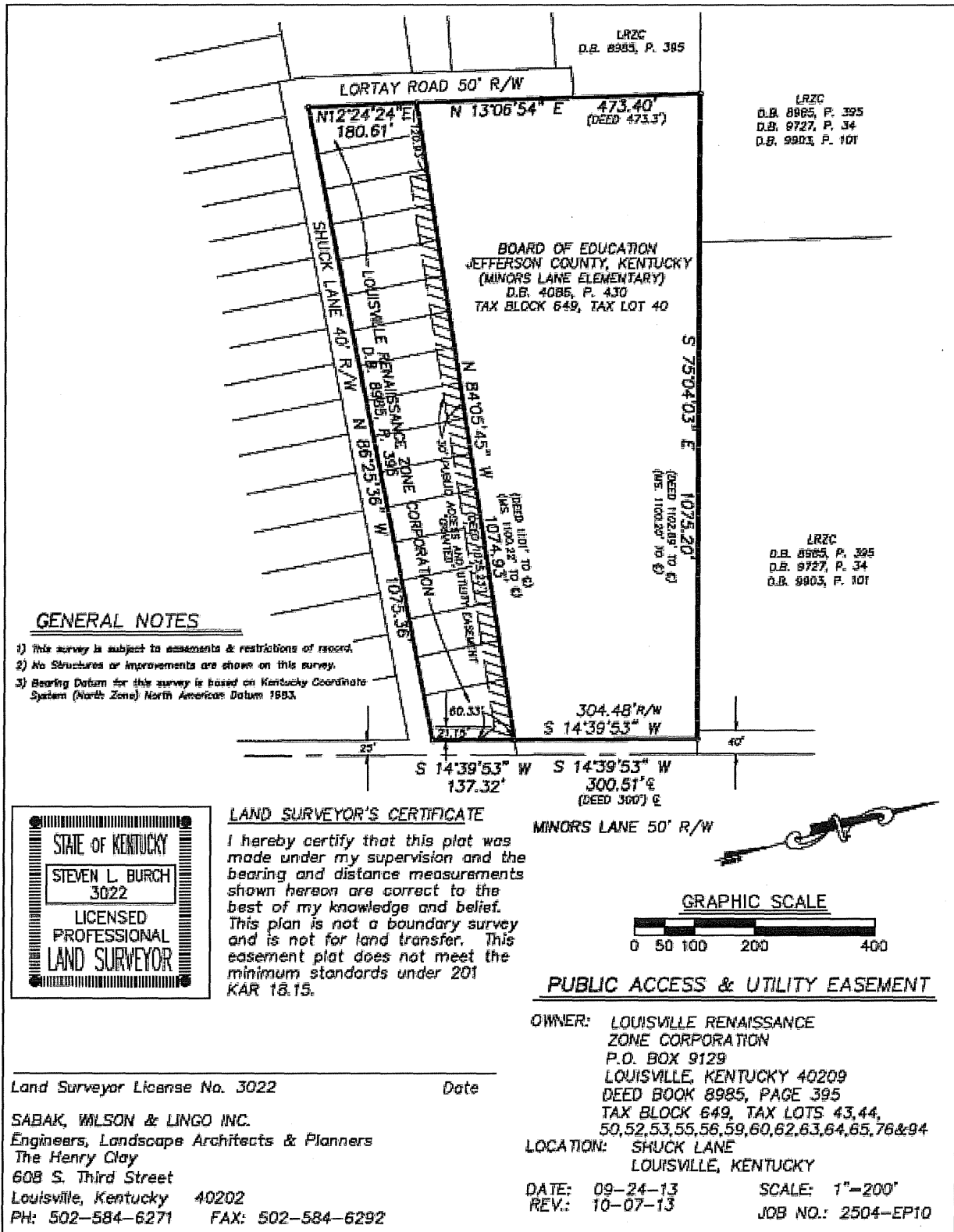
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

LO147:000LO:946327:3:LOUISVILLE

EXHIBIT A

[see attached]



