

PURCHASE AGREEMENT

THIS AGREEMENT, made by and between MASTERSON PROPERTIES, LLC, a Kentucky limited liability corporation, 2123 Shelton Road, Lexington, Kentucky 40515 (hereinafter called "Seller"), and LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT, an Urban County Government pursuant to KRS 67A, 200 East Main Street, Lexington, Kentucky 40507 (hereinafter called "Buyer").

RECITALS:

A. Seller owns fee simple title to certain real property located in Lexington, Fayette County, Kentucky, being commonly known and designated as Lots 80-83 and 90-93 in the proposed Greendale Hills Development, located in Fayette County, and being more particularly described in Exhibit A attached hereto (the "Property").

B. Seller desires to sell and Buyer desires to buy the Property at the price and on the terms and conditions set forth.

AGREEMENTS:

NOW, THEREFORE, in consideration of the Recitals, the mutual covenants hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are mutually acknowledged, it is agreed by and between the parties as follows:

1. SALE AND CONVEYANCE. Subject to the terms and conditions of this Agreement, Seller agrees to sell and Buyer agrees to buy the Property, including all hereditaments and appurtenances pertaining to such tracts, and all improvements

located thereon including without limitation all of Seller's right, title and interest in and to adjacent rights of ingress and egress and rights-of-way.

2. PURCHASE PRICE. The total purchase price of the Property is *Two Hundred Eighty Thousand dollars (\$280,000.00)* in immediately available funds.

3. PAYMENT OF PURCHASE PRICE. The Purchase Price shall be paid at the time of Closing as described below. Provided, however, that Buyer shall pay \$5,000.00 of the purchase price in cash, as an indication of its good faith, at the time it returns the executed Agreement to Seller. Should Seller breach any term of this Agreement, or should Buyer's obligation to purchase the Property be for any reason unenforceable under the terms of this Agreement, Seller shall immediately return the \$5,000.00 so paid to Buyer.

4. REPRESENTATION AND WARRANTIES OF SELLER. In order to induce Buyer to enter into this Agreement, Seller represents and warrants to and with Buyer that as of the date of this Agreement and as of the date of closing:

(a) This Agreement, the Deed(s), and all other documents referred to herein are the legal, valid and binding obligations of Seller, and enforceable against Seller in accordance with their respective terms;

(b) That the information and documents to be furnished to Buyer pursuant to Sections 5 and 11 hereof will be true, correct, accurate and complete;

(c) There is no pending or threatened litigation, condemnation or similar proceeding affecting the Property or any part thereof, nor, as far as Seller is

aware, is any such proceeding or assessment contemplated by any governmental authority or any other party which would affect the Property;

(d) There are no violations of any ordinance, regulation, law, or statute of any governmental unit or agency pertaining to or affecting the Property, or any part thereof, which would materially affect Buyer's plans to use the Property for a fire station;

(e) Seller is fully authorized to sell the Property and has good and marketable fee simple title thereto and, other than the Permitted Exceptions and liens and encumbrances of a definite or ascertainable amount which can be satisfied from the net proceeds of the Purchase Price and released at closing, there are no existing liens, encumbrances, agreements, encroachments, overlaps, special assessments, claims, leases, tenancies, or other adverse interests or defects upon or affecting the Property;

(f) There are no undisclosed problems of which the Seller has actual knowledge, which could in any material way adversely affect the Property;

(g) Subject to Section 5 herein, there are no lease, management, service, labor, supply or maintenance agreements with respect to or affecting the Property;

(h) There are no unpaid charges, costs or expenses for improvements in, on, or upon the Property which might form the basis for a claim for or affixation of any type of mechanic, materialmen, laborer, artisan's, or other statutory lien;

(i) Subject to Section 5 herein, there are no parties in possession of any portion of the Property as lessees, tenants at sufferance, or licensees other than the Buyer;

(j) The Property will have full and free access to and from public streets or roads, and there is no pending or threatened governmental or other proceeding that would impair or result in the termination of such access;

(k) All taxes and fees against the Property which are due and payable will be paid in full prior to closing and proof of payment will be provided to Buyer at closing;

(l) Seller certifies that to the best of Seller's knowledge: (i) there are no hazardous substances (as herein defined) on the Property, (ii) there are no spills, releases, discharges, or disposals of hazardous substances that have occurred or are presently occurring on or onto the Property, and (iii) there are no spills, releases, discharges, or disposals of hazardous substances that have occurred or are presently occurring off the Property as a result of any construction on or operation and use of the Property.

