

**THIS SANITARY SEWER COLLECTION FACILITIES CONVEYANCE**, made and entered into \_\_\_\_\_, 2015, by and among SOUTHLAND CHRISTIAN CHURCH OF LEXINGTON, KENTUCKY, INC., a Kentucky corporation, (FIRST PARTY), of P.O. Box 23338, Lexington, KY 40523; JESSAMINE-SOUTH ELKHORN WATER DISTRICT, a Kentucky rural water district created under KRS Chapter 74, (SECOND PARTY), of P.O. Box 731, Nicholasville, Kentucky, 40340-0731; and the LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT, and urban-county government created under KRS Chapter 67A, (THIRD PARTY), of 200 East Main Street. Lexington, KY 40507;

**WITNESSETH:**

**WHEREAS**, FIRST PARTY has paid the entire cost of constructing the sanitary sewer collection facilities, including for example, but not limited to, sanitary sewer pump station(s) (Southland Christian Church Pump Station located at 5001 Harrodsburg Road, Nicholasville, KY), force main lines (Southland Christian Church Pump Station Force Main from Southland Christian Church to JSEWD Manhole C-1 located at Bellerive Shopping Center, 170 Bellerive Boulevard, Nicholasville, KY), gravity main lines, manholes and all appurtenances thereto located south of but not including LFUCG Manholes SE1 800, SE1 657, SE1 652 (LFUCG Manholes SE1 800, SE1 657, SE1 652 and any sanitary sewer main eight (8) inches or greater located north of said LFUCG Manholes are to be the responsibility of the LFUCG), to service its property, the location of which facilities are more particularly described hereinafter on Group Exhibit "A";

**WHEREAS**, FIRST PARTY desires to convey its entire interest in said facilities, together with all appurtenances thereunto, to SECOND PARTY;

**WHEREAS**, FIRST PARTY previously constructed the aforementioned collection facilities, pursuant to an agreement with THIRD PARTY recorded in Deed Book 427, Page 91, Jessamine County Clerk's office, and THIRD PARTY now desires to disclaim in favor of and convey any interest it may have in said facilities to SECOND PARTY; and

**WHEREAS,** SECOND PARTY desires to accept said conveyance upon the terms and conditions set forth herein;

**NOW, THEREFORE,** for and in consideration of SECOND PARTY's agreement to operate and maintain said sanitary sewer collection facilities, together with all appurtenances thereunto, and for other good and valuable consideration, said FIRST PARTY and THIRD PARTY do hereby grant, convey, remise, release and forever quitclaim unto SECOND PARTY, its successors and assigns forever, all of FIRST PARTY's and THIRD PARTY's right, title and interest in and to said facilities, together with all appurtenances thereunto, located in Jessamine County, Kentucky, and more particularly described as follows, to-wit:

Those certain sanitary sewer collection facilities and appurtenances constructed by First Party on its property and in the state right-of-way, including, without limitation, those illustrated and depicted on Group Exhibit "A" attached hereto.

**TO HAVE AND TO HOLD,** the above described sanitary sewer collection facilities together with all appurtenances thereunto belonging into SECOND PARTY, its successors and assigns forever.

**FIRST PARTY** and **THIRD PARTY** do hereby release and relinquish unto SECOND PARTY, its successors and assigns, all of FIRST PARTY's right, title and interest in and to the above described facilities, together with all appurtenances thereunto.

**IN WITNESS WHEREOF,** the FIRST PARTY has hereunto executed this conveyance on this the day and year first above written.

SOUTHLAND CHRISTIAN CHURCH  
OF LEXINGTON, KENTUCKY, INC.

---

PRESIDENT

LEXINGTON-FAYETTE URBAN COUNTY  
GOVERNMENT

\_\_\_\_\_  
MAYOR

COMMONWEALTH OF KENTUCKY  
COUNTY OF \_\_\_\_\_, SCT...

The foregoing was subscribed, sworn to and acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2015, by \_\_\_\_\_, President of and for and on behalf of Southland Christian Church of Lexington, Kentucky, Inc., a Kentucky corporation.

My Commission expires: \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

No.

COMMONWEALTH OF KENTUCKY  
COUNTY OF \_\_\_\_\_, SCT...

The foregoing was subscribed, sworn to and acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2015, by Jim Gray, Mayor of and for and on behalf of the LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT, an urban-county government created under KRS Chapter 67A.

My Commission expires: \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

No.

