

**MADISON COUNTY, KENTUCKY FISCAL COURT
ORDINANCE NO. 18-1a**

**AN ORDINANCE OF THE MADISON COUNTY FISCAL COURT, KENTUCKY,
APPROVING THE ZONE CHANGE OF 2827 LEXINGTON ROAD,
RICHMOND, MADISON COUNTY, KENTUCKY (PARCEL #0053-0000-0031-A),
AND AUTHORIZING THE AMENDMENT OF THE OFFICIAL ZONING MAP
OF MADISON COUNTY, KENTUCKY**

WHEREAS, the hereinafter described land is located in Madison County, Kentucky, and;

WHEREAS, the Madison County Planning Commission held a public hearing on Tuesday, April 17, 2018 to consider a Land Use Change Request Application from UC-7 Agriculture to UC-4 General Commercial. The applicant's request stated that their justification for the proposed change being that the proposed Land Use Map Amendment is in agreement with the comprehensive plan because it promotes development in Northern Madison County along I-75, that the current zone classification is inappropriate and the proposed amendment is an appropriate use for this property and that changes have occurred to the character of the area and the property after the existing zoning classification was made.

WHEREAS, After hearing the evidence presented by the applicant and testimony of persons opposed to the amendment, a finding of fact was made that the existing classification is inappropriate and that the proposed change is appropriate for the reasons that the property is now bordered on two (2) sides by commercial property and that the Land Use Map amendment is in agreement with the Comprehensive Plan of Madison County which states the need for development in Northern Madison County and in the Urban Corridor..

WHEREAS, the Madison County Planning Commission upon hearing testimony made a Motion which carried by a vote of 4-2 to recommend to the Madison County Fiscal Court to approve the Land Use change request from UC-7 Agriculture to UC-4 General Commercial.

WHEREAS, the Madison County Fiscal Court upon hearing testimony from the Petitioner of the zone change and concerned citizens found that because there was no UC-4 General Commercial property contiguous with the proposed property and because both the Petitioner of the zone change and the citizens who objected to the zone change to UC-4 were now in agreement that UC-3 Neighborhood Commercial was the more appropriate classification, the Madison County Fiscal Court made a finding of fact that UC-3 Neighborhood Commercial was the more appropriate zone change classification. Petitioner further agreed to be bound by a certificate of land use restriction which is attached hereto and made a part hereof.

NOW, THEREFORE BE IT ORDAINED AND ENACTED BY THE FISCAL COURT OF THE COUNTY OF MADISON, COMMONWEALTH OF KENTUCKY, that the findings of fact of the Madison County Planning Commission stated herein are adopted to the extent that a zone change is appropriate but are amended in that the land use classification of the property described in Section I below be changed by this ordinance from UC-7 Agriculture to UC-3 Neighborhood Commercial classification subject to the Certificate of Land Use Restriction attached hereto.

SECTION I

A certain tract of land lying on Lexington Road in Madison County, Kentucky and known as Lot 1 containing 6.82 acres, as shown on plat recorded in Plat Cabinet 25, at Slide 60, in the Madison County Court Clerk's Office, reference to which is hereby made for a more particular description..

Being the same property conveyed to Paul Sword and Patricia Sword, husband and wife and John Marks and Tammy Marks, husband and wife, by Quitclaim deed from Kentucky Baptist Foundation, a Kentucky Corporation, dated November 20, 2008 and of record in Deed Book 641, Page 18 in the Madison County Court Clerk's Office.

SECTION II

That the Madison County GIS Coordinator make the appropriate changes to the Official Zoning Map of Madison County, Kentucky.

SECTION III

That the County Clerk cause this Ordinance to be published in accordance with the Kentucky Revised Statutes.