In connection with construction on or operation and use of the Property, the undersigned represents that as of the date of this Agreement, Seller has complied with all applicable local, state, and federal environmental laws, regulations, ordinances, and administrative and judicial orders relating to the generation, recycling, reuse, sale, storage, handling, transport, or disposal of any hazardous substances.

For a period of one (1) calendar year after Closing, the undersigned agrees to

indemnify and hold Buyer harmless from and against any and all claims, demands, damages, losses, liens, liabilities, response calls, clean-up costs, penalties, fines, lawsuits, and other proceedings, costs, and expenses (including without limitation, reasonable attorneys' fees) arising directly or indirectly from, out of, or in any way connected with (i) the presence of any hazardous substance in, on, or about the Property; or (ii) any violation or alleged violation of any local, state, or federal environmental law, regulation, ordinance, or administrative or judicial order relating to hazardous substances on the Property, whether attributable to events occurring before or after the acquisition of the Property by the undersigned, provided the indemnity sought is related to the item not disclosed.

As used in this Agreement, "hazardous substances" shall mean: any substance or material defined or designated as hazardous or toxic waste, hazardous or toxic material, a hazardous or toxic substance or other similar term, by any federal, state, or local environmental statute, regulation, order, or ordinance presently in effect, including without limitation, asbestos in friable form and petroleum products.

Seller shall permit Buyer and/or such agents or experts as Buyer shall designate full access to the Property during reasonable business hours, for purposes of such independent investigation as Buyer shall desire to conduct. At Buyer's sole option, such investigation may include such testing of the soil, ground water, building components, containers, and equipment on the Property as Buyer or Buyer's agent or experts may deem necessary to determine or confirm the condition of the Property. If the Buyer is not satisfied that the Property is environmentally acceptable, then the Buyer may

terminate this Agreement and shall have no obligation to purchase the Property. In the event that, for any reason, the Closing on the Property is not held, Buyer shall restore the Property to its condition prior to the testing described in this paragraph.

If any of the foregoing warranties and representations contained in subsections (a) through (l) of this Section 4 become untrue prior to or at the Closing hereof, Seller shall immediately notify Buyer, and if the condition or matter making such warranty or representation untrue is not obviated or cured by Seller prior to or at Closing to Buyer's satisfaction, Buyer shall have the right and option to cancel and terminate this Agreement whereupon both parties shall be relieved of any further obligations hereunder, or the Buyer shall have the right to cure the condition, if possible, and to deduct all costs and expenses from the Purchase Price. Seller agrees to indemnify and hold Buyer free and harmless from and against any losses, damages, costs, or expenses (including reasonable attorney's fees) incurred by Buyer as a direct or indirect result of (i) any breach of any representation or warranty of Seller contained in this Section 4 or (ii) any breach or default by Seller under any of Seller's covenants or agreements under this Agreement for a period of one (1) year after Closing.

5. COVENANTS OF SELLER.

(a) Seller shall deliver to Buyer no later than seven (7) days prior to Closing:

(i) true and correct copies of all contracts, agreements, commitments, guaranties, undertakings, arrangements, and title insurance policies that Seller or its agents have entered into in connection with the Property; and

(ii) written payoff statements from the holders of, or any other parties secured by, any loan agreements, mortgages, security agreements, trust indentures, regulatory agreements, assignments of rents or leases, which payoff statements shall provide the amount of the total payoff necessary to release the Property from the liens or restrictions thereof and agreeing upon receipt of such payoff amount from the proceeds of the Purchase Price to deliver, at Closing, the releases in recordable form, duly authorized and executed by and enforceable against such holders, or other parties, releasing the Property from the liens or restrictions of such instruments.

