

Kenton County School District | It's about ALL kids.

## Issue Paper

**DATE:**

September 28th, 2022

**AGENDA ITEM (ACTION ITEM):**

Consider/Approve Please consider approving the agreement between Summit View Academy and the Florence Mall for their holiday program on Friday, December 16<sup>th</sup>, 2022.

**APPLICABLE BOARD POLICY:**

01.1 Legal Status of the Board

**HISTORY/BACKGROUND:**

The 6th Grade Choir at Summit View Academy are seeking approval to perform at the Florence Mall for their holiday programs. This is open to all performing groups in the Northern Kentucky area and is a great opportunity to the students to gain experience with performing for an audience and will provide a performance for people in the community.

**FISCAL/BUDGETARY IMPACT:**

All funding will be provided by families and our Choir School account.

**RECOMMENDATION:**

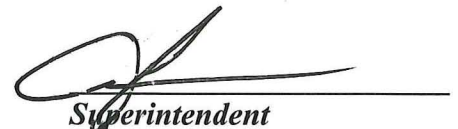
Approval to Please consider approving the agreement between Summit View Academy and the Florence Mall for their holiday program on Friday, December 16th, 2022

**CONTACT PERSON:**

Samantha Bicknell, Choir Director at Summit View Academy

  
Principal Administrator

  
District Administrator

  
Superintendent

Use this form to submit your request to the Superintendent for items to be added to the Board Meeting Agenda.

Principal –complete, print, sign and send to your Director. Director –if approved, sign and put in the Superintendent's mailbox.

### EVENT AGREEMENT

This Event Agreement ("Agreement") made as of \_\_\_\_\_ day of \_\_\_\_\_ 202\_\_ by and between **Florence Mall Realty LLC** ("Owner") and **Kenton County School District** dba "**Summit View Academy**" ("Organizer").

#### WITNESSETH:

**WHEREAS**, Owner is the owner of a certain shopping center commonly known as Florence Mall, located at 2028 Florence Mall, City of Florence, State of Kentucky (the "**Shopping Center**");

**WHEREAS**, Organizer desires to conduct an event within a portion of the Shopping Center located at **Lower Level Center Court** containing approximately **1,000** square feet of floor area (the "Premises"), as more fully described on Exhibit "A" attached hereto and made a part hereof and Owner is willing to allow Organizer to use the Premises subject to the terms and conditions set forth herein;

**NOW, THEREFORE**, in consideration of the mutual covenants and obligations contained herein, the receipt and sufficiency of which is hereby acknowledged, Owner grants to Organizer the revocable right to temporarily occupy and use the Premises, and Agreement accepts the same, on the following terms and conditions:

1. **Term.** The term of this Agreement ("**Term**") shall commence on **December 16, 2022** ("**Commencement Date**") and continuing through **December 16, 2022** ("**Expiration Date**"), unless sooner terminated by Owner pursuant to this Agreement.
2. **Event Fee.** Organizer agrees to pay to Owner, without further demand or notice, an Event Fee (the "**Event Fee**") in the amount of **\$ZERO**, payable simultaneously upon execution of the Agreement, at the office of Owner or such other place as Owner may designate. Organizer acknowledges and agrees that the amounts set forth herein as Event Fees does not include any applicable sales tax which shall be the responsibility of Organizer.
3. **Late Fee.** If Organizer shall fail to make any payment to Owner when due under this Agreement, Organizer shall pay Owner a late charge of \$100.00 per day, as liquidated damages, in addition to and not in lieu of Owner's other remedies, for as long as the failure continues.
4. **Right to Terminate.** At any time during or prior to the Term, Owner may in its sole discretion and without cause or reason, terminate this Agreement upon one (1) day prior notice to Organizer, at which time this Agreement shall cease and terminate, and Organizer shall vacate the Premises on or before the termination date set forth in the termination notice. In the event Owner exercises its termination right as set forth above, Organizer shall fulfill all covenants and shall remain liable for all obligations under this Agreement applicable to the period prior to and including the early termination date.
5. **Relocation.** At any time during the Term, Owner shall have the right to relocate Organizer within the Shopping Center upon one (1) days prior notice to Organizer.
6. **Use of Premises.** Organizer's use of the Premises shall be limited to **the performance of holiday music by school students** ("**Permitted Use**") and for no other purpose whatsoever. Organizer shall not carry on any other business or use in the Premises without the prior written consent of Owner. Organizer shall procure any and all licenses, permits, and approvals from all relevant jurisdictions governing the Permitted Use. Organizer assumes full responsibility for the conduct of all persons in attendance and for any damage to any part of the Premises and Shopping Center.
7. **Transferability of interest by Organizer.** Organizer shall not be permitted to sublet, assign, or transfer its rights or interests, under this Agreement, without the prior written consent of the Owner, which consent may be withheld in Owner's sole discretion.
8. **Transferability of interest by Owner.** Owner shall be permitted to assign its right, title and interest under the Agreement at any time without any express consent being required by Organizer. In the event of assignment, Owner will provide notice to Organizer that the Agreement has been assigned.
9. **Delivery of Premises.** Owner delivers and Organizer accepts the Premises in an "AS-IS" condition, without representation or warranty by Owner of any kind with respect to the condition of the Premises or its fitness for any particular purpose. Owner shall not be responsible for the performance of any work to the Premises in connection with this Agreement. All costs and expenses (including permits or Agreements) attributable to any construction by Organizer shall be borne by Organizer.
10. **Repairs and Maintenance.** Organizer shall keep the Premises and any fixtures, facilities, signs or equipment contained therein, in good condition and repair, and shall return the Premises to Landlord, at Organizers sole cost and expense, in as good a condition as it was upon delivery to Tenant.
11. **Alterations or Improvements by Organizer.** Organizer shall not, without Owner's prior written consent, make, or permit to be made, any alterations, additions or improvements to the Premises, which consent Owner may withhold in its sole discretion.
12. **Utilities.** If applicable, Organizer shall be solely responsible for, and shall promptly pay as and when same become due and payable, all utility charges in connection with the Premises. In no event shall Owner be liable for the quality, quantity, failure, or interruption any utility and rubbish disposal services to the Premises. If Owner is providing utilities to the Premises Organizer shall pay its share of the utilities provided by Owner, in an amount equal to **\$ZERO** per month due upon the first day of each month.
13. **Rules and Regulations of Operations.** Owner reserves the right to establish rules and regulations of operation ("**Operating Rules**"). Organizer shall observe all Operating Rules which Owner may modify from time to time. Organizer shall not cause any nuisance or to become a blighting

influence and a hazard to the health and safety of patrons, neighbors and the public.