DATE OF FIRST READING:

June 12, 2018

MOTION BY:

Roger Barger

SECONDED BY:

Larry Combs

VOTE:

Magistrate Larry Combs
Magistrate Roger Barger
Magistrate John Tudor
Magistrate Tom Botkin
Judge Reagan Taylor

YES

✓
✓
✓
✓
✓

NO

DATE OF SECOND READING:

MOTION BY:

SECONDED BY:

VOTE:

Magistrate Larry Combs
Magistrate Roger Barger
Magistrate John Tudor
Magistrate Tom Botkin
Judge Reagan Taylor

YES

✓
✓
✓
✓
✓

NO

✓

R-30

MADISON COUNTY JUDGE/ EXECUTIVE

Attest:



Madison County Clerk, Kenny Barger

CERTIFICATE OF LAND USE RESTRICTION

1. PROPERTY OWNERS:

Paul Sword and Patricia Sword, husband and wife
John Marks and Tammy Marks, husband and wife

1730 Boonesboro Road
Richmond, Kentucky 40475

2. PROPERTY: The Property which is the subject of this Land Use Restriction is described as follows:

- a. Being the same property conveyed to Property Owners, by Deed dated November 14, 2008, and of record in Deed Book 641 at Page 21, Madison County Clerk's Office. Copy of Deed attached as Exhibit B.

3. NAME OF DEVELOPMENT:

4. RESTRICTIONS:

If the Property described in numerical paragraph 2 above is rezoned from its current classification of UC-7 to its proposed classification of UC-3 pursuant to the pending applications of the Property Owners then and in such event any future development of the Property shall comply with the provisions of this Certificate of Land Use Restriction unless deviation is approved by the Madison County Planning Commission or by the owners of the property located at 2761 Lexington Rd. (herein called the "Adjoining Property"):

- A. That portion of the Property lying at the South end and which adjoins the Adjoining Property, will be developed by construction thereon of:
 1. A combined office and warehouse building similar to that depicted in the attached Exhibit A, together with asphalt front parking and entrance;
 2. Any parking or storage constructed in the rear of the building shall be screened with privacy fencing, trees or other landscaping, so as to block its view from the Adjoining Property;
 3. Any building will be located at least 50 feet from the South Property line, and any drive or parking lot shall be located at least 20 feet from the South Property line and in that setback area there shall be

installed, prior to occupancy of the building, a landscape buffer consisting of evergreens which are at least 6 feet tall at the time they are installed, set close enough that when mature they will block the view of the building and parking from the Adjoining Property. Any dead tree shall be promptly replaced;

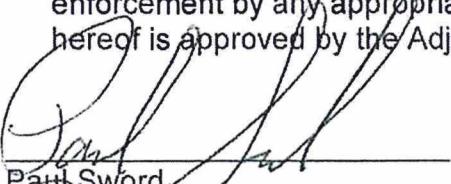
4. All outdoor lighting, if any, to be installed on the Property shall be directed away from the Adjoining Property so as to prevent the intrusion of unwanted light onto the Adjoining Property;
5. No inoperable vehicles shall be permitted to remain outside the building;
6. No regular construction activities or other activities creating a nuisance shall be conducted on the exterior of the building; and
7. The owner of the lot and building shall keep it neat, free of trash or debris, the grass neatly mowed, and attractively maintained.

B. That the balance of the Property may be developed consistent with the provisions of the Madison County Planning Regulations, after approval of a development plan by the Madison County Planning Commission, notice of the consideration of which shall be given to the owners of the Adjoining Property. Notwithstanding the foregoing however, the remainder of the Property may not be used for an animal rescue facility or a dog kennel.

C. That these Restrictions shall remain in effect until the earlier of the following events, at which time they shall terminate, in whole or in part, as applicable:

1. The owner of the Adjoining Property may, by written agreement, waive any or all of the Restriction and any such waiver shall be filed of record in the office of the Madison County Clerk and shall become effective upon recording;
2. These Restrictions shall terminate in their entirety if the Adjoining Property is rezoned for a commercial purpose or use and the Adjoining Property is actually being used for a commercial purpose.
5. The original records regarding the restrictions herein referred to may be found at the offices of the Madison County Planning Commission, Richmond, Kentucky and shall be recorded with the real estate records in the office of the Madison County Clerk.
6. That the terms of this Certificate of Land Use Restriction may be modified, amended or revoked only upon approval of the Madison County Planning Commission or by written agreement or waiver signed by the owners of the Adjoining Property.

