

**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.

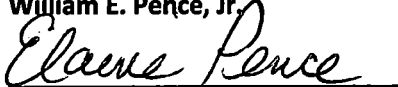
14. Both parties agree to execute such other documents and to cooperate as necessary to effectuate the terms and intent of this Memorandum of Understanding.

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**;

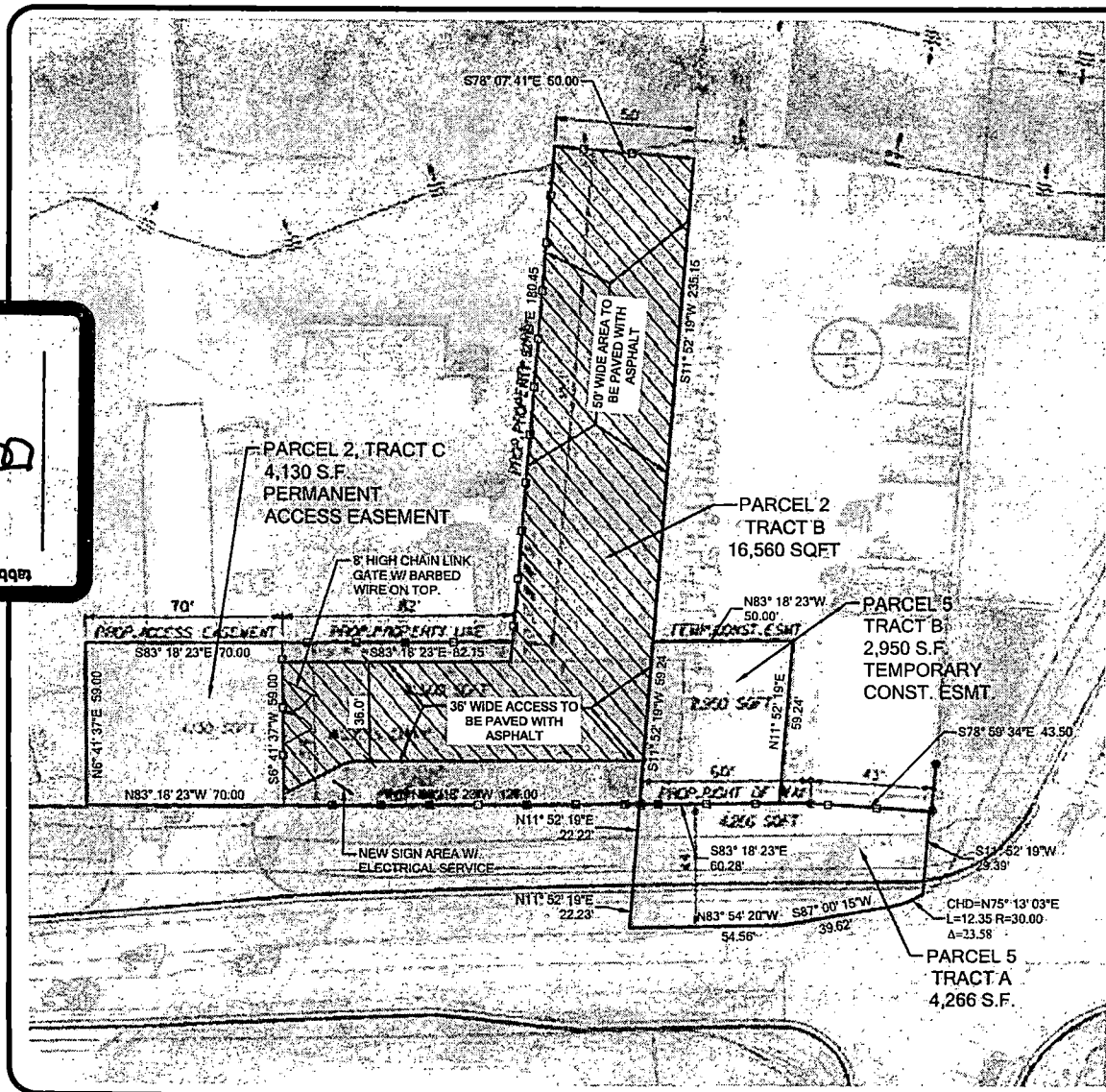
Thence continuing with the easterly property line of Lexington-Fayette Urban County Government (Parcel 2), N 11°52'19" E, 59.24 feet to a point, 110.33 feet left of Old Frankfort Pike (KY Highway 1681) at Station 62+21.88;

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.