

Contract #277-2014



*Sale & Transfer Document
for
LFUCG Resolution #54-1239-14
The purchase and transfer of the
Downtown Lexington
Granville Street Light System*

*Prepared for
Lexington-Fayette Urban county Government*

*Prepared by
Louisville Gas & Electric/Kentucky Utilities
Company*

11/21/2014

Asset Purchase and Sale Agreement

This **Asset Purchase and Sale Agreement** ("Agreement") is entered into as of November __, 2014 (the "Effective Date") by and between **Kentucky Utilities Company**, a Kentucky corporation with an address of One Quality Street, Lexington Kentucky 40507, Attention: William J. DiOrio, Major Account Manager ("Seller"), and **Lexington-Fayette Urban County Government** with an address of 200 East Main Street, Lexington, Kentucky 40507, Attention: Sally Hamilton, CAO ("Buyer").

RECITALS:

- A. Seller owns the Granville style street lighting fixtures identified on the tables attached hereto as EXHIBIT A and incorporated by reference (the "Granville Lights").
- B. Seller owns the underground electric lines shown as red dashed lines on the seven (7) maps attached hereto as EXHIBIT B and incorporated by reference (the "Underground Facilities").
- C. The general locations of the Granville Lights are shown as dark circles on EXHIBIT B.
- D. Seller uses the Granville Lights, the Underground Facilities, and shop inventory specific to the Granville Lights (collectively, the "Property") to provide lighting service to Buyer under the applicable tariff on file with the Kentucky Public Service Commission (the "KPSC").
- E. Buyer desires to purchase the Property from Seller and Seller desires to Sell the Property to Buyer

AGREEMENT:

NOW, THEREFORE, in consideration of the mutual obligations set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Sale of Property.** Seller agrees to sell and Buyer agrees to purchase, on the terms hereinafter stated, all of Seller's right, title and interest in and to the Property.
 - 1.1. **Conveyance of Property.** Subject to the conditions set forth below, Seller shall convey the Property to Buyer within 90 days following the Effective Date by delivering a bill of sale in the form of EXHIBIT C attached hereto and incorporated herein by reference.
 - 1.2. **Shop Inventory.** Within 60 days following the Effective Date, Seller shall provide to Buyer an itemized list of Seller's shop inventory specific to the Granville Lights. For purposes of clarification, Buyer and Seller agree that the shop inventory included in the Property includes only goods not readily useful for use in lighting or facilities other than the Granville Lights.

- 1.3. Inspection.** Within 60 days following the Effective Date, Buyer or its representatives shall inspect the Property to identify conditions not conforming to the edition(s) of the National Electrical Safety Code applicable to the Property as operated by Seller as of the time of such inspection (the "NESC") and report such conditions to Seller. Seller shall, within 90 days of the Effective Date, correct, at Seller's expense, any conditions identified by Buyer as not conforming to the NESC or rendering one or more Granville Lights inoperable.
- 1.4. Disconnects.** Prior the conveyance of the Property, Seller shall equip each lighting circuit included in the Property, if not already so equipped, with one (1) circuit disconnect accessible to Buyer and capable of isolating such circuit from the lines of Seller not included in the Property.
- 1.5. Electrical Receptacles.** Prior the conveyance of the Property to Buyer, Seller shall disable all electrical receptacles on the Granville Lights.
- 1.6. Data.** On or before the date the Property is conveyed to Buyer, Seller shall provide to Buyer one (1) or more electronic files in GIS digital format stating the locations of the Granville Lights. In addition, Seller shall provide in GIS digital format or otherwise the configuration of each Granville Light and identify the lighting circuit(s) serving the Granville Lights and which Granville Lights were painted in Phase 1 (2013) and which were painted in Phase 2 (2014).
- 1.7. Instruction.** Between the Effective Date and the conveyance of the Property to Buyer, Seller shall provide Buyer with instruction on methods to de-energize the Granville Lights and how to replace lamps, photo sensors, starters, and ballasts (the "Instruction").
- 2. Purchase Price.** On the date the Property is conveyed, Buyer shall pay to Seller, by wire transfer, the sum of \$475,000.00 (the "Purchase Price").

 - 2.1. Tax on Purchase Price.** Buyer represents to Seller that Buyer is exempt from Kentucky sales and use tax. Buyer acknowledges that Seller is relying on such representation in not collecting and remitting Kentucky sales or use tax. Buyer shall provide documentation of such exemption as may be reasonably requested by Seller.
 - 2.2. Force Majeure.** Neither party to this Agreement shall be liable to the other for delays in such party's performance of its obligations under this Agreement arising from circumstances beyond the reasonable control of such party. Specifically, but without limiting the foregoing, Seller shall not be liable to Buyer for any delay in Seller's performance arising from Seller's allocation of resources to the restoration of electric service.
- 3. Warranties; Disclaimer of Warranties.**

 - 3.1. Warranty of Title.** Seller expressly warrants that Seller has title to the Property, free of liens or encumbrances created by, through, or under Seller other than the lien under the

Indenture from Seller to Bank of New York Mellon, Trustee, dated October 1, 2010, as amended by supplemental indentures (the "Indenture Lien").