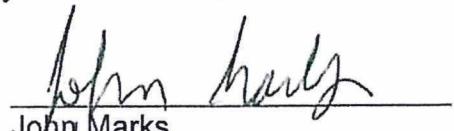
7. The owner of the Adjoining Property and/or the Madison County Planning Commission shall have authority to enforce the terms of this Certificate of Land Use Restriction against the owner of the Property at the time of such enforcement by any appropriate means unless a deviation from the terms hereof is approved by the Adjoining Property owner or the Commission.



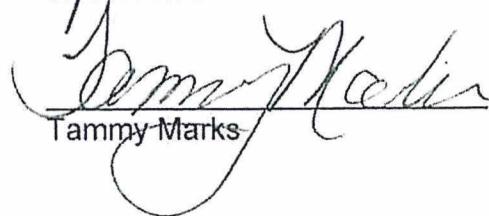
Paul Sword



Patricia Sword



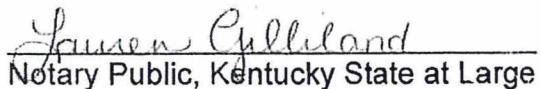
John Marks



Tammy Marks

STATE OF KENTUCKY
SCT
COUNTY OF MADISON

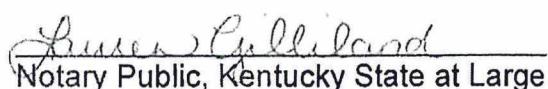
Before me, a Notary Public, in and for the county and state aforesaid, personally appeared Paul Sword and Patricia Sword, who signed and acknowledged the foregoing CERTIFICATE OF LAND USE RESTRICTION as their free act and deed, on this the 15 day of JUNE, 2018.


Notary Public, Kentucky State at Large

My Commission Expires: 12/22/21.

STATE OF KENTUCKY
SCT
COUNTY OF MADISON

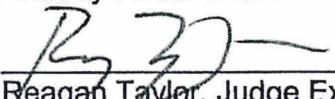
Before me, a Notary Public, in and for the county and state aforesaid, personally appeared John Marks and Tammy Marks, who signed and acknowledged the foregoing CERTIFICATE OF LAND USE RESTRICTION as their free act and deed, on this the 15 day of JUNE, 2018.


Notary Public, Kentucky State at Large

My Commission Expires: 12/22/21.

Madison County Fiscal Court

By:


Reagan Taylor, Judge Executive

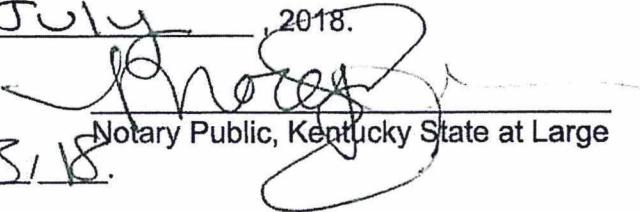
STATE OF KENTUCKY

SCT

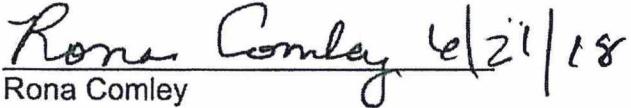
COUNTY OF MADISON

Before me, a Notary Public, in and for the county and state aforesaid, personally appeared Reagan Taylor, Judge Executive of Madison County, who signed and acknowledged the foregoing CERTIFICATE OF LAND USE RESTRICTION on behalf and with the authority of the Madison County Fiscal Court, on this the 3 day of July, 2018.

