

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING ("MOU") is entered into this 4 day of December, 2018, by and between the Lexington-Fayette Urban County Government ("LFUCG"), an urban county government pursuant to KRS 67A, located at 200 East Main Street, Lexington, KY 40507 and Main Street Baptist Church ("MSBC"), a religious organization located at 582 West Main Street, Lexington, KY 40507, collectively (the "Parties").

RECITALS:

WHEREAS, MSBC, a historic African-American church, has existed at its current Jefferson and Main location for over 155 years; and

WHEREAS, MSBC owns two pieces of property, including a church and chapel, situated on both sides of the Jefferson Street Viaduct (bridge); and

WHEREAS, although the Church only has 26 parking spaces on its property, it has established a long-standing, agreement with the adjoining Mary Todd Lincoln House for the use of its 11 spaces (when available) and with the Lexington Convention Center (LCC) for the use of its 700 parking spaces in the Cox Street Parking Lot (when available) in the Rupp Arena vicinity; and

WHEREAS, LFUCG has been instrumental in obtaining assurances from the LCC Board (appointed by the Mayor) regarding MSBC's continued use of the Cox Street Parking Lot, notwithstanding an increase in the demand for parking relating to UK Basketball games, concerts, conventions, and special events. A copy of the letter from the LCC Board dated October 9, 2018 is attached as Exhibit A and incorporated herein by reference; and

WHEREAS, LCC is undertaking a major renovation and expansion project which is supported by LFUCG and which has and will continue to severely impact MSBC's parking during the construction phase of the project; and

WHEREAS, Jefferson Street (consisting of a bridge/viaduct structure and a roadway), which was originally owned and maintained by the Kentucky Transportation Cabinet (KYTC), was transferred in its entirety to LFUCG by KYTC in 2018; and

WHEREAS, LFUCG has undertaken two major public works projects to benefit the public and foster economic development in and around the Convention Center, consisting of the (1) the Town Branch Commons Trail Project, which will run through downtown Lexington; and (2) the Town Branch Park which will be located immediately behind the MSBC's properties on a portion of the property owned by LCC; and

WHEREAS, LFUCG has determined that the Jefferson Street Bridge and part of the supporting structure, which are located near MSBC, should be demolished in order to accommodate the LCC project and the Town Branch Park; and

WHEREAS, LFUCG's intends to repurpose the remaining Jefferson Street right-of-way that is located in between MSBC's properties (chapel and sanctuary ("Remaining ROW")), to include parking and an entrance to Town Branch Park. A drawing depicting the parking and entrance to the park is attached as Exhibit B and incorporated herein by reference; and

WHEREAS, MSBC believes that its continued existence as a historic landmark and active congregation in downtown Lexington requires an adequate number of parking spaces for its members and guests; and

WHEREAS, MSBC has requested that LFUCG assist it in maximizing the number of church Parking Spaces by allowing its congregation to use the Remaining ROW on a temporary basis for parking during the construction of the LCC project; and

WHEREAS, LFUCG recognizes the important role that MSBC has served and continues to serve in the community and the impact the LCC construction will have on the MSBC's parking; and

WHEREAS, MSBC has had mutual understanding and agreements with past LFUCG Mayors and officials over the years as well as with LCC that allowed for parking in the current Cox Street Lot and that MSBC has relied on those mutual understandings and agreements in decisions made regarding forgoing purchasing opportunities of adjacent properties; and

WHEREAS, under the totality of the unique circumstances described above, LFUCG finds that it would be reasonable to allow the Remaining ROW to be used exclusively by MSBC during its normal hours of worship and on special occasions throughout the interim construction period.

NOW, THEREFORE, in consideration of the foregoing and the terms and conditions hereinafter set forth, the Parties mutually acknowledge and agree as follows:

1. **INCORPORATION OF RECITALS.** The above recitals are incorporated by reference as if fully stated herein.
2. **SCOPE.** The purpose of this MOU is to provide short-term temporary parking at no cost to Main Street Baptist Church during the construction of the Lexington Civic Center ("LCC") Project in an effort to minimize the parking impact of the project to MSBC. MSBC understands and agrees that the parking provided pursuant to this Agreement is designed to be temporary in nature and that LFUCG has no obligation to continue to provide permanent parking to MSBC once the LCC project construction is complete. Notwithstanding the foregoing, LFUCG will negotiate in good faith towards an agreement with MSBC and the

necessary park-related entities for the long-term use of the Remaining ROW. A map of the general area to be used for parking denoting a temporary gate controlled by MSBC and placed at the Main Street access to the ROW is attached hereto as Exhibit C and incorporated herein by reference.