**PREPARED BY:**

\_\_\_\_\_  
BRUCE E. SMITH, ESQ.  
201 SOUTH MAIN STREET  
NICHOLASVILLE, KY 40356  
(859) 885-3393

z:\Bruce\JSEWD\Southland Christian\ Sewer Pipeline Conveyance 040214



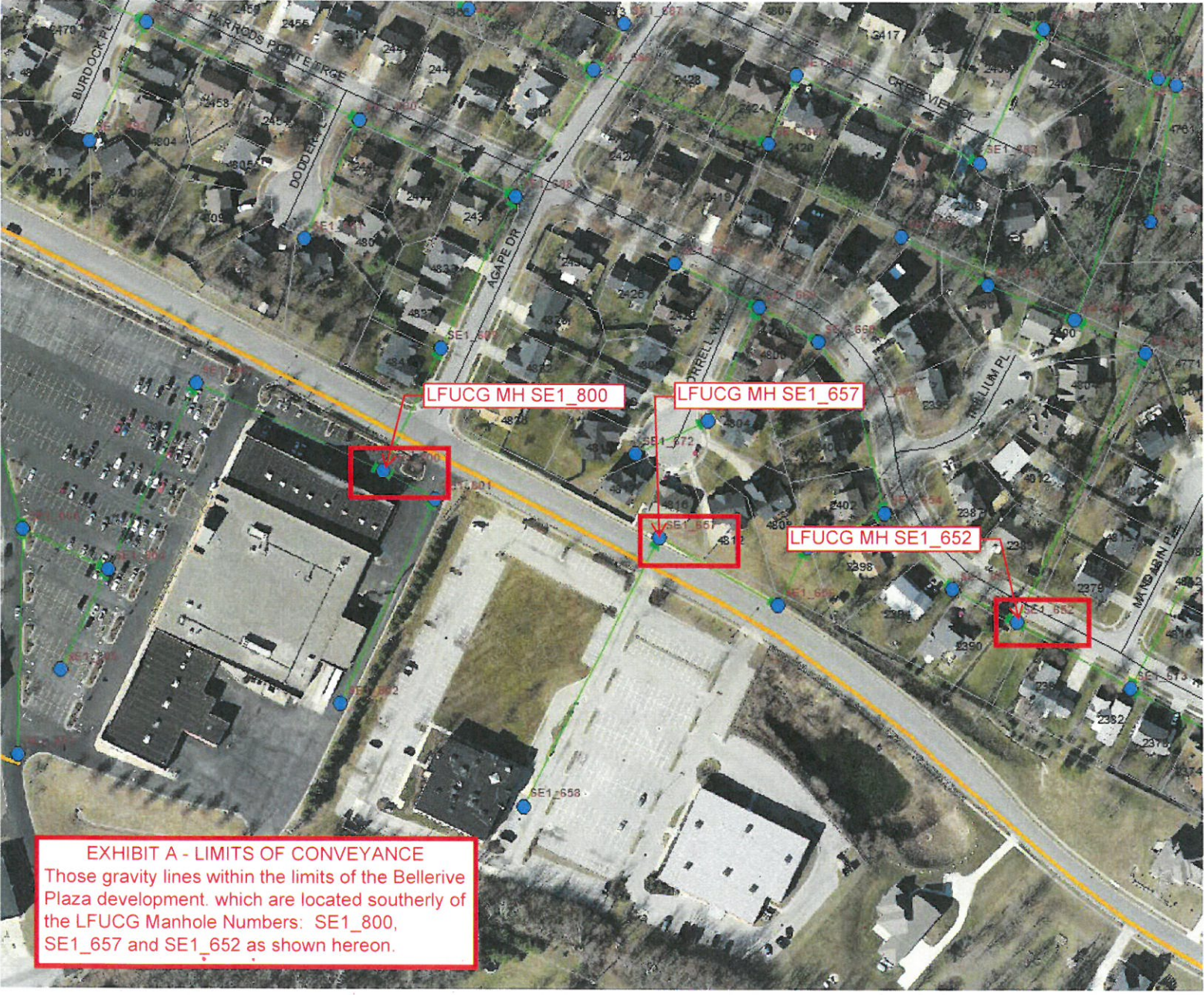






EXHIBIT A  
Southland Christian Church Pump Station and Force Main





EXHIBIT A  
Southland Christian Church Pump Station and Force Main





EXHIBIT A  
Southland Christian Church Pump Station and Force Main



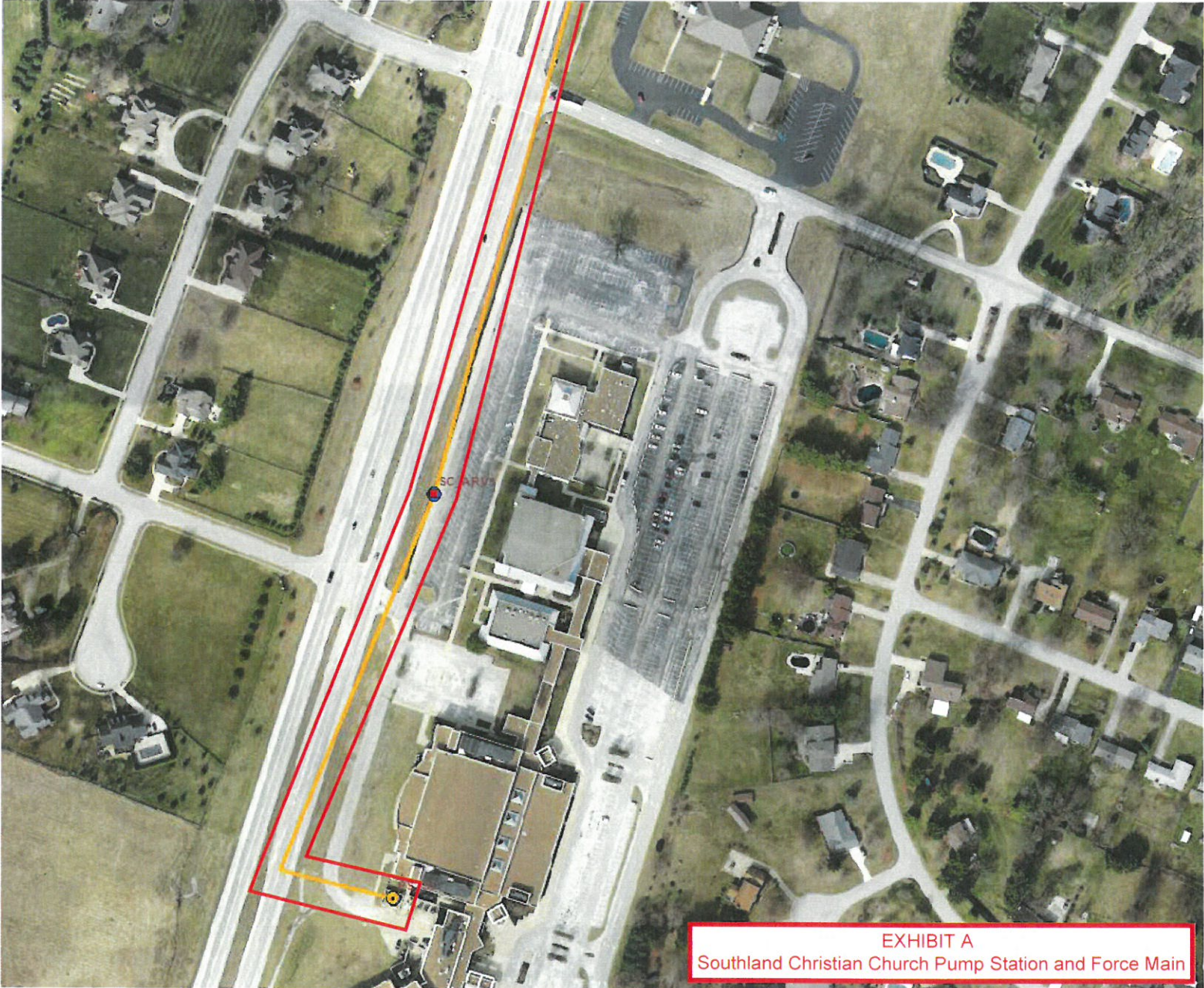


EXHIBIT A  
Southland Christian Church Pump Station and Force Main

RESOLUTION NO. 690-2002

A RESOLUTION AUTHORIZING AND DIRECTING THE MAYOR, ON BEHALF OF THE URBAN COUNTY GOVERNMENT, TO EXECUTE AN AGREEMENT WITH JESSAMINE-SOUTH ELKHORN WATER DISTRICT, FOR NORTHERN JESSAMINE COUNTY SEWER AGREEMENT.

