

## **LEASE AGREEMENT**

This Lease Agreement (this "Lease") dated effective as of the Effective Date (as defined below), between **LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT**, acting by and through its Office of Management & Budget, Fleet & Facilities Management Division, having a mailing address of 444 S. Fifth Street, Suite 500, Louisville, Kentucky 40202 (hereafter referred to as "Landlord"), and the **BOARD OF EDUCATION OF JEFFERSON COUNTY, KENTUCKY**, a public body corporate and a political subdivision of the Commonwealth of Kentucky, having a mailing address of 3332 Newburg Road, Louisville, Kentucky 40218 (hereafter referred to as "Tenant").

### **WITNESSETH:**

In consideration of the rents to be paid, covenants, conditions, terms, and provisions herein stated, Landlord does hereby lease to Tenant the Premises (defined below), and Tenant does hereby lease from Landlord the Premises, and Tenant and Landlord do hereby warrant, covenant and agree each with the other as herein set forth.

#### **1. TERM**

The initial term of this lease shall begin on May 1, 2017 (the "Commencement Date"), and shall continue thereafter until April 30, 2018. Tenant is hereby granted nine (9) one (1) year options beginning May 1, 2018 to extend this Lease for successive terms of one year each, up to a maximum of nine (9) years with the last year of this Lease ending April 30, 2027. Each annual successive term of this Lease shall be automatically extended for another year unless Landlord or Tenant provides written notice of non-extension to the other party at least sixty (60) days before the end of the initial term or at least sixty (60) days before the end of such successive term.

All terms, covenants and provisions of this Lease shall apply to such extended terms.

#### **2. DEMISED PREMISES**

The demised premises ("Premises") is located on the East side of the 500 block of South First Street, Louisville, Kentucky 40202, is commonly known as Peace Park, and consists of the following Tax Parcels: 016A-0064-0000; 016A-0065-0000; 016A-0075-0000; 016A-0076-0000; 016A-0077-0000; 016A-0078-0000; 016A-0079-0000; and 016A-0081-0000, all of which are shown or described on **Exhibit A** attached hereto and made a part hereof.

#### **3. RENT**

Tenant agrees to pay Landlord the sum of One Dollar (\$1.00) per year in advance, without

notice or demand from Landlord, on the first day of each year of this Lease during the term of this Lease.

Rent shall be made payable as follows:

LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT  
Fleet & Facilities Management Division  
444 S. 5<sup>th</sup> Street, Suite 500  
Louisville, KY 40202  
ATTN: Property and Leasing Manager

#### **4. UTILITIES AND SERVICES**

Landlord shall not be required to provide any utilities or services for the Premises leased to Tenant. Tenant shall be responsible for the payment, installation, and metering of any utilities Tenant may install upon the Premises. All charges for the use of such utilities shall be paid by the Tenant.

#### **5. USE OF PREMISES**

Tenant shall use the Premises only for a playground and outdoor learning center for the students of the Brown School located at 546 South First Street, Louisville, Kentucky. Tenant shall not use the Premises for any other use without the prior written consent of Landlord, which Landlord agrees not to unreasonably deny, withhold, or delay. Tenant may fence and secure the perimeter of the Premises for its exclusive use.

#### **6. IMPROVEMENTS AND ALTERATIONS**

Tenant agrees to accept the Premises in its "AS IS" condition. The Tenant may, at its own expense, alter, make additions and improvements to the Premises during the initial and subsequent terms of this Lease upon the prior written consent of the Landlord, which Landlord agrees not to unreasonably deny, withhold or delay. Tenant, at its sole cost and expense, intends to erect and construct on the Premises the alterations, additions and improvements shown on the plans and specifications attached hereto as **Exhibit B** and made a part hereof; provided, however, Tenant may make minor modifications to such plans and specifications in Tenant's reasonable discretion. Landlord hereby consents to the erection and construction of the alterations, additions and improvements (i) shown on the plans and specifications and (ii) shown on any modified plans and specifications if Tenant modifies such plans and specifications as set forth above. All alterations, additions and improvements shall be made in a good and workmanlike manner and in accordance with all laws, codes, ordinances and regulations. Tenant, to the extent permitted by applicable law, hereby agrees to indemnify, defend and hold harmless Landlord from any and all liens, expenses and claims arising out of or resulting from the erection, construction or use of such alterations, additions or improvements during the

term of this Lease, unless such liens, expenses and claims arise out of the negligence of Landlord or Landlord's appointed officials, employees, agents, assigns or successors.

