

RESOLUTION NO. ____:2018

WHEREAS, the City of Morehead, Kentucky Board of City Council (hereinafter referred to as "Board"), entered into a Real Estate Lease Agreement with the Board of Education of Rowan County, Kentucky and the County of Rowan in 1986 for the development of a joint city-county recreational park on real property owned by the Board of Education;

WHEREAS, said lease was a perpetual lease which is and was unavailable by law;

WHEREAS, all parties desire to be in compliance with the Governmental Lease Action, KRS 65.940;

WHEREAS, the Board of Education of Rowan County has requested that all parties execute a Mutual Release of the 1986 Real Estate Lease;

NOW, THEREFORE, BE IT RESOLVED by the City of Morehead, Kentucky Board of City Council that the Mutual Release of the 1986 Real Estate Lease, a copy of which is attached hereto is approved and the Mayor is authorized and directed to execute said Release on the City of Morehead's behalf.

Passed and adopted by the City Council of the City of Morehead this 10th day of December 2018.

James Thomas Trent, Mayor

ATTEST:

Crissy Cunningham, City Clerk

MUTUAL RELEASE OF 1986 REAL ESTATE LEASE

KNOW ALL MEN BY THESE PRESENTS, that:

WHEREAS, a certain Real Estate Lease was entered into on September 9, 1986, by and between the Board of Education of Rowan County, Kentucky, Lessor; the City of Morehead, Kentucky, and County of Rowan (by and through the Rowan County Fiscal Court), Lessees;

WHEREAS, the subject 1986 Real Estate Lease related to the following described real estate in Rowan County, Kentucky, to-wit:

TRACT I

A certain tract of land, lying and being in Rowan County, Kentucky, just North and West of the I-64 Interchange and Kentucky Route 32 and lying and being on said Kentucky Route 32 and particularly described as follows:

BEGINNING at Kentucky Highway Number 32 right of way and Northwest corner of property owned by Kentucky Department of Highways; thence S 28 deg. 00' E. 813.2 feet with Kentucky Department of Highways fence line to L.G. Bishop line and fence; thence S 42 deg. 26' W with L.G. Bishop fence line 100 feet; thence with same S 44 deg. 03' W 90 feet; thence S 50 deg. 08' W 130 feet; thence S 46 deg. 50' W 220 feet; thence S 47 deg. 13' W 71.5 feet; thence S 48 deg. 59' W 117.8 feet; thence S 60 deg. 14' W 80 feet to center of creek; thence a Northwesterly direction with the center line of creek to Kentucky Highway Number 32 right of way; thence N 49 deg. 9' E 335 feet with said right of way; thence N 57 deg. 9' L 130 feet; thence N 66 deg. 09' East 140 feet; thence N 74 deg. 09' East 130 feet; thence N 83 deg. 29' E 200 feet; thence N 86 deg. 09' E 24.8 to point of beginning and containing 18.77 acres, more or less.

THERE IS EXCLUDED from the foregoing a certain tract containing 1.752 acres, conveyed by the Lessor to the Commonwealth of Kentucky, Department of Highways, by deed dated October 15, 1974, and recorded in Deed Book 101, Page 688, Rowan County Records for Deeds.

TRACT II

A certain tract of land, lying and being in Rowan County, Kentucky, just North and West of the I-64 Interchange and Kentucky Route 32 and lying and being on said Kentucky Route 32 and particularly described as follows:

BEGINNING at an iron pin in the right of way at Kentucky Highway 32 and with said right of way proceeding North 68 degrees 02 minutes East 100 feet; thence continuing with said right of way North 74 degrees 05 minutes East 100 feet; thence continuing with said right of way North 81 degrees 09 minutes East 100 feet; thence continuing with said right of way North 85 degrees 52 minutes East 100 feet; thence continuing with said right of way

North 87 degrees 46 minutes East 48.23 feet to a corner; thence leaving said right of way in a Southerly direction with the property line of the Kentucky Department of Highways South 28 degrees 00 minutes East 441.42 feet; thence leaving said property line of the Kentucky Department of Highways and continuing in a Southwesterly direction South 50 degrees 13 minutes West 744.55 feet to a point at the bank of the North Fork of Triplett Creek; thence North 23 degrees 02 minutes West 449.07 feet along North Fork of Triplett Creek; thence leaving Triplett Creek North 50 degrees 13 minutes East 310 feet; thence North 39 degrees 47 minutes West 270 feet to the point of BEGINNING. The above tract containing 8 acres as surveyed by Richard S. Staggs, Survey No. 317.

The Lessor specifically reserves a perpetual right-of-way easement 30 feet in width from the school bus garage which is to be constructed to Kentucky Highway 32, providing unrestricted egress and ingress to said highway.

BEING THE SAME real property conveyed to the Lessor herein by deed from City of Morehead, Kentucky, dated March 31, 1983, and recorded in Deed Book 127, Page 326-328, in the office of the Rowan County Court Clerk.

WHEREAS, the subject 1986 Real Estate Lease was lodged of record in the Rowan County Clerk's Office on October 1, 1986;

WHEREAS, the expressed intent of the 1986 Real Estate Lease was for utilizing the subject real estate to develop a joint city-county recreational park on the real property owned by the Board of Education of Rowan County, Kentucky, and;

WHEREAS, the Lessor and Lessees agree a perpetual lease term was unavailable as a matter of law in 1986; that, nevertheless, the Lessees have received substantial benefit for effectively multiple one (1) year term renewals of the subject 1986 Real Estate Lease; that reformation of the subject 1986 Real Estate Lease to be consistent with the provisions of the Governmental Leasing Act, KRS 65.940 *et seq.*, is not desired by the Lessor, a State agency body politic and corporate; however, any obligation existing or said to exist of a party to another party or to a third-party beneficiary under the subject 1986 Real Estate Lease shall not be extinguished by this Release.

NOW, THEREFORE, the Lessees to the subject 1986 Real Estate Lease hereby surrender and discharge any and all obligations of the Lessor, and mutually agree that the subject 1986 Real Estate Lease shall terminate as of the last date of the notarized signatures herein below, and each and every party to the subject 1986 Real Estate Lease is, without any further consideration, expressed or implied, hereby released and discharged

COMMONWEALTH OF KENTUCKY)
). Sgt.
COUNTY OF ROWAN)

Subscribed and sworn to before me by _____, Mayor, City of Morehead,
Kentucky, on this the ____ day of _____, 2018.

My Commission Expires: _____, 20__.

NOTARY PUBLIC

COMMONWEALTH OF KENTUCKY)
) Sect.
COUNTY OF ROWAN)

Subscribed and sworn to before me by _____, County Judge-Executive, County
of Rowan, Kentucky, on this the ____ day of _____, 2018.

My Commission Expires: _____, 20__

NOTARY PUBLIC

I HEREBY CERTIFY THAT THIS INSTRUMENT
HAS BEEN DRAFTED BY:

Robert L. Chenoweth, Attorney
CHENOWETH LAW OFFICE
114 South Main Street
Lawrenceburg, KY 40342