

HISTORIC PRESERVATION AND CONSERVATION EASEMENT

THIS HISTORIC PRESERVATION AND CONSERVATION EASEMENT (hereinafter "**Easement**") is made and entered into as of _____, 20____, by and between Kentucky Transportation Cabinet, Highway Department, Commonwealth of Kentucky, whose mailing address is 200 Mero Street, Frankfort, Kentucky 40622, (hereinafter "**Grantor**") and **THE COMMONWEALTH OF KENTUCKY**, for the use and benefit of the **KENTUCKY HERITAGE COUNCIL**, a political subdivision of the Commonwealth of Kentucky created by Kentucky Revised Statutes § 171.3801 and §171.381, with its principal office and mailing address at 300 Washington Street, Frankfort, Kentucky 40601 (hereinafter "**Grantee**").

RECITALS:

The parties hereto recite and agree as follows, which recitations and agreements constitute a part of this Easement.

Qualified Real Property Interest

A. Grantor owns in fee simple certain real property (hereinafter "**Real Property**") historically known as the Grocer's Ice and Cold Storage Company containing approximately 0.773 acres, more or less, as described on **Exhibit A**, attached hereto and incorporated herein by this reference, and improvements thereon (hereinafter "**Improvements**") in Jefferson County, Kentucky, and more particularly described below:

Beginning at a set mag nail on the north right-of-way line of East Main Street at the intersection of the east right-of-way line of Interstate 65 said point being 172.05 feet right of the northbound centerline of Interstate 65 Station 10+23.83; thence leaving East Main Street with said east right-of-way line of Interstate 65 North 24°46'07" East, 211.80 feet to a set mag nail being 197.62 feet right of the northbound centerline of Interstate 65 Station 12+34.08 on the south right-of-way line of East Washington Street; thence leaving said east line of interstate 65 with said south right-of-way line of East Washington Street South 81°12'27" East, 136.27 feet to a set mag nail; thence leaving said south line of East Washington Street South 08°48'08" West, 203.65 feet to a set mag nail on said north right-of-way line of East Main Street; thence with the north line of East Main Street North 81°11'48" West, 194.53 feet to the point of beginning and containing 0.773 Acres or 33,682 Sq. Ft.

Being a portion of the land conveyed to the Commonwealth of Kentucky, for the use and benefit of the Transportation Cabinet, Department of Highways by deed dated March 9, 2010 of record in Deed Book 9532, Page 371 in the Office of the Clerk of Jefferson County, Kentucky.

B. The grant of this Easement is a restriction (granted in perpetuity) on the use which may be made of the property.

C. The Real Property contains several types of existing resources (architectural,

historic, and cultural features and historic character and qualities) that the Grantee has identified and evaluated with regard to the extent, condition or relative importance to the site, community, region, state and nation. Within this overall inventory of resources and conditions, several resources have been further evaluated and classified as having historic architectural, or cultural significance and have been deemed of primary importance for the preservation and conservation through restrictions identified in this Easement. The architectural, historic and cultural features and historic character and qualities (hereinafter collectively referred to as "**Historic Preservation and Conservation Values**") are addressed in the recitals that follow and the physical extent and characterization of these resources are depicted in the Baseline Documentation Report, hereinafter defined. The plat attached hereto as **Exhibit B** shows the locations of certain elements of the Real Property's significant features, and is incorporated herein by this reference.

Donee Information: Qualified Organizations

D. The Commonwealth of Kentucky, pursuant to Kentucky Revised Statutes §382.800 through §382.860 (hereinafter "Act"), effective July 15, 1988, has authorized the use of conservation easements "the purpose of which include retaining or protecting natural, scenic, or open-space values of real property, assuring its availability for agricultural, forest, recreational or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological, or cultural aspects of real property."

E. Pursuant to Kentucky Revised Statutes §171.381(1), Grantee "shall be dedicated to the preservation and protection of all meaningful vestiges of Kentucky's heritage for succeeding generations, and in pursuit of this dedication it shall engage in and concern itself with worthy projects and other matters related to the conservation and continuing recognition of buildings, structures, sites, and other landmarks associated with the archaeological, cultural, economic, military, natural, political, or social aspects of Kentucky's history."

F. In furtherance of the dedication referenced in Kentucky Revised Statutes §171.381(1), recited above, Grantee is authorized to "acquire real property, by gift or devise or by purchase pursuant to the provisions of KRS 45A.045, and hold the same in the name of the Commonwealth for the use and benefit of the council," and such real property interests include conservation easements, such as this Easement, as required to preserve the historical, architectural, archaeological or cultural aspects of real property in Kentucky, under the provisions of the Act.

G. Grantee is a holder as defined by KRS 382.800(2)(a) and authorized by Kentucky Revised Statutes § 171.381 to accept historic preservation and conservation easements.

Historic Preservation and Cultural Landscape Values

H. The building is a contributing element to the Butchertown Historic District listed in the National Register of Historic Places (hereinafter "**National Register**") on August 11, 1976, and significant as an element of the Butchertown commercial development and a turn-of-the-century ice manufacturing and cold storage commercial structure.

I. The building, circa 1900-1924, is a two to three story brick structure with a distinctive facade of two-tone yellow brick and terracotta that combines elements of the Industrial Art Deco/Moderne style geometric patterns on the façade and Neoclassical details of keystone lintels and quoins (hereinafter "Building"). A fire in 1991 resulted in the loss of the top two floors of the structure and there have been many additions to the main block.

J. The Real Property and Building, together with all other features and Improvements, are hereinafter collectively referred to as the "Property."

General Information about the Grant

K. Grantor and Grantee recognize the Historic Preservation and Conservation Values and significance of the Property, and they have the common purpose of conserving and preserving those values and significance of the Property.

L. The grant of a Historic Preservation and Conservation Easement by Grantor to Grantee will assure that the architectural, historic, and cultural features and the historic character and qualities of the Property will be preserved and conserved and will assist in preserving and maintaining the significance of the Property for the benefit of Jefferson County, the Commonwealth of Kentucky and the United States of America.

M. Grantor and Grantee intend that the Historic Preservation and Conservation Values of the Property be preserved and maintained by this Easement, in perpetuity, by permitting only those land uses on the Property that do not significantly impair or interfere with the Historic Preservation and Conservation Values, including, without limitation, those land uses which exist at the time of this Easement.

N. Grantor further intends as owner of the Property, to convey to Grantee the right to preserve and protect the Historic Preservation and Conservation Values of the Property in perpetuity, intending the grant of such right to qualify as the conveyance of a conservation easement as defined by KRS 382.800(1) to a holder as defined under KRS 382.800(2)(a).

O. To that end, the Grantor desires to grant to Grantee, and Grantee desires to accept, a historic preservation and conservation easement on the Property, in perpetuity, pursuant to the Act and the terms of this Easement.

NOW THEREFORE, in consideration of the above recitals and the mutual covenants, terms, conditions, and restrictions contained herein, and pursuant to the laws of the Commonwealth of Kentucky, in particular the Act, and other good and valuable consideration, the receipt of which is hereby acknowledged, the Grantor does hereby grant and convey unto the Grantee, its respective successors and permitted assigns, a perpetual historic preservation and conservation easement in gross in, on and over the Property, the exterior surfaces of the Building located thereon, and a limited number of interior architectural elements of the Building, more fully described herein..

This Easement, to be of the nature and character hereinafter further expressed, shall constitute a binding servitude upon the Property, and to that end Grantor covenants on behalf of

itself, its heirs, personal representatives, successors and assigns, with Grantee, its respective successors and permitted assigns, that such covenants are deemed to run as a binding servitude, in perpetuity, with the land, to impose upon the Property each of the following covenants, restrictions and stipulations, which contribute to the public purpose in that they aid significantly in the preservation and conservation of the architectural, historic and cultural features and the historic character and qualities of the Property:

1. Description of Facades and Baseline Documentation. In order to make more certain the full extent of Grantor's obligations and the restrictions on the Property and to document the external nature of the Property, certain internal features of the Building, and the Historic Preservation and Conservation Values of the Property as of the date hereof and the other characteristics of the Property, its current use and state of improvement, Grantee has prepared a "**Baseline Documentation Report**" (hereinafter "**Baseline Report**"). The Baseline Report shall be in the possession of the Grantee, and a copy has been provided to the Grantor as of the date hereof. The Baseline Report includes narrative descriptions, report, maps, photographs, and other documentation, including the Qualified Appraisal (as defined in **Paragraph 26**), that the parties agree provide collectively, an accurate representation of the Property at the time of this Easement and which is intended to serve as an objective, though nonexclusive, information baseline for monitoring compliance with the terms of the historic preservation and conservation easement reserved hereby. By execution of this Easement, the parties confirm and acknowledge that the Baseline Report has been read and all elements thereof reviewed, and each party hereto has signed an acknowledgement form attached to this Easement. The set of photographs, together with written descriptions, in the Baseline Report depict the exterior surfaces of the Building and certain interior architectural elements of the Building and the surrounding features of the Property.

It is stipulated by and among the Grantor and Grantee that the Building as shown on the Baseline Report is deemed to be the external nature of the Building and an accurate representation certain interior architectural elements of the Building as of the date hereof. The external nature of the Building as shown in the Report is hereinafter referred to as the "**Facades.**" The Baseline Report, with the exception of the photographs and the Qualified Appraisal, is attached hereto as **Exhibit C** and incorporated herein by this reference. Grantor and Grantee have each received a set of photographs, and a log of the labeled photographs included in the portion of the Baseline Report has been included in **Exhibit C**. In the event of any disparity in the photographic counterparts held by Grantor and Grantee, the counterpart held by Grantee shall control. Grantor and Grantee hereby agree that the Baseline Report may be supplemented from time-to-time to reflect approve alterations and changes at the Property, and at the time of such supplement, the parties will sign an acknowledgement of the supplemented Baseline Report's accuracy and applicability to this Easement.

2. Purposes. The purpose of this Easement is to assure that the Property will be retained substantially in its present historic, architectural, and cultural condition and to prevent any use of the Property that will significantly impair or interfere with the Property's Historic Preservation and Conservation Values. Grantor intends that this Easement will confine the use of the Property to such activities, including, without limitation, those involving the use and maintenance of the Building, as are not inconsistent with the purpose of this Easement.

3. Rights of Grantee.

(a) To accomplish the purposes of this Easement, the following rights are granted to Grantee by this Easement:

(i) To preserve and protect the Historic Preservation and Conservation Values of the Property;

(ii) To enter upon the Property at reasonable times in order to monitor compliance with and otherwise enforce the terms of this Easement in accordance with **Paragraph 9** provided that, except in cases where Grantee determines that immediate entry is required to prevent, terminate, or mitigate a violation of this Easement, such entry shall be upon prior reasonable notice to Grantor, and Grantee shall not in any case unreasonably interfere with Grantor's use and quiet enjoyment of the Property;

(iii) To prevent any activity on or use of the Property that is inconsistent with the purpose of this Easement and to require the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use pursuant to the remedies set forth in **Paragraph 9**; and

(iv) To make photographs, drawings, or other representations documenting the significant historical, cultural, and architectural character and features of the Property and distribute them to magazines, newsletters, or other publicly available publications, or use them to fulfill its charitable and educational purposes.

(b) Inspection. Grantor hereby agrees that representatives of Grantee shall be permitted at all reasonable times to inspect the Property, including the Facades and Building. Grantor agrees that representatives of Grantee shall be permitted to enter and inspect the interior of the Building to assess maintenance of structural soundness and safety and any specific restrictions set forth in **Paragraph 5**. Inspection of the interior shall not, in the absence of evidence of deterioration or casualty, take place more often than annually. Inspection of the interior will be made at a time mutually agreed upon by Grantor and Grantee, and Grantor covenants not to withhold unreasonably its consent in determining a date and time for such inspection.

4. Definitions. In addition to those capitalized terms defined elsewhere within this instrument, as used herein, the following capitalized terms shall have the following meanings:

(a) "**Additions**" shall mean blocks of the Building constructed after 1924 and affixed to the Main Block as more particularly shown and designated on **Exhibit B** as "Addition." Any structure constructed on top of the Main Block does not constitute an Addition for purposes of this Easement.

(b) "**Building**" shall mean the commercial ice and refrigerated storage structure historically known as the Grocer's Ice and Cold Storage Company" located on the Property as more particularly shown and designated on **Exhibit B** as the "Building." The Additions and the Main Block are collectively referred to as the Building.

(c) "Condominium" means an apartment house, office building, or other multiple-unit complex, the units of which are individually owned, each owner receiving a recordable deed to the individual unit purchased, and sharing in joint ownership of any common elements.

(d) "Facades" shall mean the external nature of the Building as shown in the Baseline Report.

(e) "Improvements" shall mean those buildings, structures, and other improvements located on the Real Property, including but not limited to the Building and any new structures, the construction of which is permitted under the terms of this Easement.

(f) "Main Block" shall mean the portion of the Building constructed circa 1900-1924 which can be identified on the South elevation facing East Main Street by six (6) distinct brick sections and one (1) recessed brick section immediately to the East of the six sections located on the Property as more particularly shown and designated on Exhibit B as the "Main Block."

(g) "Unit" means an enclosed space as measured from interior unfinished surfaces consisting of one or more rooms occupying all or part of a floor in a building of one or more floors or stories regardless of whether it be designed for residence, for office, for the operation of any industry or business, for any other type of independent use or any combination of the above uses, provided it has a direct exit to a thoroughfare or to a given common space leading to a thoroughfare.

5. Restrictions, Prohibited Uses, and Reserved Rights. As of the recording of this Easement, the Property is subject to a right-of-way retained by the Commonwealth of Kentucky, for the use and benefit of the Kentucky Transportation Cabinet, filed of record in Deed Book 9532, Page 371, in the Office of the Clerk of Jefferson County, Kentucky (hereinafter "Right-of-Way"). Grantor and Grantee acknowledge that the Right-of-Way is a burden upon the Property and that Grantee takes this Easement subject to this encumbrance.

Subject to the rights, restrictions, warranties, obligations, and encumbrances of any nature set forth in Right-of-Way, any activity on or use of the Property inconsistent with the purpose of this Easement is prohibited. Without limiting the generality of the foregoing, the following provisions govern the activities on the Property to the extent indicated. Those activities that require the approval of Grantee or that involve new construction and Improvements are subject to the notice and approval provisions of Paragraph 8 below.

(a) **Preservation of the Building.**

(i) Grantor shall not apply to have the Property or any portion thereof removed or "de-listed" from the National Register.

(ii) Grantor shall not demolish, remove, deface, or raze the Main Block of the Building or its Facades except as provided in Paragraph 5(i) below.

(iii) The Additions may or may not contribute to the Property's period of historic significance as established in the National Register nominations of the Butchertown

Historic District referenced in Recital Paragraph H. Notwithstanding any changes or deficiencies in their historic integrity, except as provided in Paragraph 5(i), Grantor shall not demolish, remove, deface, or raze any Addition or any interior wall shared by the Main Block and any Addition without the prior express written permission of Grantee in accordance with the provisions of **Paragraph 8**, signed by a duly authorized representative thereof. Grantor and Grantee agree that the demolition of any Addition or an interior wall shared with the Main Block is not a matter to be undertaken without careful consideration.