My Commission Expires: 11/31/18


Notary Public, Kentucky State at Large

SEEN AND AGREED TO BY:


Rona Comley

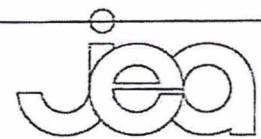
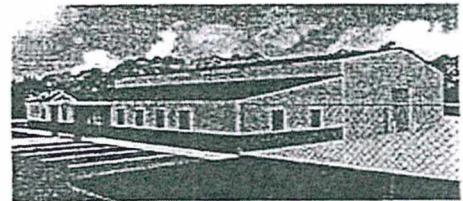
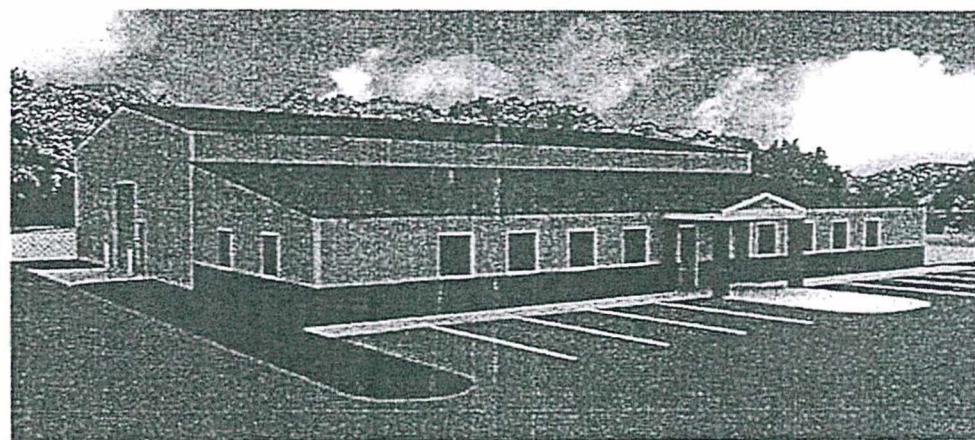
JMBA OFFICE & SHOP

2827 LEXINGTON ROAD
RICHMOND, KENTUCKY 40475



IER

MARKS
orth Eagle Creek Drive, Suite 102
ton, Kentucky 40509
9-264-8575

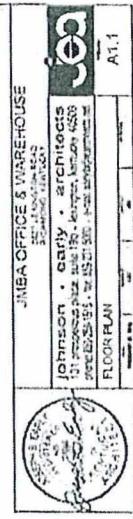
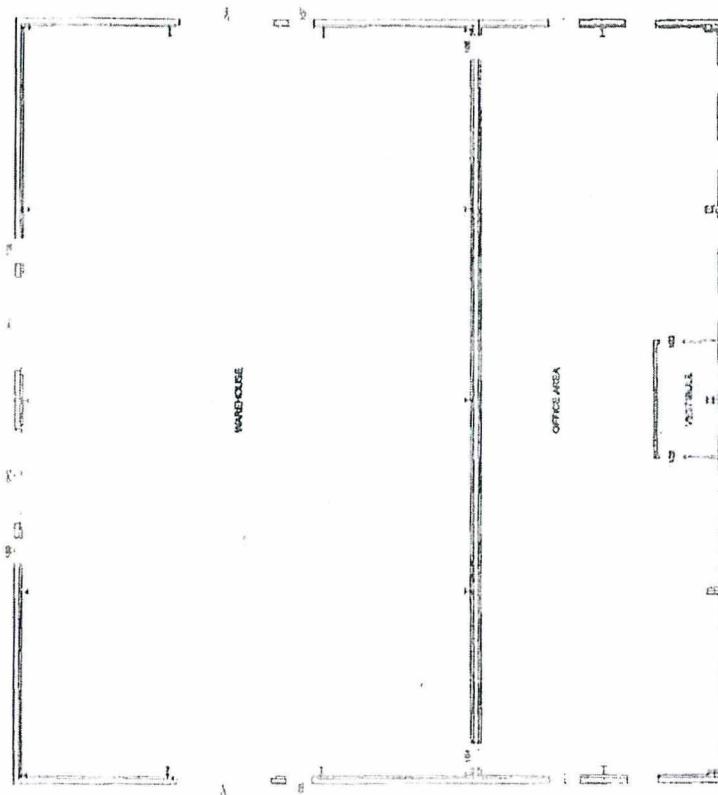


johnson • early • architects
131 prosperous place, suite 19b • lexington, kentucky 40509
phone: 859-259-1515 • fax: 859-231-5060 • e-mail: earlyjb@jearchitects.net