---

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That the Mayor, on behalf of the Lexington-Fayette Urban County Government, be and hereby is authorized and directed to execute the Agreement, which is attached hereto and incorporated herein by reference, with Jessamine-South Elkhorn Water District, for Northern Jessamine County Sewer Agreement.

Section 2 - That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: December 12, 2002

/s/ Pam Miller  
MAYOR

ATTEST:

/s/ Liz Damrell  
CLERK OF URBAN COUNTY COUNCIL

PUBLISHED: December 18, 2002-1t

## AGREEMENT

THIS AGREEMENT is made and entered into this 31 day of January, 2003, by and between Lexington-Fayette Urban County Government (hereinafter "LFUCG"), an urban county government duly created and existing pursuant to the provisions of Kentucky Revised Statutes Chapter 67A and the Jessamine-South Elkhorn Water District (hereinafter "Water District"), a water district duly created and existing pursuant to the provisions of Kentucky Revised Statutes Chapter 74.

### WITNESSETH:

WHEREAS, the parties to this Agreement mutually agree that the citizens of Fayette and Jessamine Counties are best served by the most efficient and environmentally sound wastewater collection and treatment system; and

WHEREAS, the parties to this Agreement support sound Regional Planning; and

WHEREAS, the parties to this Agreement support efficient and cost effective provision of governmental services; and

WHEREAS, the parties to this Agreement support sound environmental planning; and

WHEREAS, as early as 1966, the City of Lexington, in the document entitled "Master Plan", a plan for the orderly and efficient collection and treatment of wastewater to serve area growth, depicted portions of watersheds in northern Jessamine County as potentially within the West Hickman Creek Treatment Plant service area; and



WHEREAS, the federally required Lexington-Fayette Urban County Government 201 Facilities Master Plan adopted by LFUCG on February 15, 1978 (hereinafter referred to as "201 Plan") again depicted portions of South Elkhorn and West Hickman watersheds in northern Jessamine County as potentially within the LFUCG's West Hickman Wastewater Treatment Plant service area; and

WHEREAS, the Kentucky Natural Resources and Environmental Protection Cabinet has consistently asserted that LFUCG is required under the 201 Plan to make available sewage treatment service to the northern Jessamine County watershed areas described in Section 1 below, and has required such in one case (See D.O.W. Agreed Order No. 95069); and

WHEREAS, LFUCG updated its 201 Plan, pursuant to KRS Chapter 224A, 401 K.A.R. 5:006, and per Agreed Order in D.O.W. Case No. 95069, which 201 Plan was approved by the Lexington-Fayette Urban County Council on May 6, 1999, via Resolution No. 231-99 and was approved by the Kentucky Division of Water on January 26, 2000; and

WHEREAS, the Kentucky Division of Water, as a condition for approval of LFUCG's updated 201 Plan, has required that sewer service be made available to the northern Jessamine County watersheds described in Section 1 below; and

WHEREAS, the Jessamine County zoning maps and the Jessamine County/Wilmore 1996 Comprehensive Plan do not indicate or anticipate significant development of the northern watershed areas, thereby allowing for establishment of

adequate and comprehensive long range policies, and for planning and zoning for future growth and for efficient future sewer service; and

WHEREAS, the parties recognize and agree that small treatment plants, septic tanks, pumping stations, inadequately sized, constructed, or maintained sewer lines and storm water systems in the Service Area described in Section 1 below will not benefit the citizens of either county; and

WHEREAS, the Jessamine Fiscal Court by Resolution duly adopted and of record in Fiscal Court Order Book 28, Page 626, has designated the Water District as the proper agency to provide sewage disposal services in the Service Area described in Section 1 below, with arrangements as permitted by law to be made between LFUCG and the Water District for the treatment of sewage; and

WHEREAS, the Water District, by Resolution duly adopted on August 9, 1995, resolved pursuant to KRS 74.407 to provide for a sewer system within its territorial boundaries and adjoining areas, which includes the Service Area described in Section 1 below; and

WHEREAS, the Water District has submitted to the Kentucky Division of Water a regional Facilities Plan pursuant to KRS Chapter 224 and 401 K.A.R. 5:006; and

WHEREAS, the Water District has determined that sewage generated in the Service Area described in Section 1 below should be treated by LFUCG at its West Hickman Wastewater Treatment Plant or other facility, instead of in a wastewater treatment facility constructed and owned by the Water District; and

WHEREAS, the Water District has determined treatment of sewage by LFUCG generated in the Service Area described in Section 1 below would be in the best interest of the residents of the Service Area;

NOW, THEREFORE, for and in consideration of the mutual promises and obligations made and exchanged in this Agreement, LFUCG and the Water District (hereinafter referred to as the Parties") agree as follows:

1. **SERVICE AREA.** The Service Area (hereinafter "Service Area") includes land located in northern Jessamine County in the South Elkhorn Creek Watershed and the West Hickman Creek Watershed and is more particularly described on attached Exhibits A and B.

2. **DEFINITIONS.** For purposes of this Agreement the following terms and phrases shall have the following meanings:

a) "Clean water" includes but is not limited to storm water, surface water, ground water, roof runoff, subsurface drainage, cooling water or unpolluted industrial process water.

b) "Connections to LFUCG's sewer system means connections directly to LFUCG's sewer system or connections to the Water District's sewer lines for the purpose of collecting, transporting or pumping sewage from the Service Area to LFUCG's sewer system.

c) "Excessive infiltration and inflow" means a high groundwater or rainfall induced sewage flow rate in all or any portion of the Water District's sewer lines exceeding either:



1. 275 gallons per capita per day based on the maximum flow received during a twenty-four (24) hour period exclusive of industrial flow; or

2. More than 120 gallons per capita per day based on the annual average of daily flows for the most recent twelve (12) months exclusive of industrial flow.

d) "Infiltration" means water other than wastewater that enters a sewer system from the ground through means such as defective pipes, pipe joints, connections, manholes, or by any other means.

e) "Inflow" means water other than wastewater that enters a sewer system from means such as roof leaders, yard drains, area drains, drains from springs or swampy areas, openings in manhole covers, cross connections with storm sewers, catch basins, cooling towers, storm waters, source runoff, street wash waters, drainage, or any other source which directs rainwater into the sewer system.

f) "Sewage" means the water carried human or animal wastes, including septic effluent, from residences, buildings, or other places, together with industrial wastes or underground, surface, storm or other water, as may be present, but does not include septic solid waste or sewer sludge.

g) "Sewer line" means sewer lines, pump stations, force mains and other constructions or devices used for collecting, transporting, pumping, measuring or disposing of sewage.

h) "Sewer system" means, individually and collectively, the network of sewer lines, pump stations, force mains and other constructions or devices that discharge into a wastewater treatment plant.

i) "Wastewater treatment plant" means a facility used for the treatment and disposal of sewage.

