

DEED OF CONVEYANCE AND TEMPORARY CONSTRUCTION EASEMENT

This **DEED OF CONVEYANCE AND TEMPORARY CONSTRUCTION EASEMENT** is made and entered into this the 8th day of January, 2020, by and between **WILLIAM E. PENCE, JR. and ELAINE PENCE, husband and wife**, 141 Brown's Mill Road, Versailles, Kentucky 40383, which is the in-care of tax mailing address for the current year ("Grantors"), and **LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT**, 200 East Main Street, Lexington, Kentucky 40507, ("Grantee").

W I T N E S S E T H:

That for and in consideration of the fee simple ownership of the property described in the Exhibit A (attached), **SIX THOUSAND AND 00/100 DOLLARS (\$6,000.00)**, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, said Grantors have **BARGAINED** and **SOLD** and does hereby **GIVE, GRANT** and **CONVEY** unto the Grantee, its successors and assigns, in fee simple, the following described property, located in Fayette County, Kentucky:

FEE SIMPLE
(a portion of 1305 Old Frankfort Pike)
Town Branch Trail, Phase 6
Parcel No. 5, Tract A

All that tract or parcel of land situated northwest of the intersection of Old Frankfort Pike (KY Highway 1681) and Forbes Road (formerly KY Highway 1723) in Lexington, Fayette County, Kentucky, and being more particularly described as follows:

Return to:
Charles E. Edwards III
LFUCG, Dept. of Law, 11th Floor
200 East Main Street
Lexington, KY 40507

(CC-F)

17-PE 091-ENG

Beginning at a point in the northerly right-of-way line of Old Frankfort Pike (KY Highway 1681), said point being 7.19 feet left of the proposed Old Frankfort Pike (KY Highway 1681) centerline at Station 62+11.36 as established by KYTC Project Town Branch Trail Phase 6, Project No. CM 3003 332, TAP 4003011;

Thence with the northerly right-of-way line of Old Frankfort Pike (KY Highway 1681), N 11°52'19" E, 22.23 feet to a point, 29.30 feet left of the proposed Old Frankfort Pike (KY Highway 1681) centerline at Station 62+13.65, said point being a common corner with Lexington-Fayette Urban County Government (Parcel 2);

Thence with the easterly property line of Lexington-Fayette Urban County Government (Parcel 2), N 11°52'19" E, 22.22 feet to a point, 51.40 feet left of the proposed Old Frankfort Pike (KY Highway 1681) centerline at Station 62+15.92;

Thence leaving the easterly property line of Lexington-Fayette Urban County Government (Parcel 2), with a new right-of-way line through the lands of William E. Pence Jr. (Parcel 5), for two (2) calls:

- 1.) S 83°18'23" E, 60.28 feet to a point, 51.00 feet left of the proposed Old Frankfort Pike (KY Highway 1681) centerline at Station 62+75.59; and
- 2.) S 78°59'34" E, 43.50 feet to a point, 47.73 feet left of the proposed Old Frankfort Pike (KY Highway 1681) centerline at Station 63+18.93, said point being in the westerly property line of Eavy and Fannie L. Hopkins (Parcel 6);

Thence with the westerly property line of Eavy and Fannie L. Hopkins (Parcel 6), S 11°52'19" W, 29.39 feet to a point, 18.46 feet left of the proposed Old Frankfort Pike (KY Highway 1681) centerline at Station 63+16.28, said point being a common corner with Eavy and Fannie L. Hopkins (Parcel 6), said point also being in the northerly right-of-way line of Old Frankfort Pike (KY Highway 1681);

Thence with the northerly right-of-way line of Old Frankfort Pike (KY Highway 1681) for three (3) calls:

- 1.) Along an arc 12.34 feet to the right, having a radius of 30.00 feet, the chord of which is S 75°13'03" W, 12.26 feet to a point, 13.97 feet left of the proposed Old Frankfort Pike (KY Highway

1681) centerline at Station 63+04.87;
2.) S 87°00'15" W, 39.62 feet to a point, 7.32 feet left of the
proposed Old Frankfort Pike (KY Highway 1681) centerline at
Station 62+65.84; and
3.) N 83°54'20" W, 54.56 feet to the **POINT OF BEGINNING**;
and,

The above described parcel contains 0.098 Acres (4,266 square feet) of fee simple; and,

Being a portion of the same property conveyed to William E. Pence, Jr., a single person, by Deed dated March 13, 2019, of record in Deed Book 3653, Page 618, in the Fayette County Clerk's Office.

FURTHER, for and in consideration of the sum hereinbefore mentioned, the receipt and sufficiency of which is hereby acknowledged, Grantors have **BARGAINED** and **SOLD** and does hereby **GIVE, GRANT** and **CONVEY** unto the Grantee, its successors and assigns, temporary right to excavate, grade, construct, alter, re-grade and perform related work for the purpose of constructing said Town Branch Trail and roadway slopes through and across the following tract of land located in the confines of Lexington, Fayette County, Kentucky, and more particularly described as follows, to wit:

TEMPORARY CONSTRUCTION EASEMENT
(a portion of 1305 Old Frankfort Pike)
Town Branch Trail, Phase 6
Parcel No. 5, Tract B

All that tract or parcel of land situated northwest of the intersection of Old Frankfort Pike (KY Highway 1681) and Forbes Road (former KY Highway 1723) in Lexington, Fayette County, Kentucky, and being more particularly described as follows:

Beginning at a point in the northerly right-of-way line of Old Frankfort Pike (KY Highway 1681), said point being 7.19 feet left of the proposed Old Frankfort Pike (KY Highway 1681) centerline at Station 62+11.36 as established by KYTC Project

Town Branch Trail Phase 6, Project No. CM 3003 332, TAP 4003 011, said point also being the southwest property corner of William E. Pence Jr. (Parcel 5);

Thence with the northerly right-of-way line of Old Frankfort Pike (KY Highway 1681) in common with the westerly property line of William E. Pence Jr. (Parcel 5), N 11°52'19" E, 22.23 feet to a point, 29.30 feet left of the proposed Old Frankfort Pike (KY Highway 1681) centerline at Station 62+13.65, said point being a common corner with Lexington-Fayette Urban County Government (Parcel 2);

Thence leaving the northerly right-of-way line of Old Frankfort Pike (KY Highway 1681), continuing with the easterly property line in common with Lexington-Fayette Urban County Government (Parcel 2), N 11°52'19" E, 22.22 feet to a point, 51.40 feet left of the proposed Old Frankfort Pike (KY Highway 1681) centerline at Station 62+15.92, said point also being the **TRUE POINT OF BEGINNING**;

Thence continuing with the easterly property line of Lexington-Fayette Urban County Government (Parcel 2), N 11°52'19" E, 59.24 feet to a point, 110.33 feet left of Old Frankfort Pike (KY Highway 1681) at Station 62+21.88;

Thence leaving the easterly property line of Lexington-Fayette Urban County Government (Parcel 2), with a new easement line through the lands of William E. Pence (Parcel 5) for two (2) calls:

- 1.) S 83°18'23" E, 50.00 feet to a point, 110.01 feet left of Old Frankfort Pike (KY Highway 1681) at Station 62+70.80; and
- 2.) S 11°52'19" W, 59.24 feet to a point, 51.02 feet left of Old Frankfort Pike (KY Highway 1681) at Station 62+65.41;

Thence with a new property line, N 83°18'23" W, 50.00 feet to the **TRUE POINT OF BEGINNING**; and,

The above described parcel contains 0.068 acres (2,950 square feet) of temporary construction easement; and,

Being a portion of the same property conveyed to William E. Pence, Jr., a single person, by Deed dated March 13, 2019, of record in Deed Book 3653, Page 618, in the Fayette County Clerk's Office.

TO HAVE AND TO HOLD the fee simple interest and temporary easement together with all rights, appurtenances, and improvements thereunto belonging unto said Grantee, its successors and assigns, for the purposes and uses herein designated.

The above-described temporary construction easement runs with the land for the duration of the improvement project and is binding upon the successors and assigns of the Grantors. The temporary construction easement shall take effect upon the commencement of the construction of the project and will expire upon completion of the project.

Grantors do hereby release and relinquish unto the Grantee, its successors and assigns forever, all of their right, title, and interest in and to the property to the extent of the interests conveyed herein, including all exemptions allowed by law, and does hereby covenant to and with the Grantee, its successors and assigns forever, that they are lawfully seized in fee simple of said property and they will **WARRANT GENERALLY** said title.

The parties do hereby certify pursuant to KRS 382.135 that the consideration stated herein is the full actual consideration paid for the property transferred herein, and the estimated fair cash value of the property conveyed is \$54,000.00. Grantee joins this Deed for the sole purpose of certifying the consideration.

The obtaining of these fee simple interest and temporary easement was authorized by Resolution No. 382-2018, passed by the Lexington-Fayette Urban County Council on June 21, 2018. This conveyance is exempt from real estate transfer tax pursuant to KRS 142.050.

IN TESTIMONY WHEREOF, the Grantors have signed this Deed of Conveyance and Temporary Construction Easement, this the day and year first above written.

GRANTORS:

BY: 
WILLIAM E. PENCE, JR.

BY: 
ELAINE PENCE

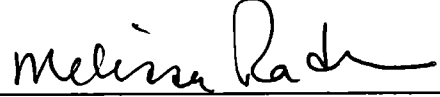
GRANTEE:

LEXINGTON-FAYETTE URBAN
COUNTY GOVERNMENT

BY: 
LINDA GORTON, MAYOR

COMMONWEALTH OF KENTUCKY)
)
COUNTY OF WOODFORD)

This Instrument and consideration certificate was acknowledged, subscribed and sworn to before me by William E. Pence, Jr. and Elaine Pence, husband and wife, on this the 26th day of December, 2019.


Notary Public, Kentucky, State-at-Large

My Commission Expires: 6/28/21

Notary ID # 580 368

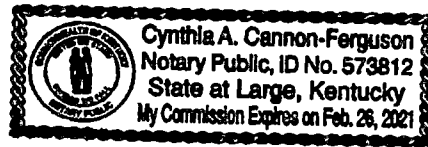
COMMONWEALTH OF KENTUCKY)
)
COUNTY OF FAYETTE)

This Certificate of Consideration certificate was acknowledged, subscribed and sworn to before me by Linda Gorton, as Mayor, for and on behalf of the Lexington-Fayette Urban County Government, on this the 8th day of January, 2019. 20

Cynthia A. Cannon-Ferguson
Notary Public, Kentucky, State-at-Large

My Commission Expires: 2/20/2021

Notary ID # 573812



PREPARED BY:

Charles E. Edwards, III
Charles E. Edwards, III,
Attorney
Lexington-Fayette Urban
County Government
Department of Law, 11th Floor
200 East Main Street
Lexington, Kentucky 40507
(859) 258-3500

X:\Cases\ENGINEER\17-RE0091\RE\00662162.DOC

I, Donald W Blevins Jr, County Court Clerk
of Fayette County, Kentucky, hereby
certify that the foregoing instrument
has been duly recorded in my office.



