DRAFT AGREEMENT FOR PURCHASE

AND SALE OF REAL ESTATE

THIS AGREEMENT (the "Agreement") made this _____ day of _____2022 by and between the **LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT** a Kentucky Consolidated Local Government, acting by and through its **ECONOMIC DEVELOPMENT DEPARTMENT**, with an office located at 444 S. Fifth Street, Suite 600, Louisville, Kentucky 40202 ("Seller"), and **WINSTON LEASING, LLC**, a Kentucky limited liability company, with its principal address located at 3905 Bardstown Road, Louisville, Kentucky 40218 ("Buyer").

RECITALS

WHEREAS, Seller is the owner of a certain parcel of real property located at 3907 Bardstown Road, Louisville, Kentucky, more particularly described in Exhibit A, attached hereto, ("Property") and located upon the Property is a one story building ("Building"); and

WHEREAS, Buyer owns the adjacent property located at 3905 Bardstown Road and operates a commercial business therein ("Buyer's Property"); and

WHEREAS, Buyer desires to purchase the Property to be used for such purposes as are in Buyer's sole discretion, including without limitation for use in Buyer's business, and/or to demolish and reconstruct the Building and/or to remodel the Building and/or to lease the Building; and

WHEREAS, Louisville has determined that conveying the Property to Buyer is in furtherance of the public purposes of Louisville.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

1. **SALE AND PURCHASE OF PROPERTY**. Buyer hereby agrees to purchase, and Seller hereby agrees to sell the Property in accordance with the terms and conditions contained in this Agreement

2. **PURCHASE PRICE**. The purchase price ("Purchase Price") for the Property shall be $1.00 and the performance of the obligations of the Buyer as set forth herein.

3. **CLOSING**. The closing of the sale and purchase of the Property shall occur within six (6) months (90) days after the execution of this Agreement (the "Closing'), and shall be established by a written notice from Buyer to Seller delivered not less than one (1) week prior to the proposed Closing. The Closing shall be held at 444 S. Fifth Street, Suite 600, Louisville, Kentucky 40202, or at such other place as is mutually agreed to by Seller and Buyer. If the Closing fails to occur by that time, this Agreement shall terminate except upon written agreement of Buyer and Seller.

At the Closing, Buyer shall deliver the Purchase Price and Seller shall convey the Property to Buyer by deed of Special Warranty ("Deed") free and clear of all liens and encumbrances except governmental laws and regulations (including zoning regulations) affecting the Property and real estate taxes not yet due and payable, if any.

4. **RIGHT OF ENTRY.**

A. Buyer, its employees, agents or contractors shall have the right to enter upon the Property and the Building prior to the Closing for the purpose of conducting such surveys, tests or investigations deemed necessary by Buyer (the "Investigations"). The Buyer agrees to

conduct the Investigations so as to not unreasonably damage the Property or the Building and to promptly repair any damage thereto.

B. Buyer shall hold harmless Seller from and against any and all liabilities, losses, costs and expenses resulting from the exercise by Buyer of its right to enter upon Property to perform the Investigations as provided in subsection A of this Section, except to the extent such liabilities, losses, costs and expenses are caused by the negligent or intentional acts of the Seller, its agents or invitees.

5. APPORTIONMENTS: RESPONSIBILITY FOR OTHER EXPENSES.

Real property ad valorem taxes, if any, assessed against the Property and payable in the year of Closing, if any, shall be prorated on a calendar year basis to date of Closing. Seller shall pay the transfer tax on the conveyance of the Property, if any. Buyer shall pay the recording fees imposed for recording the Deed. Each party shall bear its own legal and other expenses associated with the transaction.

