

## **SALE AND PURCHASE AGREEMENT**

(With Construction and Development Provisions and Post-Closing Obligations)

**THIS SALE AND PURCHASE AGREEMENT** (this “Agreement”) is made and entered into as of the 28th day of October, 2020, which date is the last of Buyer and Seller to sign this Agreement (the “Effective Date”), between (i) **HEALTH EQUITY PARTNERS PROPERTIES, INC.**, a Kentucky non-profit corporation (“Seller”), and (ii) **JEFFERSON COUNTY SCHOOL DISTRICT FINANCE CORPORATION**, a Kentucky non-profit corporation (“Buyer”).

### **RECITALS:**

**A.** Seller is the owner of certain real property located at 1720 West Broadway, containing a total of approximately 10.2141 acres (the “Seller’s Property”), located in Jefferson County, Kentucky, which Seller acquired pursuant to a Deed dated January 5, 2018, of record in Deed Book 11062, Page 523, in the office of the Clerk of Jefferson County, Kentucky (the “Clerk’s Office”).

**B.** The entirety of the Seller’s Property is currently subject to that certain Real Estate Lease Agreement dated January 5, 2018, from Seller as “Lessor” to The Young Mens Christian Association of Greater Louisville, a Kentucky non-profit corporation (the “YMCA”) as “Lessee” (the “Lease”), a Memorandum of which Lease is of record in Deed Book 11062, Page 531, in the Clerk’s office (the “Memorandum of Lease”).

**C.** Buyer now desires to purchase a portion of the Seller’s Property containing approximately 4.636 acres from Seller (the “Property”), and Seller desires to sell the Property to Buyer, to be used by Buyer and the Board of Education of Jefferson County, Kentucky, operating as Jefferson County Public Schools (the “Board of Education”) for the construction and operation of a public elementary school (the “School”) on the Property.

**D.** Following the sale of the Property to Buyer, the remainder of the Seller’s Property other than the Property (the “Seller’s Retained Property”) is, and shall remain, operated as a mixed use facility that includes a facility (the “YMCA Facility”) operated by the YMCA, and operations of various third-party subtenants.

**E.** Simultaneously with the sale of the Property to Buyer, Seller, Buyer, the Board of Education, and the YMCA intend to enter into a shared use agreement (the “Shared Use Agreement”) with respect to the use of (i) the Annex (as defined below), (ii) the gymnasium (the “Gym”) located within the YMCA Facility on the Seller’s Retained Property, (iii) an athletic field to be located in part on the Property and in part on the Seller’s Retained Property, and (iv) a parking lot to be reconfigured and relocated by Seller, at Seller’s expense, on the Seller’s Retained Property.

**F.** In conjunction with the construction of the School on the Property, Seller has agreed, at Seller’s expense, to construct a building annex connecting the School to the Gym (the “Annex”), which Buyer and the Board shall have the non-exclusive right to access and use.

**G.** Seller and Buyer are entering into this Agreement, pursuant to which Buyer will agree to purchase the Property from Seller, and Seller will agree to sell the Property to Buyer, all in accordance with the terms and conditions of this Agreement.

**AGREEMENT:**

**NOW, THEREFORE,** the parties hereby agree as follows:

1. Sale and Purchase. Seller hereby agrees to sell and Buyer agrees to purchase, the Property, subject to the terms and conditions contained herein. The Property will be delineated as a separate parcel of real estate pursuant to the Plat (as defined in Section 12) to be obtained by Seller pursuant to the provisions of Section 12 below. A draft of the Plat outlining the approximate dimensions of the Property is attached hereto as Exhibit A and made a part hereof.

2. Purchase Price. The purchase price for the Property shall be One Million Four Hundred Nine Thousand Five Hundred Seventy and 24/100 Dollars (\$1,409,570.24) (the "Purchase Price"). Fifty Thousand and No/100 Dollars (\$50,000.00) (the "Deposit") shall be paid by Buyer within five (5) business days after the Effective Date to Seller, to be applied to the Purchase Price at Closing or otherwise refunded to Buyer pursuant to the terms and conditions of this Agreement. The balance of the Purchase Price shall be paid to Seller on the date of Closing in immediately available funds pursuant to wire transfer instructions furnished by Seller, subject to the prorations and adjustments provided herein.

3. Due Diligence Materials. Within five (5) business days after the Effective Date, Seller shall deliver to Buyer all due diligence materials that are contained in Seller's files pertaining to the Property (the "Seller's Due Diligence Materials"), which shall include, without limitation, all source deeds, surveys, title exams, title policies, permits and environmental and geotechnical reports to the extent the same are contained in Seller's files.