3. TERM: The parties agree to the following terms and conditions:

a. This MOU shall be for an initial period of three (3) years, and is automatically renewable for up to two additional terms of one year each so long as both parties are in compliance and the LCC construction project has not been completed. It is the intent of the parties that the term of this MOU match up with LCC's construction project. MSBC understands and agrees that it will not be able to utilize the Remaining ROW for parking until LFUCG has substantially completed construction of a surface parking lot on the property. Construction shall begin so after the demolition of the Jefferson Street Viaduct.

Nothing in this section shall prohibit the parties from agreeing to additional terms or reaching an agreement that amends or supersedes this MOU.

b. In consideration of the impact that the LCC project has on MSBC's parking, LFUCG agrees to construct a temporary parking lot on the Remaining ROW at its cost (hereinafter referred to as the "Parking Lot"). The Parking Lot shall be for the exclusive use of MSBC except as otherwise provided in this MOU.

c. MSBC agrees that on days and times when the Parking Lot is not in use by MSBC, LFUCG has the discretion to use the parking lot or authorize its use by other parties. In order to do so, LFUCG must contact MSBC at least two full business days in advance. LFUCG will not make any such request for use on Sundays, Tuesdays or on other normally recognized days of worship. MSBC will reasonably accommodate requests for use by LFCUG.

d. MSBC understands and agrees that it is strictly prohibited from leasing, renting or otherwise making the Parking Lot available to others for any monetary fee or other compensation. Failure to comply with this provision shall render this MOU automatically null and void.

e. MSBC understands and agrees that the purpose of this MOU is to provide it with parking, and that any other use of the Remaining ROW by MSBC is prohibited. However, MSBC may submit a request to LFUCG to use the Remaining ROW for a use other than parking. Approval by LFUCG shall be in writing.

f. MSBC understands and agrees that it will be solely responsible for any damage outside of ordinary wear and tear caused to the Parking Lot due to its

use under this MOU and will not attach or affix any permanent structure, fixture, appurtenance, or equipment to the property.

g. Either party may terminate this lease for non-performance at any time by providing at least thirty days advance written notice and the opportunity to cure. Upon final completion of the LCC construction project, LFUCG may terminate this MOU by providing MSBC with at least ninety (90) days advance written notice. This in no way restricts or limits the ability of the parties to amend this term or reach a new agreement related parking

4. **ASSIGNABILITY.** This MOU and the rights provided hereunder are personal to MSBC. MSBC acknowledges and agrees that this MOU will not be transferred, conveyed, delegated, or assigned, whether voluntarily or involuntarily. Any assignment or delegation in violation of this section shall be void, unless agreed to in writing by LFUCG.
5. **OWNERSHIP.** LFUCG is the owner of the Remaining ROW and Parking Lot and has authority to enter into this agreement.
6. **ENTIRE AGREEMENT.** This MOU and the attachments hereto constitute the entire MOU between the parties concerning MSBC use of the Remaining ROW during the term herein.

All prior agreements, discussions, representations, warranties and covenants are merged herein. There are no warranties, representations, covenants or agreements, expressed or implied, between the parties concerning MSBC use of the Remaining ROW during the term herein except those expressly set forth in this MOU. Any amendments or modifications of this MOU shall be in writing and executed by the parties.

7. **APPLICABLE LAW.** This MOU will be governed by, and construed in accordance with, the laws of the Commonwealth of Kentucky without regard to its conflict of laws rules.
8. **HEADINGS AND SECTION REFERENCES.** Section headings or captions contained in this MOU are inserted only as a matter of convenience and reference and in no way define, limit, extend or describe the scope of this MOU or the intent of any provision hereof.
9. **COUNTERPARTS.** This agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all counterparts together shall constitute a single agreement.
10. **VALIDITY AND ENFORCEABILITY.** If any provision of this MOU is found to be invalid or unenforceable, said invalid or unenforceable provision shall be

disregarded and the balance of this MOU shall be enforced as the integrated written agreement of the Parties.

11. NOTICES. Any notices or communications required or permitted to be given by this MOU must be (i) given in writing and (ii) personally delivered or mailed, by prepaid, certified mail or overnight courier, or transmitted by facsimile or electronic mail transmission (including PDF), to the party to whom such notice or communication is directed, to the mailing address or regularly-monitored electronic mail address of such party as follows:

To LFUCG:

Office of the Mayor
200 East Main Street
Lexington, KY 40507
ATTN: _____

To MSBC:

608 W. Main Street
Lexington, KY 40508
ATTN: Elder Wayne Cornelius
Deacon Leander Rideway

12. SERVICE. A party may, for purposes of this MOU, change his, her or its address, fax number, email address or the person to whom a notice or other communication is marked to the attention of, by giving notice of such change to the other party pursuant to this Section of the MOU.