(iv) Without the prior express written permission of Grantee in accordance with the provisions of **Paragraph 8**, signed by a duly authorized representative thereof, Grantor shall not undertake any of the following actions:

- (1) increase or decrease the height of the Facades or Building;
- (2) adversely affect the structural soundness and safety of the Facades or Building;
- (3) make any changes, additions, improvements, alterations to, or cause removal, construction, or remodeling of, or effect other physical or structural changes in construction materials to, the Facades (including fenestration) and roofs of the Building (this shall not preclude ordinary maintenance pursuant to **Paragraph 5(a)(vi)** below or as otherwise provided in this Easement);
- (4) permit any significant reconstruction, repair, repainting or refinishing of the Facades of the Building that alters their state from the existing condition (this shall not preclude ordinary maintenance pursuant to **Paragraph 5(a)(vi)** below or as otherwise provided in this Easement); or
- (5) erect, construct, or move anything on the Property (except only temporarily) which would encroach on the view of the Building from East Main Street or East Washington Street and interfere with a view of the Facades or be incompatible with the history or architectural character of the Building or Facades.

(iv) Without the prior express written permission of Grantee in accordance with the provisions of **Paragraph 8**, signed by a duly authorized representative thereof, Grantor shall not alter, reconstruct, or change in any manner the floor plan of the Building or remove, demolish, alter, or change in any manner the following interior elements of the Building:

- (1) three (3) interior refrigerator doors;
- (2) balusters, railings, newels, location, rise, orientation, or configuration of the staircase to the second floor office area;
- (3) decorative or ornamental woodwork, including baseboards, door surrounds in the second floor office area;
- (4) wood flooring which may be covered over by other materials but can be placed into use;
- (5) built in safe in the office area; and
- (6) a clearstory in the center of the Building.

(vi) Grantor agrees at all times to maintain the Facades and the structural soundness and safety of the Building so as to prevent deterioration of the Facades. As used in this **Paragraph 5(a)(vi)**, the right to maintain and repair shall mean the use by Grantor of in-kind materials and colors, applied with workmanship comparable to that which was used in the construction or application of those materials being repaired or maintained, for the purpose of retaining in good condition the appearance and construction of the Building. The right to maintain and repair as used in this subparagraph shall not include the right to make changes in appearance, materials, colors, and workmanship from that existing prior to the maintenance and repair without the prior approval of Grantee in accordance with the provision of **Paragraphs 5 and 8**.

Subject to the casualty provisions of **Paragraph 5(i)**, the obligation to maintain the Building shall also require replacement, rebuilding, repair, rehabilitation and reconstruction whenever necessary to have the external nature of the Building at all times appear to be and actually be the same as the Facades and in accordance with the Secretary of the Interior's Standards for Treatment of Historic Properties with Guidelines for Rehabilitating Historic Building (36 CFR §67), as the same may be amended from time to time (hereinafter the "**Secretary's Standards**"). In the event the Secretary's Standards are abandoned, Grantee may apply reasonable alternative standards agreed to in writing by Grantor, provided, however, that any alternative standards shall be subject to any requirements imposed by the National Park Service in connection with historic preservation and conservation easements and/or properties listed on the National Register.

(b) **Overall Maintenance.** Grantor's obligation to maintain shall also require that the entire Property's landscaping be maintained in good appearance in its current state and use of sound landscaping management whenever necessary and appropriate. The existing lawn areas shall be maintained as lawns, regularly mown. The existing open areas shall be maintained as open areas, regularly mown to prevent the growth of woody vegetation where none currently exist.

(c) **Land Use.**

(i) **Subdivision.** The Property is composed of one lot as described on **Exhibit A** attached hereto. Except as provided in **Paragraph 5(c)(iii)**, the legal or de facto division, subdivision or partitioning of the Property into more than one parcel is prohibited and except as provided in **Paragraph 5(c)(iii)**, any transfer of the fee interest in the Property shall be of the entire Property as a single parcel of approximately 0.773 acres, more or less.

(ii) **Development Rights.** Except as set forth in this Easement, to the extent that Grantor owns or is entitled to development rights which may exist now or at sometime hereafter by reason of the fact that under any applicable zoning or similar ordinance the Property may be developed to uses more intensive (in terms of height, bulk, or other objective criteria regulated by such ordinances) than the Property is devoted as of the date hereof, such development rights shall not be exercisable on, above, or below the Property following the date of this Easement, nor shall they be transferred to any parcel and exercised in a manner that would interfere with the historic preservation and conservation purposes of the Easement.

(iii) **Commercial/Industrial/Residential Use.** Without the prior express written permission of Grantee in accordance with the provisions of **Paragraph 8**, Grantor shall not engage in any uses of the Property other than an ice and refrigerated storage facility. Grantee shall determine that those acts and uses: (i) are permitted by governmental statute or regulation and in conformance with the Jefferson County zoning ordinance; (ii) do not substantially impair the Historic Preservation and Conservation Values of the Property; and (iii) are not inconsistent with the purpose of this Easement.

With the prior express written permission of Grantee in accordance with the provisions of **Paragraph 8**, signed by a duly authorized representative thereof, Grantor may subdivide the Property into condominium units. Subdivision of the Property into condominium units, whether as set forth in Kentucky's Horizontal Property Law, Kentucky Revised Statutes §381.810 through §381.910 or otherwise, shall be subject to the following terms and conditions:

(1) The term "condominium" is defined in Paragraph 4(a);

(2) The term "unit" is defined in Paragraph 4(e);

(3) Notice of this Easement shall be recorded with any deed or lease of individual condominium units, master deeds, master leases, horizontal property regime, floor plans or subdivision plats, and each separate condominium unit shall be subject to the terms of this Easement;

(4) The general common elements and the limited common elements, as defined in Kentucky Revised Statutes §381.810(7) and §381.810(8), respectively, shall remain undivided and shall not be the object of an action for partition or division of the co-ownership; and

(5) Grantor may waive or abandon the right to subdivide the Property into condominium units at any time by providing written notice to Grantees and entering into an amendment of this Easement as provided for in **Paragraph 15**.

(d) **Construction.**

(i) **Prohibitions-General.** Except as specifically provided in **Paragraph 5(d)**, no other buildings or structures, including without limitation residential dwellings, recreational facilities, receiving dishes, camping accommodations, or mobile homes, shall be erected or placed on the Property.

(ii) **Permitted Construction Without Approval.** Without the prior consent of Grantee, the following structures are permitted on the Property:

(1) temporary structures required for the maintenance or rehabilitation of the Property, such as construction trailers; and

(2) tents or similar temporary structures erected for social, charitable, historical, educational or other similar purposes.

(iii) **Permitted Construction Requiring Approval.**

(1) Subject to the notice and the prior express written permission of Grantee in accordance with the provisions of **Paragraph 8**, signed by a duly authorized representative thereof, Grantor may install satellite receiving dishes, or substitute equipment consistent with then-current technology for the electronic or other transmission of information and images, that are no larger than twenty (20) inches in diameter placed inconspicuously and appropriately screened with natural vegetation. The number and location of such equipment are subject to approval by the Grantee.

(2) Subject to the notice and the prior express written permission of Grantee in accordance with the provisions of **Paragraph 8**, signed by a duly authorized representative thereof, Grantor may construct new additions to the Main Block (hereinafter "**New Addition**") provided, however, the New Addition may only be located in the footprint of the demolished Addition. Grantor and Grantee agree that the construction of any New Addition is not a matter to be undertaken without careful consideration. All plans for the demolition of any Addition and construction of any New Addition, as well as any proposed plan alterations, must be submitted to Grantee in accordance with **Paragraph 8**. Plans must including the proposed size, orientation on the site, massing, footprint, design, color, and materials to be used. Additionally, materials and design of any New Addition shall be reasonably consistent with the materials and design of the Main Block existing on the Property as of the date hereof. Design criteria shall be consistent with new construction guidelines as set forth in the Secretary's Standards to establish compatibility of design and color, consistent massing in relation to the Main Block, and differentiation therefrom for purposes of dating any New Addition.

(3) Upon completion of any new construction, installation or alteration contemplated under **Paragraph 5(d)**, Grantor shall notify Grantee so Grantee may supplement the Baseline Report. Upon completion of such supplement to the Baseline Report, Grantor and Grantee shall sign an acknowledgement of its accuracy and completeness in documenting the status of the Property. Grantor may relinquish its rights to construct the service towers at any time and such relinquishments may be recorded as an amendment to this Easement according to the provision of **Paragraph 15**.

(e) **Topography, Water, and Mineral Resources.**

(i) The mining or extraction from the Property of soil, sand, gravel, rock, oil, natural gas, fuel or any other mineral substance, using any method of surface or subsurface mining, is prohibited.

(ii) No material topographical changes, including but not limited to excavation or road construction, shall occur on the Property; provided, however, that Grantor may, (a) with the prior written approval from and in the sole discretion of Grantee, make such topographical changes as are consistent with and reasonably necessary to promote the Historic Preservation and Conservation purposes of this Easement, or (b) with the prior written approval from Grantee, make such changes as are reasonably necessary as part of construction permitted under **Paragraph 5(d)** hereof.

(iii) Any use or activity that causes or is likely to cause significant soil degradation or erosion or significant depletion or pollution of any surface or subsurface waters is prohibited.

(f) **Utilities.**

(i) Constructing, placing, or maintaining any building, transmission or receiving tower (including for cellular telecommunications) for public or private utilities or energy facility, or other temporary or permanent structure related thereto, above, or below the Property is prohibited.

(ii) No new above ground utility transmission lines may be created, placed, erected, or maintained on the Property except for utility easements already recorded as of the date hereof. Any new utilities reasonably necessary for the Building or New Construction permitted in **Paragraph 5(d)**, if any, shall be underground.

(g) **Signs.**

(i) No signs, billboards, or other advertisements shall be displayed or placed on the Property without the prior approval of Grantee; provided, however, Grantor may, without the prior express written approval of Grantee, (i) erect such signs as are appropriate to identify the historic nature of the Property; (ii) erect or display a sign stating solely the address, occupants, or name of the Property; (iii) display temporary signs to advertise the Property for sale or rent, and (iv) advertise an activity permitted by this Easement or to post the Property against trespassers provided that the placement, number and design of such signs shall not significantly diminish the scenic character of the Property.

(ii) Grantor may provide and maintain plaque(s) on the Facades of the Building, with the prior approval of Grantee, which plaque(s) shall not exceed 12 inches by 12 inches in size, giving the notice of the significance of the Building or the Property and the existence of this perpetual Easement.

(h) **Waste Disposal, Environmental Contamination, and Hazardous Materials.**

(i) The installation of underground storage tanks, or the placing, filling, storing, processing, dumping, or other disposal on the Property of refuse, trash, vehicle bodies or parts, rubbish, debris, junk, waste, or other such substance, whether or not generated on the Property is prohibited, however, this shall not prevent the temporary storage of fuel necessary for the operation of lawn maintenance equipment so long as it is done in accordance with all applicable governmental laws and regulations.

(ii) As permitted by law and in compliance with all applicable governmental regulation, Grantor retains the right to compost or store vegetative waste generated by permitted activities and uses on the Property and the right to store for removal at reasonable intervals normal and customary household waste generated on the Property by permitted actives and uses.

(i) **Casualty, Damage, and Reconstruction to the Property.**

(i) Casualty Damage or Destruction. In the event that the Property or any part thereof shall be damaged or destroyed by casualty, Grantor shall notify Grantee in writing within twenty-one (21) days of the damage or destruction, such notification shall include what, if any, emergency work has already been completed. For the purposes of this Easement, the term "casualty" is defined as such sudden damage or loss as would qualify for a loss deduction pursuant to Section 165(c)(3) of the Internal Revenue Code (construed without regard to the legal status, trade or business of Grantor or any applicable dollar limitation). No repairs or reconstruction of any type, other than temporary emergency work to prevent further damage to the Property and to protect public safety, shall be undertaken by Grantor without express written consent of the Grantee. Within ninety (90) days of the date of damage or destruction, Grantor shall submit to the Grantee a written report prepared by a qualified restoration architect, licensed engineer, certified arborist, or certified landscape architect, if required, acceptable to Grantor and Grantee, which shall include the following:

- (1) an assessment of the nature and extent of damage;
- (2) a determination of the feasibility of the restoration of the Property and/or reconstruction of damaged or destroyed portions of the Property; and
- (3) a report of such restoration/reconstruction work necessary to return the Property substantially to the condition existing immediately prior to the casualty.

If in the opinion of the Grantee, after reviewing such report, the purpose and intent of the Easement will be served by such restoration/reconstruction, Grantor shall within eighteen (18) months after the date of such damage or destruction complete the restoration/reconstruction of the Property in accordance with the plans and specifications approved by the Grantee, at a cost not to exceed the total amount of casualty insurance proceeds, including deductible.

(ii) Grantee's Remedies Following Casualty Damage. The foregoing notwithstanding, in the event of damage resulting from casualty, as defined in **Paragraph 5(i)(i)**, which is of such magnitude and extent to render repairs or reconstruction of the Property impossible using all applicable insurance proceeds, as determined by Grantee by reference to bona fide cost estimates, then the following shall apply:

- (1) Grantor may elect to reconstruct the Property using insurance proceeds, donations or other funds received or contributed by Grantor on account of such casualty; or
- (2) Grantee may elect to modify or amend this Easement to partially extinguish it pursuant to **Paragraph 14**, and the Grantee shall execute and deliver to Grantor acknowledged evidence of such fact suitable for recording in the Office of the Clerk of Jefferson County, Kentucky.

(iii) Review After Casualty Loss. If in the opinion of Grantor and Grantee, restoration/ reconstruction would not serve the purpose and intent of the Easement, then the Grantor shall continue to comply with the provisions of the Easement, but, with the prior written consent of Grantee, Grantor may alter, demolish, remove or raze such Property affected by the

casualty (in which event the provisions of **Paragraph 5(i)(ii)(2)** with respect to Grantee shall become applicable), and/or may construct a building on the Property in the same location as the demolished Property to serve the same purpose as the demolished Property; provided, however, the placement, elevation and square footage of any new structure shall be subject to prior written approval of Grantee.

(j) **Title, Liens, Mortgages, Leases.**

(i) **Mortgages.** This Easement is expressly made subject to all easements, restrictions, stipulations, and other matters of record as of the date this Easement is recorded; provided, however, that any mortgage of record on the Property as of the date hereof shall be subordinated to this Easement as provided for in **Paragraph 24** hereof.

(ii) **Leases.** Grantor retains the right to lease or grant other less-than-fee interest in all or a portion of the Property for any use permitted to the Grantor under this Easement, provided that such lease or other interest is consistent with and subject to the terms of this Easement.

(k) **General Restrictions**

(i) The Property shall be used only for purposes consistent with the historic preservation and conservation purposes of this Easement.

(ii) Any unanticipated activity or use or misuse of the Property which would impair its Historic Preservation and Conservation Values is prohibited. Whether an unanticipated activity would impair the Historic Preservation and Conservation Values shall be determined by Grantee in its sole discretion. If an unanticipated activity is necessary for the protection of the Historic Preservation and Conservation Values that are the subject of this Easement, as determined by Grantee in its sole discretion, such use or activity shall be subject to the prior approval of Grantee as provided in **Paragraph 8** below.