**3. LFUCG'S AGREEMENT TO TREAT.** The parties agree that LFUCG shall treat no sewage generated in Jessamine County, Kentucky, outside the boundaries of the Service Area described in Section 1 above. LFUCG agrees to accept into its sewer system and treat up to 2,000,000 gallons per day of sewage generated in the Service Area, calculated on the basis of average daily flows, subject to all the terms, conditions and limitations set forth in this Agreement. Average daily flows shall be calculated by dividing total flows for the most recent twelve (12) months by the number of days in the most recent twelve (12) months. Provided, however, no property in the Service Area shall be permitted to connect to LFUCG's sewer system if:

a) Inadequate capacity exists in LFUCG's existing sewer lines at the time the property applies for connection (including capacity that will be required for approved Fayette County development plans), based upon LFUCG's duly adopted and printed engineering standards, procedures, manuals, and policies in effect at the time of application, and plans to finance and construct new sewer lines or to replace or improve existing sewer lines have not been approved by LFUCG; or

b) the West Hickman sewage treatment plant's average daily flows equal or exceed 90% of the treatment plant's permitted average daily design capacity. In such

case the remaining treatment plant capacity shall be exclusively reserved for Lexington-Fayette Urban County development needs, and no additional properties in the Service Area shall be permitted to connect to LFUCG's sewer system until such time as the West Hickman Treatment Plant's treatment capacity has been expanded.

**4. JUDICIAL APPROVAL.** LFUCG shall provide no sewage treatment to the Service Area until such has been approved by appropriate order entered in *Lexington-Fayette Urban County Government vs. Jessamine County Fiscal Court, et al.*, Jessamine Circuit Court Civil Action No. 81-CI-047.

**5. FACILITY PLAN.** Except as is otherwise provided in Section 7 below, LFUCG shall provide no sewage treatment services for the Service Area until the Water District has been designated a Regional Planning Agency and has prepared and the Kentucky Division of Water (hereinafter "D.O.W.") has approved a Facilities Plan prepared pursuant to KRS Chapter 224 and 401 K.A.R. 5:006.

The Parties agree that LFUCG's right to treat sewage in the Service Area is not exclusive, and nothing in this Agreement shall preclude the Facilities Plan for the Service Area from proposing sewer lines from the Service Area to publicly owned sewer systems operated by the City of Nicholasville or other public sewage treatment entity, and such sewer lines shall not be required to conform to LFUCG engineering standards, manuals, procedures, and policies as is required by this Agreement for sewer lines connected to LFUCG's sewer system. To the extent the Water District Facilities Plan provides for treatment of sewage from the Service Area by LFUCG, however, the



Parties agree that in addition to all requirements of KRS Chapter 224, 401 K.A.R. 5:006 and other D.O.W. guidance and requirements, the Facilities Plan shall:

a) Describe in detail the extent to which the Water District anticipates utilizing LFUCG's sewer system for conveyance and treatment of sewage generated in the Service Area;

b) Describe the size and location of all proposed trunk sewer lines and other sewage handling, transmission, or processing facilities;

c) Provide that trunk sewer lines shall be designed, sized, constructed and financed to assure construction of a viable permanent sewer system and to avoid construction of inadequate temporary facilities;

d) Require all plan specifications for and construction of sewer and storm water facilities in the Service Area to be in conformity with all LFUCG duly adopted and printed engineering standards, manuals, procedures, and policies in effect at the time of construction;

e) Include a statement of policy disfavoring and restricting on-site sewage disposal systems, septic tanks, and pump stations in the Service Area;

f) Be prepared in accord with accepted current best engineering, environmental, and planning and zoning practices;

g) Detail the extent to which LFUCG's sewer system must be improved, upgraded, up-sized, or expanded to convey sewage generated in the Service Area and shall describe how such improvements shall be financed.

**6. CONSTRUCTION COSTS.** The Water District agrees to pay all costs related to construction of sewer lines necessary to transport sewage from the Service Area to LFUCG's sewer system. The Water District also agrees to pay all easement acquisition, engineering, construction, and other costs, of any kind, related to improving, upgrading, up-sizing, or expanding LFUCG's network of sewer lines, pump stations, force mains and other constructions or devices that discharge into a wastewater treatment plant, if such is necessary to transport sewage from the Service Area to LFUCG's West Hickman Wastewater Treatment Plant.

**7. SITE SPECIFIC SERVICE AGREEMENTS.** The Water District agrees to give LFUCG written notice of the proposed connection of any property in the Service Area to LFUCG's sewer system a minimum of three months before an application for a DOW construction permit is filed for the property to allow LFUCG sufficient time to review available sewer line and treatment plant capacity, inflow and infiltration conditions, proposed development and construction plans and specifications, and cost recovery plans, and to allow sufficient time to draft a proposed Site Specific Service Agreement. The Parties agree that no property in the Service Area shall connect to LFUCG's sewer system until LFUCG and the Water District have entered into a Site Specific Service Agreement with the appropriate person or entity having legal authority to enter into an agreement affecting the property (hereinafter referred to as "Developer"). Except as is otherwise provided in Section 3 above, LFUCG agrees that it shall approve all site specific service agreements if: (a) cost recovery and technical aspects of the planned sanitary sewer lines, storm water system, and other infrastructure elements of the

development meets or exceeds LFUCG's duly adopted and printed infrastructure requirements existing at the time of submittal for similar Fayette County developments in existence at the time of submittal; and (b) the terms and conditions of the Service Agreement fully comply with the terms and conditions set forth in this Agreement. The parties agree, however, that LFUCG may withhold approval of any site specific service agreement if the Water District has failed to eliminate excessive infiltration and inflow, as provided in Section 13 below. Notwithstanding the foregoing conditions of LFUCG's approval of Site Specific Service Agreements, the Water District may withhold approval and veto any proposed project based upon duly adopted and printed ordinances and regulations it may promulgate.

LFUCG may require the Site Specific Service Agreement to include any term or condition that it usually and normally requires in its duly adopted and printed regulations for sanitary sewer lines and other infrastructure elements of any similar development in Fayette County, and shall include the following:

a) Detailed plans, construction specifications, cost recovery plans, maintenance and repair requirements, timelines for connection, and agreements on the specific amount of treatment capacity LFUCG is to provide the property;

b) An agreement by the Developer to pay the full cost of sewer service to the property, including but not limited to design and construction costs, plan review fees, inspection fees, tap-on fees, sewer user fees, extra strength sewer charges, and incidental service fees, including general contract administration and emergency services;

c) An agreement by the Developer that all sewer and storm water facilities on the property shall be designed, constructed, and inspected, warranted, bonded, or assured according to LFUCG's duly adopted and printed engineering standards, manuals, procedures, and policies in effect at the time of construction, which would be applicable to similar developments in Fayette County, and with drainage controls as provided in Section 9 below;

d) An agreement by the Developer to fully comply with LFUCG's pretreatment ordinance set forth in LFUCG's Code of Ordinances, Section 16-42 to 16-46 and 16-50, as the same may be amended from time to time, as provided in Section 11 below.