(b) Buyer, its agents, employees, and contractors may, between the execution of this Agreement and the Closing, venture upon the Property to inspect the Property, including without limitation, to make borings, percolation, and other soil or environmental tests to determine the physical characteristics and condition of the Property.

(c) Between the date of the execution of this Agreement and the Closing, Seller shall not enter into any contract or agreement pertaining to the Property without the prior written consent of Buyer, which consent may be withheld in Buyer's sole discretion.

6. CONDITIONS PRECEDENT TO BUYER'S PERFORMANCE. Buyer shall not be required to close the transaction provided for hereunder unless and until each and every one of the following conditions have been fulfilled (which may be waived in whole or in part by Buyer):

(a) Seller has timely performed all of Seller's obligations under this Agreement;

(b) As of the time of Closing, Seller's representations and warranties contained herein are true and correct;

(c) Buyer has received a commitment for an ALTA Form B Owner's Title Insurance Policy with extended coverage in the amount of the purchase price for the Property showing Seller to be the owner of the Property in fee simple, subject only to the Permitted Exceptions;

(d) Buyer obtaining a certified survey, if it so chooses, bearing a legal description, made by a licensed surveyor, showing the area, dimensions, and locations of the Property to the nearest monuments, streets, topography, the location of all available utilities in adjoining streets or property, the location of all improvements and encroachments, the location of all recorded easements against or appurtenant to the Property and not disclosing any condition rendering the Property unusable, in Buyer's reasonable opinion, for the purposes for which Buyer intends to purchase the property;

(e) Buyer obtaining boring, percolation and other soil tests determining the physical characteristics of the sub-strata of the Property and showing that the Property is satisfactory, in Buyer's reasonable judgment, for the purposes for which Buyer intends to purchase the property;

(f) Seller has delivered to Buyer all of the information and documentation required by this Agreement and Seller has satisfied and complied with all of its covenants and agreements contained herein.

(g) **Final approval of the Agreement is given by the Lexington-Fayette Urban County Council.**

7. REPRESENTATIONS AND WARRANTIES OF BUYER.

(a) Buyer represents and warrants to Seller as follows:

(i) Buyer is an urban county government duly organized and validly existing and in good standing under the laws of the Commonwealth of Kentucky and is authorized to act pursuant to Chapter 67A of the Kentucky Revised Statutes as an Urban County Government.

(ii) Buyer is authorized under the laws of the Commonwealth of Kentucky to enter into this Agreement and the transaction contemplated hereby and to perform all of the obligations hereunder; and

(b) The continued validity in all respects of the aforesaid representations and warranties shall be a condition precedent to Seller's obligation to close. If any of said representations and warranties shall not be correct at the time same is made or as of the Closing, upon written notice from Seller to Buyer on or prior to Closing, this Agreement shall become null and void.

(c) Buyer agrees to accept full responsibility for the construction of any and all sidewalks that it may desire, or may be required by law, to be built on the Property. Buyer also agrees to accept full responsibility for purchasing and installing any and all landscaping, including street trees, that it may desire, or may be required by law, to be placed on the property.

8. CONDITIONS PRECEDENT TO SELLER'S PERFORMANCE. Seller shall not be required to close the transaction provided for hereunder unless and until the following conditions have been fulfilled (which may be waived, in whole or in part by Seller):

(a) Buyer shall have timely performed all of Buyer's obligations under this Agreement; and

(b) All of the representations and warranties of Buyer contained herein are true and correct.