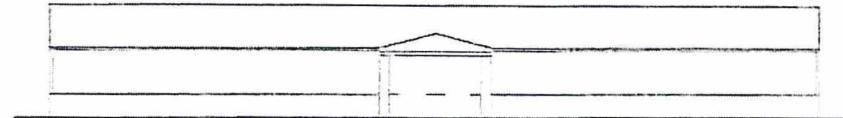
DRAWING INDEX

COVER SHEET
S01.1 SITE PLAN
A1.1 FLOOR PLAN
A2.1 BUILDING ELEVATIONS

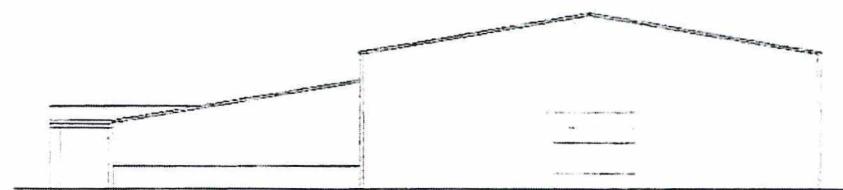
Exhibit A



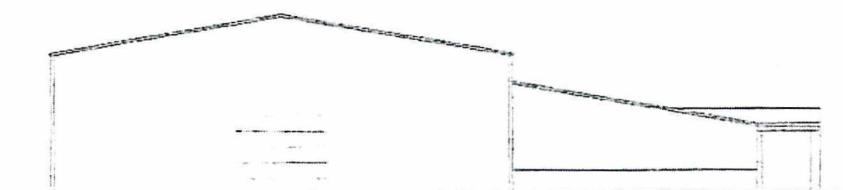
FLOOR PLAN



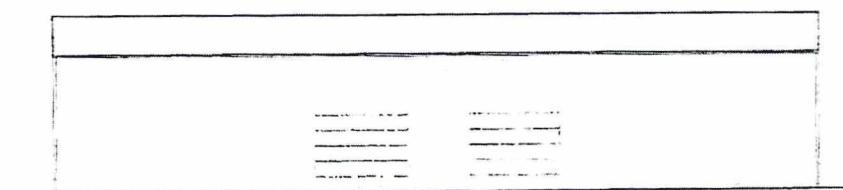
A FRONT ELEVATION
1/2" SCALE 1'-0" x 1'-0"



B LEFT SIDE ELEVATION
1/2" SCALE 1'-0" x 1'-0"



C RIGHT SIDE ELEVATION
1/2" SCALE 1'-0" x 1'-0"



D REAR ELEVATION
1/2" SCALE 1'-0" x 1'-0"

	JMBA OFFICE & WAREHOUSE 2021 LANCION ROAD FORTRESS, KENTUCKY	
Johnson + Carly + architects 131 Prospect Place Suite 102 • Lexington, Kentucky 40508 Phone 859.233.1515 • Fax 859.233.1515 • Email info@jca.com		
BUILDING ELEVATIONS		A2 1
1	2	3

SFM

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MADISON COUNTY
D641 PG21

D E E D

THIS DEED made and entered into this 14th day of October, 2008, by and between **MARY LOIS KEARNS**, 825 Wimbledon Terrace, Richmond, KY 40475, **PAULA JEAN MAUCK**, 106 Forest Hill Drive, Richmond, KY 40475 and **THOMAS H. MCMULLIN**, 3307 Colonel Road, Richmond, KY 40475, Successor Trustees of the Sallie H. Marcum Revocable Living Trust; **MARY LOIS KEARNS** and **DONNIE KEARNS**, her husband, 825 Wimbledon Terrace, Richmond, KY 40475; **PAULA JEAN MAUCK**, a single person, 106 Forest Hill Drive, Richmond, KY 40475; **THOMAS H. MCMULLIN** and **BETTY W. MCMULLIN**, his wife, 3307 Colonel Road, Richmond, KY 40475; **TABITHA EVANS** and **BURLEY EVANS**, her husband, 403 Vinery Drive, Berea, KY 40403 and **RUTH TRACY** and **MARSHALL TRACY**, her husband, 312 Laurel Street, Richmond, KY 40475, PARTIES OF THE FIRST PART, and **PAUL SWORD** and **PATRICIA SWORD**, husband and wife, 1730 Boonesborough Road, Richmond, KY 40475 and **JOHN MARKS** and **TAMMY MARKS**, husband and wife, 500 Pinchurst Circle, Richmond, KY 40475, PARTIES OF THE SECOND PART.