4. Due Diligence Inspections. On or before the expiration of one hundred twenty (120) days after the Effective Date (the "Due Diligence Period"), Buyer may examine the Seller's Due Diligence Materials, may examine title and obtain a commitment for an owner's title insurance policy, and may perform any other examination or inspection of the Property that Buyer desires, including without limitation, obtaining surveys, obtaining an appraisal, examining matters of zoning, access and utility service, and inspecting the physical and environmental condition of the Property, in order to determine the feasibility of the Property for Buyer's intended use as determined by Buyer in Buyer's sole discretion. Buyer and Buyer's employees, agents and representatives ("Buyer's Representatives") shall have the right, upon forty-eight (48) hours' prior notice to Seller, to access the Property during normal business hours for Buyer's inspection activities, which inspections shall be conducted in such a manner as to minimize disruption of the business and facilities of the YMCA and its subtenants. Seller and Buyer agree that the Due Diligence Period may be extended for up to (and not to exceed) an additional six (6) month period upon the written request of either Seller or Buyer, in the event that additional time for satisfaction of the conditions precedent described in Sections 14 and 16 below is needed due to COVID-related delays. Seller shall have the right to have a representative of Seller present at all inspections. Buyer agrees to either (i) to the extent permitted by applicable law, indemnify and hold Seller harmless from any damages to persons or property arising out of the actions of

Buyer or its contractors, agents or employees as a result of performing or completing such inspections, or (ii) provide Seller with evidence of liability insurance pertaining to the foregoing satisfactory to Seller. Buyer shall immediately cause the removal of any liens that may be filed against the Property by reason of such examination or inspection. If as a result of such review, examination and investigation, Buyer determines that the Property is unsuitable for Buyer's intended use, as determined by Buyer in Buyer's sole discretion, Buyer shall so notify Seller in writing no later than the last day of the Due Diligence Period of Buyer's election to terminate the Agreement, in which event this Agreement shall automatically be terminated, the Deposit shall be refunded to Buyer, and neither party shall have any further responsibility hereunder except to the extent expressly stated in this Agreement.

5. Conveyance of Title. Subject to the terms and conditions set forth in this Agreement and the contemporaneous performance by the Buyer of its obligations set forth herein, at Closing, Seller shall (i) convey to Buyer, by special warranty deed ("Deed") in a form reasonably acceptable to Buyer, marketable fee simple title to the Property, free and clear of any and all liens and encumbrances, leases and rights of possession or occupancy, subject to ad valorem taxes, easements, rights-of-way, covenants, conditions, restrictions and stipulations of record; (ii) execute and deliver an owner's affidavit (with respect to no parties in possession, no mechanic's or materialmen's liens or rights to claim such liens, and such other assurances as to the status of title as the Title Company as defined in Section 11 may reasonably require) and a certificate of non-foreign status; (iii) deliver such other pay-off letters, releases or other instruments as may be reasonably required by the Title Company; (iv) deliver the Plat (as defined in Section 12); (v) execute (and cause the YMCA to execute) and deliver the Shared Use Agreement and (vi) execute and deliver such other documents typically delivered in Kentucky real estate transactions as Buyer may reasonably request.

6. Casualty and Condemnation. If, prior to Closing, all or any part of the Property shall be damaged by fire or other casualty or condemned by governmental or other lawful authority, Buyer shall have the option of (i) completing the purchase, in which event all casualty proceeds or claims therefor initiated by Seller or by anyone on Seller's behalf and all condemnation proceeds or claims therefor shall be assigned to Buyer, or (ii) terminating this Agreement, in which event the Deposit shall be returned to Buyer, and neither party shall have any rights against the other under this Agreement except to the extent expressly stated in this Agreement.

7. Real Property Taxes. There shall be no proration of real property taxes at the Closing, as the Seller's Property is currently exempt from any assessment of real property taxes.

8. Closing Costs. Notwithstanding anything to the contrary contained herein, Closing costs shall be paid as provided herein. Seller shall pay (i) the costs of recording the Deed to which the original Plat will be attached and recorded therewith, an amendment to Seller's Mortgage as described in Section 14F below, an amendment to the Memorandum of Lease as described in Section 14G below, an amendment to the SNDA as described in Section 14I below, and any other releases, amendments or related documents, (ii) any transfer tax due upon recording the Deed, (iii) the cost of preparing and recording any releases of (and amendments to) existing mortgages, subordination, non-disturbance and attornment agreements, memorandums of leases and other encumbrance documents, (iv) Seller's attorney's fees, and (v) all other

incidental expenses usually borne by sellers of property in Kentucky. Buyer agrees to pay (i) title examination fees and costs, (ii) title insurance premiums, (ii) surveyor's fees and expenses (if a survey is procured by Buyer), (iii) Buyer's attorney's fees, and (iv) all other incidental expenses usually borne by purchasers of property in Kentucky.