Provided, however, that after receiving written notice as provided in Section 19 below a minimum of thirty (30) days prior to application for a connection permit from the Kentucky Division of Plumbing, LFUCG's Commissioner of Public Works may waive any term, condition or requirement of this Agreement and approve connection of the following described facilities to LFUCG's sewer system, on the same terms, conditions and requirements that LFUCG would impose on or require of similarly situated facilities located in Fayette County;

a) Existing sewage generating facilities and improvements developed prior to the date of execution of this Agreement; and

b) Existing sewage generating facilities and improvements, whether developed before or after the date of this Agreement, upon written certification of the Jessamine County Health Department that connection to LFUCG's sewer system is



desirable to resolve or prevent an environmental emergency causing or threatening to cause damage to the environment or human health.

**8. OWNERSHIP OF FACILITIES AND PERMITS.** The Parties agree that legal title to all sewer lines in the Service Area eight (8) inches in diameter or greater, all force mains and all pumping stations authorized under Section 10 below, shall be vested in the Water District in a document recorded of record in the Jessamine County Clerk's Office, which grants LFUCG a full access easement. The Parties further agree that individual property owners, property owner associations, private developers, and other persons or entities shall have no ownership interest in such lines or pump stations. The Water District agrees that it shall have sole responsibility and LFUCG shall have no responsibility for obtaining all federal, state or local sanitary sewer or storm water permits required to operate and maintain sewer lines owned by the Water District. The Water District further agrees to obtain a Kentucky Intermunicipal Operational permit issued pursuant to 401 KAR 5:005.

**9. SURFACE WATER DRAINAGE.** The Parties agree that development in the Service Area may impact existing surface water drainage patterns and that appropriate watershed drainage controls are essential to protect stream quality and private and public property. The Parties agree that property in the Service Area may not be permitted to connect to LFUCG's sewer system, unless at the time the property connects storm water drainage structures on the property have been designed and constructed in accordance with LFUCG's duly adopted and printed engineering standards, manuals, procedures, and policies in effect at the time of construction.

**10. PUMP STATIONS.** The Parties agree that LFUCG shall treat no sewage in Jessamine County generated outside the boundaries of the Service Area, either by gravity flow or pump station. The Parties further agree that sewer service to properties within the Service Area shall be by gravity flow, unless LFUCG's Commissioner of Public Works determines in a written opinion that a pump station is necessary based on the following criteria:

a) To provide service to property developed in the Service Area prior to execution of this Agreement; or

b) Is more efficient in order to minimize disruption to existing Fayette County neighborhoods; or

c) Because of inadequate downstream easements or sewer line capacity, or for other technical reasons conveyance by gravity flow is impractical.

**11. SEWAGE PRETREATMENT.** The Water District agrees to comply and to require its agents, developers, and customers to comply with LFUCG's pretreatment ordinances in LFUCG's Code of Ordinances Sections 16-42 through 16-46 and 16-50, as the same may be amended from time to time. The Parties agree that LFUCG shall have sole authority to issue pretreatment permits in the Service Area and to establish pretreatment standards and requirements which shall be the same as those established for users in Fayette County, and that LFUCG may pursue any available legal or equitable remedy against the Water District or its agents, developers, or customers for violation of LFUCG's pretreatment ordinance, and may additionally immediately

discontinue wastewater service to any industrial, commercial, or business customer of the Water District in the Service Area that violates LFUCG's pretreatment ordinance.

The Parties agree that any property in the Service Area subject to LFUCG's pretreatment ordinances which applies for or receives sanitary sewer service may be required to construct a sewer system access "test" manhole and LFUCG shall be provided a full access easement to the manhole in a document recorded in the Jessamine County Clerk's Office. The manhole shall be located outdoors, shall not be gated, and LFUCG's full and immediate access at all times to the manhole shall not be restricted by the Water District, its agents, developers, or customers.

**12. CLEAN WATER DISCHARGES.** The Water District agrees to prohibit its customers from discharging through sump pumps, roof drains, area or other drains, or any other source, any clean water to any sewer line, and further agrees that it shall take any and all steps reasonable or necessary to prevent or disconnect any such discharge sources.

**13. INFILTRATION AND INFLOW.** The Water District agrees to require its developers or customers to install state-of-the-art wastewater flow measuring devices as required by site specific contracts approved by LFUCG pursuant to Section 7 above, capable of accurately recording and documenting actual sewage flows into LFUCG's sewer system. LFUCG and the Water District shall determine the point of location of each such measuring device. The Water District agrees to require its developers or customers to pay all costs related to purchase and installation of the measuring devices.

If any measuring device records excessive infiltration or inflow, LFUCG shall provide written notice by certified mail to the Water District and the Kentucky Division of Water of such excessive infiltration and inflow. Upon receipt of such notice the Water District agrees to fully comply with 401 KAR 5:005, Section 9(4) (5) (6) and (7).

If the Water District has not eliminated excessive infiltration and inflow within eighteen (18) months after LFUCG's notice to the Water District, or within such lesser time as may be required by any state or federal agency with jurisdiction to enforce state or federal infiltration and inflow regulations, LFUCG may deny further connections to LFUCG's sewer system and the Water District agrees to pay to LFUCG the following:

a) A monthly sewer user fee surcharge at the per gallon rate specified in Section 16-59 of LFUCG's Code of Ordinances, as amended from time to time, for actual sewage flows as measured by the measuring devices exceeding sewage flows calculated on the basis of monthly water usage as provided for in Section 16-59 of LFUCG's Code of Ordinances, as amended from time to time;

b) Within sixty (60) days of written demand from LFUCG, a treatment plant capacity surcharge for actual sewage flows as measured by the measuring devices in all or any portion of the Water District's sewer lines that exceed the treatment plant capacity for which LFUCG has previously been paid tap-on or connection fees, based upon the then current per gallon cost of expanding LFUCG's treatment plant capacity.

An additional two (2) years to eliminate excessive infiltration and inflow may be permitted at the discretion of LFUCG's Commissioner of Public Works (which shall not



be unreasonably withheld) if engineer certifiable reductions are, in fact, taking place and an on-going program to further address the problem is established and enforced.