14. **Display and Signs.** Organizer shall install no sign without Owner's prior written approval, which approval may be withheld in Owner's sole discretion. Organizer shall submit to Owner for Owner's approval Organizer's plans and specifications for Organizer's signage. Organizer shall remove all signage at the expiration or earlier termination of this Agreement at its sole cost and expense.
15. **Insurance.** Organizer, at Organizer's expense, agrees to maintain in force, with a company or companies acceptable to Landlord, during the Term:  
(a) Commercial General Liability Insurance on a primary basis and without any right of contribution from any insurance carried by Landlord covering the Premises on an occurrence basis against all claims for personal injury, bodily injury, death and property damage, including contractual liability covering the indemnification provisions in this Lease. Such insurance shall be for such limits that are reasonably required by Landlord from time to time but not less than One Million and 00/100 Dollars (\$1,000,000.00) on account of bodily injuries to or death or property damage for each occurrence and Two Million Dollars (\$2,000,000.00) annual general aggregate; (b) Workers Compensation and Employers Liability Insurance to the extent required by and in accordance with the Laws of the state in which the Premises is located; (c) All Risks property insurance in an amount adequate to cover the full replacement cost of the Premises being used, equipment, installations, fixtures and contents of the Premises in the event of loss; and (d) such other insurance or coverages as Landlord reasonably requires. All the policies for the foregoing insurance shall name Owner, the Namdar Realty Group LLC, and such other parties as Owner may designate, as additional insured. Prior to the commencement of the Term, and at such times as the policies are to expire, Organizer shall furnish Owner with certificates of insurance evidencing that such insurance is in effect or has been renewed, as the case may be. Organizer hereby waives all subrogation rights of its insurance carriers in favor of Owner, its partners, officers, employees, and agents, and shall obtain from its insurer a waiver of subrogation in favor of Owner and such other parties as Owner designates as additional insured with respect to all such insurance. The foregoing shall bear endorsements to the effect that the insurer agrees to notify all additional insureds not less than thirty (30) days in advance of any modification or cancellation thereof.
16. **Indemnification.** Organizer shall indemnify and hold Owner, its managing agents, their respective agents, partners, officers, directors and employees harmless from and against any and all claims, actions, damages, liability and expenses including reasonable attorneys' fees, in connection with loss of life, personal injury or damage (a) arising from any act or omission of Organizer, its employees, agents, representatives, sub-Organizers, contractors, invitees, permittees, or detainees (b) the use, maintenance, occupation or operation of the Premises during the Term or (c) occurring in, or relating to any activity occurring at or on the Premises. Notwithstanding the foregoing, Organizer shall not be required to indemnify Owner for any damage or injury of any kind arising solely as the result of the gross negligence or willful misconduct of Owner or its agents or employees. ORGANIZER EXPRESSLY UNDERSTANDS AND AGREES THAT OWNER SHALL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, CONSEQUENTIAL OR EXEMPLARY DAMAGES ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, GOODWILL, LOSS OF DATA, LOSS OF AIR TIME, OR OTHER INTANGIBLE LOSSES (EVEN IF OWNER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES). THE AGGREGATE LIABILITY OF OWNER FOR ANY REASON AND UPON ANY CAUSE OF ACTION (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE, STRICT LIABILITY AND OTHER ACTIONS IN CONTRACT OR TORT) ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT SHALL BE LIMITED TO DIRECT DAMAGES ACTUALLY INCURRED UP TO, BUT NOT TO EXCEED, THE AMOUNT ACTUALLY PAID BY ORGANIZER TO OWNER UNDER THIS AGREEMENT.
17. **Surrender of Premises.** Upon the expiration of the Term or earlier termination, Organizer shall surrender the Premises to Owner in the same or better condition as the Premises were in upon delivery to Organizer, reasonable wear and tear excepted, and in a neat, clean and orderly condition and in good repair. Organizer shall remove any and all merchandise and other personal property of Organizer from the Premises at the expiration of the Term. If Organizer does not remove its property as herein provided, such property shall be deemed abandoned by Organizer and Owner may dispose of same as it sees fit. If Organizer remains in possession of the Premises after the expiration or earlier termination of this Agreement, Organizer shall be bound by the terms and provisions of this Agreement except that no tenancy or interest in the Premises shall result, but such holding over shall be an unlawful detainer and all such parties shall be subject to immediate eviction, and Organizer shall (with no additional notice required by Owner) pay to Owner, as liquidated damages, a sum equal to 200% of the Event Fee for any period during which Organizer shall hold the Premises after the stipulated Term of this Agreement shall expire or may have terminated.
18. **Miscellaneous.**
  - (a) This Agreement constitutes the entire understanding between the parties as to the subject matter hereof.
  - (b) This Agreement shall not be modified except in writing signed by both parties, except to the extent that Organizer agrees to further comply with and be bound by such Operating Rules as may be established from time-to-time by Owner, all of which, whether now existing or promulgated in the future, shall become a part of and be enforceable in accordance with the terms of this Agreement as if incorporated herein by reference. To the extent that any provisions of this Agreement shall be deemed unenforceable, the remaining provisions of the Agreement shall remain intact and fully enforceable, with such offending provision deemed stricken, to the extent reasonable under the circumstances.
  - (c) The captions set forth at the beginning of each numbered paragraph of this agreement are for informational purposes only and have no meaning separately and apart from the actual provisions of the agreement. Any failure on the part of Owner to enforce the provisions of this Agreement in any specific instance shall not be deemed a waiver of Owner's right to enforce them at any later time or with regard to any subsequent instance. Each signatory of this Agreement represents that he or she has the authority to execute and deliver the same on behalf of the party hereto for which such signatory is acting.
  - (d) This Agreement shall be governed by, construed, and enforced in accordance with the laws of the state in which the Shopping Center is located.
  - (e) This Agreement may be executed in counterparts, with the same effect as if executed singularly, and by facsimile or portable document

format (PDF), each of which shall be deemed an original and all of which constitute one and the same.