All such alterations, additions and improvements erected or constructed by Tenant that cannot be removed without substantially damaging the Premises shall, at Landlord's option, either become a part of the Premises and be surrendered with the Premises, or be removed by Tenant with Tenant repairing any damage to the Premises. All other items that can be removed without substantially damaging the Premises shall remain the property of the Tenant and shall be removed by Tenant at termination of this Lease, with Tenant repairing any damage to the Premises resulting from such removal, ordinary wear and tear excepted.

## **7. CASUALTY AND CONDEMNATION.**

A. **Casualties.** Should the Premises or any part thereof be damaged or destroyed by fire or other casualty, and Landlord shall elect not to promptly repair, restore, or rebuild the Premises so that after such repairing, restoration, or rebuilding the Premises shall be substantially similar as prior to such damage or destruction, this Lease shall terminate by written notice of either party to the other party, and neither party shall have any further obligations hereunder except as otherwise set forth herein to the contrary.

B. **Condemnation:** If the Premises or any part thereof shall be acquired by any authority having power of eminent domain, whether directly pursuant to such power or under threat of use of such power, Landlord may terminate this Lease as of the date when possession is taken by the acquiring authority. All proceeds and damages resulting from such acquisition shall belong to and be the property of Landlord. Tenant shall have no claim against Landlord by reason of such acquisition or termination, and shall not have any claim or right to any portion of the proceeds or damages paid to Landlord as a result of such acquisition. The entire compensation from such acquisition shall belong to Landlord without any deductions therefrom for any present or future estate or interest of Tenant, and Tenant hereby assigns to Landlord all Tenant's right, title and interest in and to any and all such compensations together with any and all rights, estates, and interest of Tenant now existing or hereafter arising in and to the same or any part thereof. Provided, that Tenant shall have the right to claim and recover from such acquiring authority, but not from Landlord, such compensation as may be separately awarded or recoverable by Tenant in its own right on account of any and all moving and relocation expenses and depreciation to and removal of Tenant's personal property, trade fixtures and improvements erected upon the Premises by Tenant.

## **8. INSURANCE REQUIREMENTS FOR LANDLORD**

Landlord shall procure and keep in force insurance on any buildings and other insurable improvements constituting real property on the Premises, insuring the same against loss

or damage by fire and such other hazards, casualties and contingencies as are included under insurance policies written on a special form basis. Tenant covenants that Landlord shall not be liable for damage to or destruction of Tenant's property by fire or other casualty event except for damage or destruction caused by Landlord's intentional acts. The policy or policies of insurance shall name Landlord as the insured, and shall be issued by insurers acceptable to Landlord.

## **9. INSURANCE REQUIREMENTS FOR TENANT**

Subject to the Tenant's right to choose the Self-Insurance Option as defined and described in Subparagraph B. below (and only if Tenant does not choose the Self-Insurance Option), prior to Tenant entering Premises for purposes of commencing the term of this Lease, Tenant shall obtain at its own cost and expense the types of insurance described in Subparagraph A. below through an insurance company or insurance companies licensed, and qualified to do business, in the Commonwealth of Kentucky. Such insurance company or insurance companies must have an A.M. Best Rating of no less than "A- VI", unless financial information relating to such insurance company or insurance companies is submitted to and approved by the Louisville/Jefferson County Metro Government's Risk Management Division ("Metro's Risk Management Division"). Tenant shall not commence operations on the Premises under this Lease until (i) all insurance required under this Lease has been obtained and (ii) if Tenant does not choose the Self-insurance Option, copies of policies or certificates thereof are submitted to Landlord (who may request review by Metro Risk Management Division).

Without limiting Tenants' indemnification requirements, it is agreed that Tenant shall maintain in force at all times during the term of this Lease the policy or policies of insurance covering its operations on the Premises (i) as described in Subparagraph A. below or (ii) pursuant to the Self-Insurance Option.