13. LIABILITY. MSBC shall assume all risks instant to or in connection with the activity to be conducted hereunder by MSBC and shall be solely responsible for all accidents or injuries whatsoever of any nature or kind to persons or property caused by its use of the Remaining ROW.

MSBC further agrees to release, hold, harmless, and indemnify LFUCG from any and all claims or liability for personal injuries or other damages to any person, including injuries resulting in the death of any person which injury or death is occasioned by or in connection with MSBC use of the Remaining ROW by MSBC or its employees, agents, officials, or invitees.

IN WITNESS WHEREOF, the Parties have entered into this MOU as of the date first written above.

LEXINGTON-FAYETTE URBAN COUNTY
GOVERNMENT

BY: _____

TITLE: _____

MAIN STREET BAPTIST CHURCH

By: _____

Title: _____

00364374



LEXINGTON CENTER®

October 9, 2018

Elder Wayne Cornelius
Sr. Assistant Pastor/Church Administrator
Main Street Baptist Church
582 West Main Street
Lexington KY 40507

Dear Elder Wayne:

Following up on our numerous discussions over the last several months concerning the expansion of our convention center facilities and how it impacts Main Street Baptist Church (MSBC), I have reviewed the historical records of Lexington Center Corporation (LCC) including minutes of meetings and correspondence of my predecessor, Tom Minter, looking for a written confirmation granting MSBC use of our parking lots west of Rupp Arena for its worship service and other activities held at the church. I was surprised to discover that in spite of our long-time good relationship with respect to authorization, no written record exist, at least none that I can find. Accordingly, this correspondence is to memorialize LCC's consent for MSBC to use our parking lots when they are not otherwise required for events at Rupp Arena or the Lexington Convention Center.

As you know, the new exhibit hall and related facilities will be constructed and permanently occupy most of the property west of Rupp Arena and south of the MSBC sanctuary. Further, plans call for demolition of the Jefferson Street viaduct. During this time, there will be times this area is not available for parking. We will accommodate parking west of the viaduct behind the chapel especially during demolition of the viaduct. It may also necessary to enter the lot from Manchester Street. In order to facilitate good communication during construction I feel it would be helpful for you or your designee to attend the first ten minutes or so of the regularly scheduled Owner-Architect-Contractor meeting, which occurs the fourth Tuesday of each month beginning October 23, 2018 throughout the forty month construction period. These meetings begin at 1:00 PM in the Messer Construction office located behind and west of the MSBC chapel.

Additionally, the anticipated Town Branch Park initiative may also significantly affect MSBC parking in the future, as it will LCC's. You are aware of the plans to convert just over eight acres of LCC parking lot to an urban park featuring Town Branch stream. The Park will be operated by a separate entity under a long-term lease and will include property west of the viaduct. Efforts are underway to raise funds necessary and construction is planned in 2021. I will tell you this is past the time the new exhibit hall, ballroom and other improvements including 502 covered parking spaces are completed. Once those improvements are completed and the Park project advances we will have access to those 502 covered parking spaces. When the Park is completed, these will comprise all of LCC's parking facilities west of Rupp Arena. We will also grant MSBC use of these spaces without cost on the same basis we have granted permission to use our surface spaces for many years—when they are not otherwise required to

Lexington Center Corporation

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www.lexingtoncenter.com • www.rupparena.com • www.lexingtonoperahouse.com

support events at Rupp Arena and/or the Lexington Convention Center. I have asked our parking manager, Gerald Newby, to continue his communication with you both during construction and after completion about such events and times of unavailability, which has worked so well for many years.

In closing, I will reiterate that parking for use by MSBC will be authorized only when not required by LCC. Parking is also on a non-exclusive basis and LCC assumes no liability for loss or damage to vehicles or personal property. I understand that most of MSBC's needs are Sunday morning worship service and Tuesday mid-day Bible study (we will be mindful of these needs especially during construction) and other activities will need parking support. Again, close communication is key to sustaining our long cooperative relationship and I pledge my efforts to it continuing.

Please let me know of any concerns or questions.

Sincerely,

A handwritten signature in black ink that reads "Bill". The signature is written in a cursive, slightly slanted style.