3.2. Disclaimer of Warranties. SELLER SHALL TRANSFER THE PROPERTY AND BUYER SHALL ACCEPT THE PROPERTY AS IS, WHERE IS AND WITH ALL FAULTS. OTHER THAN THE WARRANTY EXPRESSLY SET FORTH ABOVE, SELLER MAKES NO EXPRESS OR IMPLIED WARRANTIES REGARDING THE PROPERTY, THE GIS DATA, OR THE INSTRUCTION INCLUDING WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

4. Release of Indenture Lien. Seller shall cause the Indenture Lien to be released with respect to the Property within 90 days following the conveyance of the Property to Buyer.

5. Post Conveyance Matters.

5.1. Electric Service. After the conveyance of the Property to Buyer, Seller shall provide electric service necessary to operate the Property in accordance with Seller's applicable tariff on file with the KPSC. Buyer and Seller anticipate that, with the exception of circuitry on Vine Street between Main Street and the Martin Luther King Viaduct which will be metered, such service will be provided under the LE rate and agree that such service will not be metered. Buyer shall be responsible for all charges and fees for such service in accordance with the applicable tariff. Buyer shall update Seller on any bulb replacements and associated reduction in kWh based on manufacturer's specifications. Any such reductions shall be reflected in the monthly kWh sales in accordance with Seller's applicable tariff on file with the KPSC.

5.2. Responsibility for Claims and Losses. Buyer shall be responsible for claims and losses arising in connection with the Property which arise after the conveyance of the Property to Buyer. Seller agrees that it is responsible for any and all claims and losses which arise prior to the conveyance of the Property to Buyer, including claims which have accrued before the conveyance of the Property to Buyer but upon which no action has yet been brought.

5.3. Maintenance and Other Obligations. Buyer acknowledges that the Seller will have no obligation to maintain the Property or any other obligation respecting the Property after the conveyance of the Property to Buyer.

5.4. Limitations of Liability. In no event will Seller be liable for incidental, consequential, putative, or special damages of any kind, including, without limitation, loss of profits, loss of use, business interruption, loss of product, loss of data, or environmental liability in connection with the Property, whether the claim is based upon theories of contract, negligence, or tort (including, strict liability). WITH THE EXCEPTION OF ANY LIABILITY UNDER SELLER'S TARIFF ON FILE WITH THE KPSC, SELLER'S AGGREGATE LIABILITY TO BUYER IN CONNECTION WITH THE PROPERTY

AND THIS AGREEMENT SHALL NOT EXCEED AN AMOUNT EQUAL TO THE PURCHASE PRICE.

- 5.5. Indemnity.** To the extent permitted by applicable law, Buyer agrees to release, indemnify, hold harmless and defend Seller, its affiliated companies and all of their respective directors, officers, employees, agents and representatives from and against any claim, liability, loss and expense (including, but not limited to, attorney's fees) arising directly or indirectly from or in connection with Buyer's Use of the Property, including, but not limited to, those arising directly or indirectly from or in connection, to the extent not due to the gross negligence or willful misconduct of Seller. This is not deemed a waiver of sovereign immunity or any other third party defense available to buyer under applicable law.
- 6. Entire Agreement; Binding Effect.** This Agreement contains all agreements expressed or implied between the parties hereto and shall inure to the benefit of and be binding upon their successors and assigns.
- 7. No Adverse Presumption.** The parties acknowledge that this Agreement arose as the result of arm's-length negotiations between them and that this Agreement is the product of input by all of the parties. Accordingly, any ambiguity or uncertainty is not to be construed against any of the parties.
- 8. Notices.** All notices, requests, demands and other communications required or permitted to be given or made under this Agreement, shall be in writing and shall be deemed to have been given on the date of delivery personally or by nationally recognized overnight courier, to the appropriate party or parties at the addresses given in the preamble of this Agreement (or at such other address as shall hereafter be designated by any party to the other parties by notice given in accordance with this paragraph).
- 9. Survival.** The rights and obligations of the parties under this Agreement shall survive the conveyance of the Property to Buyer.
- 10. Miscellaneous.** This Agreement may not be assigned, directly or indirectly by operation of merger or direct or indirect change in control, by either party without the written consent of the other party, which consent shall not be unreasonably withheld. This Agreement shall be interpreted and construed in accordance with the laws of the Commonwealth of Kentucky without regard to the conflicts of laws provisions of such commonwealth. The headings and titles of the paragraphs and sections in this Agreement have been inserted as a matter of convenience of reference only and shall not control or affect the meaning or construction of any of the terms and provisions hereof. This Agreement may be executed in any number of counterparts and each such counterpart shall for all purposes be deemed to be an original, and all such counterparts shall together constitute but one and the same instrument. If a court in any proceeding holds any provision of this Agreement or its application to any person or circumstance invalid, illegal or unenforceable, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those to which it was held to be invalid, illegal or unenforceable, shall not be affected, and shall be valid, legal and