9. Seller's Representations and Warranties. Seller does affirmatively hereby represent and warrant to the Buyer that:

A. Seller is a Kentucky non-profit corporation, duly incorporated, validly existing and in good standing under the laws of the Commonwealth of Kentucky and has full power and authority to enter into this Agreement, to carry out its obligations hereunder and to sell the Property, subject to the consents and approvals described in Section 14 below;

B. The execution and delivery of this Agreement by Seller to Buyer and the carrying out of the provisions hereof by Seller have been duly authorized by all necessary action of Seller, and this Agreement constitutes the valid and binding obligation of Seller, enforceable against Seller in accordance with its terms;

C. Seller (i) owns fee simple title to the Property, and (ii) has complete and full authority to execute this Agreement and to convey to Buyer fee simple title to the Property, which is free and clear of all liens, encumbrances and other exceptions to title except for easements, rights-of-way, covenants, conditions, restrictions and stipulations of record;

D. Seller has not granted and/or entered into any contract, commitments or other agreements, including, without limitation, any right of first refusal or option to purchase, with or in favor of any third party with respect to the Property. There are no leases or other occupancy agreements or arrangements affecting Seller's interest in the Property;

E. Subject to obtaining all necessary consents and approvals from the Lenders (as defined in Section 14F below), compliance with this Agreement and the consummation of the transactions contemplated hereby will not conflict with, nor will they result in a breach of or constitute a default under, any agreement, indenture or other undertaking to which Seller is a party or by which Seller is bound;

F. Subject to obtaining all necessary consents and approvals from the Lenders (as defined in Section 14F below), there is no consent or approval required of any governmental authority or any other third party in order to fully effect the Closing of the transaction contemplated by this Agreement;

G. To Seller's knowledge, neither the Seller nor the Property is subject to any lawsuit, administrative action, arbitration or other proceeding pending or threatened to be brought by any governmental agency or other persons against the Seller or the Property, or otherwise enjoining, restraining or restricting Seller with respect to the transfer of Seller's interest in the Property;

H. Seller has not received, with respect to or affecting the Property or any portion thereof, (i) any written notice of any pending or threatened condemnation, zoning or other governmental proceeding; (ii) any notice of violation of any applicable laws or ordinances;

or (iii) claim by any third party, and to Seller's knowledge no such proceedings, violations or claims have been threatened or are pending; and

I. Other than the items described in (i) the Property Management Plan pertaining to the development of the Property dated November 2, 2017 issued by the Kentucky Energy and Environment Cabinet regarding development of the Property (which Seller hereby acknowledges is contained in Seller's files), (ii) the Phase I Environmental Assessment of the Property prepared by Linebach Funkhouser, Inc. dated July 19, 2017 (which Seller hereby acknowledges is contained in Seller's files), and (iii) the Limited Phase II Environmental Site Assessment Report of the Property prepared by Linebach Funkhouser, Inc. dated September 19, 2017 (which Seller hereby acknowledges is contained in Seller's files), Seller has not received any written notice from any governmental authority relating to any violation or alleged violation of any of governmental codes, ordinances, laws, rules, regulations or private restrictions affecting the Property, including any violation of applicable zoning ordinances or any Environmental Laws (as hereinafter defined) which has not been cured. To Seller's actual knowledge, no violation of any Environmental Laws exist with respect to the Property. "Environmental Laws" means all laws or regulations which relate to the manufacture, processing, distribution, use or storage of Hazardous Materials (as hereinafter defined). "Hazardous Materials" shall mean:

(i) Those substances included within the definitions of "hazardous substance", "hazardous materials", "toxic substances", or "solid waste" in the Comprehensive Environmental Response Compensation and Liability Act of 1980 (42 U.S.C. §9601 et seq.), as amended by Superfund Amendments and Reauthorization Act of 1986 (Pub. L 99-499 100 Stat. 1613), the Resource Conservation and Recovery Act of 1976 (42 U.S.C. §6901 et seq.), and the Hazardous Materials Transportation Act (49 U.S.C. §1801 et seq.), and in the regulations promulgated pursuant to said laws, all as amended;

(ii) Those substances listed in the United States Department of Transportation Table (49 CFR 172.101 and amendments thereto) or by the Environmental Protection Agency (or any successor agency) as hazardous substances (40 CFR Part 302 and amendments thereto);

(iii) Any material waste or substance which is (A) designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act, 33 U.S.C. §1251 et seq. (33 U.S.C. §1321) or listed pursuant to Section 307 of the Clean Water Act (33 U.S.C. §1317) or (B) radioactive materials; and

(iv) Those substances included within the definitions of "hazardous substances", "hazardous materials", "toxic substances" or "solid waste" in the Hazardous Waste Management Act of 1978.

10. Buyer's Representations and Warranties. Buyer does affirmatively hereby represent and warrant to the Seller that at and as of Closing:

A. Buyer is a Kentucky non-profit corporation, duly incorporated, validly existing and in good standing under the laws of the Commonwealth of Kentucky and has full power and authority to enter into this Agreement, to carry out its obligations hereunder and to

purchase the Property, subject to the consents and approvals described in Section 16D below; and

B. The execution and delivery of this Agreement by Buyer to Seller and the carrying out of the provisions hereof by Buyer have been duly authorized by all necessary action of Buyer, and this Agreement constitutes the valid and binding obligation of Buyer, enforceable against Buyer in accordance with its terms.