6. **Reserved Rights.** Grantor, its personal representatives, heirs, successors, and assigns, shall have all rights accruing from ownership of the Property, including the right to engage in, or permit or invite others to engage in, all uses of the Property that are not expressly prohibited or limited by government statute or regulation, not expressly prohibited by this Easement, and not inconsistent with the purpose of this Easement (hereinafter the "**Reserved Rights**"). Subject to the terms of **Paragraph 5**, the Grantor retains the right to perform any act not expressly prohibited or limited by this Easement. These ownership rights include, but are not limited to, the right to privacy, the right to exclude any member of the public from trespassing on the Property, and the right to sell, lease, devise or otherwise transfer the Property to anyone Grantor may choose.

7. **Standards for Review.** In exercising any authority created by the Easement to inspect the Property; to review any construction, alteration, repair or maintenance of the Property; or to review casualty damage or to reconstruct or approve reconstruction of the Property following casualty damage, Grantee shall apply the Secretary's Standards, which ever may be applicable, issued and as may be amended from time to time by the Secretary of the United States Department of the Interior.

8. Notice and Approval.

(a) The purpose of requiring Grantor to secure Grantee's approval or to notify Grantee prior to undertaking certain permitted activities, as provide in this **Paragraph 8**, is to afford the Grantee an adequate opportunity to review, approve, or deny requests and/or monitor the activities in question (as the case may be) to ensure that they are designed and carried out in a manner that is not inconsistent with the purpose of this Easement. Whenever the consent, approval or permission of Grantee is required hereunder, Grantor shall give written notice of any request to Grantee not less than sixty (60) days prior to the date Grantor intends to undertake the activity in question. For purposes of any activity requiring notice and approval of Grantee and also requiring Grantor's application to any governmental authority (other than the Grantee) for approval or permits, Grantor shall give written notice to Grantee not less than sixty (60) days prior to the date Grantor intends to file such application to the applicable governmental authority. Filing an application for governmental approval prior to obtaining Grantee's approval shall be deemed a material breach of this Easement. The notice to Grantee shall contain precise details of the action that Grantor proposes, including nature, scope, design, location, timetable, and any other material aspect of the proposed activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with the purpose of this Easement.

(b) Grantee's Approval or Withholding of Approval. Grantee shall respond to any such request within sixty (60) days from receipt of the request from Grantor. In the case of withholding of approval, Grantee shall notify Grantor in writing with reasonable specificity the reasons therefore, and the conditions, if any, on which approval might otherwise be given. Grantee reserves the right to notify Grantor in writing within the above-described sixty-day period of Grantee's need for reasonable additional time and reasonable additional information to review the subject request.

(c) Breach. Failure to secure such approval or give such notice as may be required under this **Paragraph 8** shall be a material breach of this Easement notwithstanding any other provision of this Easement and shall entitle Grantee to such rights and remedies as may be available under **Paragraph 9**.

(d) Expiration. Any approval issued by Grantee shall expire upon the date that is one year from the date such approval is granted or deemed to have been granted, unless otherwise extended in writing by the Grantee.

9. Grantee's Remedies. Grantee shall have the following legal remedies to correct any material violation of any covenant, stipulation or restriction herein, in addition to any remedies now or hereafter provided by law:

(a) Notice of Violation; Corrective Action. If Grantee determines that a material violation of the terms of this Easement has occurred or is threatened, Grantee shall give written notice to Grantor of such violation and demand corrective action sufficient to cure the violation, and where the violation involves injury to the Property resulting from any use or activity inconsistent with the purpose of this Easement, to restore the portion of the Property so injured to the condition that existed prior to the violation in accordance with the plan approved by Grantee.

(b) Injunctive Relief. If Grantor fails to cure the violation within thirty (30) days after receipt of notice thereof from Grantee, or under circumstances where the violation cannot reasonably be cured within a thirty (30) day period, fails to begin curing such violation within the sixty (60) day period, or fails to continue diligently to cure such violation until finally cured, Grantee may institute an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation, or threatened violation, *ex parte* as necessary, by temporary or permanent injunction, and to require the restoration of the Property to the condition that existed prior to any such injury or seek appropriate damages if restoration is not practical or possible. Grantee shall also have available all legal and other equitable remedies to enforce Grantor's obligations hereunder. In the event that Grantee seeks injunctive or other equitable relief, Grantee shall not be required to post bond.

(c) Damages. Grantee shall be entitled to recover damages for violation of the terms of this Easement or injury to any Historic Preservation and Conservation Values protected by this Easement, including, without limitation, damages for the loss of architectural, landscape, and cultural features and historic character and qualities. Without limiting Grantor's liability therefore, Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Property.

(d) Emergency Enforcement. If Grantee, in its reasonable discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the Historic Preservation and Conservation Values of the Property, Grantee may pursue its remedies under this **Paragraph 9** without prior notice to Grantor or without waiting for the period provided for cure to expire.

(e) Scope of Relief. Grantee's rights under this **Paragraph 9** shall apply equally in the event of either actual or threatened violations of the terms of this Easement. Grantor agrees that Grantee's remedies at law for any violation of the terms of this Easement are inadequate and that Grantee shall be entitled to the injunctive relief described in **Paragraph 9(b)**, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this **Paragraph 9** shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

(f) Costs of Enforcement. To the extent permitted by law, all reasonable costs incurred by Grantee in enforcing the terms of this Easement against Grantor, including, without limitation, costs and expenses of suit and reasonable attorneys' fees, and any costs of restoration necessitated by Grantor's violation of the terms of this Easement shall be borne by Grantor; provided, however, that if Grantor ultimately prevails in a judicial enforcement action each party shall bear its own costs.

(g) Forbearance. Forbearance by Grantee to exercise its rights under this Easement in the event of any breach of any term of this Easement by Grantor shall not be deemed or construed to be a waiver by the Grantee of such term or of any subsequent breach of the same or any other term of this Easement or of any of Grantee's rights under this Easement. No delay or

omission by the Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.

(h) Waiver of Certain Defenses. Grantor acknowledges that it has read this Easement, its terms and requirements, and Grantor, in full knowledge of its provisions, hereby waives any defense of laches, estoppel, or prescription with respect to any enforcement action instituted by the Grantee.

(i) Acts Beyond Grantor's Control. Nothing contained in this Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Property resulting from causes beyond Grantor's control, including, without limitation, fire, flood, storm, and earth movement, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes.

10. Evidence of Compliance/Estoppel Certificates. Upon written request by Grantor, Grantee shall within thirty (30) days execute and deliver to Grantor a written document setting forth, to the to the best of Grantee's knowledge, Grantor's compliance with any obligation of Grantor contained in this Easement or if Grantor is not in compliance with the Easement, stating the nature of such noncompliance and the steps necessary to correct such noncompliance, to the extent of Grantee's knowledge thereof. Such certification shall be limited to the condition of the Property as of Grantee's most recent inspection. If Grantor requests more current documentation, Grantee shall conduct an inspection, at Grantor's expense, within thirty (30) days of receipt of Grantor's written request therefore.

11. Insurance. Grantor shall keep the Property insured by an insurance company or companies licensed to transact business in Kentucky rated "A+" or better by A.M. Best's for the full replacement value against loss from the perils commonly insured under standard fire and extended coverage policies and comprehensive general liability insurance against claims for personal injury, death, and property damage of a type and in such amounts as would, in the opinion of Grantee, normally be carried on property such as the Property protected by a Historic Preservation and Conservation Easement. Property damage insurance shall be in form and amount sufficient to replace fully the damaged Property without cost or expense to Grantor or contribution or coinsurance from Grantor. Grantor shall deliver to Grantee, upon reasonable written request, certificate of such insurance coverage. Whenever the Property is encumbered with a mortgage or deed of trust, nothing contained in **Paragraph 11** shall affect the prior claim, if any, of the mortgagee to the insurance proceeds available from policies required hereunder.

12. Costs, Liabilities, Taxes, and Environmental Compliance.

(a) Costs, Legal Requirements, and Liabilities. Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Property, including the maintenance of adequate liability insurance coverage. Grantor remains solely responsible for obtaining any applicable governmental permits and approvals for any construction or other activity or use permitted by this Easement, and all such construction or other activity or use shall be undertaken in accordance with all applicable federal, state, and local laws, regulations, and requirements. Grantor shall keep the Property free

of any liens arising out of any work performed for, materials furnished to, or obligations incurred by Grantor.

(b) Taxes. Grantor shall pay before delinquency all taxes, assessments, fees, and charges of whatever description levied on or assessed against the Property by competent authority (collectively "taxes"), including any taxes imposed upon, or incurred as a result of, this Easement, and upon reasonable written request shall furnish Grantee with satisfactory evidence of payment upon request.

(c) Representations and Warranties. Excepting all rights, restrictions, warranties, obligations, conditions, and encumbrances of any nature set forth in Tunnel Right-of-Way and any actions, whether direct or indirect, omissions, or other occurrences occurring on or about the Property necessitated by or permitted under the Tunnel Right-of-Way, Grantor represents and warrants in all other respects, that after reasonable investigation and to the best of its knowledge:

(i) Grantor is owner of the Property in fee simple, and as such, Grantor has access to the Property and has good right to convey to Grantee this Easement and Grantee shall have the use of and enjoy all the benefit derived from and rising out of this Easement;

(ii) No substance defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment exists or has been released, generated, treated, stored, used, disposed of, deposited, abandoned, or transported in, on, from, or across the Property;

(iii) There are not now any underground storage tanks located on the Property, whether presently in service or closed, abandoned, or decommissioned, and no underground storage tanks have been removed from the Property in a manner not in compliance with applicable federal, state, and local laws, regulations, and requirements;

(iv) Grantor and the Property are in compliance with all federal, state, and local environmental laws, regulations, and requirements applicable to the Property and its use.

(v) There is no pending or threatened litigation in any way affecting, involving, or relating to the Property;

(vi) No civil or criminal proceedings or investigations have been instigated at any time or are now pending, and no notices, claims, demands, or orders have been received, arising out of any violation or alleged violation of, or failure to comply with, any federal, state, or local law, regulation, or requirement applicable to the Property or its use, nor do there exist any facts or circumstances that Grantor might reasonably expect to form the basis for any such proceedings, investigations, notices, claims, demands, or orders; and

(vii) There are no outstanding surface or subsurface mineral rights associated with the Property.

(d) Remediation. Excluding any events which may occur that are directly or indirectly related to the Right-of-Way, if at any time, there occurs, or has occurred, a release in,

on, or about the Property of any substance now or hereafter defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, Grantor agrees to take all steps necessary to assure its containment and remediation, including any cleanup that may be required, unless the release was caused by the Grantee, in which case the Grantee shall be responsible therefore.

(e) Control. Nothing in this Easement shall be construed as giving rise, in the absence of a judicial decree, to any right or ability in Grantee to exercise physical or managerial control over the day-to-day operations of the Property, or any of Grantor's activities on the Property, including the Right-of-Way, or otherwise to become an operator with respect to the Property within the meaning of The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA") and Kentucky Revised Statutes §224.01-010 et seq.

13. Indemnification. Grantor hereby releases and agrees to hold harmless, indemnify, and defend Grantee and its respective members, directors, officers, employees, agents, and contractors and its heirs, personal representatives, successors, and assigns (collectively "**Indemnified Parties**") to the extent permitted by law from and against any and all liabilities, penalties, fines, charges, costs, losses, damages, expenses, causes of action, claims, demands, orders, judgments, or administrative actions, including, without limitation, reasonable attorneys' fees, arising from or in any way connected with: (1) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Property, regardless of cause, unless due solely to the negligence of any of the Indemnified Parties; (2) the violation or alleged violation of, or other failure to comply with, any state, federal, or local law, regulation, or requirement, including, without limitation, CERCLA and Kentucky Revised Statutes §224.01-010 et seq., by any person, in any way affecting, involving, or relating to the Property; (3) the presence or release in, on, from, or about the Property, at any time, of any substance now or hereafter defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment unless caused by the negligence of one or more of the Indemnified Parties; and (4) the obligations, covenants, representations, and warranties of **Paragraphs 12(a) through 12(e)**.

Nothing contained in this **Paragraph 13** or any other section of this Easement shall be construed as a waiver of any sovereign immunity by Grantor and Grantee. As long as the Grantor remains Kentucky Transportation Cabinet, and the Grantee remains the Kentucky Heritage Council, no part of this agreement shall constitute, either directly or indirectly, a waiver of sovereign immunity granted to the Grantor and the Grantee, as agencies of the Commonwealth of Kentucky, under the Kentucky Constitution, Section 231, and the United States Constitution, Eleventh Amendment. Any claims for negligence against either the Grantor or Grantee, as agencies of the Commonwealth of Kentucky, shall be brought in accordance with KRS 44.070 *et. seq.*

14. Stipulated Value; Extinguishment and Condemnation.

(a) Stipulated Value of Grantee's Interest. Grantor acknowledges that upon execution and recording of the Easement, Grantee shall be immediately vested with a real property interest in the Property and Grantor and Grantee agree that such interest shall have a stipulated fair market value as determined in the Qualified Appraisal provided to Grantee pursuant to **Paragraph 26.**

(b) Change in Economic Conditions. The fact that any use of the Property that is expressly prohibited by the terms hereof may become more economically valuable than uses permitted by the terms hereof, or that neighboring properties may, in the future, be put entirely to uses that are not permitted by the terms of this Easement, has been considered by Grantor in granting this Easement. Grantor believes that any such changes in the use of neighboring properties will increase the benefit to the public of the continuation of this Easement, and Grantor and Grantee intend that any such changes shall not be deemed to be circumstances justifying the termination or extinguishment of this Easement pursuant to **Paragraph 14(c)** hereof. In addition, the inability of Grantor, its successor, or its assigns to conduct or implement any or all of the use permitted under the terms of this Easement or the unprofitability of doing so, shall not impair the validity of this Easement or be considered grounds for its termination or extinguishment pursuant to **Paragraph 14(c)** hereof.

(c) Extinguishment. Grantor and Grantee hereby recognize that an unexpected change in the condition of the Property may make impossible the continued ownership or use of the Property for Historic Preservation and Conservation purposes and necessitate the extinguishment of this Easement. If circumstances arise in the future that render the purpose of this Easement impossible to accomplish, extinguishment must comply with the following requirements:

(i) The extinguishment must be the result of a final judicial proceeding with a finding that this Easement has failed as to its essential purpose;

(ii) Grantee shall be entitled to share in the net proceeds resulting from the extinguishment in an amount equal to the percentage interest of the fair market value of the Grantee's interest in the Property created pursuant to this Easement, which percentage interest shall be determined by the ratio of the fair market value of the Easement on the date of this grant to the fair market value of the Property, without deduction for the fair market value of the Easement, on the date of this grant as determined in the Qualified Appraisal. The parties shall include the ratio of those values with the Baseline Report (by including therein a copy of the Qualified Appraisal) of the Property (on file at the Grantee's office). For the purposes of this **Paragraph 14(c)(ii)**, the ratio of the value of the Easement to the value of the Property unencumbered by the Easement shall remain constant, and the percentage interests of Grantor and Grantee in the fair market value of the Property thereby determinable shall remain constant.