6. NO WARRANTIES. BUYER ACKNOWLEDGES AND AGREES THAT THE PROPERTY IS TO BE CONVEYED TO BUYER "AS IS", "WITH ALL FAULTS", IN ITS CURRENT CONDITION. BUYER FURTHER ACKNOWLEDGES AND AGREES THAT: (1) EXCEPT AS EXPRESSLY SET FORTH IN SECTION 9, SELLER HAS NOT MADE ANY GUARANTEE, REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH THE RESPECT TO THE PROPERTY (OR ANY PARTS THEREOF), AND (2) SELLER SHALL NOT HAVE ANY LIABILTY WHATSOEVER AS TO: (I) THE VALUE, HABITABILITY, CONDITION, DESIGN, OPERATION OF THE PROPERTY (OR ANY PARTS THEREOF), (II) THE FITNESS FOR PURPOSE OR USE OF THE PROPERTY (OR

ANY PARTS THEREOF), OR (III) THE ELIGIBILITY OF THE PROPERTY (OR ANY PARTS THEREOF) FOR ANY PERMIT, LICENSE, APPROVAL OR SIMILAR MATTER. FURTHER, BUYER AGREES THAT SELLER SHALL HAVE NO LIABILITY FOR ANY LATENT, HIDDEN, OR PATENT DEFECT IN OR AT THE PROPERTY OR FOR THE FAILURE OF THE PROPERTY (OR ANY PARTS THEREOF) TO COMPLY WITH ANY APPLICABLE LAWS, REGULATIONS, RULES OR PERMITS.

7. COVENANTS AND UNDERTAKINGS OF BUYER

A. Development of Property and Building. Buyer agrees, at its sole expense, to develop the Property and the Building in accordance with the terms and conditions of this Agreement.

B. Project Renovation. Buyer shall either (i) stabilize, rehabilitate, renovate and repair the Building in a first class manner, or (ii) demolish and rebuild the Building in a first class manner to make it suitable for use in its business ("Building Renovation"). No part of the Building shall be leased or used by massage parlors which do not employ massage therapists licensed pursuant to KRS 309.305 et.seq. pawn shops, liquor stores, bingo halls, flea markets or any establishment requiring an adult entertainment license to be issued by the Seller.

C. Project Schedule and Construction.

(1) Buyer acknowledges and agrees to use its best efforts to adhere to the schedule set forth in paragraph 2 ("Schedule"). Buyer shall obtain the prior written approval of Seller for any substantial amendment to the Schedule, which approval shall not be unreasonably withheld.

(2) Buyer shall use its best efforts to undertake and complete the Building Renovation in accordance with the following schedule, as measured from the date of Closing, and to meet the milestone dates set forth therein:

Apply for Permits	six (6) months
Commence Construction	one (1) year
Substantial Completion of Construction	two (2) years

D. Codes. All work performed on the Building Renovation shall comply with all federal, state and local codes, ordinances, statutes and regulations.

E. If Buyer fails to commence the Building Renovation within one (1) year of the Closing, Buyer, upon written notice from Seller, shall reconvey the Property to Seller within thirty (30) days of receipt of the above notice, free and clear of all liens and encumbrances for an amount equal to the Purchase Price.

F. Employment Regulations: Affirmative Action. Buyer, its contractors and subcontractors shall not refuse to hire or employ, or bar or discharge from employment, nor discriminate against any person in compensation or in terms, conditions or privileges of employment because of sex, race, creed, color, disabilities, sexual orientation, gender identity, age or national origin. At all times during the Building Renovation, Buyer shall use its best efforts to ensure that its employees and the employees of its contractors and subcontractors are treated during employment without regard to their sex, race, creed, color, disabilities, sexual orientation, gender identity age or national origin. This requirement shall apply to, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training.

G. Non-Discrimination. Upon completion of the Building Renovation, Buyer agrees to abide by all fair housing laws and will not discriminate on the basis of race, sex, color, creed,

disability, sexual orientation, gender identity, age or national origin, in the sale, lease, rental, use or occupancy of the Property or Building.

H. Security. Buyer agrees to furnish reasonable and customary security during The Building Renovation.

I. Budget. Prior to Closing, Buying shall submit to Seller a reasonably detailed budget for the Building Renovation sufficiently detailed to enable Seller to determine if the budget is reasonable and sufficient to enable the Building Renovation to be completed in accordance with the terms of this Agreement ("Budget").

J. Financing Commitments. Prior to Closing, Buyer shall obtain all necessary financing to undertake and complete the Building Renovation in accordance with the Budget and this Agreement and shall present written evidence to Seller that it has commitments for sufficient funding either from equity financing, a construction loan from a financial institution or a combination of equity and debt satisfactory to Seller.