W I T N E S S E T H:

That for and in consideration of the sum of **SEVENTY-NINE THOUSAND SIX HUNDRED TWENTY-EIGHT AND 40/100 DOLLARS (\$79,628.40)**, receipt of which is hereby acknowledged, the Parties of the First Part have bargained and sold and do hereby grant and convey a one-half (1/2) undivided interest unto Paul Sword and Patricia Sword, for and during their joint lives with remainder in fee simple to the survivor of them, their heirs and assigns forever, and a one-half (1/2) undivided interest unto John Marks and Tammy Marks, for and during their joint lives with remainder in fee simple to the survivor of them, their heirs and assigns forever, the following described property situated, lying and being in Madison County, Kentucky, to-wit:

A certain tract of land lying on Lexington Road in Madison County, Kentucky and known as Lot 1 containing 6.82 acres, as shown on plat recorded in Plat Cabinet 25, at Slide 60, in the Madison County Clerk's Office, reference to which is hereby made for a more particular description.

Being a part of the same property in which Virgil McMullin and his wife, Sallie McMullin, conveyed a two-thirds undivided interest in fee simple to Sallie McMullin, and a one-third undivided interest to Sallie Marcum for life, with the property to be sold at her death, and Ruth Tracy and Tabitha McMullin (now

Exhibit B

7, 1958, and recorded in Deed Book 176 at Page 397, in the Madison County Clerk's Office.

Being a part of the same property in which Sallie H. Marcum (a.k.a. Sallie McMullin), a married person, conveyed her two-thirds (2/3) undivided interest to Sallie H. Marcum, Trustee, or her successor in trust, under the Sallie H. Marcum Revocable Living Trust dated February 16, 2001, by deed dated March 14, 2001, and recorded in Deed Book 526 at Page 669, in the Madison County Clerk's Office.

At the time of the transfer of real property to the Sallie H. Marcum Revocable Living Trust, Sallie H. Marcum and Theodore R. Marcum were married. First parties warrant and represent that Theodore R. Marcum died on April 8, 2004 and thereby predeceased Sallie H. Marcum.

Sallie H. Marcum died on February 15, 2007.

The Sallie H. Marcum Revocable Living Trust provides that the two-thirds undivided interest in this property owned by the Trust is to be distributed to the children of Sallie H. Marcum, who are Mary Lois Kcarns, Paula Jean Mauck and Thomas H. McMullin.

First parties warrant and represent that Sallie McMullin and Sallie H. Marcum are one and same person. First parties also warrant and represent that Tabitha McMullin and Tabitha Evans are one and the same person.

TO HAVE AND TO HOLD the above-described property, together with all the appurtenances and privileges thereunto belonging unto the Parties of the Second Part, a one-half undivided interest unto Paul Sword and Patricia Sword, for and during their joint lives with remainder in fee simple to the survivor of them, their heirs and assigns forever; and a one-half undivided interest unto John Marks and Tammy Marks, for and during their joint lives with remainder in fee simple to the survivor of them, their heirs and assigns forever.

The Parties of the First Part do hereby release and relinquish unto the said Parties of the Second Part, their heirs and assigns forever, all of their right, title and interest in and to the said property and do hereby covenant to and with the Parties of the Second Part, their heirs and assigns forever, that they are lawfully seized in fee simple of the said property and have good and perfect right to sell and convey the same as herein done; that their title hereto is clear; perfect and unencumbered, except easements and restrictions of record, and that they will warrant generally the same.

Consideration Certificate: The parties hereto state that the consideration reflected in this deed is the full consideration paid for the property. The Parties of the Second Part join this deed for the sole purpose of certifying the consideration pursuant to KRS 382.