11. Objections to Seller's Title to the Property; Title Commitment. During the Due Diligence Period, Buyer shall obtain, at Buyer's sole expense, (a) a title insurance commitment (the "Title Commitment") issued by a title insurance company selected by Buyer (the "Title Company") with respect to the Property, together with true, accurate and complete copies of all instruments and other matters of record or otherwise affecting title to the Property, and (b) if desired by Buyer, an ALTA/NSPS survey of the Property, prepared by a surveyor, selected by Buyer, duly registered in the Commonwealth of Kentucky (the "Survey"). Buyer shall, no later than the last day of the Due Diligence Period, notify Seller in writing of Buyer's objections, if any, to any exceptions or other information contained or disclosed in the Title Commitment and/or the Survey. Seller shall have twenty (20) days following receipt of such notification within which to address such objections. If Seller chooses not to address such objections or fails or is unable to address such objections to the satisfaction of Buyer and the Title Company, so that such exceptions and other information objected to by Buyer shall be either removed from the title policy and/or the Survey, insured over at standard rates or otherwise addressed to Buyer's satisfaction, then Buyer may: (a) terminate this Agreement by giving written notice to Seller, in which case the Deposit shall be refunded to Buyer, this Agreement shall be null and void and, except as otherwise provided herein, neither Buyer nor Seller shall have any further liability to or recourse against the other party under this Agreement or in connection with the transactions contemplated hereunder; or (b) waive such previous objections to the status of title, whereupon (subject to satisfaction or waiver of the conditions set forth in Section 16 hereof) the transactions contemplated by this Agreement shall be consummated as scheduled and Buyer shall take title to the Property subject to the exceptions and other information previously objected to by Buyer. Any exceptions listed in the Title Commitment not objected to by Buyer or otherwise accepted by Buyer, as provided above, other than (i) any mortgages, subordination, non-disturbance and attornment agreements, leases, memorandums of leases or other encumbrances on the Property, all of which must be discharged and released of record at Seller's expense prior to or at the Closing, (ii) the general preprinted exceptions (including without limitation, the mechanic's lien and parties in possession exceptions) that must be deleted prior to or at the Closing, and (iii) ad valorem property taxes and assessments, if any, due and payable in any year prior to the year of Closing, which must be paid in full by Seller prior to or at the Closing, shall be deemed to be permitted title exceptions. Buyer may elect, in its sole discretion, to update the Title Commitment from time to time until the Closing (each, an "Update"). To the extent one or more of the Updates shows matter(s) not disclosed in the initial Title Commitment or a prior Update, then Buyer shall have the opportunity to object to such newly discovered matters within ten (10) days following receipt of such Update. In the event of such an objection, the newly discovered matter shall be treated as a Buyer's objection and the procedures set forth above for a title objection shall then be applicable (including Buyer's right to terminate this Agreement and receive a refund of the Deposit).

12. Minor Subdivision Plat. Prior to the expiration of the Due Diligence Period, Seller shall, at Seller's expense, obtain a final, unappealable minor subdivision plat acceptable to Seller and Buyer, and approved by the Louisville Metro Planning Commission, effecting the subdivision of the Seller's Property into two (2) separate parcels of real estate such that (i) the Property and (ii) the Seller's Retained Property constitute two (2) separate tax parcels and comply with all applicable subdivision laws, statutes, regulations, ordinances and codes (the "Plat"). Buyer agrees to reasonably cooperate with Seller in good faith to secure all necessary approvals for the Plat.

13. Seller's Covenants. From and after the Effective Date through Closing, Seller shall, at Seller's expense:

A. Not enter into any contract with respect to the Property that will survive the Closing, without Buyer's prior written consent;

B. Promptly advise Buyer in writing of any material changes in circumstances which would render the representations and warranties made by Seller herein false or misleading; and

C. Not apply for or consent to any change or modification with respect to the zoning of the Property without Buyer's prior written consent, nor allow any liens or encumbrances to be placed on the Property which would survive Closing except as may be expressly permitted by the terms of this Agreement or otherwise agreed to in writing by Buyer.

14. Seller's Conditions Precedent. Seller's obligation to perform its obligations under this Agreement shall be subject to the following conditions precedent:

A. The representations and warranties of Buyer contained in this Agreement shall be true and correct in all respects at and as of the Closing;

B. Buyer shall have performed in all material respects all obligations, covenants, and other duties required to be performed by Buyer under this Agreement at or prior to the Closing;

C. Buyer, Seller, the Board and the YMCA shall have agreed upon the terms and provisions of the Shared Use Agreement;

D. Seller shall have approved the Plans (as defined in Section 19 below);

E. The Lenders (as defined in Section 14F below) shall have received and approved a legal opinion regarding debt modification addressing a sell-off of property that was originally acquired by Seller with New Market Tax Credit loan proceeds with respect to the sale of the Property to Buyer;