9. TITLE INSURANCE. Buyer shall order at its cost a Commitment for Title Insurance ("Commitment") on the Property for ALTA Form B Owner's Policy, or a comparable form, from a title insurance company, in the amount of the Purchase Price, covering the date hereof. Upon final execution of this Agreement, Seller shall deliver to buyer any prior title evidence, such as a current abstract or title policy, it may have to expedite further examination of title. If the commitment of title documents disclose any defects in title, other than the Permitted Exceptions and liens or encumbrances of a definite or ascertainable amount which can be satisfied from the net proceeds of the Purchase Price and released at Closing, Seller shall have thirty (30) days from the date of Buyer's notice of such defect to make a good faith effort to cure such defects and to furnish a later report showing the defects cured and removed. If such defects cannot be cured within thirty (30) days, Buyer may terminate this Agreement or may, at its election, take the title as it then is with the right to deduct from the Purchase Price liens or encumbrances of a definite or ascertainable amount upon giving to Seller notice of

such election and tendering performance on its part. Any exceptions to title to which Buyer does not object shall be deemed to be "Permitted Exceptions."

10. CLOSING. The Closing of this transaction (the "Closing") shall take place within two hundred forty (240) days of execution of this Agreement by both parties at such time and place to which the parties may agree (the "Closing Date"). The parties agree that time is of the essence.

11. DOCUMENTS TO BE DELIVERED BY SELLER AT CLOSING. At the Closing of this transaction, Seller shall deliver to buyer the following items, which items shall be in form and substance satisfactory to Buyer:

(a) Seller shall deliver to Buyer duly executed and acknowledged general warranty deeds, in recordable form with good, marketable, fee simple title to the Property, such as any title insurance company will insure at regular rates on an ALTA Owner's Policy Form B, with extended coverage subject only to the lien for current real estate taxes, not delinquent, and easements and restrictions of record, approved by Buyer in writing.

(b) Seller's affidavit that all of the representations and warranties of Seller contained in Section 4 hereof are true and correct as of the date of closing;

(c) All such further conveyances, assignments, confirmations, satisfactions, releases, powers of attorney, instruments of further assurance, approvals, consents, and any and all such further instruments and documents as may be reasonably necessary, expedient, or proper in the opinion of Buyer's counsel in order to complete any and all conveyances, transfers, and sales herein provided or as may be

required by the title company as a condition for the issuance of the title insurance policy provided for herein.

12. ITEMS TO BE DELIVERED BY BUYER AT CLOSING. At the Closing, Buyer shall deliver to Seller the following:

- (a) The payment provided for in Section 3 herein;
- (b) Such other documents and instruments as may be required by any other provision of this Agreement or as may reasonably be required to carry out the terms and intent of this Agreement.

13. PRORATIONS. Rents, if any, and ad valorem taxes for the then current tax year shall be prorated to the Closing Date effective as of the Closing Date.

14. POSSESSION. Seller shall deliver exclusive possession of the Property to Buyer at the Closing.

15. INDEMNIFICATION.

- (a) Seller shall indemnify and hold Buyer harmless from and against any losses, damages, costs, or expenses (including reasonable attorneys' fees) resulting from injuries to persons or property which are claimed to be the result of the use, occupancy, or maintenance of the Property during any period prior to Closing. Seller's and Buyer's obligations under this Section 15 shall survive the closing of this transaction.

- (b) Buyer shall indemnify and hold Seller harmless from and against any losses, damages, costs, or expenses (including reasonable attorneys' fees) resulting from injuries to persons or property which are claimed to be the result of the use,

occupancy, or maintenance of the Property from and after Closing. Seller's and Buyer's obligations under this Section 15 shall survive the Closing of this transaction. In no event shall Buyer's indemnification act as a waiver of any defense, immunity, or damage limitation Buyer may otherwise have available as to third parties, including without limitation Sovereign Immunity.

16. DEFAULT. If either party defaults hereunder, the other party shall be entitled to pursue any available legal remedy, including without limitation, specific performance. The exercise of one or more rights or remedies by a party shall not impair that party's right to exercise any other right or remedy provided for in this Agreement or at law or in equity.

17. BROKERAGE COMMISSION. Each party represents to the other that no broker has been involved in this transaction or has been the procuring cause thereof, and that it knows of no agent or broker entitled to, and each agrees with the other that neither is or will become liable for, the payment of a brokerage fee or commission or other compensation in connection with this transaction. Each party agrees to indemnify and hold harmless the other party against any and all claims, demands, causes of action, judgments, and liabilities which may be asserted or recovered for fees, commissions or other compensation claimed to be due to any broker, finder, or intermediary with whom the indemnitor may have dealt in connection with this transaction, including costs and reasonable attorney's fees incident thereto.