By: EMILY GENTRY ,dc

202001160002

January 16, 2020 8:48:40 AM

Fees	\$56.00	Tax	\$6.00
------	---------	-----	--------

Total Paid	\$62.00
------------	---------

THIS IS THE LAST PAGE OF THE DOCUMENT

8 Pages

585 - 592

MEMORANDUM OF UNDERSTANDING

WHEREAS, the Lexington-Fayette Urban County Government (hereinafter "LFUCG") is desirous of acquiring a certain portion of the real property in fee simple title (approximately 4,266 square feet) owned by William E. Pence, Jr. and his wife, Elaine Pence (hereinafter the, "Pence's"), located at 1305 Old Frankfort Pike, Lexington, Kentucky, and a temporary construction easement (approximately 2,950 square feet), all of which is referenced in Exhibit A, attached hereto; and

WHEREAS, William E. Pence, Jr. and Elaine Pence own the business "Landscapers Corner", which is operating on said property, have reached an agreement for a certain land swap with LFUCG for two parcels of property, which is referenced in Exhibit B, attached hereto;

WHEREAS, in addition to the land swap, LFUCG obligates itself to provide additional consideration as provided herein below;

NOW, THEREOFRE, BE IT RESOLVED on this ____ day of October, 2019, for good and valuable consideration, the receipt and sufficiency of which is acknowledge by the parties hereto, agree as follows:

1. The Pence's shall convey to the LFUCG, the property described in Exhibit A and also provide a temporary construction easement all as described in Exhibit A immediately upon the execution of this MOU. The temporary construction easement shall not be used as storage ground for equipment but only to complete that portion of work necessary for Town Branch Trail which adjoins the Pence's property and the property being acquired by the Pence's in this Agreement. **At all times during the installation and construction of Town Branch Trail, LFUCG shall ensure that neither it, nor its contractors or agents, takes any action that would prevent reasonable ingress or egress to the Landscapers Corner business.**

2. Upon completion of the improvements described herein, and by no later than December 31, 2021, LFUCG shall convey to the Pence's the property described in Exhibit B.
3. LFUCG shall perform the necessary grading on the property it is conveying to the Pence's so that it matches the grade of the adjoining property owned by the Pence's.
4. After the appropriate grading has been done, LFUCG shall pave the two parcels described in Exhibit B with asphalt to conform with the current standards required for public streets.
5. In grading and paving the parcels described in Exhibit B, LFUCG shall install such storm water management measures as are necessary to comply with the governing requirements so that the Pence's existing property is not adversely impacted from any storm water run-off from the parcels described in Exhibit B.
6. LFUCG shall install a new eight foot (8 ft.) tall chain link fence with barbed wire on top of the fence along the southern boundary of the Pence property and the southern boundary of the parcels being conveyed to the Pence's by LFUCG, as more particularly described in Exhibit B.
7. Along the western boundary of the property being conveyed to the Pence's which is adjacent to Roy Mardis Drive, LFUCG shall install an eight foot (8 ft.) tall gate with barbed wire on top of the gate, of sufficient width as approved by the Pence's. LFUCG shall install an eight foot (8 ft.) tall fence with barbed wire on top of the fence along the western boundary of the property being conveyed to the Pence's which is connected to the gate. All of this is delineated on Exhibit B.
8. Along the northern boundary of the property being conveyed to the Pence's, LFUCG shall install an eight foot (8 ft.) tall chain link fence as delineated on Exhibit B.
9. LFUCG shall relocate the existing Kentucky Utilities light poles on the Pence's property and the property to be received by the Pence's in coordination with the Pence's and Kentucky Utilities.
10. LFUCG shall purchase and install a new "Landscapers Corner" sign of the same size as the existing sign on the Pence's property and subject to the Pence's approval, which shall not be

unreasonably withheld, at a location generally referenced on Exhibit B, as finally determined by the Pence's. LFUCG shall also install or cause to be installed necessary and sufficient electrical service to this new sign so it can be illuminated.

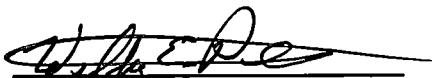
11. LFUCG shall pay the Pence's Six Thousand (\$6,000) Dollars at the time the Pence's convey the property interests identified in Exhibit A to LFUCG; provided the Pence's shall also receive from LFUCG the Forty-Nine Thousand (\$49,000) Dollars for relocation expenses committed to them pursuant to a letter dated July 3, 2019.

12. The Pence's shall receive payment for the relocation expenses when they are deeded the property interests identified in Exhibit B. LFUCG shall pay all transfer taxes, if any are due, in connection with the property conveyances referenced herein. Further, the parties agree to cooperate in determining the fair market value of the properties being conveyed should same be necessary.

13. All of the fences and the gate described herein shall be new at the time of installation.

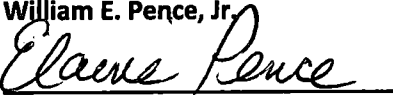
14. Both parties agree to execute such other documents and to cooperate as necessary to effectuate the terms and intent of this Memorandum of Understanding.