(d) Condemnation. If all or any part of the Property is taken by exercise of the power of eminent domain or acquired by purchase in lieu of condemnation, whether by public, corporate, or other authority, so as to terminate this Easement, in whole or in part, Grantor and Grantee shall act jointly to recover the full value of their respective interests in the Property subject to the taking or in lieu purchase and all direct or incidental damages resulting therefrom. All expenses reasonably incurred by Grantor and Grantee in connection with the taking or in lieu

purchase shall be paid out of the respective amount recovered by each. Grantee's share of the balance of the amount recovered shall be determined by multiplying that balance by the ratio set forth in **Paragraph 14(c)(ii)**. Nothing contained herein shall preclude the parties from negotiating a transfer of less than fee interest in the Property in lieu of condemnation, if in the reasonable discretion of Grantor and Grantee, such negotiation shall be in the best interest of the parties and not jeopardize the Historic Preservation and Conservation Values sought to be protected under this Easement.

(e) Use of Proceeds. Grantee agrees to apply any proceeds received from or following the extinguishment of the Easement in a manner consistent with its preservation goals and statutory purposes, which are exemplified by this Easement, for the benefit of the people of the Commonwealth of Kentucky.

(f) Net Proceeds. Net proceeds shall include, without limitation, insurance proceeds, condemnation proceeds or awards, proceeds from a sale in lieu of condemnation, and proceeds from the sale or exchange by Grantor of any portion of the Property after extinguishment, but shall specifically exclude any preferential claim of a Mortgagee under **Paragraph 24**; provided, however, notwithstanding **Paragraph 24**, no mortgagee shall be entitled to receive any portion of the net proceeds to which Grantee is entitled pursuant to **Paragraph 14(c)(ii)** hereof.

(g) In the event of extinguishment, the Grantee's right to any portion of net proceeds shall survive extinguishment until paid and shall constitute a lien on the Property with the same effect and priority as a mechanic's lien, except that such lien shall not have priority over the lien of any mortgage or deed of trust given in connection with the Property and recorded prior to subject extinguishment.

15. Amendment.

(a) For purposes of furthering the historic preservation and conservation of the Property and furthering the purposes of this Easement, and to meet changing conditions, Grantor and Grantee may agree to amend jointly the terms of this Easement in writing without notice to any other party; provided however that no such amendment shall: (i) limit the perpetual duration of this Easement, (ii) interfere with the historic preservation and conservation purposes of this Easement, or (iii) adversely affect the qualification of this Easement or the status of Grantee under any applicable laws, including the laws of the Commonwealth of Kentucky, or (iv) permit any private inurement or private benefit to any person or entity, or (v) adversely affect the Property's Historic Preservation and Conservation Values protected by this Easement. Any such amendment shall be recorded in the Office of the Clerk of Jefferson County, Kentucky.

(b) Amendment to historic preservation and conservation easements is extraordinary. Any request by Grantor to amend this Easement shall be subject to the standards and restrictions as outlined in **Paragraph 15(a)** above. Grantor shall make such request for amendment in writing to Grantee, which notice shall contain precise details of the amendment that Grantor proposes. Grantee shall make reasonable efforts to respond in writing to any such request within thirty (30) days from receipt of the request from Grantor, which response may be to grant or deny approval of the request, or specify that Grantee is still reviewing the request. Grantor shall pay all reasonable attorneys' fees and expenses incurred by Grantee in connection with the

review, negotiations, and consummation of such request and/or the resulting amendment if any, including but not limited to recording fees and the cost of supplementing the Baseline Report.

16. Subsequent Transfers. Grantor agrees to incorporate the terms of this Easement by reference in any deed or other legal instrument by which Grantor divests itself of any interest in all or any part of the Property, including, without limitation, a leasehold interest. Grantor further agrees to give written notice to the Grantee of the transfer of any interest at least twenty (20) days prior to the date of such transfer. The failure of Grantor to perform any act required by this **Paragraph 16** shall not impair the validity of this Easement or limit its enforceability in any way.

17. Assignment. This Easement is transferable (by assignment or otherwise), but Grantee may transfer its rights and obligations under this Easement only to an organization that is a qualified organization at the time of transfer authorized to acquire and hold a historic preservation and conservation easements under Kentucky Revised Statutes §382.800 through §382.860 (or any successor provision then applicable) or the laws of the United States. As a condition of such transfer, the transferring Grantee shall require that the historic preservation and conservation purposes that this Easement is intended to advance continue to be carried out. Grantee agrees to give written notice to Grantor of an assignment at least twenty (20) days prior to the date of such assignment. The failure of the Grantee to give such notice shall not affect the validity of such assignment nor shall it impair the validity of this Easement or limit its enforceability in any way.

18. Recording. Immediately upon execution of the Easement, Grantee shall record this instrument in the land records of the Office of the Clerk of Jefferson County, Kentucky, and may re-record it at any time as may be required to preserve its rights in this Easement. Grantor and Grantee intend the restrictions arising under this Easement to take effect on the date this instrument is executed by the Grantor.

19. Notice from Government Authorities. Within fourteen (14) days of receipt by Grantor, Grantor shall deliver to Grantee copies of any notice of default or demand letters received by Grantor from any duly authorized governmental authority which if not complied with could result in a lien on the Property. Upon receipt of written request from Grantee, Grantor shall promptly furnish such Grantee with evidence of Grantor's compliance with such notice or demand letter where compliance is required by law.

20. Notice of Proposed Sale. Grantor shall notify Grantee in writing of any proposed sale or other title transfer of the Property within five (5) days of entering into a written contract for the proposed sale or other title transfer, and provide the opportunity Grantee to explain the terms of the Easement to potential new owners at least ten (10) days prior to transfer of title or sale closing.

21. Existing Liens. Grantor warrants that to the best of its knowledge and belief there are not liens on the Property. Grantor shall immediately cause to be satisfied or released any lien or claim of lien that may hereafter come to exist against the Property which would have priority over any of the rights, title, or interest hereunder of Grantee; provide, however, Grantor may contest in good faith the assertion of any tax lien, mechanics' lien, or other lien on the Property

through any administrative or judicial remedies available to Grantor, but Grantor shall promptly satisfy any such lien finally adjudged to be valid.

22. Liens. Any lien on the Property created pursuant to any paragraph of this Easement may be confirmed by judgment and foreclosed by Grantee in the same manner as a mechanic's lien.

23. Leases. In the event that all or any portion of the Property is leased by Grantor, Grantor shall submit a copy of this Easement to any such tenant and shall obtain from such tenant written acknowledgment that the lease or any future legal agreement between Grantor and such tenant is and shall be subordinate and subject to the terms of this Easement.

24. Subordination of Mortgages. With the exception of the Tunnel Right-of-Way, Grantor warrants that at the time of the conveyance of this Easement the Property is not subject to or otherwise encumbered by any mortgage, lien, condition, option, lease easement or other interest of any other party that may give rise to any right of defeasance, foreclosure, or extinguishment affecting the Grantee's rights under this Easement. Grantor and Grantee agree that Grantor, its successors and assigns, have the right to use all or any part of the Property as collateral to secure repayment of debt, subject to the terms of this Paragraph 24. Grantor and Grantee agree that all mortgages and rights in the Property of all mortgagees shall be subject and subordinate at all times to the rights of Grantee to enforce the purposes of this Easement.

Upon request, Grantee agrees to subordinate its rights under this Easement to the valid claims of any future mortgage holder or beneficiaries of deeds of trust to the proceeds of any sale, condemnation, proceedings, or insurance involving the Property, or to the lease, rents, and profits thereof, and likewise to subordinate its rights under any lien that may be created by Grantee's exercise of any of its rights under this Easement after the date of such subordination; provided that any such mortgage or deed of trust shall remain subordinated and junior to the Easement to the extent necessary to permit Grantee to enforce the purpose of this Easement in perpetuity and to prevent any modification or extinguishment of this Easement by the exercise of any rights of such mortgage holder or trust deed beneficiary; and provided further that, in the unlikely event this Easement is terminated under the circumstances described in Paragraph 14, Grantee shall be entitled to compensation in accordance with the terms of Paragraph 14. Grantee agrees to execute any documents required to effect a subordination pursuant to this Paragraph 24.

25. Written Notices. Any notice, demand, request, consent, approval, or communication which either Grantor or Grantee may desire or be required to give to the other shall be in writing and shall be personally delivered; or sent by United States certified mail, postage prepaid, return receipt requested; or sent by overnight nationwide commercial courier addressed to the parties as follows:

To Grantor: Kentucky Transportation Cabinet
Office of Legal Services
200 Mero Street
Frankfort, Kentucky 40622
Attn: Executive Director

To Grantee: Kentucky Heritage Council
300 Washington Street
Frankfort, Kentucky 40601
Attn: Executive Director

or to such other address as either party from time to time shall designate by written notice to the other. Mailed notices shall not be deemed given or served until three (3) business days after the date of mailing thereof or, if delivery is by nationwide commercial courier, service of notice shall be deemed given one business day after the date of delivery thereof to said courier.

26. Qualified Appraisal. For purposes of this Easement, the term "Qualified Appraisal" shall mean an appraisal of the fair market value of this Easement conducted by an appraiser who is deemed acceptable by the Grantee and who has earned an appraisal designation from a recognized professional appraiser organization or has otherwise met an equivalent minimum education and experience requirements and regularly performs appraisals for which the individual receives compensation. Grantor shall provide Grantee a copy a Qualified Appraisal of the fair market value of the Easement, and the Qualified Appraisal shall be included in the Baseline Report.

27. Grantee's Covenants. Grantee hereby warrants and covenants that:

(a) Qualified Organization. Grantee is a qualified holder of this easement pursuant to KRS 382.800 (2) (a) and KRS 177.090. If the status of Grantee shall cease to be a qualified holder, then it shall promptly select another qualified organization approved by Grantor, and transfer all of its rights and obligations under this Easement to such other qualified organization.

(b) Standard of Care. Grantee shall exercise reasonable judgment and care in performing its respective obligations and in exercising its respective rights under the terms of the Easement.

(c) Merger. The Grantor and Grantee agree that the terms of this Easement shall survive any merger of the fee and easement interests in the Property. If Grantee shall at any time in the future become the fee simple owner of the Property, then that Grantee for itself, its successors and assigns, covenants and agrees that it will create a new historic preservation and conservation easement containing the same restrictions and provisions as are contained herein, and convey such easement to a similar unit of federal, state or local government, or a local, state or national organization whose purposes, inter alia are to promote historic preservation or conservation of natural, scenic, historical, cultural, architectural, natural, scenic, forested, and open-space and which is a qualified holder pursuant to KRS 382.800 (2)(a).

28. Interpretation and Enforcement.

(a) Governing Law. The laws of the Commonwealth of Kentucky shall govern the interpretation and performance of this Easement.

(b) Construction. Any rule of strict construction designed to limit the breadth of restriction on alienation or use of property shall not apply in the construction or interpretation of

this Easement and this Easement shall be interpreted broadly to effect its Historic Preservation and Conservation purposes and the transfer of rights and the restrictions on use herein contained, as provide in the Act. The rule of construction resolving ambiguities against the drafting party shall not be employed in the interpretation of this Easement.

(c) Severability. If any provision of this Easement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

(d) Entire Agreement. This instrument sets forth the entire agreement of Grantor and Grantee. Any prior or simultaneous discussions, correspondence, negotiations, understandings, or agreements are null and void upon execution hereof unless set out in this Easement.

(e) Enforceability. This Easement is made pursuant to the Act, but the invalidity of such statute or any part thereof shall not affect the validity and enforceability of this Easement according to its terms, it being the intent of the parties to agree and to bind themselves, their respective successors, heirs, and assigns in perpetuity to each term of this Easement whether this Easement be enforceable by reason of any statute, common law, or private agreement either in existence now or at any time subsequent hereto. This Easement may be re-recorded at any time by any person if the effect of such re-recording is to make more certain the enforcement of this Easement or any part thereof. The invalidity or unenforceability of any provision of this Easement shall not affect the validity or enforceability of any other provision of this Easement or any ancillary or supplementary agreement relating to the subject matter hereof.

(f) No Forfeiture. Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.

(g) Successors and Assigns; Runs with the Land. The obligations imposed by this Easement shall be effective in perpetuity and shall be deemed to run as a binding servitude with the Property. The provisions contained in this Easement shall be inserted by Grantor, verbatim or by express reference, in any subsequent deed or other legal instrument by which Grantor divests itself of either the fee simple title to or any lesser estate in the Property or any part thereof.

This Easement shall extend to and be binding upon Grantor, its respective successors in interest and all persons hereafter claiming under or through Grantor, and the word "Grantor" when used herein shall include all such persons, whether or not such persons have signed this instrument or have an interest in the Property on the date hereof. Anything contained herein to the contrary notwithstanding, a person shall have no obligation pursuant to this Easement where such person shall cease to have any interest (present, partial, contingent, collateral or future) in the Property by reason of a bona fide transfer. Any right, title, or interest herein granted to Grantee shall also be deemed granted to each successor and assign of Grantee and each such following successor and assign thereof, and the word "Grantee" shall include all such successor and assigns.

(h) Public Access. Nothing contained in this instrument grants, nor shall be interpreted to grant, to the public any right to enter on to the Property.

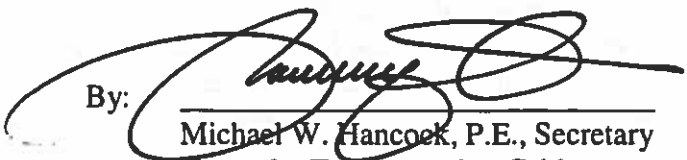
(i) Captions. The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

(j) Conflict with Laws. Nothing contained herein shall be interpreted to authorize or permit Grantor to violate any law, regulation, ordinance, code or requirement relating to building materials, construction method, zoning or use of the Property. In the event of any conflict between any such ordinance, code or regulation and the terms hereof, Grantor shall notify Grantee of such conflict and shall cooperate with Grantee and the applicable governmental entity to accommodate the purposes of both this Easement and such ordinance or regulation.

(k) Grantor hereby acknowledges that any development right retained by Grantor under the terms of this Easement may be subject to the review and approval of governmental authorities and this Easement does not obviate Grantor's legal obligation to obtain federal, state, or local authorizations required by law for the exercise of any development rights retained by Grantor. Grantee makes no representation of whether the exercise of any development right is permissible under applicable laws, statutes, ordinances, or regulations.

IN WITNESS WHEREOF Grantor has caused this instrument to be executed and delivered, and Grantee has caused this instrument to be accepted and executed by its duly authorized officer or agent, as of the day and year first above written.

GRANTOR:
KENTUCKY TRANSPORTATION CABINET

By: 
Michael W. Hancock, P.E., Secretary
Kentucky Transportation Cabinet

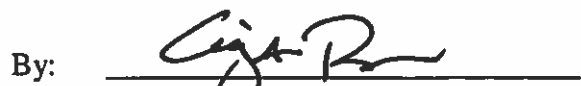
COMMONWEALTH OF KENTUCKY)
COUNTY OF FRANKLIN)

The foregoing instrument was acknowledged before me this 9 day of March, 2015, by Michael W. Hancock, P.E., whose title is Secretary, Kentucky Transportation Cabinet, on behalf of the Commonwealth of Kentucky, Transportation Cabinet.


