

PURCHASE OF COMMERCIAL REAL ESTATE

THIS AGREEMENT FOR PURCHASE COMMERCIAL REAL ESTATE (the "Agreement") is made and entered into this ____ day of _____, 2020, by and between **Elizabethtown-Hardin County Industrial Foundation, Inc., a Kentucky non-profit corporation**, (herein referred to as "Seller"), of 233 Ring Rd., Elizabethtown, Kentucky 42701; and **Hardin County Board of Education, a political subdivision of the Commonwealth of Kentucky** (herein referred to as "Purchaser") of 65 W A Jenkins Rd., Elizabethtown, Kentucky 42701.

WHEREAS, Seller desires to sell, and Purchaser desires to purchase, the real property and improvements located thereon as hereinafter more particularly described, upon the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of **Seventy Thousand Dollars and 00/100 (\$70,000.00)**, the receipt and sufficiency of which are hereby acknowledged, including payment of the purchase price in consideration for conveyance of the premises as described below, the parties hereby agree as follows:

(A) SALE AND PURCHASE OF PREMISES

Seller hereby agrees to sell and convey to Purchaser, and Purchaser hereby agrees to purchase and take from Seller, that certain parcel of real estate located in Elizabethtown, Hardin County, Kentucky, legally described as follows (the "Property"):

Being Lot No. 27H, Section 7, Hughes Commerce Center, to Elizabethtown, Hardin County, Kentucky, as per Amended Record Plat record in Plat Cabinet 1, Sheet 5368, in the Office of the Hardin County Clerk.

BEING a part of the same property conveyed to Elizabethtown Industrial Foundation, Inc. n/k/a, Elizabethtown-Hardin County Industrial Foundation, Inc., by deed dated March 2, 1977 from Jan R. Strickler and Frank Strickler, wife and husband, and Frank Randell Strickler and Mary Elizabeth Strickler, husband and wife, of record in Deed Book 308, Page 246 and by Deed dated March 2, 1977, from Jan Rose Strickler and Frank Strickler, wife and husband of record in Deed Book 308, Page 248, both in the Office of the Hardin County Clerk.

(B) PURCHASE PRICE

The purchase price ("Purchase Price") for the premises shall be **Seventy Thousand Dollars (\$70,000.00)**.

(C) CLOSING

The closing of the sale and purchase of the premises shall occur not later than NINETY (90) DAYS from the date of the signing of this Agreement (or as approved thereafter by the Kentucky Department of Education) at a date and time mutually agreeable to the parties, at the law offices of Skeeters, Bennett, Wilson & Humphrey, 550 W. Lincoln Trail Boulevard; Radcliff, Kentucky 40160.

At and as of the closing, subject to the contemporaneous performance by Purchaser of its obligations set forth below, Seller shall:

1. Convey the property to Purchaser by deed of general warranty, free and clear of all liens and encumbrances except governmental laws and regulations (including zoning regulations) and other recorded easements and restrictions affecting the property.

2. Deliver possession of the premises.

At and as of the closing, subject to the contemporaneous performance by Seller of its obligations set forth above, Purchaser shall deliver to Seller the purchase price, in the manner set forth in Section (B) above.

(D) GOOD FAITH DEPOSIT

As evidence of good faith, Purchaser is depositing with the Seller the sum of **Five Hundred Dollars and 00/100 (\$500.00)** to be held by the Seller in accordance with the terms of this Agreement to be applied to the purchase price at the time of closing.

(E) APPORTIONMENTS, RESPONSIBILITY FOR OTHER EXPENSES

1. Real Estate Taxes and Assessments

All real estate taxes, assessments and impositions relating to the premises and attributable to the year 2021 shall be prorated on a calendar year basis on the date of closing.

2. Transfer Tax and Recording Fees

Seller shall pay the transfer tax imposed on the transfer of the premises and Purchaser shall pay all recording fees imposed for recording the deed.

3. Legal and Other Fees and Expenses

Each party shall bear its own legal fees and other expenses associated with this transaction.