Ad Valorem Taxes: Transfer year taxes should be addressed in care of Paul Sword and Patricia Sword, 1730 Boonesborough Road, Richmond, KY 40475.

IN WITNESS WHEREOF, the said parties hereto have hereunto set their hands this the day and year first above written.

PARTIES OF THE FIRST PART:

Mary Lois Kearns
MARY LOIS KEARNS

Successor Trustee of the Sallie H.
Marcum Revocable Living Trust

Paula Jean Mauck
PAULA JEAN MAUCK

Successor Trustee of the Sallie H.
Marcum Revocable Living Trust

Thomas H. McMullin
THOMAS H. MCMULLIN

Successor Trustee of the Sallie H.
Marcum Revocable Living Trust

Mary Lois Kearns
MARY LOIS KEARNS

Donnie H. Kearns
DONNIE KEARNS

Paula Jean Mauck
PAULA JEAN MAUCK

Thomas H. McMullin
THOMAS H. MCMULLIN

Betty W. McMullin
BETTY W. MCMULLIN

Tabitha Evans
TABITHA EVANS

T. Burley Evans
BURLEY EVANS

Ruth Tracy
RUTH TRACY

Marshall Tracy
MARSHALL TRACY

PARTIES OF THE SECOND PART:

Paul S. Sword
PAUL SWORD

Patricia Sword
PATRICIA SWORD

John Marks
JOHN MARKS

Tammy Marks
TAMMY MARKS

STATE OF KENTUCKY)
)
) SCT.
COUNTY OF MADISON)

I, the undersigned Notary Public in and for the State and County aforesaid, do hereby certify that the foregoing Deed and Consideration Certificate was this date produced to me by MARY LOIS KEARNS, Successor Trustee of the Sallie H. Marcum Revocable Living Trust, and signed, sworn to and acknowledged by her to be her free and voluntary act and deed for the purpose therein stated.

IN TESTIMONY WHEREOF, witness my hand and official seal of office hereto this 12th day of November, 2008.

My commission expires: 11/09/2009

Melissa Whitaker (Howard)
NOTARY PUBLIC
KENTUCKY STATE AT LARGE

STATE OF KENTUCKY)
)
) SCT.
COUNTY OF MADISON)

I, the undersigned Notary Public in and for the State and County aforesaid, do hereby certify that the foregoing Deed and Consideration Certificate was this date produced to me by PAULA JEAN MAUCK, Successor Trustee of the Sallie H. Marcum Revocable Living Trust, and signed, sworn to and acknowledged by her to be her free and voluntary act and deed for the purpose therein stated.

IN TESTIMONY WHEREOF, witness my hand and official seal of office hereto this 12th day of November, 2008.

My commission expires: 11/09/2009

Melissa Whitaker (Howard)
NOTARY PUBLIC
KENTUCKY STATE AT LARGE

STATE OF KENTUCKY)
)
) SCT.
COUNTY OF MADISON)

I, the undersigned Notary Public in and for the State and County aforesaid, do hereby certify that the foregoing Deed and Consideration Certificate was this date produced to me by THOMAS H. McMULLIN, Successor Trustee of the Sallie H. Marcum Revocable Living Trust, and signed, sworn to and acknowledged by him to be his free and voluntary act and deed for the purpose therein stated.

IN TESTIMONY WHEREOF, witness my hand and official seal of office hereto this 12th day of November, 2008.

My commission expires: 11/9/2009

Melina Whitaker (Howard)
NOTARY PUBLIC
KENTUCKY STATE AT LARGE

STATE OF KENTUCKY)
)
) SCT.
COUNTY OF MADISON)

I, the undersigned Notary Public in and for the State and County aforesaid, do hereby certify that the foregoing Deed and Consideration Certificate was this date produced to me by MARY LOIS KEARNS and DONNIE KEARNS, her husband, and signed, sworn to and acknowledged by them to be their free and voluntary act and deed for the purpose therein stated.

IN TESTIMONY WHEREOF, witness my hand and official seal of office hereto this 12th day of November, 2008.