William B. Owen
President CEO

Exhibit B: Repurposed remaining Jefferson Street Right-of-Way to include parking and an entrance to Town Branch Park. Conceptual Plan Attached.



LEXINGTON

Concept SITE PLAN

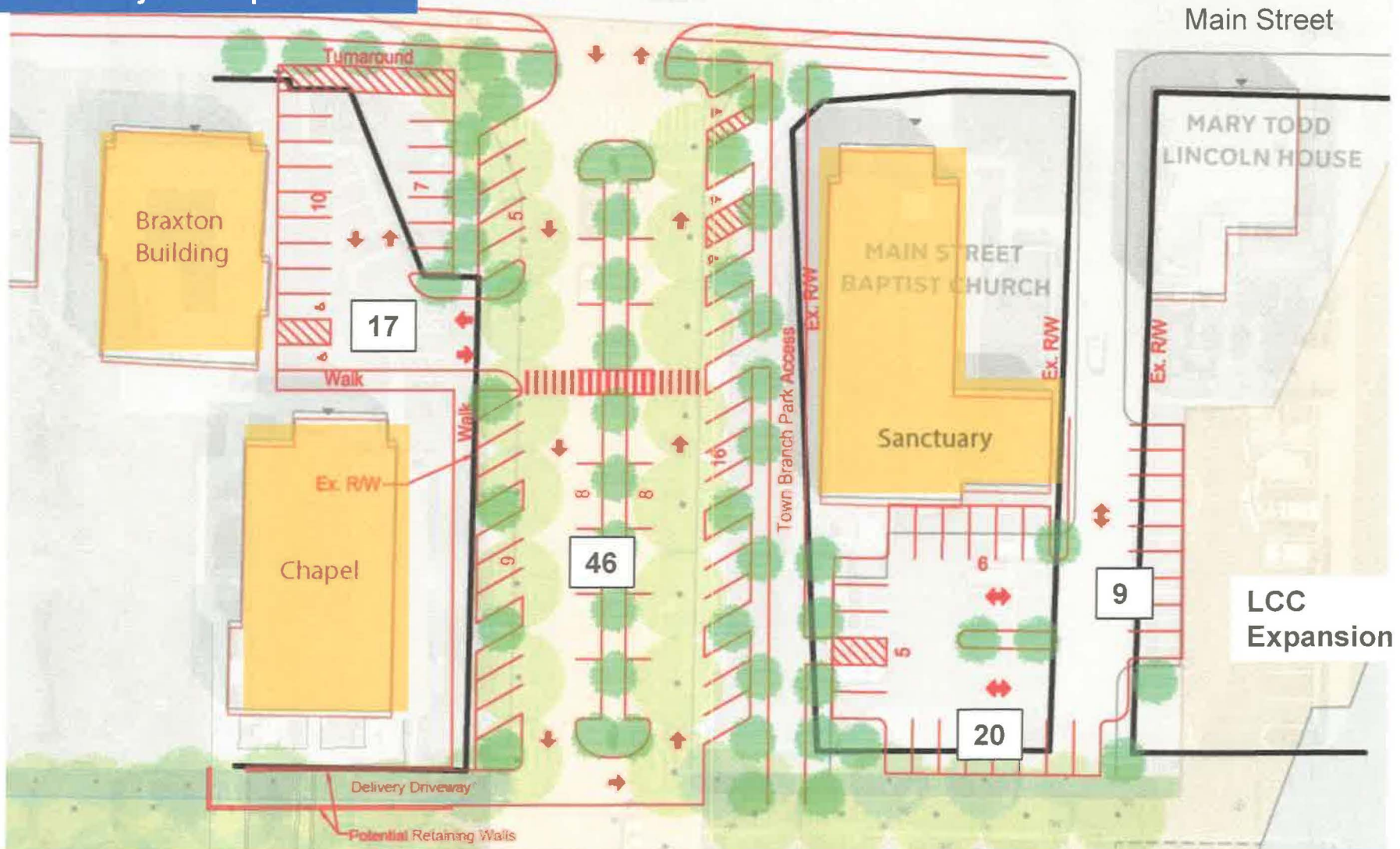


Exhibit B: Repurposed remaining Jefferson Street Right-of-Way to include parking and an entrance to Town Branch Park. Conceptual Plan Attached.



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Total: 92 adjacent Spaces



Proposed Design

37 on MSB, 9 on LCC/MTL, 46 public parking

Exhibit C: Remaining Jefferson Street Right-of-Way to provide short-term parking during LCC construction. Final plans to be developed.



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Total: 35 adjacent Spaces