A. Public liability insurance with reference to the Premises leased to Tenant 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. Such public liability insurance 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 Tenant. Tenant shall (subject to Tenant's right to choose the Self-Insurance Option), on or before the Commencement Date, furnish to Landlord (at Landlord's address set forth in Section 16 of this Lease) and Metro Risk Management Division (at Metro Risk Management Division's address set forth below) with the respective insurers' certificates of insurance specifying that the insurance required in this Subparagraph A. is in full force and effect. Each such certificate of insurance shall include the name and address of the person executing such certificate of insurance as well as such person's signature. If policies evidenced by such certificates of insurance expire before the expiration of the term of this Lease, Tenant shall (subject to Tenant's right to choose the Self-Insurance Option)

furnish to Landlord (at Landlord's address) and Metro Risk Management Division (at Metro Risk Management Division's address) renewed or new certificates of insurance at least fifteen (15) days prior to the expiration of such policies. 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 Tenant alone. The address of Metro Risk Management Division is:

Louisville/Jefferson County Metro Government  
Office of Management and Budget  
Risk Management Division  
611 West Jefferson Street  
Louisville, Kentucky 40202

B. As an alternative to providing third party insurance coverage against the risks and in the amounts specified in Subparagraph A. above, Tenant may provide, in Tenant's sole discretion, equivalent coverage through an established program of self-insurance (the "Self-Insurance Option"). If Tenant chooses the Self-Insurance Option, Tenant shall, on or before the Commencement Date, provide to Landlord (at Landlord's address) (i) written notice stating so and (ii) a certificate of such self-insurance coverage describing any reinsurance in effect under Tenant's self-insurance program and certifying that such reinsurance (if any) in effect is adequate to provide for the estimated liabilities.

Tenant acknowledges that it will make arrangements for insurance on its personal property and trade fixtures within the Premises to the extent desired by Tenant.

C. CANCELLATION OR MATERIAL CHANGE OF COVERAGE IF TENANT HAS NOT CHOSEN THE SELF-INSURANCE OPTION: If Tenant has not chosen the Self-Insurance Option, Tenant shall notify Metro's Risk Management Division of (i) any policy cancellation within thirty (30) days of Tenant's receipt of knowledge of same and (ii) any material change (changes that reduce/restrict limit or terms and conditions to your insurance coverage) in coverage as required above, within thirty (30) days of Tenant's receipt of knowledge of same. If Tenant fails to notify Metro's Risk Management Division as required by this Lease, Tenant agrees that such failure shall be a default under this Lease.

D. Approval of the insurance by Landlord shall not in any way relieve or decrease the liability of Tenant hereunder. It is expressly understood that Landlord does not in any way represent that the specified limits of liability or coverage or policy forms are sufficient or adequate to protect the interest or liabilities of Tenant.

## **10. INDEMNIFICATION**

Tenant, to the extent permitted by applicable law, shall indemnify, hold harmless, and defend Landlord, its elected and appointed officials, employees, agents and successors in

interest from all claims, damages, losses and expenses including reasonable attorneys' fees, arising out of or resulting directly or indirectly, from the Tenant's (or Tenant's subcontractors, if any) negligent or intentionally wrongful act or omission or breach of this Lease, provided that such claim, damage, loss, or expense is: (1) attributable to personal injury, bodily injury, sickness, death, or to injury to or destruction of property on the Premises, including the loss of use resulting therefrom, or breach of this Lease, and (2) not caused by the negligent act or omission of the Landlord, its elected and/or appointed officials, its employees acting within the scope of their employment, its agents, its assigns and/or its successors in interest. This hold harmless and indemnification clause shall survive the termination or expiration of this Lease for one (1) year.

## **11. MAINTENANCE**

Landlord shall not be required to make any repairs or alterations to the Premises prior to commencement of the term of this Lease.

Tenant shall keep the Premises in a good, neat, and safe condition and state of repair and shall use the Premises in a safe, prudent, orderly, lawful and business-like manner and in compliance with all laws, statutes, ordinances, and regulations which may be applicable to the Premises or the use thereof. Tenant shall keep the Premises free of trash and litter and shall not allow the Premises to become a nuisance.

Tenant shall return the Premises to Landlord at termination of this Lease in as good condition as at the commencement of the term of this Lease, ordinary wear and tear excepted.