NOTARY PUBLIC

My Commission Expires: Oct. 11, 2016

GRANTEE:
COMMONWEALTH OF KENTUCKY, FOR THE
USE AND BENEFIT OF THE KENTUCKY
HERITAGE COUNCIL

By: 
Craig Potts
Executive Director,
Kentucky Heritage Council

COMMONWEALTH OF KENTUCKY)

COUNTY OF FRANKLIN)

The foregoing instrument was acknowledged before me this 25th day of March, 2015 by Craig Potts, whose title is Executive Director, of the Kentucky Heritage Council, of the Commonwealth of Kentucky, for the use and benefit of the Kentucky Heritage Council, a political subdivision of the Commonwealth of Kentucky created by Kentucky Revised Statute §171.381.

Weather L. Grider
NOTARY PUBLIC

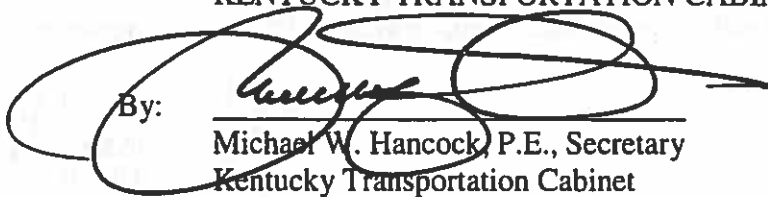
My Commission Expires:

7/19/2016

CERTIFICATE

The Grantor, Kentucky Transportation Cabinet, and the Grantee, Kentucky Heritage Council, hereby swear and acknowledge that the fair cash value of the transfer of this preservation and conservation easement is \$1,200,000.00.

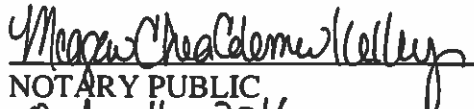
GRANTOR:
KENTUCKY TRANSPORTATION CABINET

By: 
Michael W. Hancock, P.E., Secretary
Kentucky Transportation Cabinet

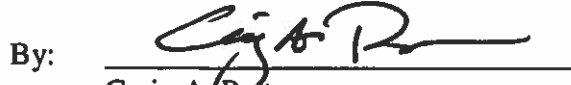
COMMONWEALTH OF KENTUCKY)

COUNTY OF FRANKLIN)

The foregoing instrument was acknowledged before me this 9 day of March, 2015, by Michael W. Hancock, P.E., whose title is Secretary, Kentucky Transportation Cabinet, on behalf of the Commonwealth of Kentucky, Transportation Cabinet.


NOTARY PUBLIC
My Commission Expires: Dec. 11, 2016


GRANTEE:
COMMONWEALTH OF KENTUCKY, FOR THE
USE AND BENEFIT OF THE KENTUCKY
HERITAGE COUNCIL

By: 
Craig A. Potts
Executive Director,
Kentucky Heritage Council

COMMONWEALTH OF KENTUCKY)

COUNTY OF FRANKLIN)

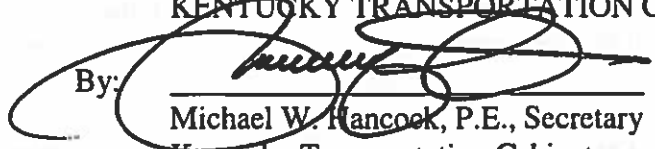
The foregoing instrument was acknowledged before me this 25th day of March, 2015, by Craig Potts, whose title is Executive Director, of the Kentucky Heritage Council, of the Commonwealth of Kentucky, for the use and benefit of the Kentucky Heritage Council, a political subdivision of the Commonwealth of Kentucky created by Kentucky Revised Statute §171.381.


NOTARY PUBLIC
My Commission Expires: 7/19/2016

ACKNOWLEDGMENT OF CONDITION

Grantor, Kentucky Transportation Cabinet, and Grantee, Kentucky Heritage Council, agree that in substance the following historic resources inventory, "Baseline Documentation," is an objective, though non-exclusive, representation of the Property known as the Grocer's Ice and Cold Storage Company at 609 East Main Street, Louisville, Jefferson County, Kentucky, at the time of the donation of this preservation and conservation easement and documents some of the historic, cultural, architectural, and other characteristics of the Property, in its current use and state of improvement.

GRANTOR:
KENTUCKY TRANSPORTATION CABINET

By: 
Michael W. Hancock, P.E., Secretary
Kentucky Transportation Cabinet

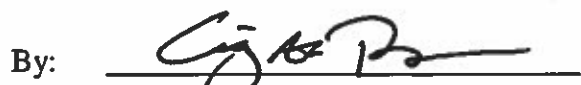
COMMONWEALTH OF KENTUCKY)
)
COUNTY OF FRANKLIN)

The foregoing instrument was acknowledged before me this 9 day of March, 2015, by Michael W. Hancock, P.E., whose title is Secretary, Kentucky Transportation Cabinet, on behalf of the Commonwealth of Kentucky, Transportation Cabinet.


NOTARY PUBLIC

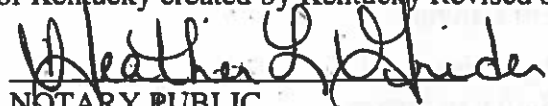
My Commission Expires: Oct. 11, 2016

GRANTEE:
COMMONWEALTH OF KENTUCKY, FOR THE
USE AND BENEFIT OF THE KENTUCKY
HERITAGE COUNCIL

By: 
Craig A. Potts
Executive Director,
Kentucky Heritage Council

COMMONWEALTH OF KENTUCKY)
)
COUNTY OF FRANKLIN)

The foregoing instrument was acknowledged before me this 05th day of March, 2015 by Craig Potts, whose title is Executive Director, of the Kentucky Heritage Council, of the Commonwealth of Kentucky, for the use and benefit of the Kentucky Heritage Council, a political subdivision of the Commonwealth of Kentucky created by Kentucky Revised Statute §171.381.


NOTARY PUBLIC

My Commission Expires: 7/19/2016

**COMMONWEALTH OF KENTUCKY
OFFICE OF THE GOVERNOR**

Easement accepted and approved:

Approved as to form and legality:



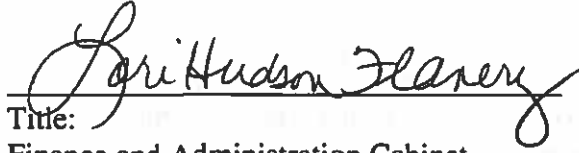
Steven L. Beshear, Governor
Commonwealth of Kentucky

Title:
Office of the Governor

KENTUCKY FINANCE AND ADMINISTRATION CABINET

Easement accepted and approved:

Approved as to form and legality:

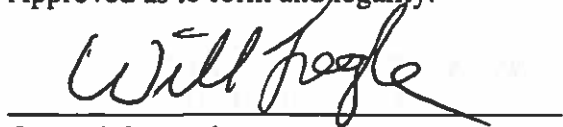


Title:
Finance and Administration Cabinet

Title:
Finance and Administration Cabinet

KENTUCKY TRANSPORTATION CABINET

Approved as to form and legality:



General Counsel
Kentucky Transportation Cabinet

This instrument was prepared by:



Will Fogle,
Deputy Executive Director
Kentucky Transportation Cabinet
Office of Legal Services
200 Mero Street
Frankfort, KY 40622
(502)564-7650

Schedule of Exhibits:

- Exhibit A: Source Deed
- Exhibit B: Plat of Survey
- Exhibit C: Baseline Documentation Report

Exhibit A
Source Deed

[Faint, mirrored text from the reverse side of the page, likely bleed-through from another document. The text is largely illegible due to low contrast and mirroring.]

[Faint, mirrored text from the reverse side of the page, likely bleed-through from another document. The text is largely illegible due to low contrast and mirroring.]

**TRANSPORTATION CABINET
DEED OF CONVEYANCE**

THIS DEED OF CONVEYANCE made and entered into this 9th day of March, 2010, by and between **GROCERS' ICE AND COLD STORAGE COMPANY INC.**, also known as Grocers Ice & Cold Storage Company, Grocers' Ice and Cold Storage Company, Inc., and as Grocers' Ice and Cold Storage, Inc., 609 East Main Street, Louisville, Kentucky 40202, Grantor, (in whose care the state and county tax bill for the aforesaid calendar year may be sent), and the **COMMONWEALTH OF KENTUCKY** for the use and benefit of the **TRANSPORTATION CABINET, DEPARTMENT OF HIGHWAYS**, 200 Mero Street, Frankfort, Kentucky 40622, Grantee.

WITNESSETH: That the Grantor, in consideration of **THREE MILLION AND SIX HUNDRED THOUSAND DOLLARS (\$3,600,000.00)**, cash in hand paid, the receipt of which is hereby acknowledged, has bargained and sold and does hereby sell, grant, and convey to the Grantee, its successors and assigns forever, the following described property and property rights:

Tract 1:

Beginning at the Northeast intersection of the North line of Main Street, with the East line of Hancock Street; thence running Northwardly along the East line of Hancock Street, 163 - ½ feet, to the Southwest corner of the strip dedicated to the City of Louisville by Deed recorded in Deed Book 586, Page 381, in the office of the Clerk of the County Court of Jefferson County, Kentucky; thence running Northeastwardly along the Southeastwardly line of said strip, 46.92 feet, to a point in the South line of Washington Street, which point is 26 - ¼ feet Eastwardly from the original Southeast corner of Hancock and Washington Streets; thence running Southwardly on a line parallel with Hancock Street, 102 feet, thence running Eastwardly 8 ¼ inches on a line parallel with Main Street; thence running Southwardly on a line parallel with Hancock Street, 102 feet, to a point in the North line of Main Street; thence running Westwardly with the North line of Main Street, 26 feet and 11 - ¼ inches to the point of beginning.

Provided there is excepted from the foregoing boundaries, and not included in this conveyance, so much of said property as was heretofore conveyed by Deed recorded in Deed Book 1142, Page 216 in said office.

The above-described property being all of the same tract of land conveyed to GROCERS ICE & COLD STORAGE COMPANY, A CORPORATION, AKA GROCERS' ICE AND COLD STORAGE COMPANY INC., by Deed from DON WARREN and GRACE BOHMER WARREN, Husband and Wife, dated November 30, 1935, and recorded in Deed Book 1591, at Page 97, in the office of the Jefferson County Clerk.

Tract 2:

Beginning at a point in the North line of Main Street twenty-six feet, eleven and one-fourth inches East of Hancock Street; thence Northwardly and parallel with Hancock Street One Hundred and Two feet; thence Westwardly and parallel with Main Street eight and one-fourth inches; thence Northwardly and parallel with Hancock Street one hundred and two feet to the South line of Washington Street thence Eastwardly with said line of Washington Street one hundred and five feet; thence Southwardly and parallel with Hancock Street One Hundred and two feet; thence Westwardly and parallel with Washington Street Fifty-two and one-half feet; thence Southwardly and parallel with Hancock Street one hundred and two feet to the North line of Main Street; thence Westwardly with said line of Main Street Fifty-one feet Nine and three-fourths inches to the point of beginning.

The above-described property being all of the same tract of land conveyed to GROCERS ICE & COLD STORAGE COMPANY, A CORPORATION, AKA GROCERS' ICE AND COLD STORAGE COMPANY INC., by Deed from CHARLES E. PRICE and LIBBY E. PRICE, Husband & Wife, dated December 24, 1905, and recorded in Deed Book 652, at Page 507, in the office of the Jefferson County Clerk.

Tract 3:

Beginning on the North side of Main Street seventy-eight (78) feet, nine (9) inches East of Hancock Street; thence Eastwardly along the North side of Main Street twenty-six and one-fourth (26- $\frac{1}{4}$) feet, and extending back Northwardly of that width throughout, between lines parallel with Hancock Street, one hundred and two (102) feet.

The above-described property being all of the same tract of land conveyed to GROCERS ICE & COLD STORAGE COMPANY, A CORPORATION, AKA GROCERS' ICE AND COLD STORAGE COMPANY INC., by Deed from AUGUST DREW and JOSEPHINE DREW, Husband & Wife, and HENRY DREW and SUSIE DREW, Husband & Wife, dated November 4, 1910, and recorded in Deed Book 727, at Page 444, in the office of the Jefferson County Clerk.

Tract 4:

Beginning in the North line of Main Street one hundred and five (105) feet East of Hancock Street; thence Eastwardly with said line of Main Street twenty-six and one-fourth (26- $\frac{1}{4}$) feet, and extending back Northwardly, between parallel lines at right angles to Main Street, one hundred and two (102) feet.

The above-described property being all of the same tract of land conveyed to GROCERS ICE & COLD STORAGE COMPANY, A CORPORATION, AKA GROCERS' ICE AND COLD STORAGE COMPANY INC., by Deed from THOMAS BRAND and

VICTORIA BRAND, Husband & Wife, dated June 28, 1910, and recorded in Deed Book 721, at Page 306, in the office of the Jefferson County Clerk.

Tract 5:

Beginning at a point in the North line of Main Street, distant one hundred and thirty-one and one quarter (131- $\frac{1}{4}$) feet east from the northeast corner of Main and Hancock Streets, running thence Eastwardly and fronting the North line of Main Street, Fifty-two and one half (52- $\frac{1}{2}$) feet; and extending back Northwardly the same width, one hundred and two feet (102).

The above-described property being all of the same tract of land conveyed to GROCERS ICE & COLD STORAGE COMPANY, A CORPORATION, AKA GROCERS' ICE AND COLD STORAGE COMPANY INC., by Deed from WALTER H. CAMENTZ, dated September 30, 1921, and recorded in Deed Book 993, at Page 77, in the office of the Jefferson County Clerk.

Tract 6:

Fronting 26 $\frac{1}{4}$ feet on the North side of Main Street between Hancock and Clay Streets; extending back Northwardly of the same width and parallel with said Streets, 102 feet, the Western line of said lot being 183- $\frac{3}{4}$ feet East of Hancock Street, said lot being the Southern half of the Eastermost [sic] quarter of Lot No. 279 in Preston's Enlargement.

The above-described property being all of the same tract of land conveyed to GROCERS ICE & COLD STORAGE COMPANY, A CORPORATION, AKA GROCERS' ICE AND COLD STORAGE COMPANY INC., by Deed from GEORGE E. SCHUMAN, single, MAMIE R. SCHUMAN, single, LILLIE I. SCHUMAN, single, dated November 16, 1942, and recorded in Deed Book 1841, at Page 505, in the office of the Jefferson County Clerk.

Tract 7:

BEGINNING on the South side of Washington Street 131 $\frac{1}{4}$ feet East of Hancock Street as originally laid out; running thence Eastwardly along the South side of Washington Street 26 $\frac{1}{4}$ feet, and extending back Southwardly of the same width, between lines parallel with Hancock Street aforesaid, 102 feet.

The above-described property being all of the same tract of land conveyed to GROCERS ICE & COLD STORAGE COMPANY, A CORPORATION, AKA GROCERS' ICE AND COLD STORAGE COMPANY INC., by Deed from MARTIN FINNEGAN and JULIE FINNEGAN, Husband & Wife, dated October 24, 1921, and recorded in Deed Book 990, at Page 326, in the office of the Jefferson County Clerk.

Tract 8:

Beginning on the South side of Washington Street 157 $\frac{1}{2}$ feet East of Hancock Street as originally laid out; running thence Eastwardly along the South side of Washington Street, 26 $\frac{1}{4}$ feet, and extending back Southwardly of the same width, between lines parallel with Hancock Street, 102 feet.