F. Seller shall have obtained an amendment to that certain Mortgage, Assignment of Rents and Leases, Security Agreement and Fixture Financing Statement ("Mortgage") in favor of CAHEC SUB-CDE X, LLC, a North Carolina limited liability company, CAHEC SUB-CDE XIII, LLC, a North Carolina limited liability company, IFF

CAPITAL 19 LLC, an Illinois limited liability company, COCRF SUBCDE 52, LLC, a Delaware limited liability company, CHHS SUBSIDIARY CDE 38, LLC, a Maryland limited liability company, dated January 5, 2018 (all of the foregoing are hereinafter collectively referred to as the “Lenders”), of record in Mortgage Book 15374, Page 107, in the Clerk’s Office with respect to the Property, effecting the release of the Property from the lien of the foregoing Mortgage;

G. Seller shall have obtained an amendment to the Lease and an amendment to the Memorandum of Lease, effecting and evidencing the release of the Property from the scope of the Lease;

H. Seller shall have obtained any and all other necessary consents and approvals from the Lenders and from Seller’s Board of Directors for the transaction contemplated by this Agreement;

I. Seller shall have obtained an amendment to that certain Subordination, Non-Disturbance and Attornment Agreement dated January 5, 2018, of recorded in Deed Book 11062, Page 536 (the “SNDA”), effecting the release of the Property from the scope of the SNDA.

J. Seller shall have obtained all necessary governmental approvals for construction of the Annex; and

K. Seller shall have obtained all necessary final, non-appealable governmental approvals of the Plat.

15. Buyer’s Termination Right. If Seller does not fulfill any of the conditions under Section 14E, Section 14F, Section 14G, Section 14H and Section 14I on or before the deadline date for Closing set forth in Section 23, Buyer shall have the right to terminate this Agreement and Buyer shall receive a refund of the Deposit.

16. Buyer’s Conditions Precedent. Buyer’s obligation to perform its obligations under this Agreement shall be subject to the following conditions precedent:

A. Buyer shall have not terminated this Agreement pursuant to its right to do so under Section 4, Section 6, Section 11, Section 15, Section 17, Section 18 and Section 19.1 of this Agreement;

B. The representations and warranties of Seller contained in this Agreement shall be true and correct in all respects at and as of the Closing;

C. Seller shall have performed in all material respects all obligations, covenants, and other duties required to be performed by Seller under this Agreement at or prior to the Closing; and

D. Buyer shall have obtained any and all other necessary consents and approvals from the chief state school officer pursuant to KRS 162.060, from the Kentucky Department of Education, and as otherwise required under the rules and regulations of the



Kentucky Department of Education, for the purchase and the construction of the School including without limitation the Plans and the specifications for the construction of the School (the “Specifications”).

17. Default.

A. Default by Seller. If the purchase and sale of the Property is not consummated because of Seller’s failure or refusal to perform Seller’s obligations hereunder, or in the event any representations and warranties of Seller set forth herein are false, the Deposit shall be returned to Buyer, and Buyer shall also have the right to bring an action against Seller for damages or specific performance.

B. Default by Buyer. If the purchase and sale of the Property is not consummated because of Buyer’s failure or refusal to perform its obligations hereunder, or in the event any representations and warranties of Buyer set forth herein are false, Seller shall receive the Deposit and Seller shall also have the right to bring an action against Buyer for damage or specific performance.

Unless otherwise stated to the contrary elsewhere herein, no default by either party shall result in a termination or limitation of any rights of such party hereunder unless and until the other party shall have notified the defaulting party in writing of said default and the defaulting party shall have failed to cure said default within thirty (30) days after the receipt of said notice. For the purpose of clarity, the foregoing sentence shall not affect or pertain to any of Buyer’s termination rights under Section 4, Section 6, Section 11, Section 18 and Section 19.1.

18. Shared Use Agreement. Prior to the expiration of the Due Diligence Period, Buyer, Seller, the Board and the YMCA shall attempt to agree to the form and content of the Shared Use Agreement. Buyer, Seller, the Board and the YMCA each agree to work together on the form and content of the Shared Use Agreement in good faith. If, despite Buyer’s, Seller’s, the Board’s and the YMCA’s good faith efforts, Buyer, Seller, the Board and the YMCA do not agree to the form and content of the Shared Use Agreement on or before the last day of the Due Diligence Period, any such party shall have the right to terminate this Agreement and Buyer shall receive a refund of the Deposit, or in the alternative, if desired by Buyer and Seller, Buyer and Seller may enter into an amendment to this Agreement extending the Due Diligence Period. Subject to and in accordance with the terms and conditions of this Agreement and as to be more particularly described in the Shared Use Agreement, Buyer and Seller acknowledge and agree that (i) in conjunction with the construction of the School on the Property, Seller shall, at Seller’s expense, construct the Annex, which Buyer and the Board shall have the non-exclusive right to access and use, (ii) Buyer shall have the right to participate with Seller in the design of the connection point security features for the Annex, and (iii) upon completion of construction of the Annex, Buyer shall reimburse Seller for fifty percent (50%) of the total cost of construction of the Gym, which Seller represents was \$1,300,000, such that Buyer’s reimbursement obligation shall be \$650,000.