4. No person or entity is entitled to any brokerage or finder's fee or commission or other like payment in connection with the negotiations relating to or the transactions contemplated by this agreement based on any agreement arrangement, or understanding with the Seller or Purchaser or any of their agents.

(F) ENVIRONMENTAL

Representations and Warranties of Seller. Seller hereby represents and warrants to Purchaser as follows, which representations and warranties shall be automatically deemed to be restated as of the Closing, and all of which shall survive the closing and delivery of the Deed, and none of such representations and warranties shall be limited or otherwise affected by virtue of any investigation made by or on behalf of Purchaser:

(a) There are no actions, suits, arbitrations, meditations or proceedings of any kind or nature whatsoever, legal or equitable, binding or nonbinding, including condemnation and eminent domain proceedings affecting the Seller, the Property or any portion thereof.

(b) To the best of Seller's knowledge and belief, no hazardous substance exists in, on or under the Property, and the Property has never been used as a landfill or dump site. Seller has not stored, generated, manufactured or disposed of any hazardous substance in, on or under the Property, and has not permitted the Property to be used in such a manner. Seller does not know of any prior existence of any hazardous substance in, on or under the Property, or the assertion of any environmental or other lien on the Property by any government agency of authority relating to the removal or neutralizing of any hazardous substance in, on or under the Property. As used herein, the term "hazardous substance" shall mean any and all hazardous substances, toxic materials, pollutants, contaminants, or hazardous or toxic wastes defined in any applicable law, rule, regulation or ordinance. Seller will not bring any hazardous substances in or on the Property prior to the closing.

Seller shall make available to Purchaser all soil reports and engineering reports and any other reports or studies (including without limitation environmental and physical inspection reports) which it may possess regarding the Property.

(G) PROPERTY INSPECTION

Purchaser shall have an inspection period which shall commence on the date of the execution of this Agreement and continue for THIRTY (30) DAYS (the "Inspection Period")

to review the Survey, Commitment and the other materials; to complete a physical inspection of the Property to determine if the Property, in Purchaser's opinion, is suitable for Purchaser's intended use and purpose, to conduct soil tests and engineering studies; to test for the presence of hazardous substances and wastes and investigate other environmental issues; to ascertain the availability and sufficiency of utilities to the Property; to study drainage; to review zoning; to determine whether there is or will be adequate access to the Property; to determine whether there is or will be adequate parking for the Property and its intended commercial use; to review deed restrictions and any other limitations or covenants, conditions and restrictions on land use; to examine the Property; to review and investigate taxes, assessments and any other matter affecting the Property. Seller shall cooperate with Purchaser in the making of the foregoing investigations, at no expense to Seller.

During the Inspection Period, Purchaser has the right to terminate this agreement if Purchase deems the property unsuitable for its intended purposes, in the sole discretion of Purchase. If this agreement is terminated during the Inspection Period, Seller shall return Purchaser's Good Faith Deposit.

Purchaser acknowledges and agrees that it will have ample opportunity to inspect or examine the Property prior to the end of Inspection Period and will accordingly be fully familiar with the physical condition and state of repair of the Property and all other matters affecting or relating to the transaction contemplated by this Agreement, and, except to extent Seller makes representations or warranties herein, shall accept the Property, "AS IS, WHERE IS, WITH ALL FAULTS" and in its present condition, subject to reasonable use, wear, tear and natural deterioration between now and the closing, without any reduction in the Purchase Price for any change in such condition by reason thereof subsequent to the Effective Date. At closing, subject to the representations and warranties of Seller set forth herein, Purchaser shall accept the Property in its then current condition.

(H) ADDITIONAL REPRESENTATIVES AND WARRANTIES BY SELLER

Seller hereby makes the following representations and warranties to Purchaser:

1. Seller is a Kentucky non-profit corporation duly organized, validly existing and in good standing under the laws of the Commonwealth of Kentucky, having full power to enter into this agreement and to consummate the transactions provided for herein. This agreement does not conflict with any provisions of the articles of organization or operating agreement of Seller or any contract, agreement or commitment to which Seller is a party.