K. Indemnification. Buyer agrees to indemnify and hold Seller, its officers, employees and agents harmless from and against any and all claims, demands, suits proceedings, judgments, losses, liabilities, damages, costs and expenses of every kind and nature (including, but not limited to, reasonable attorneys' fees) imposed upon or incurred by such parties as a result of or in connection with any of the following:

(1) Any misrepresentation or breach of warranty made by Buyer in this Agreement or in any agreement or instrument executed by it in connection herewith or pursuant hereto.

(2) The breach of or default in the performance of any covenant, agreement or obligation to be performed by Buyer pursuant to this Agreement or any agreement or instrument executed by it in connection herewith or pursuant thereto.

L. Environmental Testing and Remediation. Buyer shall be solely responsible for performing any testing, assessments or other examinations to determine whether Hazardous Materials (as defined below) are present in, on or under the Property ("Environmental Testing") and, if Buyer elects to close on the purchase of the Property, to conduct any remediation or management of the Hazardous Materials disclosed by the Environmental Testing as Buyer may reasonably determine is necessary ("Remedial Measures"). As used herein, the term "Hazardous Material" means any hazardous or toxic substance, material or waste which is or becomes regulated by any applicable federal, state or local governmental agency or authority. The term "Hazardous Material" includes, without limitation, any material or substance which is (i) petroleum, (ii) asbestos, (iii) designated as a "hazardous substance" pursuant to Section 311 of the Federal Water Pollution Control Act (33 USC Section 1317), (iv) defined as "hazardous waste" pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act (42 USC Section 6903), (v) defined as a "hazardous substance" pursuant to Section 101(14) of the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA") (42 USC Section 9601), or (vi) defined as a "pollutant" or "contaminant" pursuant to Section 101(33) of CERCLA.

8. RESALE OF PROPERTY. If Buyer sells the Property within two (2) years of the date of completion of the Building Renovation, Buyer agrees to pay to Seller 50% of the sales price received by Buyer for the Property in excess of the actual costs incurred by Buyer to complete the Building Renovation.

9. SELLER'S REPRESENTATIONS AND WARRANTIES. In addition to any other express agreements of Seller contained herein, the matters set forth in this Section constitute representations and warranties by Seller which shall be true and correct as of the date of this Agreement. In the event that Seller learns, or has reason to believe, that any of the following representations and warranties may cease to be true, Seller hereby covenants to give notice thereof to Buyer immediately.

A. Authority of Seller. Seller possesses the full power and authority to enter into and perform this Agreement. This Agreement does not conflict with any contract, agreement or commitment to which Seller is a party.

B. Binding on Seller. This Agreement constitutes the legally valid and binding obligation of Seller enforceable in accordance with its terms. Neither the entering into of this Agreement, nor the consummation of the transactions contemplated hereby, will constitute a violation or breach by Seller of any contract or other instrument to which it is a party or to which it is subject, or any judgment, order, writ, injunction or decree issued against or imposed upon it, or will result in any violation of applicable law, order or regulation of any governmental authority.

10. REPRESENTATIONS AND WARRANTIES BY BUYER. In addition to any other express agreements of Buyer contained herein, the matters set forth in this Section constitute representations and warranties by Buyer which shall be true and correct as of the date of this Agreement and as of the Closing.

A. Authority of Buyer. Buyer has full power and authority to enter into and perform this Agreement. This Agreement does not conflict with any provisions of Buyer's

articles of organizations, or of any contract, agreement or commitment to which Buyer is a party. As of the date of Closing, the execution, delivery and performance of this Agreement shall have been duly authorized by all necessary action on the part of the Buyer, and no further action shall be required to give effect to this Agreement or to permit Buyer to carry out the transaction contemplated hereby.

B. Binding on Buyer. This Agreement constitutes the legally valid and binding obligation on Buyer enforceable in accordance with its terms. Neither the entering into of this Agreement nor the consummation of the transactions contemplated hereby will constitute a violation or breach by Buyer of any contract or other instrument to which it is a party to or to which it is subject, or any judgment, order, writ, injunction or decree issued against or imposed upon it, or will result in any violation of applicable law, order, rule or regulation of any governmental authority.