19. Development of the School.

19.1. On or before such date as is sixty (60) days prior to the expiration of the Due Diligence Period, Buyer shall furnish to Seller a copy of the plans for the construction of the School (the “Plans”) and obtain Seller’s approval of the Plans, not to be unreasonably withheld, conditioned or delayed. Buyer agrees to work in good faith on obtaining Plans acceptable to Seller. If, despite Buyer’s good faith efforts, Buyer does not obtain Seller’s approval of the Plans on or before the last day of the Due Diligence Period, Buyer shall have the right to terminate this Agreement and receive a refund of the Deposit.

19.2. Buyer shall construct the School, at Buyer’s expense, in a professional, diligent and workmanlike manner in accordance with the Plans and all applicable laws, statutes, regulations, ordinances and codes, with the estimated completion date to be on or before May 31, 2023.

19.3. Any proposed material changes to the Plans shall be submitted to Seller and subject to Seller’s prior written approval, which shall not be unreasonably withheld, conditioned or delayed.

19.4. Seller’s approval of the Plans and any amendments thereto shall not constitute a representation or warranty by Seller of the workmanship or materials used or to be used in the construction of the School or compliance of the Plans or amendments thereto with any applicable laws, statutes, regulations, ordinances and codes.

19.5. Buyer shall diligently pursue construction of the School until completion, subject to delays relating to force majeure, labor shortages, shortages in material, strikes, weather delays, pandemics or reasons beyond Buyer’s reasonable control.

19.6. Buyer and Buyer’s contractors shall take reasonable precautionary measures to minimize dust, noise and interference with the Seller’s Retained Property during the construction of the School.

19.7. Seller acknowledges that the Plans and the Specifications are subject to the approval of the chief state school officer pursuant to KRS 162.060 and the rules and regulations of the Kentucky Department of Education.

19.8. Seller agrees to grant Buyer reasonable access to the Seller’s Retained Property during the construction of the School for the purposes of staging, connecting to utilities located on the Seller’s Retained Property and relocating utilities that are located where the School building will be constructed pursuant to the Plans and the Specifications, provided that the operations of the YMCA and its subtenants are not materially disturbed as a result thereof.

20. Attorney’s Fees. In the event either party hereto is required to employ an attorney because of the other party’s default, the defaulting party shall pay the non-defaulting party’s reasonable attorney’s fees incurred in the enforcement of this Agreement if such non-defaulting party (or its successors in interest) is the prevailing party relating to such default in the enforcement action.

21. Brokerage Fees. Seller and Buyer each hereby represent and warrant to the other that they have not dealt with any broker, consultant, finder or like agent who might be entitled to

any compensation in connection with the sale of the Property to Buyer, and each party agrees to indemnify and hold the other harmless in connection therewith.

22. Notices. All notices and other communications required or permitted to be given hereunder shall be deemed given if delivered in writing by email (with confirmation of receipt), hand delivery (with confirmation of receipt), or sent by a nationally recognized overnight courier service, to the address hereinafter set forth for the recipient of such notices or to such other address as shall be designated by either Buyer or Seller in accordance with this Section, and shall be deemed given the date such notice was given as to email and hand delivery, and one (1) business day after having been deposited with a nationally recognized overnight courier service.

If to Seller: Health Equity Partners Properties, Inc.  
1720 West Broadway  
Louisville, Kentucky 40203  
Attention: R. Stephen Tarver, President  
Email: [starver@ymcalouisville.org](mailto:starver@ymcalouisville.org)

with a copy to: Stites & Harbison  
400 West Market Street, Suite 1800  
Louisville, KY 40202-3352  
Attention: James C. Seiffert  
Email: [JSeiffert@stites.com](mailto:JSeiffert@stites.com)

If to Buyer: VanHoose Education Center  
3332 Newburg Rd.  
Louisville, Kentucky 40218  
Attn: Susan Biasioli, AIA  
Email: [susan.biasioli@jefferson.kyschools.us](mailto:susan.biasioli@jefferson.kyschools.us)

with a copy to: Wyatt, Tarrant & Combs, LLP  
500 W. Jefferson St., Suite 2800  
Louisville, Kentucky 40202  
Attention: Ben Straus  
Email: [bstraus@wyattfirm.com](mailto:bstraus@wyattfirm.com)

23. Closing. The closing shall take place within thirty (30) days after the end of the Due Diligence Period (the “Closing”) at the offices of Buyer’s counsel in Louisville, Kentucky or such other place, manner (including a remote closing whereby signatures would be exchanged and closing funds would be transferred without the parties physically meeting) and time mutually agreed upon by the parties. Seller anticipates that at the Closing, Seller will donate to the YMCA, as a charitable donation, an amount equal to the net sales proceeds received in connection with the sale of the Property.