2. This agreement constitutes the legally valid and binding obligation of Seller, enforceable in accordance with its terms.

3. Neither the entering into of this agreement nor the consummation of the transactions contemplated hereby will constitute a violation or breach by Seller of any contract, instrument or other agreement to which it is a party or to which it is subject, or any judgment,

order, writ, injunction or decree issued against or imposed upon it, or will result in any violation of applicable law, order, rule or regulation of any governmental authority.

4. Seller has received no notice of and to the best of Seller's knowledge there are no pending or threatened condemnation or similar proceedings of any nature whatsoever affecting the property or any portion thereof or that any such proceeding is contemplated.

5. Seller has not received any notice from any governmental unit or agency indicating that the premises or any portion thereof or any operation conducted therein, is in violation of any statute, code, ordinance or regulation, and, to the best knowledge of Seller no such violation exists.

6. There is no action, suit, litigation or proceeding of any nature pending, or, to the best knowledge of Seller, threatened, against or affecting the property, or any portion thereof, or which could result in the obtaining of a lien or other interest in the property by any third party, in any court or before or by any federal, state, county or municipal department, commission, board, bureau, agency or other governmental instrumentality.

7. To the best knowledge of Seller, the current use of the property fully complies with all applicable codes and other applicable laws, regulations and ordinances, including without limitation applicable zoning and land use laws, regulations and ordinances.

8. There are no unpaid claims of contractors, material men or laborers which could give rise to a lien against the property.

9. Seller owns the property free and clear of any and all liens, encumbrances, stipulations and restrictions, and shall deliver to Purchasers, at the closing, a deed of general warranty with respect to the Property, free and clear of any and all liens, encumbrances, restrictions and stipulations.

(I) REPRESENTATIONS, WARRANTIES AND ACKNOWLEDGMENT BY PURCHASER

Purchaser makes the following representations and warranties to Seller:

1. Purchaser is a non-profit public school system duly organized, validly existing and in good standing, having full power to enter into this agreement and to consummate the transactions provided for herein.

2. This agreement constitutes the legally valid and binding obligation of the Purchaser, enforceable in accordance with its terms.

3. Neither the entering into of this agreement nor the consummation of the transactions contemplated hereby will constitute a violation or breach by Purchaser of any contract, instrument or other agreement to which it is a party or to which it is subject, or any judgment,

order, writ, injunction or decree issued against or imposed upon it, or will result in any violation of applicable law, order, rule or regulation of any governmental authority.

(J) CLOSING CONTINGENCIES

The obligations of the parties to close the transactions contemplated hereby shall be subject to the following contingencies:

1. Contingencies to Seller's Obligation To Close.

The Seller shall be under no obligation to close this transaction unless the following conditions shall have been satisfied, or waived by Seller, in writing, at or prior to the time of closing:

- a. Purchaser shall have tendered the purchase price immediately available funds, as of the date and time of closing.
- b. All of Purchaser's representations and warranties shall remain true and correct as of the date and time of closing
- c. Purchaser shall have performed its/their other obligations under this agreement

2. Contingencies to Purchaser's Obligations To Close

Purchaser shall be under no obligation to close this transaction, unless the following conditions shall have been satisfied or waived by Purchaser, in writing, at or prior to the time of closing:

- a. The purchase has been properly approved at a meeting of the Hardin County Board of Education.
- b. The purchase has been properly approved in writing by the Kentucky Department of Education.
- c. Seller shall have complied with its obligations under the terms of this agreement and shall have tendered a general warranty deed for the property, free and clear of all liens and encumbrances.
- d. All of Seller's representations and warranties shall remain true and correct as of the date of closing.
- e. There shall exist no condemnation or other proceedings, or other litigation or administrative proceedings of any nature with respect to the premises as of the date of closing, nor shall any such proceedings be threatened.

- f. There shall not exist any materially adverse change in the state of title to the property or in the physical condition of the premises from the state of title and the physical condition that exist on the date of this agreement.