15. The terms of this Memorandum of Understanding shall be binding on the successors-in-interest and assigns of both parties.



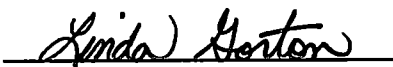
William E. Pence, Jr.

Date: 12/24/19



Elaine Pence

Date: 12/24/2019



Lexington-Fayette Urban County

Government by its authorized representative

Date: 1/8/20

EXHIBIT A

1305 Old Frankfort Pike

Parcel No. 5, Tract A
To be purchased in Fee Simple

All that tract or parcel of land situated northwest of the intersection of Old Frankfort Pike (KY Highway 1681) and Forbes Road (formerly KY Highway 1723) in Lexington, Fayette County, Kentucky, and being more particularly described as follows:

Beginning at a point in the northerly right-of-way line of Old Frankfort Pike (KY Highway 1681), said point being 7.19 feet left of the proposed Old Frankfort Pike (KY Highway 1681) centerline at Station 62+11.36 as established by KYTC Project Town Branch Trail Phase 6, Project No. CM 3003
332, TAP 4003 011;

Thence with the northerly right-of-way line of Old Frankfort Pike (KY Highway 1681), N 11°52'19" E, 22.23 feet to a point, 29.30 feet left of the proposed Old Frankfort Pike (KY Highway 1681) centerline at Station 62+13.65, said point being a common corner with Lexington-Fayette Urban County Government (Parcel 2);

Thence with the easterly property line of Lexington-Fayette Urban County Government (Parcel 2), N 11°52'19" E, 22.22 feet to a point, 51.40 feet left of the proposed Old Frankfort Pike (KY Highway 1681) centerline at Station 62+15.92;

Thence leaving the easterly property line of Lexington-Fayette Urban County Government (Parcel 2), with a new right-of-way line through the lands of William E. Pence Jr. (Parcel 5), for two (2) calls:

- 1.) S 83°18'23" E, 60.28 feet to a point, 51.00 feet left of the proposed Old Frankfort Pike (KY Highway 1681) centerline at Station 62+75.59; and
- 2.) S 78°59'34" E, 43.50 feet to a point, 47.73 feet left of the proposed Old Frankfort Pike (KY Highway 1681) centerline at Station 63+18.93, said point being in the westerly property line of Eavy and Fannie L. Hopkins (Parcel 6);

Thence with the westerly property line of Eavy and Fannie L. Hopkins (Parcel 6), S 11°52'19" W, 29.39 feet to a point, 18.46 feet left of the proposed Old Frankfort Pike (KY

Highway 1681) centerline at Station 63+16.28, said point being a common corner with Eavy and Fannie L. Hopkins (Parcel 6), said point also being in the northerly right-of-way line of Old Frankfort Pike (KY Highway 1681);

Thence with the northerly right-of-way line of Old Frankfort Pike (KY Highway 1681) for three (3) calls:

- 1.) Along an arc 12.34 feet to the right, having a radius of 30.00 feet, the chord of which is S 75°13'03" W, 12.26 feet to a point, 13.97 feet left of the proposed Old Frankfort Pike (KY Highway 1681) centerline at Station 63+04.87;
- 2.) S 87°00'15" W, 39.62 feet to a point, 7.32 feet left of the proposed Old Frankfort Pike (KY Highway 1681) centerline at Station 62+65.84; and
- 3.) N 83°54'20" W, 54.56 feet to the POINT OF BEGINNING, containing 0.098 acres (4,266 sq. ft.).

Parcel No. 5, Tract B
To be purchased as a Temporary Easement

All that tract or parcel of land situated northwest of the intersection of Old Frankfort Pike (KY Highway 1681) and Forbes Road (former KY Highway 1723) in Lexington, Fayette County, Kentucky, and being more particularly described as follows:

Beginning at a point in the northerly right-of-way line of Old Frankfort Pike (KY Highway 1681), said point being 7.19 feet left of the proposed Old Frankfort Pike (KY Highway 1681) centerline at Station 62+11.36 as established by KYTC Project Town Branch Trail Phase 6, Project No. CM 3003 332, TAP 4003 011, said point also being the southwest property corner of William E. Pence Jr. (Parcel 5);

Thence with the northerly right-of-way line of Old Frankfort Pike (KY Highway 1681) in common with the westerly property line of William E. Pence Jr. (Parcel 5), N 11°52'19" E, 22.23 feet to a point, 29.30 feet left of the proposed Old Frankfort Pike (KY Highway 1681) centerline at Station 62+13.65, said point being a common corner with Lexington-Fayette Urban County Government (Parcel 2);

Thence leaving the northerly right-of-way line of Old Frankfort Pike (KY Highway 1681), continuing with the easterly property line in common with Lexington-Fayette

Urban County Government (Parcel 2), N 11°52'19" E, 22.22 feet to a point, 51.40 feet left of the proposed Old Frankfort Pike (KY Highway 1681) centerline at Station 62+15.92, said point also being the **TRUE POINT OF BEGINNING**;