24. Entirety of Agreement. This Agreement constitutes the entire agreement between the parties pertaining to its subject matter and supersedes all oral and written understandings of the parties with respect thereto. This Agreement cannot be changed except by an instrument in writing signed by the party against whom enforcement of the change is sought.

25. Severability. If any clause or provision of this Agreement is held to be invalid or unenforceable by a court of law, then the remainder of this Agreement shall be, to the maximum extent permitted by law, unaffected and in full force and effect.

26. Counterparts. This Agreement may be executed in counterparts each of which shall be deemed to be an original but all of which together shall constitute but one agreement. Scanned and emailed copies of the executed signature pages of this Agreement shall be effective and binding upon the parties as if such signatures were original signatures.

27. Time of Essence. Time is expressly declared to be of the essence of this Agreement. In the computation of any period of time provided for in this Agreement or by law, the day of the act or event from which said period of time runs shall be excluded, and the last day of such period shall be included, unless it is a Saturday, Sunday or federal holiday, in which case the period shall be deemed to run until the end of the next day which is not a Saturday, Sunday or federal holiday.

28. Risk of Loss. Risk of loss with respect to the Property shall be borne by Seller until the closing and delivery of the Deed.

29. Headings. The headings to the Sections hereof have been inserted for convenience of reference only and shall in no way modify or restrict any provisions hereof or be used to construe any such provisions.

30. Modifications. The terms of this Agreement may not be amended, waived or terminated orally, but only by an instrument in writing signed by both Seller and Buyer.

31. Successors. This Agreement shall inure to the benefit of and bind the parties hereto and their respective successors and permitted assigns.

32. Assignment. Seller shall not assign this Agreement without the prior written consent of Buyer, which may be given or withheld in Buyer's sole discretion. Buyer shall not assign this Agreement without the prior written consent of Seller, which may be given or withheld in Seller's sole discretion.

33. Survival of Representations and Warranties. All representations and warranties of Seller and Buyer contained in this Agreement shall survive Closing for a period of six (6) months from the date of Closing. The terms and covenants contained in this Agreement pertaining to actions to be performed after the Closing shall survive the Closing.

**IN TESTIMONY WHEREOF**, the parties have executed this Agreement as of the Effective Date.

**SELLER:**

**HEALTH EQUITY PARTNERS  
PROPERTIES, INC.,**

a Kentucky non-profit corporation

By: \_\_\_\_\_  
R. Stephen Tarver, President

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

**BUYER:**

**JEFFERSON COUNTY SCHOOL DISTRICT  
FINANCE CORPORATION,**

a Kentucky non-profit corporation

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

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

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

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

The Young Men's Christian Association Of Greater Louisville, a Kentucky non-profit corporation, hereby joins in this Agreement for the sole purposes of agreeing to work in good faith with Buyer and Seller on finalizing the form and content of the Shared Use Agreement (as defined in Section 1) on or before the expiration of the Due Diligence Period (as defined in Section 4):

**YMCA:**

**THE YOUNG MEN'S CHRISTIAN  
ASSOCIATION OF GREATER  
LOUISVILLE,**

a Kentucky non-profit corporation

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

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

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

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

The Board of Education of Jefferson County, Kentucky, operating as Jefferson County Public Schools, hereby joins in this Agreement for the sole purposes of agreeing to work in good faith with Buyer and Seller on finalizing the form and content of the Shared Use Agreement (as defined in Section 1) on or before the expiration of the Due Diligence Period (as defined in Section 4):

**BOARD OF EDUCATION:**

**BOARD OF EDUCATION OF JEFFERSON  
COUNTY, KENTUCKY**, operating as  
Jefferson County Public Schools

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

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

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

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

**EXHIBIT A**

Draft Plat

[attached hereto]

EXHIBIT A  
Schematic Site Plan

[attached hereto]



# CERTIFICATE OF APPROVAL

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

Invalid if not recorded before

this date: \_\_\_\_\_

By \_\_\_\_\_

Louisville Metro Planning Commission.

Approval subject to attached certificates.

Special requirement(s). \_\_\_\_\_

Docket No. \_\_\_\_\_

## LEGEND

PROPERTY LINE

NEW PROPERTY LINE

0 DENOTES SET 5/8" x 18" REBAR WITH CAP STAMPED "JCM 2227" UNLESS OTHERWISE NOTED

• DENOTES SET NAG NAIL WITH WASHER STAMPED "JCM 2227"