The above-described property being all of the same tract of land conveyed to GROCERS ICE & COLD STORAGE COMPANY, A CORPORATION, AKA GROCERS' ICE AND COLD STORAGE COMPANY INC., by Deed from ANNA S. JAMESON, single, dated April 27, 1937, and recorded in Deed Book 1632, at Page 308, in the office of the Jefferson County Clerk.

Tract 9:

Beginning in the South line of Washington Street, 183 feet 9 inches East of the original East line of Hancock Street; thence East with the South line of Washington Street 26 feet 3 inches and extending back South of the same width throughout between lines parallel with the original East line of Hancock Street 102 feet.

The above-described property being all of the same tract of land conveyed to GROCERS ICE & COLD STORAGE COMPANY, A CORPORATION, AKA GROCERS' ICE AND COLD STORAGE COMPANY INC., by Deed from MARTIN FINNEGAN and JULIA FINNEGAN, Husband & Wife, dated September 14, 1940, and recorded in Deed Book 1757, at Page 169, in the office of the Jefferson County Clerk.

Tract 10:

A triangular strip of ground, and beginning at a point in the South line of Washington Street 26 feet 3 inches east of Hancock Street; running thence southwardly in a line at a right angle to Washington Street, 30 feet 4 inches; thence Westwardly in a line parallel to Washington Street, 13 feet 11 inches; thence in a Northeastwardly direction 33 feet 4 1/4 inches, to the point of beginning.

The above-described property being all of the same tract of land conveyed to GROCERS ICE & COLD STORAGE COMPANY, A CORPORATION, AKA GROCERS' ICE AND COLD STORAGE COMPANY INC., by Deed from WILLIAM WRIGHT and EULA MAY WRIGHT, Husband and Wife, dated April 18, 1925, and recorded in Deed Book 1142, at Page 216, in the office of the Jefferson County Clerk.

TO HAVE AND TO HOLD said property unto the Grantee, its successors and assigns, with all the rights and privileges thereunto belonging with covenants of General Warranty.

The foregoing ten tracts are now consolidated and described as follows, per survey by Grantee, and Grantor does quitclaim and convey to Grantee all of Grantor's right, title and interest in the following property, without representation or warranty as to the accuracy of the description:

Parcel No. 130

Tract A

GROCERS' ICE AND COLD STORAGE COMPANY INC.

Being a tract of land located in Louisville Metro, Jefferson County, Kentucky, lying on the east side of N. Hancock Street, between E. Main Street and E. Washington Street, and being more particularly described as follows:

Beginning at a point, said point being the intersection of the existing east right of way line of S. Hancock Street and the existing north right of way line of E. Main Street, and said point being 136.88 feet right of proposed I-65 centerline Station 666+89.33; thence with said existing right of way line of S. Hancock Street North 08 degrees 48 minutes 08 seconds East, 163.50 feet to a point 104.52 feet right of proposed I-65 northbound baseline Station 203+77.06; thence North 42 degrees 06 minutes 38 seconds East, 47.80 feet to a point 127.47 feet right of proposed I-65 northbound baseline Station 204+18.99, said point being in the existing south right of way line of E. Washington Street; thence with said existing right of way line South 81 degrees 15 minutes 10 seconds East, 46.94 feet to a point 174.25 feet right of proposed I-65 northbound baseline Station 204+22.82, said point being in the proposed controlled access and right of way line; thence with said proposed controlled access and right of way line South 24 degrees 46 minutes 07 seconds West, 211.66 feet to a point 151.64 feet right of proposed I-65 centerline Station 666+91.58, said point being in the existing north right of way line of E. Main Street; thence with said existing right of way line North 81 degrees 12 minutes 35 seconds West, 14.97 feet to the point of beginning.

The above described parcel contains 0.194 acres (8,442 square feet), more or less.

It is understood between the parties hereto and made a covenant herein that the above described property is conveyed in fee simple.

**Parcel No. 130
Tract X
GROCERS' ICE AND COLD STORAGE COMPANY INC.**

Being a tract of land located in Louisville Metro, Jefferson County, Kentucky, lying on the east side of N. Hancock Street, between E. Main Street and E. Washington Street, and being more particularly described as follows:

Beginning at a point in the existing north right of way line of E. Main Street and the proposed controlled access and right of way line, said point being 151.64 feet right of proposed I-65 centerline Station 666+91.58; thence with said proposed controlled access and right of way line North 24 degrees 46 minutes 07 seconds East, 211.66 feet to a point 174.25 feet right of proposed I-65 northbound baseline Station 204+22.82, said point being in the existing south right of way line of E. Washington Street; thence with said existing right of way line South 81 degrees 15 minutes 10 seconds East, 136.81 feet to a point 310.61 feet right of I-65 northbound baseline Station 204+33.95, said point being in the east property line and the proposed temporary easement line; thence with said proposed temporary easement and property line South 08 degrees 48 minutes 08 seconds West, 203.58 feet to a point 344.30 feet right of I-65 centerline station 667+17.51, said point being in the existing north right of way line of E. Main Street; thence with said existing right of way line North 81 degrees 12 minutes 35 seconds West, 195.03 feet to the point of beginning.

The above described parcel contains 0.775 acres (33,770 square feet), of excess right of way.

It is understood between the parties hereto and made a covenant herein that the property described as Parcel No. 130 Tract X is conveyed in fee simple. It is further understood that said Parcel No. 130 Tract X is not required by the grantee for right of way purposes

for the highway project referenced herein below, but rather is being purchased as excess property pursuant to agreement of the parties hereto. Accordingly, the grantee shall have the right to sell, convey or trade said Parcel No. 130 Tract X as it may so desire without regard to any reversion rights to the grantor pursuant to KRS 416.670 or otherwise, all of which said rights are hereby forever waived, released and conveyed unto the grantee.

The acquisition of the right of way for this project was authorized by the Kentucky Department of Highways Official Order No. 105835. This project (the main line) is a fully controlled access highway as required to be set forth in Section 6 of the Kentucky Administrative Regulations, (603 KAR 5:120). Access to the remaining property of the first party shall be provided by permit.

The proposed public highway improvement for which the above-described property is being acquired is identified as Louisville Bridges – Section 1, State Project Number 13J7 JZ01 056 8259203R, the plans for which are on file in the office of the Transportation Cabinet in Frankfort, Kentucky.

By accepting this Deed, and to the extent the foregoing new descriptions could be interpreted as a subdivision of land, Grantee is representing that such subdivision is exempt from subdivision regulations pursuant to KRS 100.361 and is agreeing that it has no claim to damages or to void this conveyance pursuant to KRS 100.277.

IN TESTIMONY WHEREOF, the Grantor has executed this Deed on 9 day of March, 2010.

GROCERS' ICE AND COLD STORAGE COMPANY INC., BY:

Mollie C. Turnier

Mollie Turnier, President

CERTIFICATE OF ACKNOWLEDGEMENT

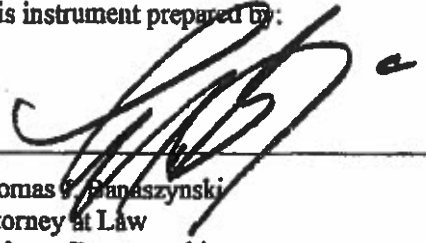
COMMONWEALTH OF KENTUCKY)
) ss.
COUNTY OF JEFFERSON)

I, the undersigned, certify that the foregoing deed was produced before me in my said County and State and duly acknowledged and sworn to by MOLLIE TURNIER, President of GROCERS' ICE AND COLD STORAGE COMPANY INC., for and on behalf of GROCERS' ICE AND COLD STORAGE COMPANY INC., to be the act and deed of said CORPORATION and HER act and deed as PRESIDENT thereof duly authorized this the 9 day of March, 2010.

[Signature]
Notary Public State at Large

My Commission Expires 30 Sep. 2012

This instrument prepared by:



Thomas F. Banaszynski
Attorney at Law
Barber - Banaszynski
100 North Sixth Street
Fifth Floor
Louisville, Kentucky 40202
502-585-2100

CLERK'S RECORDING CERTIFICATE

COMMONWEALTH OF KENTUCKY)
) ss.
COUNTY OF JEFFERSON)

I, the undersigned clerk of the county in and for the County and State aforesaid, certify that the foregoing deed from MOLLIE TURNIER, PRESIDENT, of GROCERS' ICE AND COLD STORAGE COMPANY INC., to the Commonwealth of Kentucky for the use and benefit of the Transportation Cabinet, Department of Highways, was lodged for record in my office on the ____ day of _____, 2010, and has been duly recorded in Deed Book _____, Page _____.

Witness my hand on this the ____ day of _____, 2010.

Clerk Jefferson County
By _____ D.C.

Document No.: DN2010030344
Lodged By: BANASZYNKI
Recorded On: 03/09/2010 09:40:00
Total Fees: 3,620.00
Transfer Tax: 3,600.00
County Clerk: BOBBIE HOLSCAM-JEFF CO KY
Deputy Clerk: TERHIG

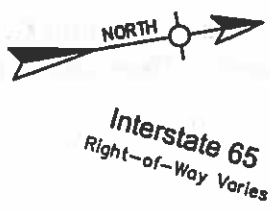
END OF DOCUMENT

**Exhibit B
Plat**

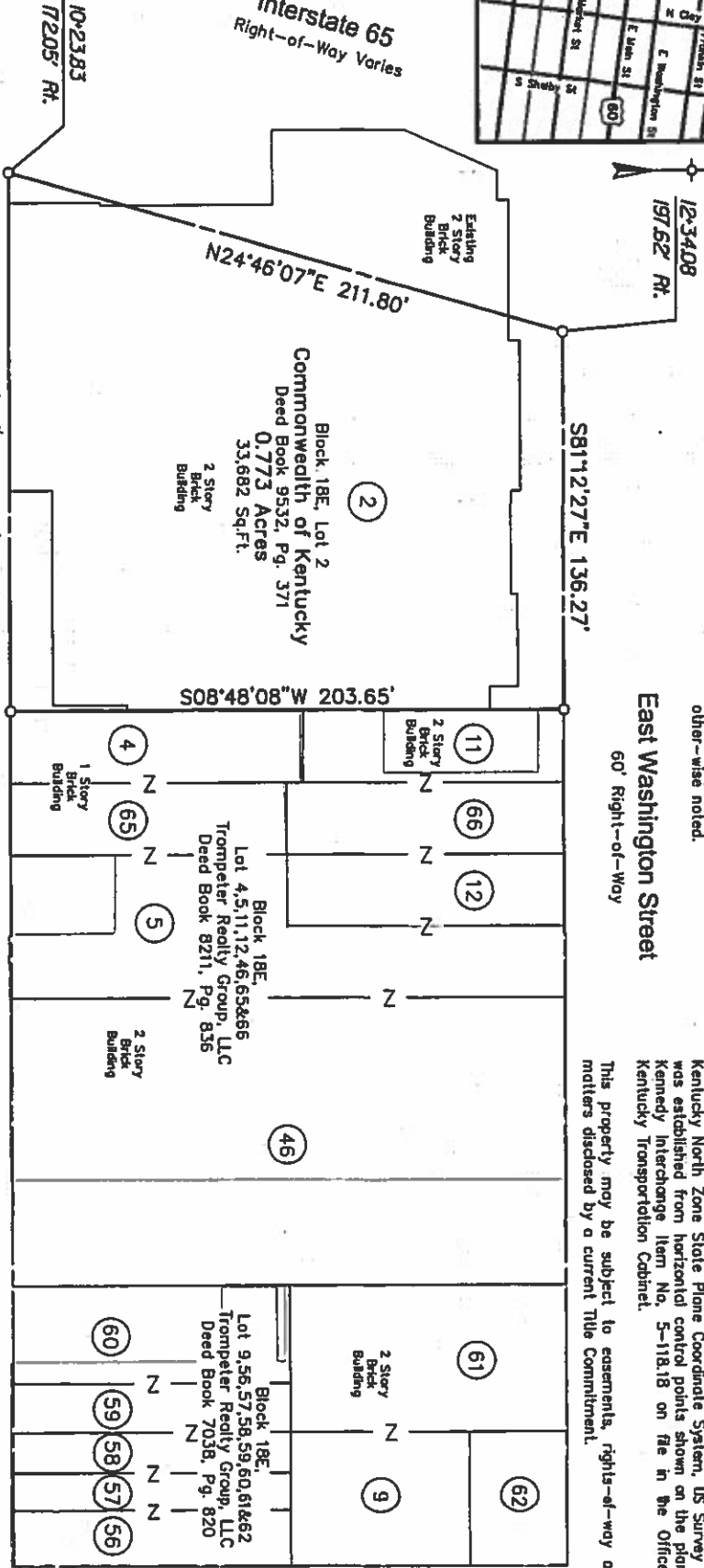
0010391460519



LOCATION MAP
No Scale



Interstate 65
Right-of-Way Varies



Indicates set Nag with aluminum disc stamped Shimberly 3832 unless other-wise noted.

East Washington Street
60' Right-of-Way

NOTES
The horizontal bearing datum for this survey is based on NAD 83, Kentucky North Zone State Plane Coordinate System, US Survey Foot and was established from horizontal control points shown on the plans of the Kennedy Interchange Item No. 5-118.18 on file in the Office of the Kentucky Transportation Cabinet.
This property may be subject to easements, rights-of-way and other matters disclosed by a current Title Commitment.

LAND SURVEYOR'S CERTIFICATE

I certify that this plot 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 stakes. The unadjusted precision ratio of the traverse was 1:67,106 and was not adjusted. This survey & plot meets or exceeds the minimum standards of governing authorities for a Class A survey.

Professional Land Surveyor Benjamin P. Shinnabery Date 07/19/2012

STATE OF KENTUCKY
BENJAMIN P. SHINNABERY
3832
LICENSED PROFESSIONAL LAND SURVEYOR

PROPERTY BOUNDARY SURVEY
COMMONWEALTH OF KENTUCKY
O.R. DEED BOOK 9532, PAGE 371
TAX BLOCK 18E, LOT 2
PROPERTY ADDRESS: 609 E. MAIN STREET
LOUISVILLE, KENTUCKY 40202



015 West Market St.
Suite 300
Louisville, KY 40202
Ph: 502-585-2222
Fax: 502-592-9805
Internet: www.qla.com

Architecture Engineering Planning

Exhibit C
Baseline Documentation Report

08 10394 P6 U3 8 1

On October 15, 2014, representatives of RATIO Architects, Inc. completed a visual survey of the Grocers Ice and Cold Storage Company Building to identify and assess any changes in the building's appearance and condition. This investigation followed the completion of demolition work of building components within the realigned public right-of-way due to the realignment of the Kennedy Interchange as part of the Ohio River Bridges Project (ORBP) as required by Stipulation III.K.10 of the First Amended Memorandum of Agreement. As noted within the Building Treatment Plan, demolition work included the removal of building areas on the west area of the building formerly occupied by Creation Gardens grocery, including Ice Cooler G and the former Ice Tank Room, the west office, and the areas and roofs above them. At the time of RATIO's visit, exterior demolition and repointing was complete, and the west parapet was in the process of being reconstructed.

