

## PURCHASE AGREEMENT

**THIS PURCHASE AGREEMENT** (this "Agreement") is made and entered into as of the Effective Date (defined below) by and between **PORTIA MALONE**, an individual ("Seller"), having a mailing address of 1337 West Foster Ave., Unit 2, Chicago, Illinois 60640, and **BOARD OF EDUCATION OF JEFFERSON COUNTY, KENTUCKY**, a political subdivision of the Commonwealth of Kentucky ("Buyer"), having a mailing address of 3332 Newburg Road, Louisville, Kentucky 40218. The "Effective Date" of this Agreement shall be the date on which the last party hereto executes this Agreement.

### WITNESSETH

**WHEREAS**, the parties hereto wish to set forth in writing the terms and conditions upon which Seller is willing to sell and Buyer is willing to purchase certain real property and improvements located in Jefferson County, Kentucky, more particularly described below;

**NOW, THEREFORE**, for and in consideration of the mutual covenants and promises herein contained and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer do hereby agree as follows:

1. **Property.** Seller agrees to sell to Buyer, and Buyer agrees to purchase and accept from Seller, subject to the terms and conditions contained herein, all of that certain real property located at 3416 Pflanz Avenue, Louisville, Jefferson County, Kentucky, more particularly described in Exhibit A attached hereto and incorporated herein by reference, together with all improvements located thereon and all easements and appurtenances thereto (collectively, the "Property").

2. **Purchase Price.** The purchase price for the Property shall be the sum of Twenty Six Thousand and 00/100 Dollars (\$26,000.00) (the "Purchase Price") which shall be paid to Seller on the date of the Closing by certified or cashier's check or by wire transfer pursuant to wire transfer instructions furnished by Seller, subject to closing costs and prorations as provided herein.

3. **Buyer's Contingencies.** Buyer's obligation to purchase the Property pursuant to Agreement shall be subject to the satisfaction of the following contingencies prior to or on the Closing:

- 3.1 Buyer, at its option and expense, shall have received an environmental inspection and audit report performed by independent environmental consultant and/or engineer, and such report shall not have disclosed any condition which is unsatisfactory to Buyer.
- 3.2 Buyer, at its option and expense, shall have received a commitment for an owner's policy of title insurance (the "Commitment"), together with copies of all instruments referred to in the Commitment as exceptions to title insurance coverage. If any exceptions, defects, or items in Schedule B – Section 1 of the Commitment, appear in the Commitment, other than the standard preprinted exceptions, which are objectionable to Buyer, Buyer may terminate this

Agreement unless Seller clears such exceptions, defects and items from the title, as specified to Seller in writing by Buyer, prior to the Closing Date.

- 3.3 Buyer, at its option and expense, shall have received an ALTA survey of the Property that discloses no matter which would materially interfere with the Buyer's intended use of the Property.

If any of the foregoing contingencies is not resolved to Buyer's satisfaction or waived by Buyer by the Closing Date, Buyer may, at its option, rescind this Agreement and receive a refund of all sums paid hereunder.

4. **Closing.** The closing of this transaction (the "Closing") shall be held on or before the forty fifth (45th) day after this Agreement is fully executed by all parties (the "Closing Date"), and shall be held at the office of Wyatt, Tarrant & Combs, LLP, 500 W. Jefferson Street, Suite 2800, Louisville, Kentucky, or at such other place or time as may be mutually agreed upon by Seller and Buyer; provided, however, Seller and Buyer may use commercially reasonable efforts to cause the Closing to occur without either party hereto having to be physically present at such office.

5. **Access Prior to Closing.** Buyer shall have access to the Property at all reasonable times mutually agreeable to both parties for the purpose of conducting surveys, environmental testing, utility availability research, and any other testing and inspections Buyer elects to perform on the Property. Seller agrees not to impede Buyer in regard to its inspections and examinations of the Property. In the event Buyer shall notify Seller that the examinations and/or inspections have disclosed matters which are unsatisfactory to Buyer, Buyer may terminate this Agreement unless Seller addresses the matters to Buyer's satisfaction prior to the Closing.

6. **Conveyance and Possession of the Property.** At Closing, Seller shall deliver to Buyer unencumbered good and marketable title to the Property by a deed of General Warranty (the "Deed") with the usual covenants such as any title insurance company will insure, subject only to state, county and city taxes (if any) for the year of Closing and matters of title approved by Buyer. Exclusive possession of the Property shall be delivered coincident with the Closing.

7. **Closing Costs.** Buyer shall pay all closing costs except that Seller shall pay Seller's attorneys fees, if any. All real estate ad valorem taxes assessed on the Property due and payable in the year of the Closing, whether assessed on a calendar year or fiscal year basis, shall be prorated between Seller and Buyer as of the Closing Date.