My Commission Expires: 11/9/2009

Melina Whitaker (Howard)
NOTARY PUBLIC
KENTUCKY STATE AT LARGE

STATE OF KENTUCKY)
) SCT.
COUNTY OF MADISON)

I, the undersigned Notary Public in and for the State and County aforesaid, do hereby certify that the foregoing Deed and Consideration Certificate was this date produced to me by PAULA JEAN MAUCK, a single person, and signed, sworn to and acknowledged by her to be her free and voluntary act and deed for the purpose therein stated.

IN TESTIMONY WHEREOF, witness my hand and official seal of office hereto this 12th day of November, 2008.

My Commission Expires: 11/19/2011

Angela Whitaker (Howard)
NOTARY PUBLIC
KENTUCKY STATE AT LARGE

STATE OF KENTUCKY)
) SCT.
COUNTY OF MADISON)

I, the undersigned Notary Public in and for the State and County aforesaid, do hereby certify that the foregoing Deed and Consideration Certificate was this date produced to me by THOMAS H. MCMULLIN and BETTY W. MCMULLIN, his wife, and signed, sworn to and acknowledged by them to be their free and voluntary act and deed for the purpose therein stated.

IN TESTIMONY WHEREOF, witness my hand and official seal of office hereto this 12th day of November, 2008.

My Commission Expires: 11/19/2011

Angela Whitaker (Howard)
NOTARY PUBLIC
KENTUCKY STATE AT LARGE

STATE OF KENTUCKY)
) SCT.
COUNTY OF MADISON)

I, the undersigned Notary Public in and for the State and County aforesaid, do hereby certify that the foregoing Deed and Consideration Certificate was this date produced to me by TABITHA EVANS and BURLEY EVANS, her husband, and signed, sworn to and acknowledged by them to be their free and voluntary act and deed for the purpose therein stated.

IN TESTIMONY WHEREOF, witness my hand and official seal of office hereto this 12th day of November, 2008.

My Commission Expires: 11/9/2009

Melissa Whittaker (Howard)
NOTARY PUBLIC
KENTUCKY STATE AT LARGE

STATE OF KENTUCKY)
)
) SCT.
COUNTY OF MADISON)

I, the undersigned Notary Public in and for the State and County aforesaid, do hereby certify that the foregoing Deed and Consideration Certificate was this date produced to me by RUTH TRACY and MARSHALL TRACY, her husband, and signed, sworn to and acknowledged by them to be their free and voluntary act and deed for the purpose therein stated.

IN TESTIMONY WHEREOF, witness my hand and official seal of office hereto this 12th day of November, 2008.

My Commission Expires: 11/9/2009

Melissa Whittaker (Howard)
NOTARY PUBLIC
KENTUCKY STATE AT LARGE

STATE OF KENTUCKY)
)
) SCT.
COUNTY OF MADISON)

14th The foregoing Consideration Certificate was acknowledged and sworn to before me this day of October, 2008, by PAUL SWORD and PATRICIA SWORD, husband and wife, Parties of the Second Part.

My commission expires:


NOTARY PUBLIC
KENTUCKY STATE AT LARGE

STATE OF KENTUCKY)
)
) SCT.
COUNTY OF MADISON)

20th The foregoing Consideration Certificate was acknowledged and sworn to before me this
day of November, 2008, by JOHN MARKS and TAMMY MARKS, husband and wife,
Parties of the Second Part.

My commission expires: 8/8/2014


NOTARY PUBLIC
KENTUCKY STATE AT LARGE

PREPARED BY:

EMMONS & PUCKETT, PLLC
Attorneys-at-law
232 West Main Street
Richmond, KY 40475

BY: Alison Lobb Emmons
ALISON LOBB EMMONS

DOCUMENT NO: 416190
RECORDED ON: NOVEMBER 21, 2008 10:22:52AM
TOTAL FEES: \$32.00
TRANSFER TAX: \$0.00
COUNTY CLERK: WILLIAM E GABBARD
COUNTY: MADISON COUNTY
DEPUTY CLERK: LORENA BURNS
BOOK D641 PAGES 21 - 28