## **12. ENVIRONMENTAL HAZARDS**

- A. During the term of this Lease, Tenant shall comply with all environmental laws, ordinances, and regulations as well as any environmental permits applicable to the operation or use of the Premises.
- B. Except for limited quantities used or stored at the Premises and required in connection with the routine operation or maintenance of the Premises, and in each such instance only in compliance with all applicable environmental laws, ordinances and regulations and environmental permits, Tenant shall not generate, use, treat, store, handle, release or dispose of, or permit the generation, use, treatment, storage, handling, release, or disposal of hazardous substances on the Premises, or transport or permit the transportation of hazardous substances to or from the Premises.
- C. To the extent permitted by applicable law, Tenant agrees to defend, indemnify and hold harmless Landlord from and against all obligations (including removal and remedial actions), losses, claims, suits, judgments, liabilities,

penalties, damages, costs and expenses (including reasonable attorneys' fees and expenses) that are incurred by, imposed on or asserted against Landlord arising or resulting from (i) the actual or alleged presence of hazardous substances on the Premises which is caused or permitted by Tenant and (ii) any environmental claim relating to Tenant's operation or use of the Premises. This hold harmless and indemnification clause shall survive the termination or expiration of this Lease for one (1) year.

- D. For purposes of this Lease, the term "hazardous substance" shall mean any and all substances defined, listed, or otherwise classified as pollutants, toxic or hazardous wastes, toxic or hazardous materials, extremely hazardous waste, or words of similar meaning or regulatory effect that may have a negative impact on human health or the environment under any and all applicable federal, state, or local statute, ordinance, rule of common law, code, or regulation now or hereinafter in effect.

### **13. SIGNS**

Tenant shall not paint, place or erect any sign on any part of the Premises without obtaining appropriate permits (if any) and Landlord's permission, which permission shall not be unreasonably withheld, conditioned or delayed.

### **14. NON-ASSIGNMENT**

Tenant shall not assign this lease or sublet the Premises or any part thereof or permit any other firm or corporation to occupy the Premises or any part thereof without the written consent of Landlord, which consent may be denied in the sole and absolute discretion of Landlord.

### **15. HOLD OVER TENANCY**

If, without the execution of a new lease or written extension of this Lease, Tenant shall hold over after the expiration of the term of this Lease, Tenant shall be deemed to be occupying the Premises as a tenant from month to month, which tenancy may be terminated as provided by law.

### **16. NOTICES**

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

Landlord:

LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT  
Office of Management & Budget

Fleet & Facilities Management Division  
444 South 5<sup>th</sup> Street, Suite 500  
Louisville, Kentucky 40202  
ATTN: Property and Leasing Coordinator

Tenant:

JEFFERSON COUNTY PUBLIC SCHOOLS  
VanHoose Education Center  
3332 Newburg Road  
Louisville, Kentucky 40218  
ATTN: Franklin Jones, Real Estate Manager

## **17. DEFAULT**

### **A. Tenant's Default; Landlord's Remedies.**

(i) In the event that Tenant fails to pay rent as provided herein by the 10<sup>th</sup> of the month of May each year of this Lease, Landlord may give Tenant written notice by certified mail that Tenant has seven (7) days in which to cure the default. Upon Tenant's failure to cure the default after receipt of such written notice from Landlord, this Lease may terminate, at Landlord's option, and Landlord may take all legal action to evict Tenant.

(ii) In the event that Tenant shall fail to perform any of the terms or conditions of this Lease to be observed or performed by Tenant for more than thirty (30) days after notice of such default shall have been given to Tenant in accordance with Subparagraph B. of this Section 17, or if Tenant shall become bankrupt or insolvent or file any debtor proceedings to take or have taken against Tenant in any court pursuant to any statute either of the United States or of any state, or if a petition in bankruptcy or insolvency or for reorganization or for the appointment of a receiver or trustee of all or a portion of Tenant's property, or if Tenant makes an assignment for the benefit of creditors or petitions or enters into an arrangement, or if Tenant shall abandon said Premises or suffer this Lease to be taken under any writ of execution, THEN Landlord, in addition to other rights and remedies it may have, may terminate this Lease or may without terminating this Lease immediately re-enter the Premises and remove all persons and property therefrom, and such property may be removed and stored in a public warehouse or elsewhere at the cost and for the account of Tenant, all without service or resort to legal process and without being deemed guilty of trespass or becoming liable for any loss or damage which may be occasioned thereby. Any entry or re-entry by the Landlord, whether had or taken under summary proceedings, forcible detainer order, or otherwise,



shall not absolve or discharge the Tenant from liability hereunder for any rent or additional rent due Landlord at the time of entry or re-entry.