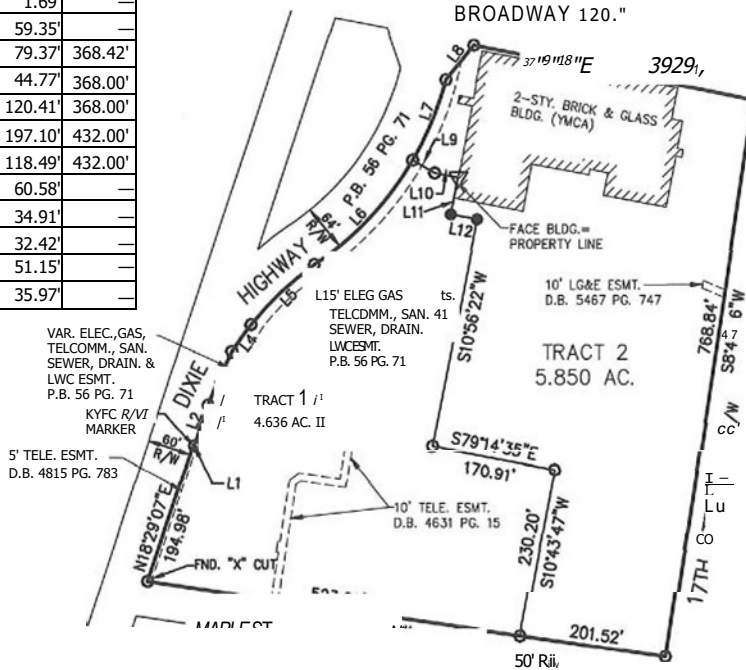
V

UNMARKED CORNER



VICINITY MAP  
NOT TO SCALE

LINE & CURVE TABLE			
	BEARING	DIST.	RADIUS
L1	S 71°31'23" E	1.69'	—
L2	N 18°28'37" E	59.35'	—
L3	N 24°39'39" E	79.37'	368.42'
L4	N 34°51'30" E	44.77'	368.00'
L5	N 47°13'47" E	120.41'	368.00'
L6	N 43°27'33" E	197.10'	432.00'
L7	N 22°23'26" E	118.49'	432.00'
L8	N 39°16'53" E	60.58'	—
L9	S 59°43'38" E	34.91'	—
L10	S 79°09'34" E	32.42'	—
L11	S 10°52'43" W	51.15'	—
L12	S 79°09'03" E	35.97'	—



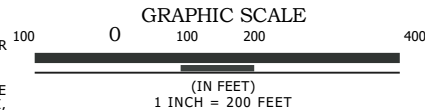
## NOTES:

THIS SURVEY IS SUBJECT TO ALL ROADWAYS, EASEMENTS AND RIGHTS-OF-WAYS, IF ANY, WHETHER SHOWN HEREON OR NOT.

ACCORDING TO INFORMATION SHOWN ON FLOOD INSURANCE RATE MAP (FIRM) 2111100040E & 21111C0041E, DATED DECEMBER 5, 2006, THE SUBJECT PROPERTY IS SITUATED IN ZONE X, AND DOES NOT APPEAR TO BE IN ANY SPECIAL FLOOD HAZARD AREA.

NORTH AND ALL BEARINGS SHOWN ON THIS PLAT REFER TO GRID NORTH, KENTUCKY STATE PLANE COORDINATE SYSTEM, NORTH ZONE, LAMBERT CONFORMAL PROJECTION.

THIS SITE IS SUBJECT TO CONDITIONS OF APPROVAL OF DOCKET 17DEVPLAN1150 AND 14DEVPLAN1142 ON FILE IN THE OFFICES OF THE LOUISVILLE METRO PLANNING COMMISSION.



## MINOR SUBDIVISION PLAT

1720 WEST BROADWAY MINOR PLAT

—PURPOSE OF PLAT—  
TO CREATE TWO TRACTS FROM ONE

—OWNERS—  
HEALTH EQUITY PARTNERS PROPERTIES, INC.  
1700 WEST BROADWAY  
LOUISVILLE, KY 40203

—PROPERTY ADDRESS—  
1720 WEST BROADWAY  
LOUISVILLE, KY 40203  
TAX BLOCK 36C LOT 158  
D.B. 11062 PG. 523

## LAND SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THIS PLAT AND SURVEY WERE MADE UNDER MY SUPERVISION, AND THAT THE ANGULAR AND LINEAR MEASUREMENTS AS WITNESSED BY MONUMENTS SHOWN HEREON ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. THIS SURVEY WAS MADE BY METHOD OF RANDOM TRAVERSE WITH SIDESHOTS, THE UNADJUSTED CLOSURE RATIO OF THE TRAVERSE WAS 1:46,593. THIS SURVEY MEETS OR EXCEEDS THE MINIMUM STANDARDS FOR AN URBAN CLASS SURVEY AS ESTABLISHED BY THE STATE OF KENTUCKY PER 201 KAR 18:150.

STATE of KENTUCKY

J. CRAIG MOUNT

2227

LICENSED

PROFESSIONAL  
LAND SURVEYOR

JULY 17, 2020

J. CRAIG MOUNT, PLS 2227

Date:

ZONING: E21 FORM DISTRICT: TRADITIONAL WORKPLACE  
PROPOSED USE: JCPS BUILDING (TRACT 1)

**BTM ENGINEERING, INC.**

Consulting Engineers Landscape Architects Planners  
3001 Taylor Springs Drive  
Louisville, Kentucky 40220  
(502) 459-8402 Fax  
(502) 459-8427