11. THE CLOSING CONTINGENCIES. The obligations of the parties to close on the purchase and sale of the Property shall be subject to the following contingencies:

A. Contingencies to Seller's Obligation to Close. Seller shall be under no obligation to close on the conveyance of the Property to Buyer unless the following conditions have been satisfied or waived by Seller, in writing, at the time of the Closing:

(1) Buyer shall have tendered the Purchase Price.

(2) The Metro Council shall have declared the Property surplus to the needs of Seller and authorized its sale to Buyer pursuant to the terms and conditions of this Agreement.

(3) Buyer shall have submitted the Budget to Seller in form and content acceptable to Seller.

(4) Buyer shall have submitted evidence to Seller acceptable to Seller that it has obtained commitments for financing sufficient to undertake and complete the Building Renovation.

(5) All of Buyer's representations and warranties shall remain true and correct as of the Closing and Buyer shall have performed its other obligations under this Agreement.

B. Contingencies to Buyer's Obligations to Close. Buyer shall be under no obligations to close on the purchase of the Property unless the following conditions have been satisfied, or waived by the Buyer, in writing, at the time of the Closing:

(1) All of the Seller's representations and warranties shall remain true and correct as of the date of the closing and Seller shall have performed its obligations under this Agreement.

C. Termination for Failure to Fulfill Contingencies. Upon the exercise by either Buyer or Seller of its option to terminate this Agreement because of the failure of the other party to fulfill the applicable contingencies referenced in Section 10. A. and B. above, this Agreement shall be void and the parties shall be relieved of any and all further obligations and duties hereunder, each unto the other except for Buyers obligations under Section 4.B of this Agreement.

12. RISK OF LOSS AND INSURABLE INTEREST; DAMAGE. Until the time of recording of the Deed, risk of loss with respect to the Property shall continue to be borne by Seller.

13. NOTICES. Any notice to be given herein by either party to the other shall be given in writing by personal delivery or first class mail, to the persons and addresses below, until notification of change of such address.

If to Seller: Department of Economic Growth and Innovation
444. S. Fifth Street, Suite 600
Louisville, KY 40202
Attn: Jason Woodall

If to Buyer: Winston Leasing, LLC
3905 Bardstown Road
Louisville, Kentucky 40218
ATTN: Thomas Batliner

14. TERMINATION.

A. Seller may terminate this Agreement if Buyer fails to perform its contractual duties under this Agreement.

B. If Buyer is determined to be in default, Seller shall notify Buyer of the determination in writing, and Buyer shall have thirty (3) days to cure the identified deficiencies. Seller may proceed with termination if Buyer fails to cure the deficiencies within the specified time.

C. A default in performance by Buyer for which this Agreement may be terminated shall include, but shall not necessarily be limited to:

(1) Failure to perform the Agreement according to its terms and conditions and specifications;

15. TIME AND ESSENCE. Time is of the essence to this Agreement

16. ENTIRE AGREEMENT. This agreement, together with any exhibits hereto, which are deemed to be incorporated by references as if set forth at length herein, shall continue the entire written understanding of the parties and shall supersede all oral and written understandings of the parties, all of which are deemed to be merged herein. This Agreement may not be modified or amended except in writing, signed by each of the parties hereto, their successors or assigns.

17. GOVERNING LAW. This Agreement and obligations of the parties hereunder shall be governed in all respects by the laws of the Commonwealth of Kentucky.

18. NO ASSIGNMENT. Buyer shall not assign or transfer any interests under this Agreement without the prior written consent of Seller.

19. BROKERS. Seller and Buyer each shall be responsible solely for paying any broker's commissions incurred by them, respectively, in connection with this Agreement and shall hold the other party harmless from any claims for broker's commissions.

20. SURVIVAL. All warranties, covenants and other obligations set forth herein shall be deemed satisfied by Closing of the sale and delivery of the Deed at the Closing, except as to customary warranties contained in the Deed.

21. DATE OF AGREEMENT. This Agreement or their authorized representatives have executed this Agreement on the day and year first above written.

Witness the signatures of the authorized representatives of the parties.

"SELLER"

LOUISVILLE/JEFFERSON COUNTY

METRO GOVERNMENT

By: _____

Greg Fischer
Mayor

"BUYER"

WINSTON LEASING, LLC

By: _____

Title: _____

Approved as to form:

_____
Michael J. O'Connell
Jefferson County Attorney