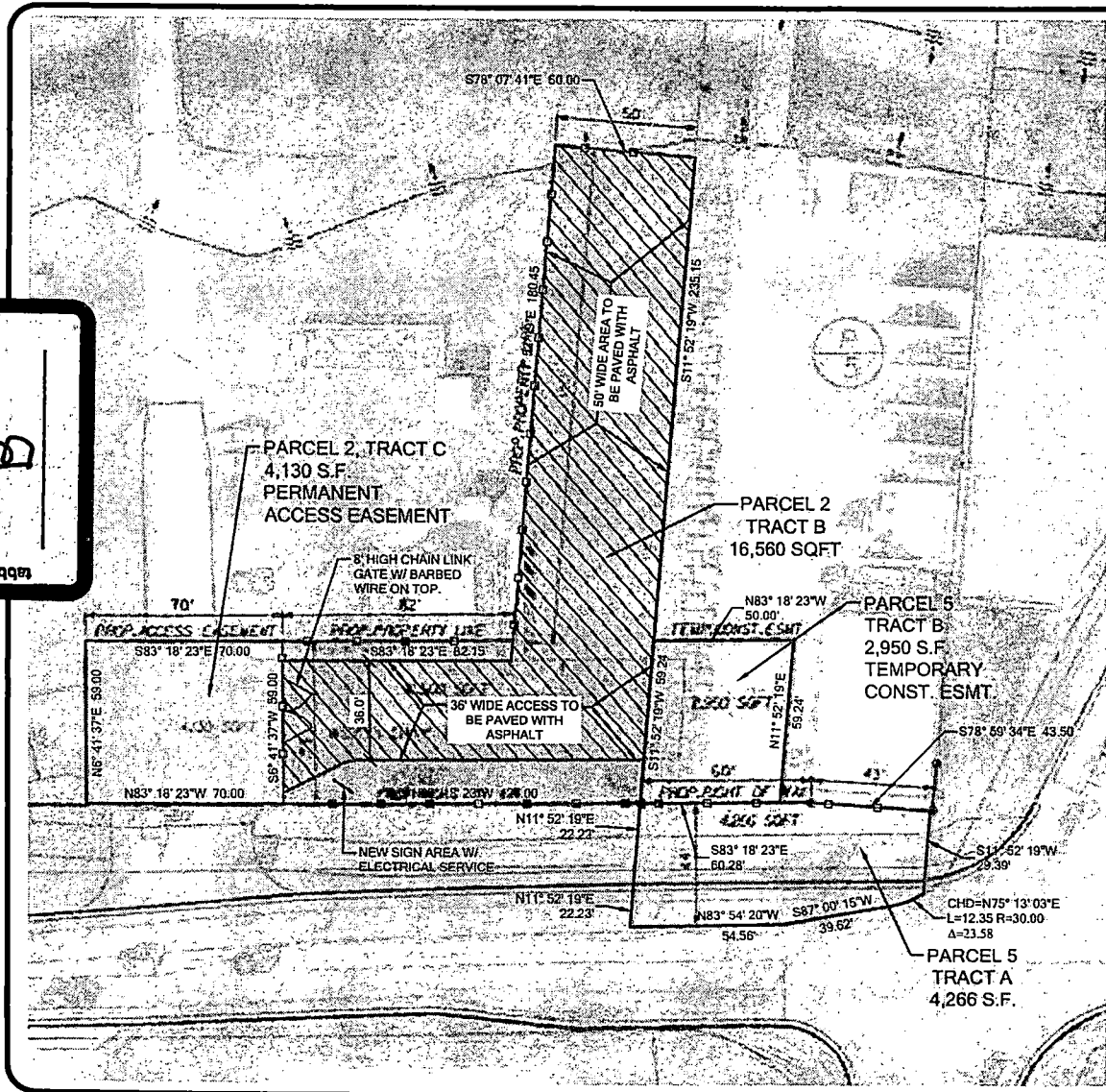
Thence continuing with the easterly property line of Lexington-Fayette Urban County Government (Parcel 2), N 11°52'19" E, 59.24 feet to a point, 110.33 feet left of Old Frankfort Pike (KY Highway 1681) at Station 62+21.88;

Thence leaving the easterly property line of Lexington-Fayette Urban County Government (Parcel 2), with a new easement line through the lands of William E. Pence (Parcel 5) for two (2) calls:

- 1.) S 83°18'23" E, 50.00 feet to a point, 110.01 feet left of Old Frankfort Pike (KY Highway 1681) at Station 62+70.80; and
- 2.) S 11°52'19" W, 59.24 feet to a point, 51.02 feet left of Old Frankfort Pike (KY Highway 1681) at Station 62+65.41;

Thence with a new property line, N 83°18'23" W, 50.00 feet to the **TRUE POINT OF BEGINNING**, containing 0.068 acres (2,950 sq. ft.).

EXHIBIT
B



NOTE:

1. THE ENTIRE AREA SHOWN AS PARCEL 2, TRACT B SHALL BE PAVED WITH ASPHALT, AND EXTEND TO MEET EXISTING PAVEMENT ON PARCEL 5.
2. PAVEMENT DESIGN SHALL BE BASED ON CBR VALUES FOR H-20 LOADING AS DETERMINED BY A GEOTECHNICAL ENGINEER.
3. ALL PROPOSED PAVEMENT SHALL BE EDGE KEYED INTO EXISTING PAVEMENT.

LEGEND:

- EIGHT FOOT (8') HIGH CHAIN LINK FENCE WITH BARBED WIRE ON TOP.
- ▨ AREA TO BE PAVED WITH ASPHALT.

