

CONSTRUCTION EASEMENT AGREEMENT

THIS CONSTRUCTION EASEMENT AGREEMENT (this "Construction Easement Agreement") is entered into as of December 26, 2016, by and between **JEFFERSON COUNTY SCHOOL DISTRICT FINANCE CORPORATION**, a Kentucky non-profit corporation, having a mailing address of 3332 Newburg Road, VanHoose Education Center, Louisville, Kentucky 40218 ("Grantor") and **MAC CONSTRUCTION & EXCAVATING, INC.**, having a mailing address of 1908 Unruh Ct, New Albany, Indiana 47150 ("Grantee").

WITNESSETH:

Grantor owns that certain real property known as Fairdale Elementary School located at 10104 Mitchell Hill Rd., Louisville, Jefferson County, Kentucky (the "Property").

Grantor desires to enter into this Construction Easement Agreement to sell, grant and convey to Grantee the Temporary Construction Easement (defined below), and Grantee desires to enter into this Construction Easement Agreement to confirm the sale, grant and conveyance of the Temporary Construction Easement to Grantee, and Grantee's warranties, covenants and agreements set forth herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor and Grantee hereby agree as follows:

1. Grant of Temporary Construction Easement. Grantor hereby sells, grants and conveys to Grantee a temporary construction easement (the "Temporary Construction Easement") on the portion of the Property described and designated as the Temporary Construction Easement Area on **Exhibit A** attached hereto and made a part hereof, which shall include the right of Grantee and its agents, employees and contractors to use the Temporary Construction Easement Area for the storage of pipe and other construction materials, and the placement of storage trailers and/or tool sheds. Such rights shall commence on December 26, 2016 (the "Commencement Date") and continue until June 30, 2017 (the "Temporary Construction Easement Expiration Date"), on which date the Temporary Construction Easement shall expire.

2. Warranties and Covenants of Grantee. Grantee hereby warrants and covenants that (i) Grantee will construct, at Grantee's sole cost and expense, a temporary fence to enclose the Temporary Construction Easement Area, (ii) the use of the Temporary Construction Easement by Grantee shall not interfere with Grantor's use and operation of the Property, (iii) Grantee, at Grantee's sole cost and expense, shall, prior to the Temporary Construction Easement Expiration Date, restore the surface of the Temporary Construction Easement Area to a condition that is as good or better than its condition prior to the Commencement Date, (iv) Grantee, at Grantee's sole cost and expense, in the event there is damage to any other portion of the **Property** caused by, arising out of or relating to Grantee's use of the Temporary Construction Easement Area, shall promptly repair and restore such damaged portion of the Property to a condition that is as good or better than its condition prior to the Commencement Date, and (v) Grantee shall hold harmless, indemnify, and defend Grantee and its directors, officers, agents, and employees

from any and all claims or losses accruing or resulting from injury, damage, or death of any person, firm, or corporation, including Grantee and any employees, agents or subcontractors of Grantee, in connection with Grantee's use of the Temporary Construction Easement Area.

3. Insurance. Grantee shall maintain during the term of this Construction Easement Agreement policies of primary insurance covering the following risks and in at least the following amounts: commercial general liability, including bodily injury, property damage, personal injury, products and completed operations, and contractual, \$1,000,000; automobile liability, \$1,000,000; and workers compensation coverage with limits required by law. Grantee shall furnish to Grantor certificates of insurance evidencing this coverage and naming Grantor as an additional insured.

4. Miscellaneous.

A. All Articles shall be construed as read, and no limitation shall be placed on any Article by virtue of its descriptive heading.

B. Grantee shall at all times during the term of this Construction Easement Agreement comply with all applicable federal, state and local statutes, regulations, ordinances, and obtain and keep in force all licenses, permits and certificates necessary for the use of the Temporary Construction Easement Area.

B. Any notices or reports by one Party to the other Party under this Construction Easement Agreement shall be made in writing, to the address shown in the first paragraph of this Construction Easement Agreement, or to such other address as may be designated in writing by one Party to the other. Notices shall be effective when received if personally delivered, or three days after mailing if mailed.

C. If any part of this Construction Easement Agreement is held to be void, against public policy or illegal, the balance of this Construction Easement Agreement shall continue to be valid and binding.

D. This Construction Easement Agreement shall be governed and construed in accordance with the laws of the Commonwealth of Kentucky. Any action or claim arising from, under or pursuant to this Construction Easement Agreement shall be brought in the Jefferson County, Kentucky, Circuit Court, and the Parties expressly waive the right to bring any legal action or claims in any other courts.

E. No delay or omission by either Party in exercising any right under this Construction Easement Agreement shall operate as a waiver of that or any other right or prevent a similar subsequent act from constituting a violation of this Construction Easement Agreement.

IN TESTIMONY WHEREOF, witness the signatures of Grantor and Grantee as of the date first above written.

**JEFFERSON COUNTY SCHOOL DISTRICT
FINANCE CORPORATION,**
a Kentucky non-profit corporation

By: *Cordelia Hardin*
Cordelia Hardin, Treasurer

**MAC CONSTRUCTION & EXCAVATING,
INC.**

By: *Bryan Wickens*
Name: *Bryan Wickens*
Title: *V.P.*

Exhibit A

Description of Temporary Construction Easement Area

An area of approximately 0.45 acre on the Property described as follows:

An area located on the gravel parking lot at the north end of Fairdale Elementary School property, located at 10104 Mitchell Hill Road, Fairdale, Kentucky, and adjacent to the school's softball field. The gravel lot is immediately accessible via the school's driveway from West Manslick Road. The area sits directly across from Metro Louisville property which contains a Free Public Library and Fairdale Community Center.

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