(Refer to Updated Existing Floor Plans – Pages 6-10 – for photograph locations)

Overall Summary:
Due to deferred maintenance and neglect, the former Grocers Ice and Cold Storage Company Building has continued to deteriorate over the past several years since the original Building Treatment Plan was created in June, 2008. Overall, the building remains in poor condition, though demolition work does not appear to have exacerbated the building's condition.

While demolition work included the stabilization of the remaining exterior walls, the exterior of the building exhibits several areas of significant masonry deterioration due to water infiltration and freeze-thaw cycles. Additionally, the roof systems are beyond their useful lives and should be replaced; several interior areas exhibit water damage due to roof failures.

Much of the interior cooler and storage areas remain unchanged. Since the previous tenants vacated the South Dock office areas, there has been significant water damage due to roofing failures, which has led to mold growth necessitating the replacement of interior wall and flooring finishes.

While demolition work does not appear to have adversely affected the building, future reuse of the building will require significant investment in building repair work and replacement of interior finishes.

Exterior:

Demolition of the Former Tank Room (previously used as the Produce Retail Sales room) has exposed the original beam pockets along the remaining West Elevation, which have been infilled with new brick masonry. Steel hangers below the beam pockets remain imbedded in the elevation. Steel plates have been added to the exterior face of the exposed brick wall and tied back to the interior building structure to stabilize the wall.

The brick on the remaining elevation above the original roofline has been preliminarily cleaned of blue paint. However, there is new graffiti on the wall.

Former openings from the Mechanical Room, Produce Cooler F, and the Third Floor Coolers have been infilled with block or brick masonry.

Minor outward bowing of the remaining exterior brick walls was observed, particularly along the north elevation of the remaining South Dock Offices area. Per field observations and analysis – performed by Jacobs Engineering Group, LLC for the Walsh Design Build Team on October 9, 2014 – it has been determined that these walls are stable in their current condition.

There has been significant brick deterioration and failure on the north elevation since the original Building Treatment Plan was created in 2008. There is a large area just above the metal canopy where a significant quantity of face brick has spalled or completely fallen off the wall and rests on the canopy below. Masonry failures are likely due to water infiltration from rain and/or snow and the effects of freeze-thaw cycles. There is also significant organic growth below the gutter above, denoting a gutter and roofing failure which could lead to additional deterioration of the masonry wall. Additional masonry deterioration is also visible on the south elevation. Vegetative growth on the parapet should also be removed to prevent further deterioration of the exterior masonry.



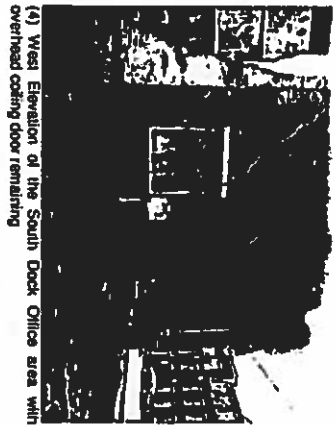
(1) Remaining South Elevation (View northeast)



(2) South Elevation (View northwest)



(3) Remaining South Elevation



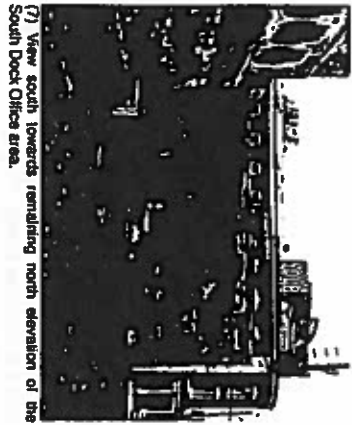
(4) West Elevation of the South Dock Office area with overhead cooling door remaining



(5) View northeast towards remaining West Elevation



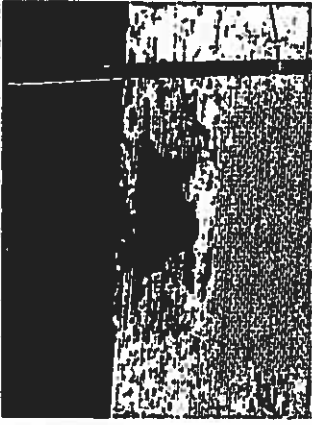
(6) View east towards remaining West Elevation. New grating has been added above the original roof line.



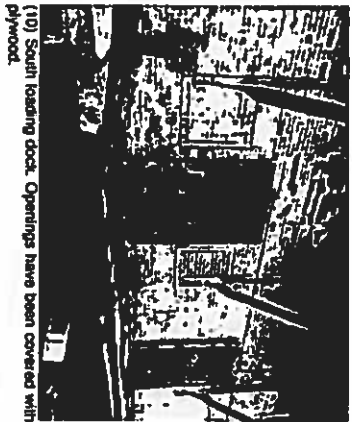
(7) View south towards remaining north elevation of the South Dock Office area.



(8) View southeast towards remaining North & West Elevations



(9) Enlarged detail of significant brick failure and deterioration on South elevation above metal awning.



(10) South loading dock. Openings have been covered with plywood.



(11) Brick deterioration on the South Elevation. Outlines of the removed electrical conduit and meters are visible.



(12) North Elevation and loading dock

Roof:

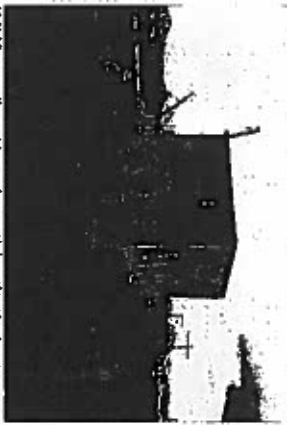
Little to no observable work has been performed on the built-up roof systems since the original Building Treatment Plan was created. Roofs remain in poor condition overall and are generally at the end of their usable lives. Future plans to reuse the building should include roofing system assessment and replacement.

Parapet reconstruction and coping work was underway during RATIO's visit to the site. The western parapet above the remaining Ice Cooler areas was being rebuilt. Parapets are being topped with a sloped mortar coping. The termination of the roofing system into the parapet is in very poor condition and should be repaired as soon as possible to avoid further damage and water infiltration into the interior spaces.

The roof of the remaining South Dock office area slopes towards the south end of the building. However, there are no roof drains on the roof and water is allowed to pond on the roof near the south parapet. The roof system should be reworked to slope towards the north and a new gutter and downspout system installed. Furthermore, water damage and subsequent mold growth in the interior spaces below suggest roof failures in the built-up roofing which should be repaired immediately. Additional vegetative growth along the parapet and elsewhere on the roof areas should be removed to avoid additional damage to the roofing system.



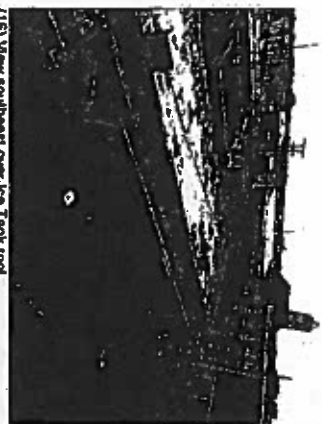
(13) Rebuilt parapet and new mortar coping along West Elevation. Built-up roofing material at the parapet is in poor condition.



(14) View northwest towards remaining elevator tower.



(15) Roof condition at north roof area looking northeast showing poor roofing condition and vegetation growth.



(16) View southeast over Ice Tank roof.



(17) View east showing south parapet of Ice Cooler area. Copings remain in poor condition.



(18) View of roof over remaining South Dock office areas. Ponding water is visible.

Interior:

Since the original Building Treatment Plan was created, the property was acquired in its entirety by the Kentucky Transportation Cabinet resulting in the previous tenants being relocated. The building has since remained vacant.

The south dock office areas have experienced significant deterioration over the past years. Deferred maintenance of the roof systems have led to water infiltration into the office and conference room spaces, causing considerable mold growth along the interior walls and carpet. Future reuse should include mold abatement and the removal and replacement of most, if not all interior finishes.

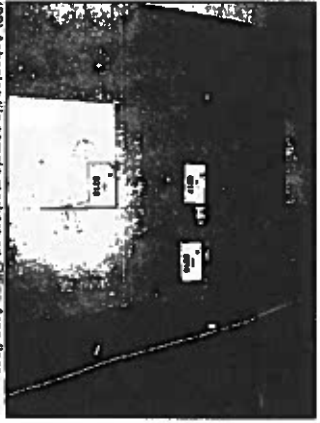
The partial height wall in the southwest corner of the South Dock offices has been damaged as a result of tenants vacating the building. Also, some areas within the offices have been selectively demolished to inspect the masonry walls and roof structure and have not been repaired.

Much of the Cooler and Ice Tank spaces remain relatively unchanged, though continued water infiltration through the roof appears to have continued the deterioration of masonry walls and corrosion of metal elements. Original openings along the north wall of the South Dock Ice Cooler heading area and the remaining west elevation of the Produce Cooler F, Mechanical Room A and Ice Coolers have been infilled with concrete block masonry. These openings have not been waterproofed and are allowing water to penetrate into the interior spaces.

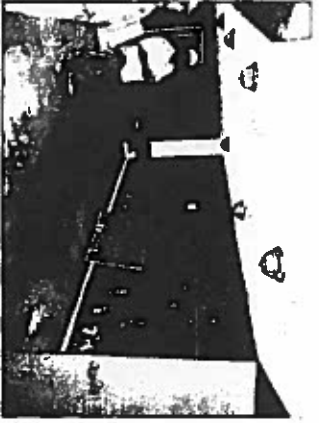
New shoring has been installed on concrete pads in the Mechanical Room A to brace and secure the remaining exterior wall. Material excavated during the installation of the shoring has not been removed.



(19) South Dock office, Upper Floor.



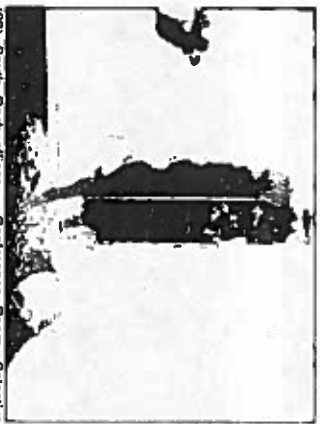
(20) Asbestos file sample markers on Office Area floor.



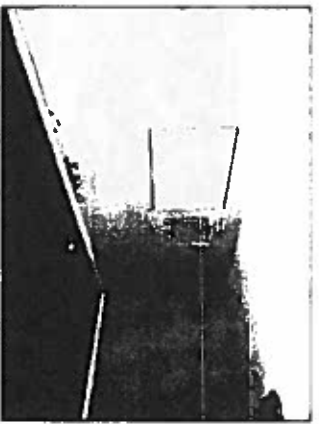
(21) South Dock office, Upper Floor. Water damage and mold growth is visible, likely due to roofing failure above.



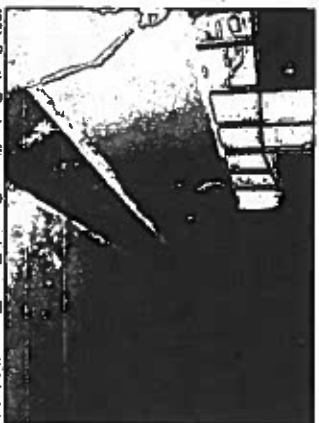
(22) South Dock office - Cork Room (Storage).



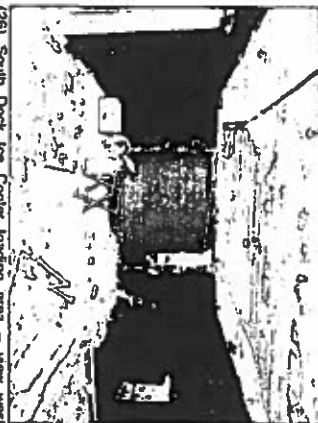
(23) South Dock office - Conference Room. Selective demolition (by others) to expose remaining exterior brick.



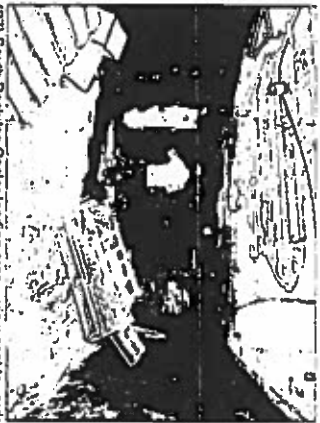
(24) South Dock office - Conference Room. Water damage and mold growth is visible at the base board.



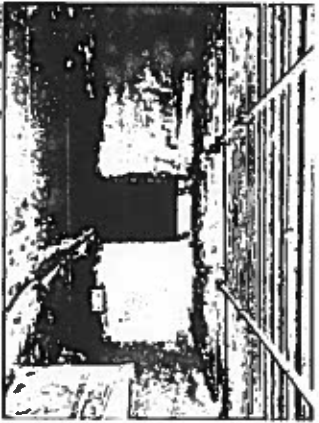
(25) South Dock offices, Ground Floor - The partial height wall was damaged by the previous tenant while vacating.



(26) South Dock ice Cooler loading area - view west towards loading dock



(27) South Dock ice Cooler loading area - view east towards ice Cooler. Water infiltration is visible at the infilled opening.



(28) Ice Cooler D



(29) New interior masonry anchors along remaining west wall of ice Coolers



(30) Ice Tank (View North)



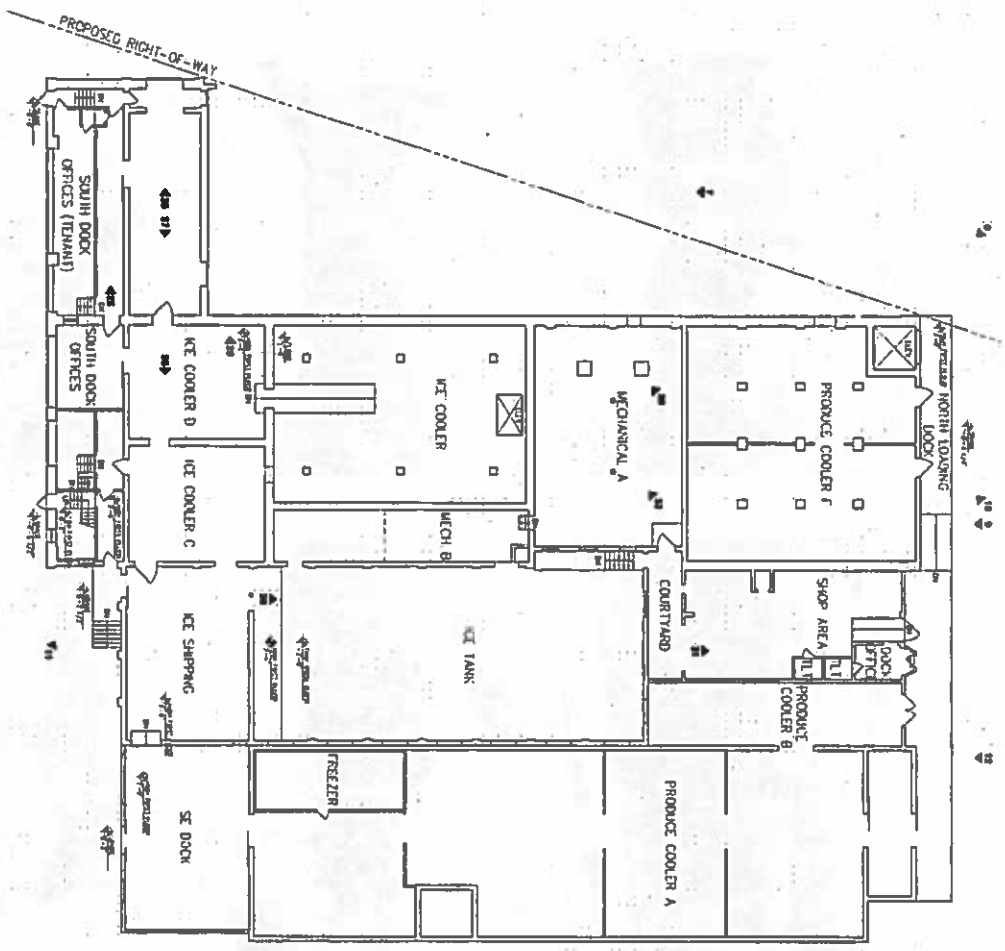
(31) Shop Area, view north



(32) Mechanical Room A. Excavation material from the installation of new shoring is visible.