PENCE PROPERTY
 1305 OLD FRANKFORT PIKE
 LEXINGTON, FAYETTE COUNTY, KY

SITE EXHIBIT

S. Mark McCain, RLA
 LANDSCAPE ARCHITECTURE / SITE DEVELOPMENT
 340 S. BROADWAY, LEXINGTON, KENTUCKY 40508
 PHONE: (859)-489-8921 EMAIL: SMARKMCCAIN@GMAIL.COM

Town Branch Trail Phase 6
Item No. 7-3108.00, 7-3718.00
Fayette County, Kentucky

PARCEL NO. 2 - Lexington-Fayette Urban County Government (DBA Lexington Municipal Improvement Corporation)

Tract B—Fee Simple

All that tract or parcel of land situated northwest of the intersection of Old Frankfort Pike (KY Highway 1681) and Forbes Road (formerly KY Highway 1723) in Lexington, Fayette County, Kentucky, and being more particularly described as follows:

Beginning at a point in the northerly right-of-way line of Old Frankfort Pike (KY Highway 1681), said point being 7.19 feet left of the proposed Old Frankfort Pike (KY Highway 1681) centerline at Station 62+11.36 as established by KYTC Project Town Branch Trail Phase 6, Project No. 12F0 FD52 034 9015901R, TGR 3003 (341), said point also being the southwest property corner of William E. Pence Jr. (Parcel 5);

Thence with the northerly right-of-way line of Old Frankfort Pike (KY Highway 1681) in common with the westerly property line of William E. Pence Jr. (Parcel 5), N 11°52'19" E, 22.23 feet to a point 29.30 feet left of the proposed Old Frankfort Pike (KY Highway 1681) centerline at Station 62+13.65;

Thence leaving the northerly right-of-way line of Old Frankfort Pike (KY Highway 1681), and continuing with the westerly property line of William E. Pence Jr. (Parcel 5), N 11°52'19" E, 22.22 feet to a point 51.40 feet left of the proposed Old Frankfort Pike (KY Highway 1681) centerline at Station 62+15.92, said point also being the **TRUE POINT OF BEGINNING**;

Thence leaving the westerly property line of William E. Pence Jr. (Parcel 5), with a new right-of-way line through the lands of Lexington-Fayette Urban County Government (Parcel 2), N 83°18'23" W, 127.00 feet to a point 54.60 feet left of the proposed Old Frankfort Pike (KY Highway 1681) centerline at Station 60+90.28;

Thence leaving the proposed right-of-way line, with a new property line through the lands of Lexington-Fayette Urban County Government (Parcel 2) for four (4) calls:

- 1.) N 06°41'37" E, 59.00 feet to a point 113.56 feet left of the proposed Old Frankfort Pike (KY Highway 1681) centerline at Station 60+92.46;
- 2.) S 83°18'23" E, 82.15 feet to a point 111.15 feet left of the proposed Old Frankfort Pike centerline at Station 61+72.77;
- 3.) N 11°52'19" E, 180.44 feet to a point 290.51 feet left of the proposed Old Frankfort Pike centerline at Station 61+91.76; and
- 4.) S 78°07'41" E, 50.00 feet to a point 285.36 feet left of the proposed Old Frankfort Pike centerline at Station 62+38.78, said point also being in the aforesaid westerly property line of William E. Pence Jr. (Parcel 5);

Thence with the westerly property line of William E. Pence Jr. (Parcel 5) S 11°52'19" W, 235.15 feet to the **TRUE POINT OF BEGINNING**, containing 0.380 acres (16,560 sq. ft.).

The above described parcel being part of the same property conveyed to the Lexington Municipal Improvement Corporation, by deed dated May 10, 1955, of record in Deed Book 581, at Page 9, in the Fayette County Clerk's Office.

Town Branch Trail Phase 6
Item No. 7-3108.00, 7-3718.00
Fayette County, Kentucky

PARCEL NO. 2 - Lexington-Fayette Urban County Government (DBA Lexington Municipal Improvement Corporation)

Tract C—Permanent Easement for Access

All that tract or parcel of land situated northwest of the intersection of Old Frankfort Pike (KY Highway 1681) and Forbes Road (formerly KY Highway 1723) in Lexington, Fayette County, Kentucky, and being more particularly described as follows:

Beginning at a point in the northerly right-of-way line of Old Frankfort Pike (KY Highway 1681), said point being 7.19 feet left of the proposed Old Frankfort Pike (KY Highway 1681) centerline at Station 62+11.36 as established by KYTC Project Town Branch Trail Phase 6, Project No. 12F0 FD52 034 9015901R, TGR 3003 (341), said point also being the southwest property corner of William E. Pence Jr. (Parcel 5);

Thence with the northerly right-of-way line of Old Frankfort Pike (KY Highway 1681) in common with the westerly property line of William E. Pence Jr. (Parcel 5), N 11°52'19" E, 22.23 feet to a point 29.30 feet left of the proposed Old Frankfort Pike (KY Highway 1681) centerline at Station 62+13.65;

Thence leaving the northerly right-of-way line of Old Frankfort Pike (KY Highway 1681), and continuing with the westerly property line of William E. Pence Jr. (Parcel 5), N 11°52'19" E, 22.22 feet to a point 51.40 feet left of the proposed Old Frankfort Pike (KY Highway 1681) centerline at Station 62+15.92;