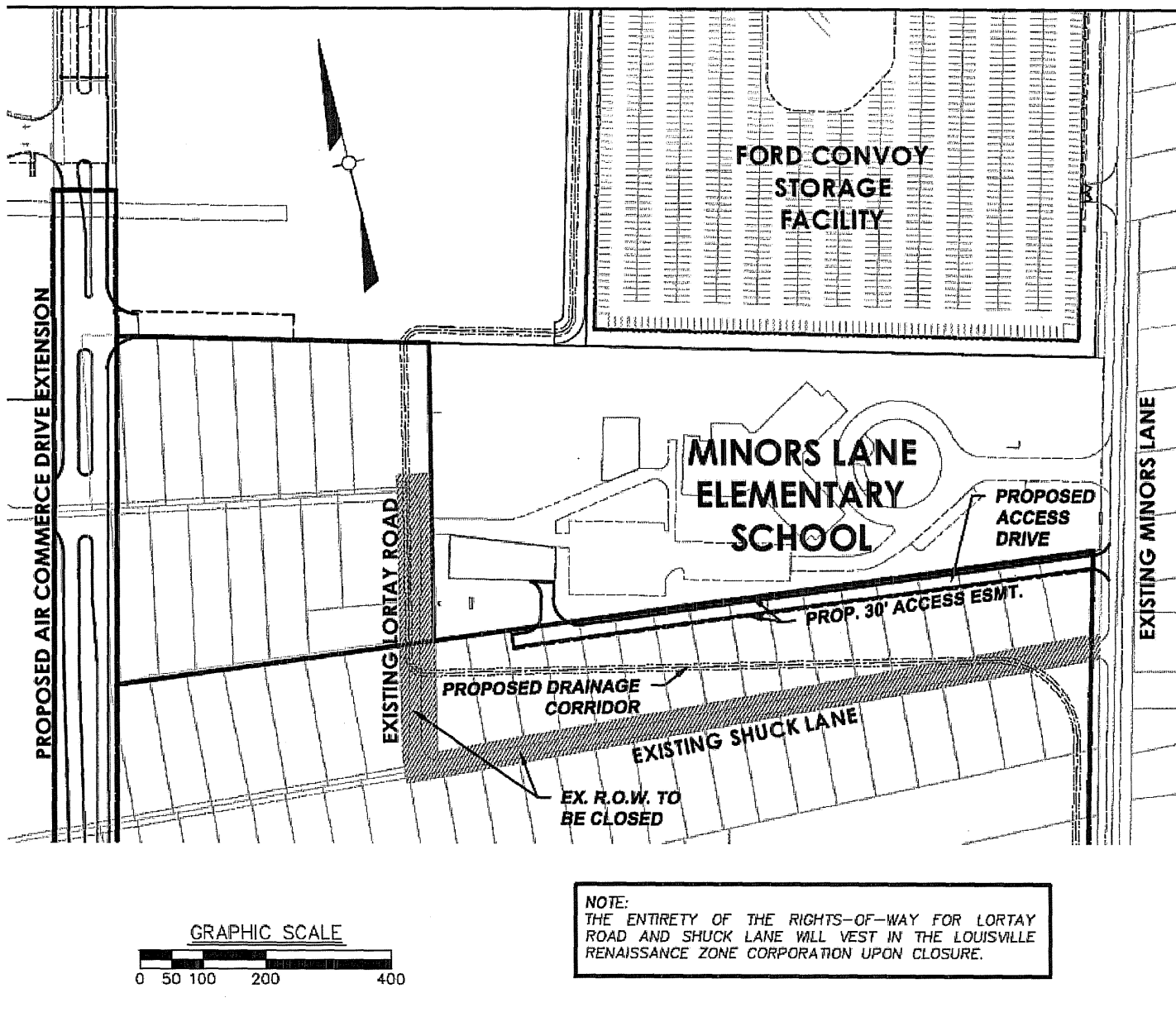


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Sheet 1 of 1

EXHIBIT B

[see attached]



OCTOBER 28, 2013

TO: BOARD OF EDUCATION  
JEFFERSON COUNTY PUBLIC SCHOOL DISTRICT

FROM: DONNA HARGENS  
SUPERINTENDENT

SUBJECT: APPROVAL OF RESOLUTIONS RATIFYING THE ACTION  
OF THE JEFFERSON COUNTY SCHOOL DISTRICT  
FINANCE CORPORATION APPROVING DECLARATION OF  
EASEMENT PROVIDING ACCESS TO MINORS LANE  
ELEMENTARY SCHOOL

RECOMMENDATION: I recommend that the Board approve the attached resolutions  
concerning the Jefferson County School District Finance  
Corporation.

RATIONALE: Approval of the attached Resolutions approves, ratifies and  
confirms the actions of the Jefferson County School District  
Finance Corporation (the "Corporation"), approving the attached  
Declaration of Easement which provides for access to Minors Lane  
Elementary School across the adjacent property to the south, which  
is owned by the Louisville Renaissance Zone Corporation  
("LRZC"). The Declaration of Easement provides an easement for  
access and utilities across said property from Minors Lane to the  
existing parking lot at the rear of Minors Lane Elementary in  
accordance with all previously agreed upon conditions.

Approval of the Declaration of Easement by the Jefferson County  
School District Finance Corporation, as the owner of the Minors  
Lane Elementary School property, by and through its Board of  
Directors, is also required.

DH:RM

Attachment

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[end of page]



IN WITNESS WHEREOF, Declarant, School District, and the Association have executed this instrument as of the year and date first above written.

**LOUISVILLE RENAISSANCE ZONE  
CORPORATION**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

COMMONWEALTH OF KENTUCKY     )

)

COUNTY OF JEFFERSON             )

The foregoing Easement was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_,  
2013, by \_\_\_\_\_, as \_\_\_\_\_ of  
**LOUISVILLE RENAISSANCE ZONE CORPORATION**, Kentucky non-profit corporation.

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

My Commission expires: \_\_\_\_\_

By: \_\_\_\_\_  
Donna Hargens, President

My Commission expires: \_\_\_\_\_.

**RENAISSANCE SOUTH BUSINESS PARK  
OWNERS ASSOCIATION, INC.**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

COMMONWEALTH OF KENTUCKY     )

)

COUNTY OF JEFFERSON             )

The foregoing Easement was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_,  
2013, by \_\_\_\_\_, as \_\_\_\_\_ of  
**RENAISSANCE SOUTH BUSINESS PARK OWNERS ASSOCIATION, INC.**, a Kentucky  
non-profit corporation.

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

My Commission expires: \_\_\_\_\_

This Instrument Prepared by:

\_\_\_\_\_  
T. Gregory Ehrhard  
STITES & HARBISON  
400 W. Market Street, Suite 1800  
Louisville, KY 40202  
(502) 681-0449

TITLE NOT CERTIFIED

EXHIBIT A

[see attached]



EXHIBIT B

[see attached]