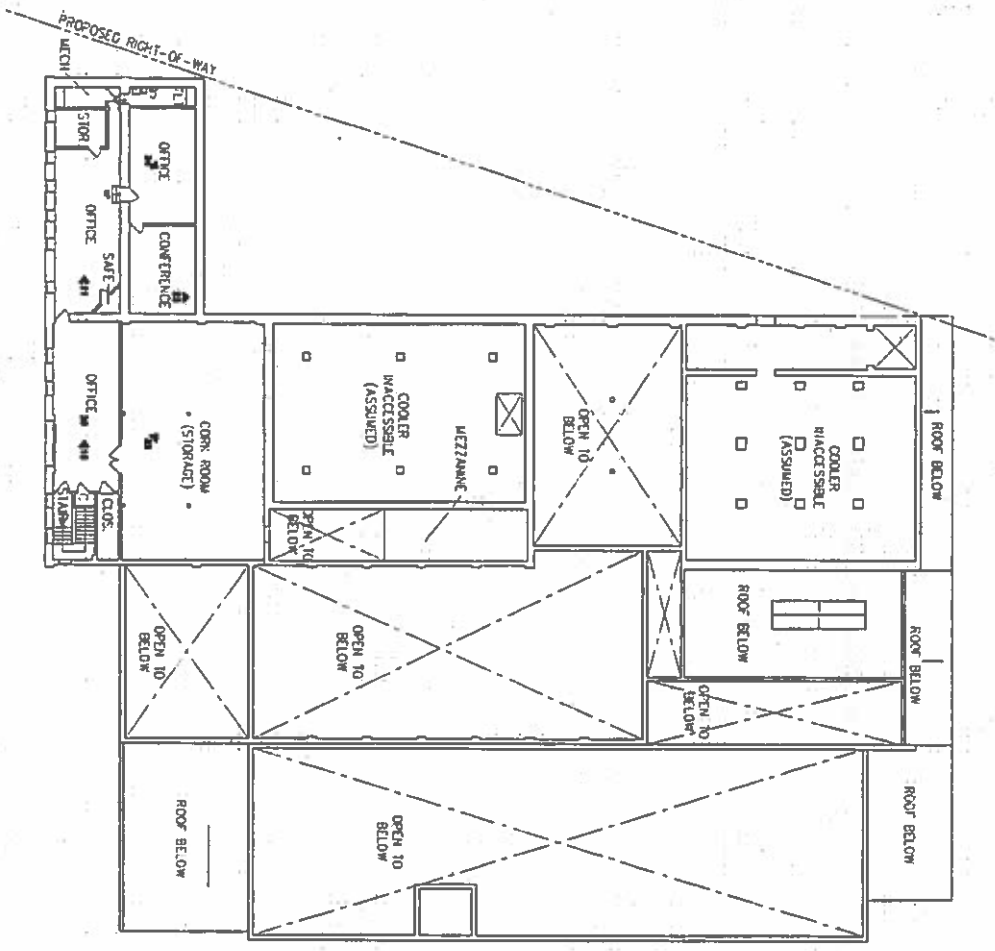
(33) New shoring installed along the west wall of Mechanical Room A



GROCCERS ICE AND COLD STORAGE COMPANY BUILDING
 LOUISVILLE, KENTUCKY

UPDATED EXISTING FIRST FLOOR PLAN
 OCTOBER 15, 2014

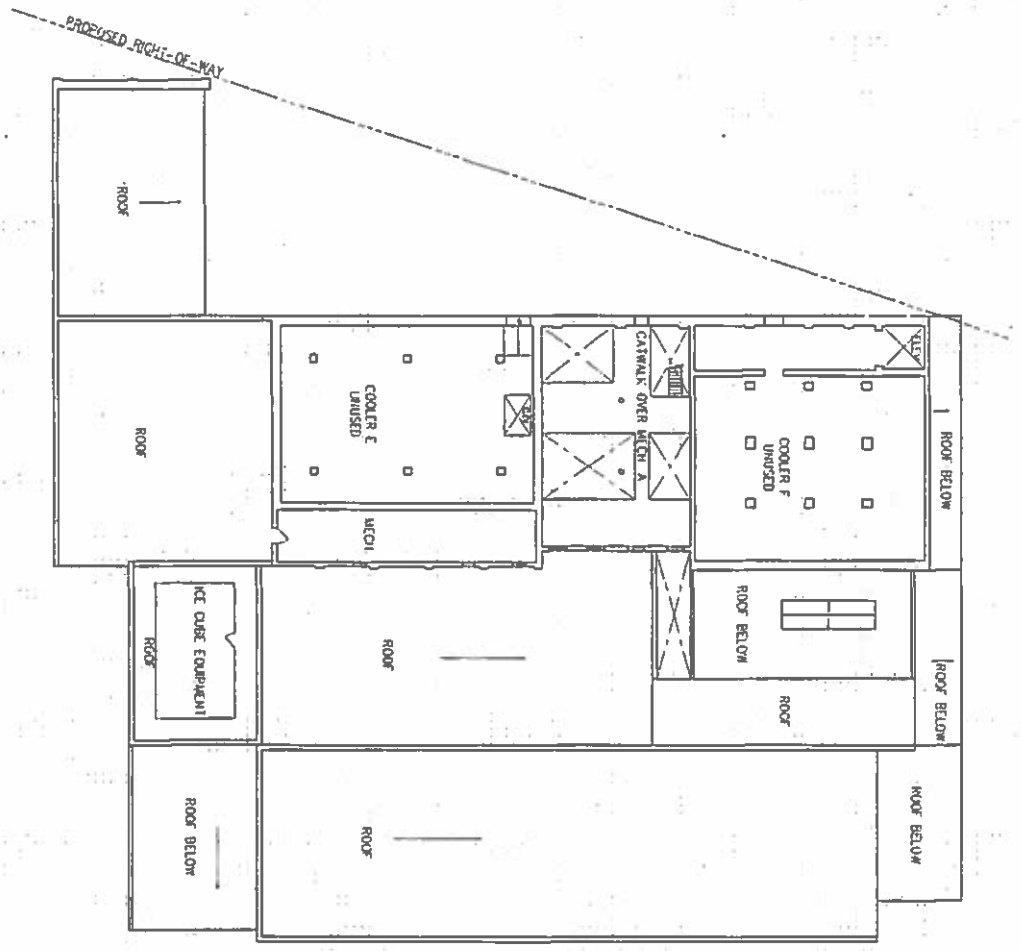
GROCCERS ICE AND COLD STORAGE COMPANY BUILDING TREATMENT PLAN - UPDATED BUILDING TREATMENT PLAN



GROCCERS ICE AND COLD STORAGE COMPANY BUILDING
 LOUISVILLE, KENTUCKY

UPDATED EXISTING SECOND FLOOR PLAN
 OCTOBER 15, 2014

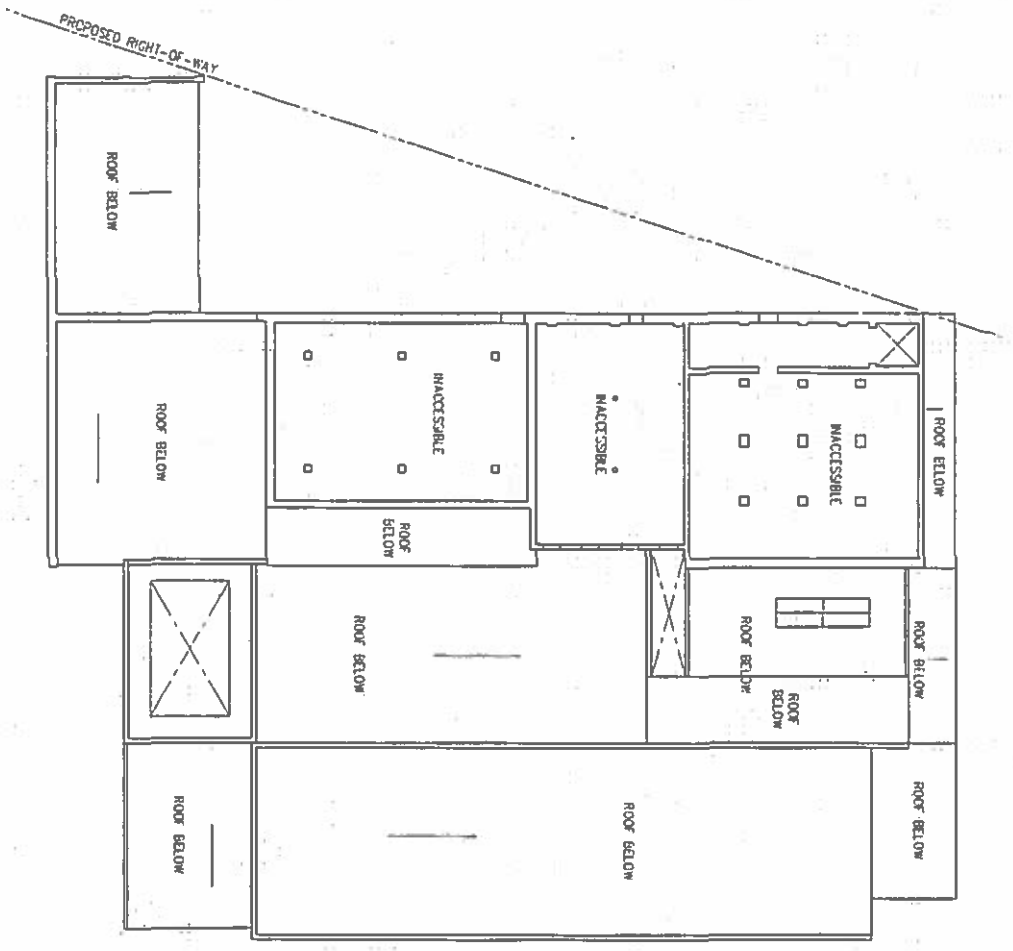
GROCCERS ICE AND COLD STORAGE COMPANY BUILDING TREATMENT PLAN - UPDATED BUILDING TREATMENT PLAN



GROCCERS ICE AND COLD STORAGE COMPANY BUILDING
 LOUISVILLE, KENTUCKY

UPDATED EXISTING THIRD FLOOR PLAN
 OCTOBER 15, 2014

GROCCERS ICE AND COLD STORAGE COMPANY BUILDING TREATMENT PLAN - UPDATED BUILDING TREATMENT PLAN



GROCCERS ICE AND COLD STORAGE COMPANY BUILDING TREATMENT PLAN - UPDATED BUILDING TREATMENT PLAN

GROCCERS ICE AND COLD STORAGE COMPANY BUILDING

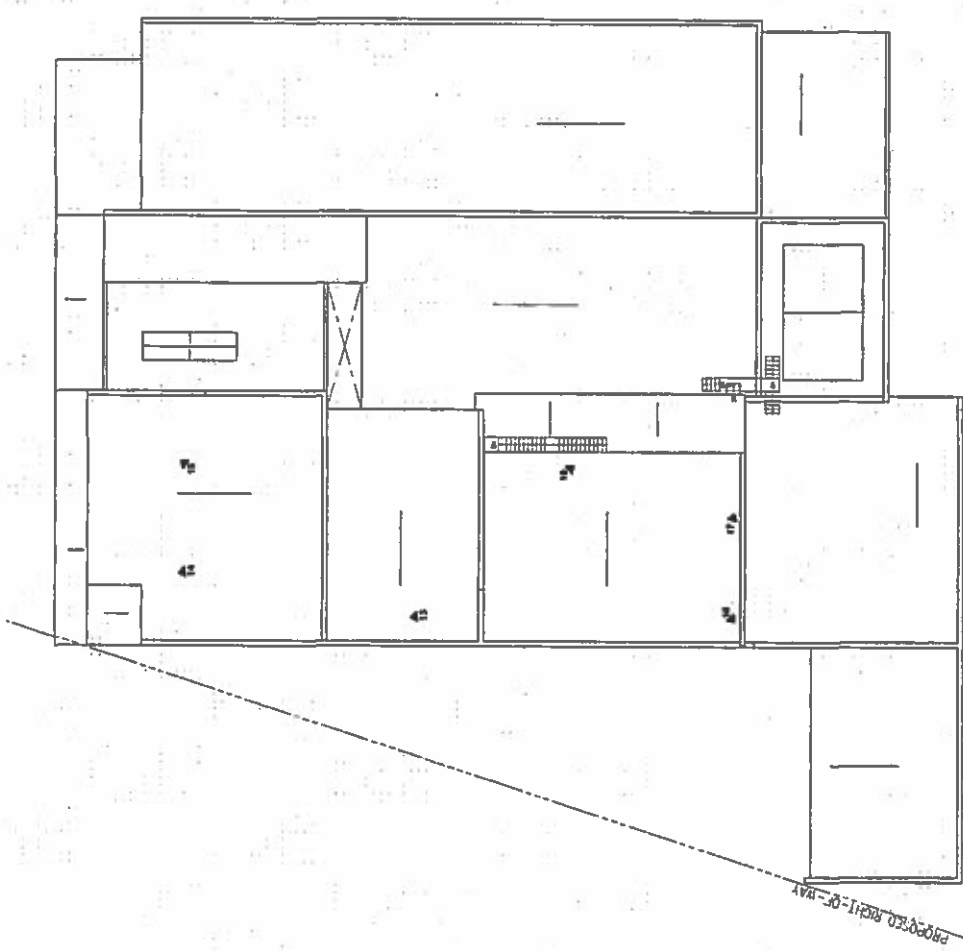
LOUISVILLE, KENTUCKY

UPDATED EXISTING FOURTH FLOOR PLAN

OCTOBER 16, 2014



UPDATED EXISTING ROOF PLAN
OCTOBER 16, 2014



GROCCERS ICE AND COLD STORAGE COMPANY BUILDING
LOUISVILLE, KENTUCKY

GROCCERS ICE AND COLD STORAGE COMPANY BUILDING TREATMENT PLAN - UPDATED BUILDING TREATMENT PLAN

Document No.: DN201508125
Lodged By: transportation cabinet
Recorded On: 04/24/2015 12:34:33
Total Fees: 160000
Transfer Tax: 2000
County Clerk: BOBBIE HOLSCLAAR
Deputy Clerk: SHESCH

END OF DOCUMENT