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the day and year first above written.

**OWNER:**

**Florence Mall Realty LLC, Florence CH LLC, Florence Nassim LLC**

**BY: Florence Mall Realty LLC**

**Title: Authorized Agent**

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

Name: Ken Hibbard

Title: General Manager

**ORGANIZER:**

**KENTON COUNTY SCHOOL DISTRICT**

**DBA "Summit View Academy"**

**WITNESS:**

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

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

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

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

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

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



KENTCOU-02

TNORTON

## CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

9/27/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER AssuredPartners-Bellevue/Maysville 179 Fairfield Avenue Bellevue, KY 41073	CONTACT NAME: Karen McIntosh	
	PHONE (A/C, No, Ext): (859) 581-2088	FAX (A/C, No): (859) 581-1008
INSURED  Kenton County Board of Education 1055 Eaton Drive Fort Wright, KY 41017	E-MAIL ADDRESS: certificate@crawfordins.com	
	INSURER(S) AFFORDING COVERAGE	
	INSURER A : American Family Home Insurance Co	NAIC # 23450
	INSURER B : Kentucky Employers Mutual Insurance	10320
	INSURER C :	
	INSURER D :	
	INSURER E :	
	INSURER F :	

## COVERAGES

## CERTIFICATE NUMBER:

## REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY						
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR	X	X	7NA5CP0000512-01	7/1/2022	7/1/2023	EACH OCCURRENCE \$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000
							MED EXP (Any one person) \$ 15,000
							PERSONAL & ADV INJURY \$ 1,000,000
							GENERAL AGGREGATE \$ 3,000,000
							PRODUCTS - COMP/OP AGG \$ 3,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						
	<input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC						
	OTHER:						
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY						
	<input checked="" type="checkbox"/> ANY AUTO			7NA5CA0000441-01	7/1/2022	7/1/2023	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000
	<input type="checkbox"/> OWNED AUTOS ONLY						BODILY INJURY (Per person) \$
	<input type="checkbox"/> HIRED AUTOS ONLY						BODILY INJURY (Per accident) \$
	<input type="checkbox"/> SCHEDULED AUTOS						PROPERTY DAMAGE (Per accident) \$
	<input type="checkbox"/> NON-OWNED AUTOS ONLY						
A	<input checked="" type="checkbox"/> UMBRELLA LIAB						
	<input checked="" type="checkbox"/> EXCESS LIAB			7NA5FF0000456-01	7/1/2022	7/1/2023	EACH OCCURRENCE \$ 10,000,000
	<input type="checkbox"/> CLAIMS-MADE						AGGREGATE \$ 10,000,000
	DED <input checked="" type="checkbox"/> RETENTION \$ 10,000						
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	Y/N	N/A	392979	7/1/2022	7/1/2023	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER \$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. EACH ACCIDENT \$ 1,000,000
							E.L. DISEASE - EA EMPLOYEE \$ 1,000,000
							E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A	Leased/Rented Equip.			7NA5CP0000512-01	7/1/2022	7/1/2023	Limit 50,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

RE: Kenton County Schools Holiday Singing at Florence Mall

Florence Mall Realty LLC, Florence CH LLC and Florence Nassum LLC are named as Additional Insured with regard to General Liability on a Primary & Non Contributory basis. Waiver of Subrogation applies in favor of the Additional Insured with regard to General Liability. 30 Day Notice of Cancellation, 10 Days for Non Payment of Premium applies.