Thence leaving the westerly property line of William E. Pence Jr. (Parcel 5), with a new property line through the lands of Lexington-Fayette Urban County Government (Parcel 2), N 83°18'23" W, 127.00 feet to a point 54.60 feet left of Old Frankfort Pike (KY Highway 1681) at Station 60+90.28, said point being the **TRUE POINT OF BEGINNING**;

Thence continuing with the new right-of-way line through the lands of Lexington-Fayette Urban County Government (Parcel 2), N 83°18'23" W, 70.00 feet to a point 57.72 feet left of the proposed Old Frankfort Pike (KY Highway 1681) centerline at Station 60+21.13;

Thence leaving the new right-of-way line, with a new access easement line through the lands of Lexington-Fayette Urban County Government for two (2) calls:

1.) N 06°41'37" E, 59.00 feet to a point 116.64 feet left of the proposed Old Frankfort Pike (KY Highway 1681) centerline at Station 60+24.10;

2.) S 83°18'23" E, 70.00 feet to a point 113.56 feet left of the proposed Old Frankfort Pike (KY Highway 1681) centerline at Station 60+92.46, said point being a new corner in common with Tract B;

Thence with Tract B, S 06°41'37" W, 59.00 feet to the **TRUE POINT OF BEGINNING**, containing 0.095 acres (4,130 sq. ft.).

The above described parcel being part of the same property conveyed to Lexington Municipal Improvement Corporation, by deed dated May 10, 1955, of record in Deed Book 581, at Page 9, in the Fayette County Clerk's Office.

LEASE AGREEMENT

THIS LEASE AGREEMENT, made and entered into this 8th day of January, 2020 by and between the **LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT**, an urban county government organized pursuant to Chapter 67A of the Kentucky Revised Statutes, which has its primary offices at 200 East Main Street, Lexington, Kentucky 40507, ("LESSOR"), and William E. Pence, Jr. ("LESSEE"), 141 Brown Mill Road, Versailles, Kentucky 40504,

WITNESSETH:

1. **PREMISES.** For and in consideration of ten and xx/100 dollars (\$10.00) and other good and valuable consideration, LESSOR does hereby let, lease, and demise unto the LESSEE and the LESSEE does hereby lease from LESSOR the following described real property ("premises"), including all improvements thereon, such real property being part of the parcel located at 1305 Old Frankfort Pike, Lexington, Kentucky:

1305 Old Frankfort Pike
Parcel No. 5, Tract A

All that tract or parcel of land situated northwest of the intersection of Old Frankfort Pike (KY Highway 1681) and Forbes Road (formerly KY Highway 1723) in Lexington, Fayette County, Kentucky, and being more particularly described as follows:

Beginning at a point in the northerly right-of-way line of Old Frankfort Pike (KY Highway 1681), said point being 7.19 feet left of the proposed Old Frankfort Pike (KY Highway 1681) centerline at Station 62+11.36 as established by KYTC Project Town Branch Trail Phase 6, Project No. CM 3003 332,
TAP 4003 011;

Thence with the northerly right-of-way line of Old Frankfort Pike (KY Highway 1681), N 11°52'19" E, 22.23 feet to a point, 29.30 feet left of the proposed Old Frankfort Pike (KY Highway 1681) centerline at Station 62+13.65, said point being a common corner with Lexington-Fayette Urban County Government (Parcel 2);

Thence with the easterly property line of Lexington-Fayette Urban County Government (Parcel 2), N 11°52'19" E, 22.22 feet to a point, 51.40 feet left of the proposed Old Frankfort Pike (KY Highway 1681) centerline at Station 62+15.92;

Thence leaving the easterly property line of Lexington-Fayette Urban County Government (Parcel 2), with a new right-of-way

Initials
Owner _____
Tenant _____

line through the lands of William E. Pence Jr. (Parcel 5), for two (2) calls:

- 1.) S 83°18'23" E, 60.28 feet to a point, 51.00 feet left of the proposed Old Frankfort Pike (KY Highway 1681) centerline at Station 62+75.59; and
- 2.) S 78°59'34" E, 43.50 feet to a point, 47.73 feet left of the proposed Old Frankfort Pike (KY Highway 1681) centerline at Station 63+18.93, said point being in the westerly property line of Eavy and Fannie L. Hopkins (Parcel 6);

Thence with the westerly property line of Eavy and Fannie L. Hopkins (Parcel 6), S 11°52'19" W, 29.39 feet to a point, 18.46 feet left of the proposed Old Frankfort Pike (KY Highway 1681) centerline at Station 63+16.28, said point being a common corner with Eavy and Fannie L. Hopkins (Parcel 6), said point also being in the northerly right-of-way line of Old Frankfort Pike (KY Highway 1681);

Thence with the northerly right-of-way line of Old Frankfort Pike (KY Highway 1681) for three (3) calls:

- 1.) Along an arc 12.34 feet to the right, having a radius of 30.00 feet, the chord of which is S 75°13'03" W, 12.26 feet to a point, 13.97 feet left of the proposed Old Frankfort Pike (KY Highway 1681) centerline at Station 63+04.87;
- 2.) S 87°00'15" W, 39.62 feet to a point, 7.32 feet left of the proposed Old Frankfort Pike (KY Highway 1681) centerline at Station 62+65.84; and
- 3.) N 83°54'20" W, 54.56 feet to the **POINT OF BEGINNING**, containing 0.098 acres (4,266 sq. ft.).