8. **Seller Representations.** Seller, subject to the matters set forth on Schedule B -- Section 1 to that certain Commitment for title insurance issued by Commonwealth Land Title Insurance Company with an effective date of May 6, 2016 and an Abstract No. of C1001287LKY, hereby makes the following representations to Buyer:

8.1 There is no litigation, administrative action, condemnation or other proceeding pending or threatened against Seller or the Property;

8.2 Seller has not received a notice of violation of any applicable laws and ordinances relating to the Property;

8.3 Seller has not entered into any contract, option or other agreement for the sale of the Property, other than this Agreement with Buyer, and agrees not to enter into any such contracts, options or agreements during the pendency of this Agreement;

8.4 There are no written leases or agreements or options to lease affecting the Property. There are no maintenance, management or similar agreements with respect to the Property that will remain in effect after the Closing; and

8.5 To the best of Seller's knowledge, no underground or aboveground storage tanks, are or have been present on the Property, and the Property has not been used for disposal of any hazardous or toxic waste materials, nor has the Property ever contained nor does it currently contain any hazardous or toxic waste materials, in violation of any applicable, federal, state, or local environmental laws or regulations, nor has any "clean up" of the Property occurred pursuant to those laws or regulations which could give rise to liability on the part of Buyer or Buyer's successors in interest to reimburse any governmental authority for the costs of such cleanup, or create a lien or encumbrance on the Property.

9. **Risk of Loss.** All risk of loss shall of any kind with respect to the Property shall remain with the Seller until the Closing.

10. **Default.** In the event Buyer shall default on any obligation under this Agreement, Seller shall have all rights and remedies provided by law or in equity. In the event Seller shall default under the terms of this Agreement, Buyer shall have all rights and remedies provided by law or in equity, including the right of specific performance.

11. **Brokers.** Each party hereto represents and warrants to the other that it has dealt with no agent or broker who has in any way participated as the procuring cause of the sale of the Property to Buyer. Any fees or commissions shall be the sole responsibility of the party hereto breaching the foregoing warranty and each party hereto agrees to indemnify and hold harmless the other from and against any cost, loss, claim or action (including attorneys' fees) incurred as a result of such breach of the foregoing warranty.

12. **Miscellaneous.**

12.1 **Entire Agreement.** This Agreement, including all exhibits attached hereto and made a part hereof, is the entire Agreement between the parties and may be amended only by an instrument in writing signed by the party hereto against whom enforcement of any change is sought. The provisions of this Agreement shall survive the Closing for a period of one (1) year.

12.2 **Assignment and Binding Effect.** This Agreement shall not be assignable by either party hereto with the prior written consent of the other party hereto. The provisions of this Agreement shall be binding on and inure to the benefit of the parties hereto as well as their respective heirs, executors, administrators, successors and assigns.

12.3 **Applicable Law.** This Agreement and the parties' obligations thereunder will be governed by the laws of the Commonwealth of Kentucky. Jurisdiction and venue are vested in Jefferson County, Kentucky.

IN WITNESS WHEREOF, Seller and Buyer have each executed this Agreement on the respective dates set forth below their respective signatures below.

**SELLER:**

**PORTIA MALONE**

By: Portia Malone

10/10/2016

Date: \_\_\_\_\_

**BUYER:**

**BOARD OF EDUCATION OF  
JEFFERSON COUNTY, KENTUCKY,**  
a political subdivision of the Commonwealth  
of Kentucky

By: \_\_\_\_\_  
Donna Hargens Ed.D., Superintendent

Date: \_\_\_\_\_

**Attachment:**

**Exhibit A - Legal Description**

## **EXHIBIT A**

### **LEGAL DESCRIPTION OF PROPERTY**

Beginning on the South side of Pflanz Avenue, 234 (erroneously noted as 204 on the plat) feet East of 35<sup>th</sup> Street; running thence Eastwardly with the South line of Pflanz Avenue, 40 feet; and extending back in a general Southwardly direction and parallel with 35<sup>th</sup> Street, and of even width throughout, 264 feet, being Lot 18 in Block No. 1057, of the maps of the City Assessor of Louisville, Kentucky, except conveyance in Deed Book 5248, Page 993; and being also known as Tract #28 as shown on Plat attached to the Deed Book: 5248, Page 993, in the Office of the Clerk of the County Court of Jefferson County, Kentucky.

#### **ALSO BEING DESCRIBED AS FOLLOWS:**

Beginning at a point in the southerly line of Pflanz Avenue, a 33-foot public right-of-way, approximately 234 feet east of the easterly right-of-way line of 35<sup>th</sup> Street, said point being a mag nail with washer stamped 2328, set at the northeasterly corner of a tract conveyed to the Board of Education of Jefferson County, of record in Deed Book 9899 at Page 400, in the Office of the Jefferson County Court Clerk; thence with the said southerly line of Pflanz Avenue, North 85 degrees 13 minutes 25 seconds East, a distance of 40.00 feet to a point, said point being a mag nail with washer stamped 2328, set at the northwesterly corner of a tract conveyed to Thomas E. Massie and Ann Egan, of record in Deed Book 8709 at Page 653; thence with the westerly line of the said Massie tract, South 04 degrees 46 minutes 35 seconds East, a distance of 158.24 feet to an iron pin found in the northerly line of a tract leased to KY-PORTLAND, LLC, of record in Deed Book 9996 at Page 749; thence with the said northerly line of the KY-PORTLAND tract, South 85 degrees 13 minutes 25 seconds West, a distance of 40.00 feet to an iron pin found at the southeasterly corner of the aforementioned Board of Education tract; thence with the easterly line of the said Board of Education tract, North 04 degrees 46 minutes 35 seconds West, a distance of 158.24 feet to the point of beginning, containing 0.145 acres, or 6,329.67 square feet, more or less.

BEING the same property as conveyed to Portia Malone by Deed dated December 7, 2009, of record in Deed Book 9495, Page 596, in the Office of the Clerk of Jefferson County, Kentucky.