The Parties further agree that treatment plant capacity made available to the Service Area is limited to 2,000,000 gallons per day based on the average daily flow as set forth in Section 3 above, and is the maximum capacity to be made available to the Service Area for sewage flows, including inflow and infiltration of ground water or surface water.

**14. SEWER USER FEES.** The Water District agrees to pay to LFUCG sewer user fees as set forth in Section 16-59, of LFUCG's Code of Ordinances, as the same may be amended from time to time. The user fees shall be calculated based upon the monthly water use of all sewer service customers in the Service Area for which LFUCG provides sewage treatment. As specified in Section 16-59, an extra strength treatment surcharge may be added by LFUCG for any month in which LFUCG sampling shows that the sewage discharge exceeds specified parameters for suspended solids, ammonia, nitrogen, or biochemical oxygen demand, or other parameters as the ordinance is amended from time to time.

The monthly sewer user fees shall be charged by LFUCG directly to the Water District on a single invoice each month, and shall be paid by the Water District directly to LFUCG each month by the due date specified on the invoice. Unpaid sewer user fees shall be subject to late payment penalty and interest as set forth in KRS 45.454. LFUCG shall be entitled to recover all reasonable costs of collection, including reasonable attorney's fees.

To facilitate sewer user fee billing, the Water District shall provide LFUCG a monthly statement of the total chargeable water use for the Service Area and a printout showing the water use by each customer for all sewer customers in the Service Area. The printout shall show each customer's name, water service account number, service address, meter reading for the month, and volume of water use for the month. LFUCG shall have the right to reasonable access to Water District records for the purpose of auditing individual water consumption figures furnished by the Water District, and the Water District shall have reasonable access to LFUCG records for purpose of auditing the accuracy of LFUCG charges to the Water District.

The Water District agrees that LFUCG shall have the right to periodically adjust sewer user and other fees it charges all customers within Fayette County and the Service Area and it agrees to pay such revised rates. LFUCG agrees to give the Water District, its agents, developers, or customers the same advance notice of such fee increases as is provided to Fayette County customers.

**15. FAILURE TO PAY.** The Water District agrees that if it or its agents, developers, or customers fail to pay any costs, fees, user fee, surcharge fee, or other fee or cost of any kind provided for in this Agreement, LFUCG may pursue any available equitable or legal remedy, and shall be entitled to recover all reasonable costs of collection, including reasonable attorneys fees, and additionally, may prohibit any future connections of properties in the Service Area to its sewer system, or after thirty (30) days written notice to the Water District, or its agents, developers, or customers, disconnect any such nonpaying customers in the Service Area from LFUCG's sewer

system. Likewise LFUCG agrees that if it, or its agents, fail to comply with its obligations hereunder, the Water District may pursue any available equitable or legal remedy, and shall be entitled to recover all reasonable costs of enforcement, including reasonable attorney's fees.

**16. INSPECTION, MAINTENANCE, AND REPAIRS.** The Water District agrees to regularly inspect, monitor, maintain, and repair at its expense, its sewer lines within the Service Area. The Parties agree that LFUCG shall have access to and may inspect at any time any portion of the Water District's sewer lines within the Service Area, and may make emergency repairs to the sewer lines if such are reasonable or necessary to protect LFUCG's wastewater treatment plant, sewer system or drainage ways. The Water District agrees to reimburse LFUCG for its reasonable expenses incurred in emergency repairs within sixty (60) days of receipt of billing from LFUCG. LFUCG agrees to provide the Water District with documentation of emergency repairs conducted and to advise on other repairs needed to return the Water District's sewer lines to normal operational status, which the Water District agrees to complete within a reasonable time, not to exceed ninety (90) days.

**17. REPORTING REQUIREMENTS.** The Water District shall provide in writing to LFUCG (at the time of their filing in Jessamine County) copies of any and all:

- a) Cost recovery plans or plans for construction, maintenance, or replacement of sewer lines in the Service Area;
- b) Legal changes in the Water District organizational structures, including ownership, service areas, or major proposed financings;

c) Meeting dates and places of local, state or federal boards or agencies of which the Water District has notice and at which sewer service in the Service Area will be discussed. The Water District agrees it shall do nothing to prevent LFUCG from appearing and being heard at any such meeting, relative to wastewater matters, and to express its views as to how plans or proposals may impact either the short or long term efficiency of financing and constructing sewer facilities, or impact environmental conditions in the Service Area. Likewise, the Water District shall do nothing to prevent any written or oral comments by LFUCG from being made a part of the record proceedings.

d) The Water District shall provide LFUCG with an annual calendar report documenting the full "build out" estimate of sewage generation for each approved plan for construction or development in the Service Area, on or before April 30 of the year following execution of this Agreement and on the same date in subsequent years. The report shall include a capacity consumption baseline with the annual increase in capacity consumption detailed to show the current year's construction along with past years' activities. The report shall also include a report on the condition of the sewer lines within the Service Area prepared by a professional engineer with training and experience in sanitary sewer systems. The annual report shall contain such other information and data as the parties shall mutually agree.

The Water District shall use its best efforts to provide or to arrange for the Jessamine County Fiscal Court or its planning boards or commissions to provide in writing to LFUCG (at the time of their filing in Jessamine County) copies of any and all:

- a) Proposals for alternative sewage treatment or conveyance systems in the Service Area, including on-site sewage disposal systems, pump stations, or septic tanks (excluding agricultural homes or farm facilities);
- b) Development proposal or plan which differs from the approved Water District Facilities Plan;
- c) Proposed amendments to the Jessamine County/Wilmore Comprehensive Plan impacting the Service Area;
- d) Annexation proposals in or immediately adjacent to the Service Area;
- e) Zone change requests in the Service Area;
- f) Proposed subdivision or development construction in the Service Area;
- g) Building permits issued for developments in the Service Area;

**18. DIVERSION OF FLOWS.** The Parties contemplate that sewage from the Service Area will be treated at LFUCG's West Hickman Wastewater Treatment Plant, but the Parties agree that LFUCG in its sole and absolute discretion and at its own cost may divert sewage flows from the West Hickman Wastewater Treatment Plant to alternative treatment facilities, and any such diversion shall not alter or amend the Water District's financial obligations under this Agreement, and shall not create any grounds for a claim by the Water District, financial or otherwise, against LFUCG.

The Parties also agree that the Water District in its sole and absolute discretion may divert sewage flows from the Service Area from an existing connection to LFUCG's system to another publicly owned treatment plant facility in Jessamine County, but such



diversion shall not serve as the basis for any claim by the Water District for a refund of any past payments under this Agreement to LFUCG, nor shall it create any grounds for a claim by LFUCG, financial or other wise, against the Water District.