18. EXPENSES. All expenses and conveyances taxes and/or documentary stamps, special real estate taxes, and assessments shall be paid by Seller subject to any

applicable proration required herein. The cost of recording the documents called for in this Agreement shall be paid by Buyer.

19. EXCULPATORY PROVISION.

(a) Except as otherwise expressly provided in this Agreement, the sale of the Property hereunder is and will be made on an "**AS IS, WHERE IS**" basis and Seller has not made, does not make, and specifically negates and disclaims any representations, warranties, or guaranties of any kind or character whatsoever, whether express or implied, oral or written, past, present, or future of, as to, concerning, or with respect to the Property or any other matter whatsoever, except as contained herein.

(b) Buyer is a sophisticated Buyer who is familiar with the ownership and operation of real estate projects similar to the Property and Buyer has or will have adequate opportunity to complete all physical and financial examinations relating to the acquisition of the Property hereunder it deems necessary, and will acquire the same solely on the basis of such examinations and the title insurance protection afforded by the Owner's Policy and not on any information provided or to be provided by Seller, except with respect to Seller's specific limited representations, warranties and indemnities herein contained.

20. MISCELLANEOUS PROVISIONS.

(a) Assignment. Buyer may assign Buyer's rights in this Agreement with Seller's prior written consent which shall not be unreasonably withheld by Seller.

(b) Notices. All notices allowed or required to be given hereunder must be in writing dispatched by United States certified mail, return receipt required, to

parties and their attorney at the addresses shown at the end of the Agreement. Either party hereto may change the address to which any such notice is to be addressed by giving notice in writing to the other party of such change. Any time limitation provided for in this Agreement shall commence with the date that the party actually receives such written notice, and the date of postmark of any return receipt indicating the date of delivery of such notice to the addressee shall be conclusive evidence of such receipt.

(c) Entire Agreement. This Agreement constitutes the entire agreement between Seller and Buyer, and there are no other covenants, agreements, promises, terms, provisions, conditions, undertakings, or understandings, either oral or written, between them concerning the Property other than those herein set forth.

(d) Modification. No subsequent alteration, amendment, change, deletion, or addition to this Agreement shall be binding upon Seller or Buyer unless in writing and signed by both Seller and Buyer.

(e) Headings. The headings, captions, numbering system, etc., are inserted only as a matter of convenience and may under no circumstances be considered in interpreting the provisions of the Agreement.

(f) Binding Effect. All of the provisions of this Agreement are hereby made binding upon the personal representatives, heirs, successors, and assigns of both parties hereto.

(g) Time. Time is of the essence of this Agreement, but any defaulting party is entitled to ten (10) days after receipt of written notice of the default to cure before the other party may terminate or exercise other remedies under this Agreement,

except as may otherwise be set out herein. In the computation of any period of time provided for in this Agreement or by law, any date falling on a Saturday, Sunday, or legal holiday shall be deemed to refer to the next day which is not a Saturday, Sunday or legal holiday.

(h) Unenforceable or Inapplicable Provisions. If any provision hereof is for any reason unenforceable or inapplicable, the other provisions hereof will remain in full force and effect in the same manner as if such unenforceable or inapplicable provision had never been contained herein.

(i) Counterparts. This Agreement may be executed in any number of counterparts, each of which will for all purposes be deemed to be an original, and all of which are identical.

(j) Governing Law. This Agreement shall be construed under and in accordance with the laws of the Commonwealth of Kentucky.

(k) Survival Clause. Except as otherwise specifically provided herein, the representations, warranties and covenants contained herein shall not merge in the deed or any other document and shall survive the Closing.

(l) Definition of Closing. The word "Closing" or words of similar import as used in this Agreement, shall be construed to mean the originally fixed time and Closing Date specified herein or any adjourned time and date agreed to in writing by the parties.