(iii) Landlord's rights and remedies at law or in equity are cumulative and may be exercised separately or concurrently.

**B. Obligation to Cure.** In the event Tenant shall default in the performance of any obligation or covenant in this Lease, Landlord, prior to taking any other actions, shall give Tenant (and Tenant's Leasehold Mortgagee if Tenant has mortgaged its leasehold interest) written notice specifying such default. Tenant shall have thirty (30) days after receipt of said notice to correct any default. If any default occurs (other than a default in the payment of money) which cannot with due diligence be cured within a period of thirty (30) days, and if the defaulting party commences to eliminate the cause of such default within said thirty (30) day period and proceeds diligently and with reasonable dispatch to take all steps and do all work required to cure such default and does so cure the default, then the Tenant shall not be deemed in default. If Tenant shall fail to cure the noticed default as provided in the preceding sentence, then Tenant's Leasehold Mortgagee (if any) shall have an additional thirty (30) day period in which to cure the noticed default as provided in the preceding sentence, and if Tenant's Leasehold Mortgagee (if any) does so cure the default, then the Tenant shall not be deemed in default.

**C. Landlord's Default; Tenant's Remedies.** If Landlord shall breach or default in the performance of any of its obligations under this Lease, Tenant may pursue any remedies available to it under law and equity and this Lease. Tenant's rights and remedies at law or in equity are cumulative and may be exercised separately or concurrently.

## **18. INSPECTION**

Landlord shall have the right to inspect the Premises at any time, provided that Landlord always takes reasonable measures to minimize interference with Tenant's use and enjoyment of the Premises pursuant to this Lease.

## **19. BINDING EFFECT**

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

**20. ENTIRE AGREEMENT**

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

**21. GOVERNING LAW**

This Lease 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.

**22. SEVERABILITY**

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

**23. COMMISSION**

Tenant warrants that it has not engaged anyone for which a claim for a real estate commission may be made regarding this transaction.

**24. TIME OF THE ESSENCE**

Time shall be of the essence in all matters pertaining to this Lease.

**25. WAIVER**

The parties agree that Landlord may waive the performance of any items, conditions and covenants herein, provided that such waiver shall not be construed or deemed a continuing waiver of the same or any subsequent conduct which may constitute a default of any provision.

**26. COUNTERPARTS**

This Lease may be executed in multiple counterparts and photocopies or pdf versions of signatures shall be acceptable as originals.

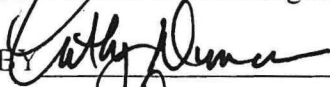
<The remainder of this page is intentionally left blank; signature page follows>

IN TESTIMONY WHEREOF, witness the signatures of the parties to this Lease effective as of the date of the last party hereto to execute this Lease (the "Effective Date").

**LANDLORD:**

**LOUISVILLE/JEFFERSON COUNTY**

**METRO GOVERNMENT**, acting by and through its Office of Management & Budget,  
Fleet & Facilities Management Division

BY 

TITLE: Director, Facilities & Fleet

DATE: April 7, 2017

**TENANT:**


**BOARD OF EDUCATION OF JEFFERSON COUNTY, KENTUCKY**, a public  
body corporate and a political subdivision of the Commonwealth of Kentucky

BY \_\_\_\_\_

TITLE \_\_\_\_\_

DATE \_\_\_\_\_

Approved as to Form:  
Michael J. O'Connell  
Jefferson County Attorney

  
Edward S. Carle  
Assistant Jefferson County Attorney  
531 Court Place, Suite 900  
Louisville, Kentucky 40202  
(502) 574-3349

Attachments:

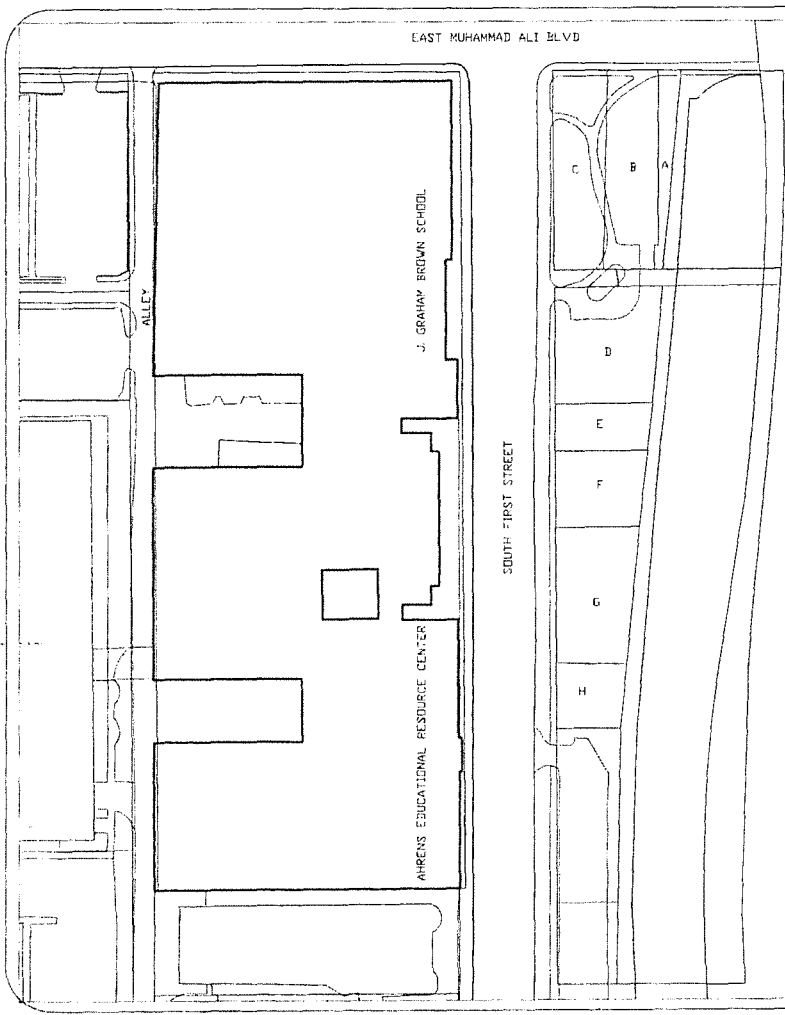
**Exhibit A** - Depiction and/or Legal Description of the Premises

**Exhibit B** - Plans and Specifications

**EXHIBIT A**

Depiction and/or Legal Description of the Premises

(Attached hereto)



- A. 104 EAST MUHAMMAD ALI BLVD  
TAX BLOCK 016A  
LOT# 0079  
.0270 ACRES
- B. 102 EAST MUHAMMAD ALI BLVD  
TAX BLOCK 016A  
LOT# 0065  
.1030 ACRES
- C. 100 EAST MUHAMMAD ALI BLVD  
TAX BLOCK 016A  
LOT# 0064  
.1034 ACRES
- D. SOUTH FIRST STREET  
TAX BLOCK 016A  
LOT# 0081  
.1184 ACRES
- E. 505 SOUTH FIRST STREET  
TAX BLOCK 016A  
LOT# 0078  
.0445 ACRES
- F. 507 SOUTH FIRST STREET  
TAX BLOCK 016A  
LOT# 0077  
.0667 ACRES
- G. SOUTH FIRST STREET  
TAX BLOCK 016A  
LOT# 0076  
.1045 ACRES
- H. SOUTH FIRST STREET  
TAX BLOCK 016A  
LOT# 0075  
.0435 ACRES

| General Index   |                                  |      |
|---|----------------------------------|------|
| <p><b>J. GRAHAM BROWN SCHOOL</b><br/> <b>PEACE PARK LEASE AREA</b><br/> <b>JEFFERSON COUNTY PUBLIC SCHOOLS</b><br/> <b>EXHIBIT "A"</b></p>        |                                  |      |
| No.   | Revision/Status                  | Date |
|   |                                  |      |
| <small>For Name and Address</small><br>JEFFERSON COUNTY PUBLIC SCHOOLS<br>FACILITY PLANNING<br>301 CRITTENDEN DRIVE<br>LOUISVILLE, KENTUCKY 40207 |                                  |      |
| <small>Plot Name and Address</small><br>J. GRAHAM BROWN SCHOOL<br>346 SOUTH FIRST STREET<br>LOUISVILLE, KENTUCKY 40202                            |                                  |      |
| <small>Project</small><br>PEACE PARK  | <small>Date</small><br>3/23/2017 | A    |
| <small>Scale</small><br>1"=30'  |                                  |      |

**EXHIBIT B**

Plans and Specifications

(Attached hereto)

61562113.7