**19. NOTICE PROVISIONS.**

All notices required under this Agreement shall be by certified mail directed to:

To Lexington-Fayette Urban County Government:

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

and

Office of the Urban County Council  
200 East Main Street  
Lexington, KY 40507

and

Urban County Engineer  
Division of Engineering  
200 East Main Street  
Lexington, KY 40507

and

Director  
Division of Sanitary Sewers  
301 Lisle Industrial Road  
Lexington, KY 40511

To the Water District:

Chairperson  
Jessamine-South Elkhorn Water District  
117 South Main Street  
Nicholasville, KY 40356

**20. GOVERNING LAW.** This Agreement has been entered into in Fayette County, Kentucky, and shall be interpreted under and governed by the laws of the Commonwealth of Kentucky and LFUCG's Code of Ordinances and engineering manuals, standards, practices and procedures. The Parties agree that any litigation related to the terms of this Agreement shall be brought in the Franklin Circuit Court, Frankfort, Kentucky, and the Parties acknowledge that venue shall be proper in such court.

**21. DURATION AND TERMINATION.** The duration of this Agreement shall be for a term of forty (40) years, or for such longer term as may be necessary to comply with the terms of any loan, grant or bond issue which the Water District obtains or receives for the purpose of constructing, operating or maintaining its sewer lines, and shall be renewed for a like term unless one of the parties to the Agreement gives written notice to the other party of an intent to terminate. Said notices must be given at least one (1) year but not more than three (3) years prior to the expiration of the original term of this Agreement.

This Agreement may be terminated at any time upon written agreement of the Water District and LFUCG, but termination of the Agreement shall not provide the basis

for a claim against LFUCG for a refund of any past payment of any sums to LFUCG under this Agreement.

The Parties acknowledge that LFUCG's West Hickman Wastewater Treatment Plant may from time to time be expanded, and the Parties agree that LFUCG may terminate this Agreement if appropriate officers of Jessamine County refuse or fail in a timely manner to provide LFUCG with building permits or other authorizations for expansion of West Hickman Wastewater Treatment Plant upon LFUCG's presentation of appropriate applications.

**22. SUCCESSORS AND ASSIGNS.** This Agreement shall be binding on LFUCG, the Water District, and their respective successors and assigns.

**23. SEVERABILITY.** In the event any provision of this Agreement shall be held invalid or unenforceable by any court, or by the Public Service Commission or other administrative body of competent jurisdiction, such holding shall invalidate and render unenforceable all other provisions herein, except to the extent of any obligations that remain outstanding.

**24. INTERPRETATION.** LFUCG and the Water District agree that both have participated in the drafting and negotiation of this Agreement and this Agreement shall not be interpreted against either party by virtue of having participated in such drafting and negotiation.

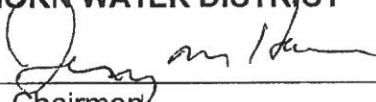
**25. CAPTIONS.** The captions of this Agreement are for convenience only and are not to be construed as part of the Agreement, nor as defining, nor limiting in any way the scope of the provisions herein.



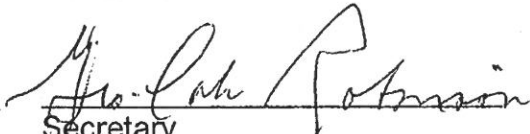
26. **ENTIRE AGREEMENT.** This Agreement supersedes all previous agreements, oral or written, between LFUCG and the Water District, and represents the entire agreement between the Parties. No other agreements or representations, oral or written, have been made by LFUCG or the Water District. This Agreement may not be altered, modified, or amended, except in a writing properly executed and approved by LFUCG and the Water District.

IN WITNESS WHEREOF, the Parties hereto have caused their respective signatures to be affixed hereto by their proper officers duly authorized, all as of the day and year first above written.

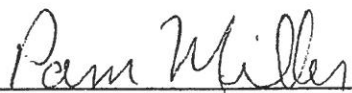
**JESSAMINE - SOUTH  
ELKHORN WATER DISTRICT**

BY:   
ITS: Chairman  
Pursuant to Resolution of Board of Commrs.  
Passed 12/4/2002


ATTEST:

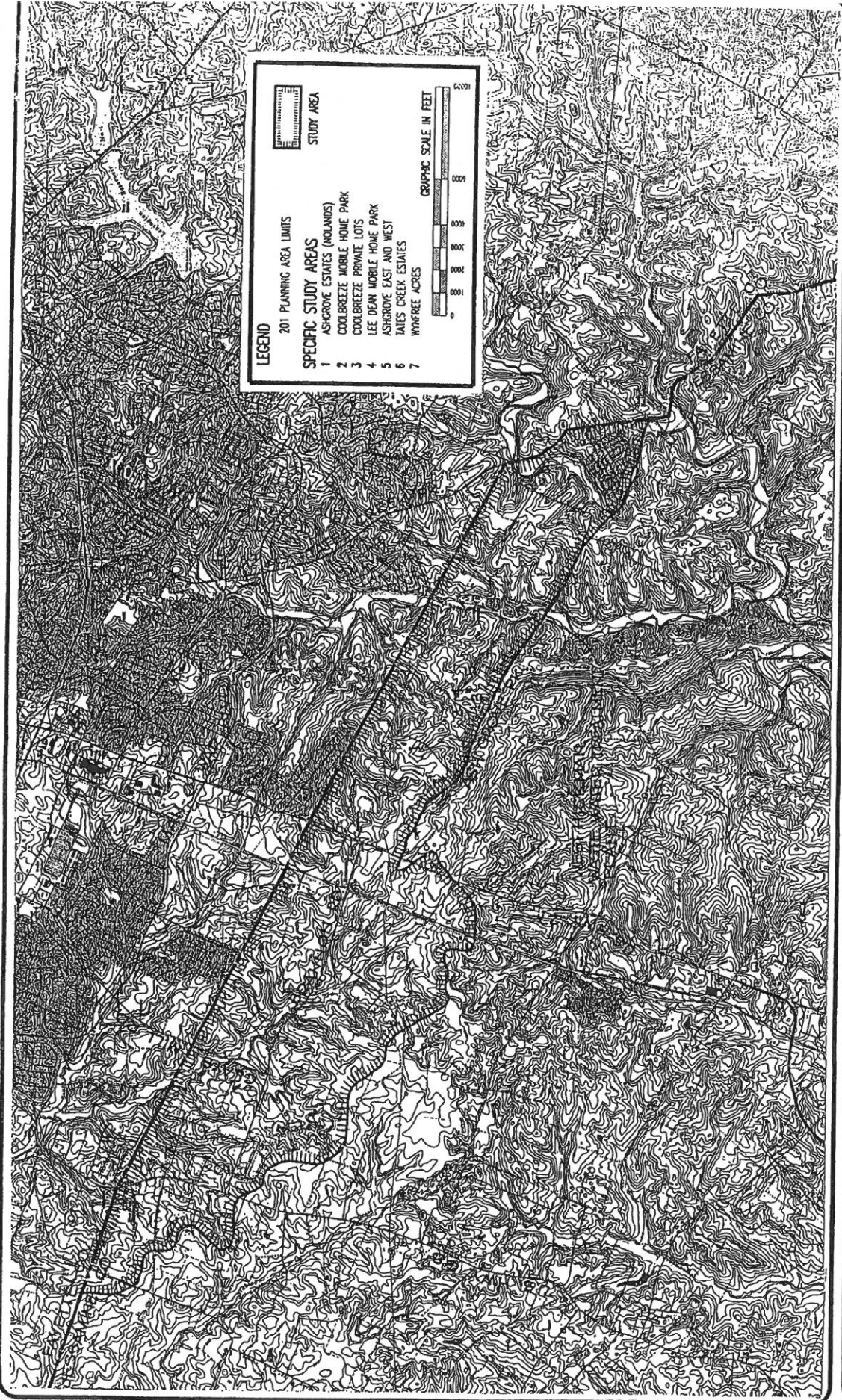
  
Secretary

**LEXINGTON-FAYETTE URBAN  
COUNTY GOVERNMENT**

BY:   
ITS: Mayor  
Pursuant to Resolution 690-2002  
Passed 12/12/2002

ATTEST:

  
C:\1\TS\LFUCG\SEWER.615



**LEGEND**

201 PLANNING AREA LIMITS

**SPECIFIC STUDY AREAS**

- 1 ASHGROVE ESTATES (MOBILES)
- 2 COOLBREEZE MOBILE HOME PARK
- 3 COOLBREEZE PRIVATE LOTS
- 4 LEE DEAN MOBILE HOME PARK
- 5 ASHGROVE EAST AND WEST
- 6 TATES CREEK ESTATES
- 7 WYNFREE ACRES

GRAPHIC SCALE IN FEET

0 1000 2000 3000 4000 5000 6000 7000 8000 9000 10000



PROPOSED  
 JESSAMINE COUNTY  
 201 PLANNING AREA  
 FEBRUARY 1999

JESSAMINE COUNTY 201 PLANNING AREA LIMITS  
 LEXINGTON FAYETTE URBAN COUNTY GOVERNMENT

5060  
 5061



201 South Main Street  
 Lexington, KY 40502  
 (606) 259-1114

Being the same property conveyed to Southland Christian Church of Lexington, Kentucky, Inc., a Kentucky nonprofit corporation, by quitclaim deed dated July 30, 1992, from Billy M. Oaks and Mabel L. Oaks, his wife, of record in Deed Book 290, Page 468, in the Jessamine County Clerk's office.

**Parcel 4:**

All of Lot No. 1, being 12.00 acres more or less, of the Mabel L. Oaks Property, as shown on Minor Subdivision Plat of the Mabel L. Oaks Property, of record in Plat Cabinet 8, Slide 286, in the Jessamine County Clerk's office.

Being the same property conveyed to Southland Christian Church of Lexington, Kentucky, Inc., a Kentucky nonprofit corporation, by deed dated July 27, 1998, from Mabel L. Oaks, a widow, of record in Deed Book 389, Page 111, in the Jessamine County Clerk's office.

**Parcel 5:**

All of Lot 2, being 30.777 acres more or less, of the Mabel L. Oaks Property, as shown on the Minor Subdivision Plat of the Mabel L. Oaks Property, of record in Plat Cabinet 8, Slide 286, in the Jessamine County Clerk's office.

Being the same property leased and including an Offer to Purchase Contract setting out the purchase price and terms entered into on the 3rd day of November, 1994, by and between Billy M. Oaks and Mabel L. Oaks and the Southland Christian Church of Lexington, Kentucky, Inc., a Kentucky nonprofit corporation. The aforementioned Lease has not yet been put to record.

## EXHIBIT B

### Parcel 1:

Beginning at a point, said point being the center line intersection of Harrodsburg Road and Brannon Road; thence with the center line of Brannon Road S 66° 04' E 655 feet; thence with a new line S 18° 44' W 1417.21 feet to a point in the line of Zarring; thence with the line of Zarring N 64° 01' W 657.67 feet to a point in the center line of Harrodsburg Road; thence with the center line of Harrodsburg Road N 18° 44' E 1393.66 feet to the point of beginning, containing 21.049 gross acres.

Being the same property conveyed to Southland Christian Church of Lexington, Kentucky, Inc., a Kentucky nonprofit corporation, by deed dated March 5, 1975, from Kindred Homes, Inc., a Kentucky corporation, of record in Deed Book 133, Page 324, in the Jessamine County Clerk's office.

### Parcel 2:

Being all of Parcel B, as shown on the Minor Consolidation Plat of Parcels A and B, Southland Christian Church Property, of record in Plat Cabinet 5, Slide 181-B, Jessamine County Clerk's office, to which plat referenced is hereby made for a more particular description of said property.

Being the same property conveyed to Southland Christian Church of Lexington, Kentucky, Inc., a Kentucky nonprofit corporation, by deed dated July 30, 1992, from Billy M. Oaks and Mabel L. Oaks, his wife, of record in Deed Book 290, Page 465, in the Jessamine County Clerk's office.

### Parcel 3:

From an iron spike at the intersection of the centerline of U.S. 68 and the original centerline of Brannon Road, thence S 18° 44' W, 1393.66 feet to an iron spike at the centerline of U.S. 68, thence S 64° 01' E, 2889.76 feet to an iron pin at the true point of beginning, said point located at the northeast corner of Parcel B as shown on the Minor Consolidation Plat of Parcels A and B, Southland Christian Church Property in Plat Cabinet 5, Slide 181-B, Jessamine County Clerk's office, thence from said point of beginning S 72° 33' 26" E, 53.13 feet to a steel fence pole, thence with existing chain link fence S 20° 34' 58" W 614.58 feet to an iron pin in said fence, thence N 65° 33' 36" W, 26.58 feet to an iron pin at the southeast corner of said Parcel B, thence with the east line of Parcel B, N 18° 05' 30" E, 610.46 feet to the point of beginning, and containing 0.559 acres.