(K) RISK OF LOSS; INSURABLE INTEREST

Until the time of recording of the deed, risk of loss with respect to the premises shall continue to be borne by Seller, but Purchaser shall have an insurable interest in the premises.

(L) CONDEMNATION; OTHER PROCEEDINGS

In the event of any condemnation or similar proceedings being instituted during the term of this agreement, Purchaser shall have the option (1) to elect to close under this agreement, to pay the purchase price for the premises, and to receive the condemnation proceeds, or (2) to elect to terminate this agreement, recover the deposit, and have no further obligation to Seller hereunder.

(M) PURCHASER'S(S') ACCESS TO THE PROPERTY PRIOR TO CLOSING

Purchaser may, prior to the closing, through its employees, representatives, or agents, make such further inspection of the property which the Purchaser deems necessary or desirable. Purchaser shall indemnify and hold harmless Seller from and against any personal injury or property damage resulting from such work being performed by or for Purchaser. Purchaser further agrees to restore the Property to the same condition it was in prior to the conducting of any such tests, inspections or investigations in the event that this Agreement is terminated for any reason.

(N) MISCELLANEOUS PROVISIONS

1. This agreement, together with any exhibits and schedules hereto, which are deemed to be incorporated by reference as if fully set forth at length herein, constitutes the entire written understanding of the parties and supercedes all oral and written understandings of the parties, all of which are deemed to be merged herein. This agreement may not be modified or amended except in writing, signed by each of the parties hereto, or their permitted successors or assigns.

2. This agreement may not be assigned by Purchaser without the prior written consent of Seller, which consent shall not be unreasonable withheld. This agreement shall be binding upon and shall insure to the benefit of all successors and permitted assigns for the parties hereto.

3. This agreement and the obligations of the parties hereunder shall be governed in all respects by the laws of the Commonwealth of Kentucky.

(O) FURTHER DOCUMENTATION

The parties believe that they have identified all documentation necessary in order to consummate the transactions contemplated by this agreement. In the event, however, that other and further documents, consistent with the terms of this agreement, are necessary in order to consummate the transactions contemplated hereby, each of the Seller and Purchaser commit to use its best efforts to provide such documentation as soon as practicable, with the intention that the transactions contemplated hereby shall be completed on or prior to the closing.

(P) DEFAULT AND REMEDIES

In the event of any material default hereunder, the parties shall have the following remedies:

1. In the event of a default by Purchaser, Seller shall have the right to retain the deposit and declare this Agreement terminated. This remedy shall be the sole and exclusive remedy of Seller and is in lieu of other remedy at law or equity.

2. In the event of a default by the Seller, Purchaser shall have the right to pursue specific performance.

(Q) EFFECTIVENESS OF AGREEMENT

This agreement shall be effective as of the date of the last of the parties to execute this Agreement.


This agreement shall be governed by and construed in accordance of the laws of the Commonwealth of Kentucky.

IN WITNESS WHEREOF, the parties hereto have executed this agreement this _____ day of _____, 2021.

SELLER:

**Elizabethtown-Hardin County Industrial
Foundation, Inc.,**

BY:

 Chair

PURCHASER:

Hardin County Board of Education

BY: _____

STATE OF KENTUCKY
COUNTY OF Hardin

The foregoing Agreement for Purchase of Commercial Property was this 9th day of September, 2021, subscribed and sworn to before me by J. Gregory Pawley of Elizabethtown-Hardin County Industrial Foundation, Inc., a Kentucky non-profit corporation.

Jennifer L. Vazey
Notary Public, Kentucky State at Large
My commission expires: 9-27-2022
Notary ID: 606859

STATE OF KENTUCKY
COUNTY OF _____

The foregoing Agreement for Purchase of Commercial Property was this ____ day of _____, 2018, subscribed and sworn to before me by _____, _____ of Hardin County Board of Education, a political subdivision of the Commonwealth of Kentucky.

Notary Public, Kentucky State at Large
My commission expires: _____
Notary ID: _____

Prepared by:

R. Terry Bennett, Esq., David T. Wilson, II, Esq.,
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