## CERTIFICATE HOLDER

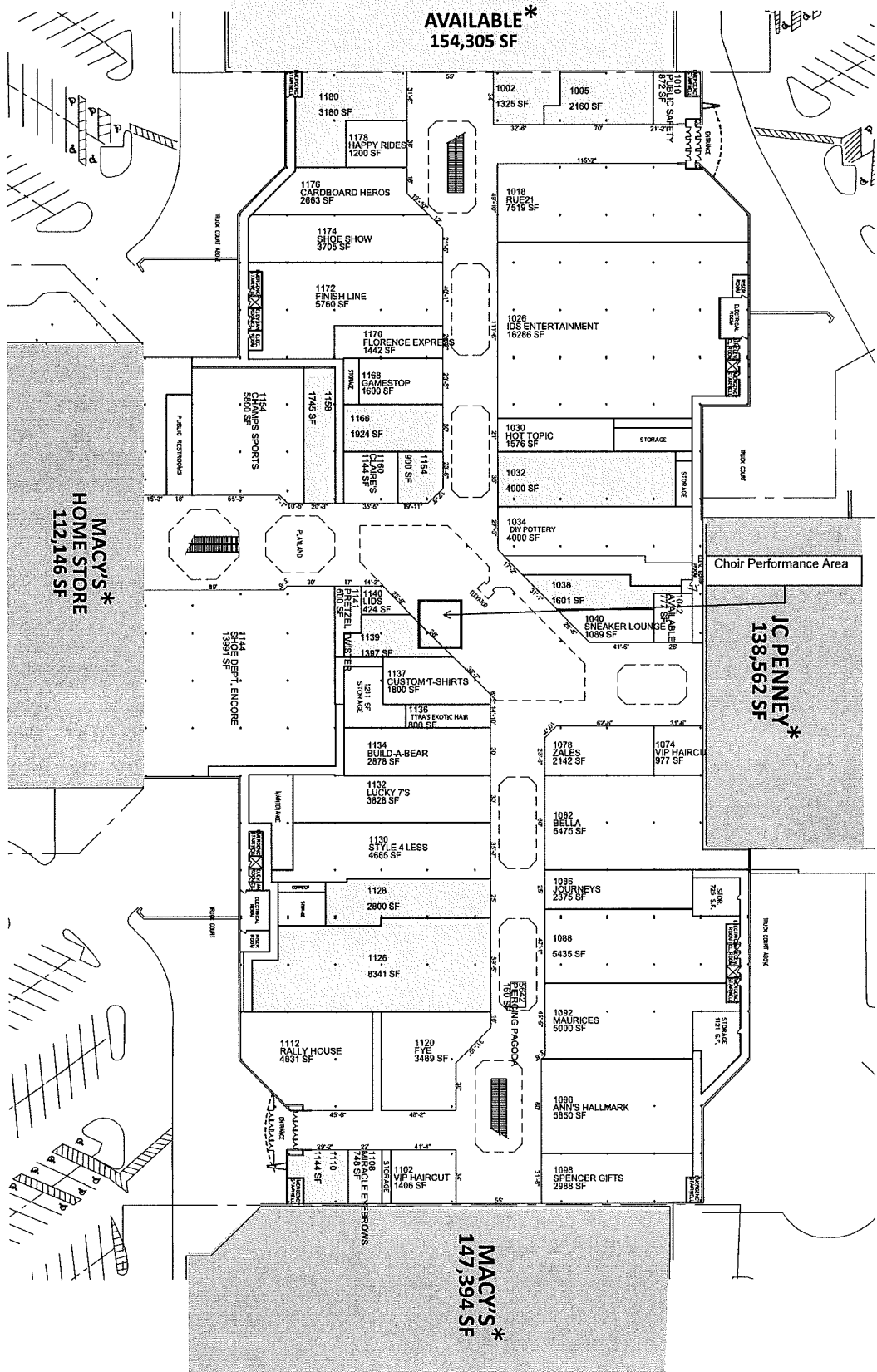
## CANCELLATION

Florence Mall  
2028 Florence Mall  
Florence, KY 41042

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

\*NOT OWNED



PLAN AS OF  
JUNE 2022

LEASE PLAN  
LP1

2028 FLORENCE MALL

# FLORENCE MALL FLORENCE, KY



ASSIST. MANAGER



LEASING BY:

NAMBAR