2. TERM. This Lease Agreement shall take effect immediately upon execution and shall remain in effect until LESSOR has satisfied its obligations under the Memorandum of Understanding executed contemporaneously herewith, attached hereto, and incorporated herein by reference.
3. TAXES, FEES, INSURANCE, MAINTENANCE & UTILITIES. LESSEE shall be solely responsible for all fees, insurance, maintenance, and utilities for the Premises.
4. COMPLIANCE WITH ORDINANCES, STATUTES, STATE AND FEDERAL LAWS. In his use of the Premises, LESSEE shall comply and shall ensure that his employees, officers, agents, invitees, and sub-lessees comply with all ordinances, statutes, state and federal laws.
5. ALTERATIONS AND DAMAGE TO THE PREMISES. LESSEE shall not make any physical improvements or changes to the Premises without prior written approval from LESSOR. All improvements, once installed, affixed, or located in or

upon the Premises, shall be and remain on the Premises and belong to LESSOR as further consideration of this Agreement. LESSEE shall repair any damage he or his employees, agents, officers, invitees, or sub-lessees may cause to the premises prior to expiration of this Lease Agreement, or shall reimburse LESSOR for the cost of repairing such damage.

6. ASSIGNMENT. This Agreement is not assignable.
7. PROPERTY ON PREMISES IS RESPONSIBILITY OF TENANT. LESSEE hereby assumes sole responsibility for all personal property her or his employees, agents, officers, invitees, or sub-lessees may keep, store, or place on the premises.
8. HAZARDOUS MATERIALS. LESSEE shall not discharge, release, dispose of, store, or deposit on the Premises any waste, including any pollutants or hazardous materials ("Hazardous Materials"), in violation of any federal, state or local law or regulation, nor shall it allow sub-lessees to do so. Any Hazardous Materials generated by LESSEE or sub-lessees shall be removed from the Premises at LESSEE's expense in the manner required by law and disposed of in compliance with federal, state and local laws and regulations. If at any time LESSEE fails to comply with the terms of this section, LESSOR may remedy such default and LESSEE shall fully reimburse LFUCG for any cost or expense it incurs in doing so within ten (10) days of written notification from LFUCG.
9. VACATION OF PREMISES. LESSEE shall surrender and deliver up to LESSOR possession of the Premises upon the expiration of the Agreement in as good a condition and repair as the Premises were at the commencement of the Agreement, ordinary wear and tear excluded.
10. DEFAULT AND REMEDIES. In the event of a material breach of the terms of this Lease Agreement, the party in breach shall have ten (10) business days after receiving written notice thereof to cure such breach. Failure to cure the breach within ten (10) business days shall give the non-breaching party the right to terminate this Agreement and all rights and duties owing hereunder, excluding those provided in Section 6, above, immediately. The failure or delay by either party to insist upon the strict performance by the other of any of the terms, conditions, or covenants of this Lease Agreement or to exercise any right or remedy for breach hereof, shall not be construed to be a waiver or affect the right of either party to thereafter enforce each and every such provision of right. The waiver of any breach of this Lease shall not be held to be a waiver of any other breach.
11. NOTICES. Any notice or consent required to be given by or on behalf of either party upon the other shall be in writing and shall be given by hand delivery or U.S. Mail. If mailed, such notice shall be via certified mail, return receipt requested.

Notice shall be sent to the LESSOR at the following:

Lexington-Fayette Urban County Government

Attn: _____

200 East Main Street

Lexington, KY 40507

Notice shall be sent to LESSEE at the following:

- 12. INTERPRETATION. If any clause, sentence, paragraph or part of this Lease Agreement shall be adjudged by a court of competent jurisdiction to be invalid for any reason, such judgment shall not affect, impair, or invalidate the remainder of this Agreement, but be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered, and in all other aspects this Agreement shall continue in full force and effect. The Agreement, having been negotiated in good faith between the parties with advice of their respective counsel, shall not be construed against one party or the other.
- 13. INTERPRETATION AS PARTNERSHIP PROHIBITED. It is understood and agreed that nothing herein contained shall be construed in any way to constitute a partnership between the parties.
- 14. ENTIRE AGREEMENT. This Lease Agreement contains the entire agreement of the parties with respect to LESSEE's use and lease of the Premises, and there are no other promises or conditions in any other agreement, either oral or written. The Agreement may be amended only in writing and only if such writing is signed by both parties. The parties acknowledge that any amendment to the Agreement must be approved by the Lexington-Fayette Urban County Council.
- 15. APPLICABLE LAW AND VENUE. This Lease Agreement shall be governed by the laws of the Commonwealth of Kentucky and any action related hereto will be brought in a court of competent jurisdiction situated in Fayette County, Kentucky.
- 16. NO THIRD PARTY BENEFICIARIES. Nothing contained herein shall create any relationship, contractual or otherwise, or any rights, in favor of any third party.
- 17. SUCCESSORS AND ASSIGNS. This Agreement shall be binding on both parties and their successors and assigns.

IN WITNESS WHEREOF, the parties hereto have set their hands the date first above written.

LESSOR:

LESSEE:

LEXINGTON-FAYETTE URBAN
COUNTY GOVERNMENT

By: Linda Gorton
Linda Gorton, Mayor

By: William E. Pence, Jr.
William E. Pence, Jr.

Date: 1/8/20

Date: 12-24-9