enforceable to the fullest extent permitted by law, but only if and to the extent such enforcement would not materially and adversely frustrate the parties essential objectives as expressed in this Agreement. Furthermore, in lieu of any such invalid or unenforceable term or provision, the parties intend that the court add to this Agreement a provision as similar in terms to such invalid or unenforceable provision as may be valid and enforceable, so as to effect the original intent of the parties to the greatest extent possible. Any waiver of any power, right, remedy or privilege of either party hereunder shall not be effective unless in writing signed by such party. Waiver at any time by either party of rights with respect to a default or any other matter arising in connection with this Agreement shall not be deemed to be a waiver with respect to any subsequent default or matter. Nothing in this Agreement shall entitle any person other than the undersigned parties to any claim, cause of action, remedy or right of any kind.

IN WITNESS WHEREOF, the parties have executed the Agreement on the dates set below but effective as of the Effective Date.

Kentucky Utilities Company:

Lexington-Fayette Urban County Government:

Signed by: *Alan Fu-spin*

Signed by: *Jim Gray*

Title: MANAGER - MAJOR ACCOUNTS E.D.

Title: MAYOR

Date: 11-21-14

Date: 11-21-2014

Jane Carol Lunsford - November 21, 2014
March 12, 2016
Notary ID # 460245

EXHIBIT A

Listing of Granville Lights

[This Exhibit consists of the following nine (9) pages.]

DOWNTOWN GRANVILLE STREETLIGHT CONFIGURATIONS

Fixture #	Pole and Fixture	Twin Crossarm (w/extra fixture)	Banner arm 18"	Banner Arm 18" Add On	Banner arm 24"	Banner Arm 24" Add On	Flag Holder	Recpt.	Plant Arm Add On	Plant Arm	Address
Total of Each											
Accessory -	382	63	36	6	8	114	50	39	107	45	
E Main St											NS
1	1	1					1	1			
E Main St (Midland To Eastern Ave)											
2	1	1					1		1		
3	1								1		
4	1								1		
E Main St (Eastern Ave to Elm Tree Ln)											
5	1								1		383
6	1								1		375
7	1								1		367
8	1								1		185
9	1								1		
10	1								1		
11	1								1		
12	1								1		
13	1	1					1		1		
E Main St (Island Elm Tree Ln)											
14	1									1	NS
E Main St (Elm Tree Ln to Deweese St)											
15	1	1					1		1		
16	1								1		
17	1									1	301
18	1	1							1		
E Main St (Deweese to Esplande)											
19	1	1							1		271
20	1									1	
21	1	1					1		1		249
22	1								1		
23	1									1	
24	1								1		237
25	1	1							1		233
E main St (Esplande to MLK)											
26	1	1							1		
27	1										
28	1								1		
29	1									1	
30	1	1					1		1		
E main St (MLK to Limestone)											
31	1	1							1		
32	1	1							1		100
33	1							1	1		103

34	1						1	1		
35	1					1	1			155
36	1							1		141
37	1					1	1			
38	1						1	1		
39	1						1	1		
40	1						1	1		
41	1	1				1		1		
S Limestone (E Main St to W Short St)										SS
42	1								1	
43	1				1					120
44	1								1	
45	1	1	1			1				
E Short St (Limestone to MLK)										WS
46	1									
47	1									
48	1									
49	1									
50	1									
E Short St (MLK to Limestone)										ES
51	1	1	1			1				
52	1									
53	1									
54	1									
55	1									
56	1									
S Limestone (E Short St to Barr St)										SS
57	1	1	1			1				
58	1								1	
59	1				1					
60	1	1	1			1				
Barr St (Limestone to MLK)										WS
61	1								1	
62	1									
63	1									
64	1									
65	1									
66	1									
67	1									
68	1									
69	1								1	
70	1	1	1			1				
W Main St (Limestone to Upper)										NS
71	1	1				1		1		101
72	1								1	109
73	1								1	123
74	1						1			135
75	1									145
76	1								1	
77	1	1				1		1		
W Main St (Upper to Mill St)										NS
78	1	1				1		1		
79	1						1		1	215
80	1						1	1		
81	1								1	269
82	1	1				1			1	273
W Main St (Mill to Broadway)										NS
83	1	1				1		1		

186	1	1							1		232
187	1								1		236
188	1								1		
189	1	1							1		
E Main St (Quality to Rose)											SS
190	1	1							1		
191	1									1	
192	1								1		
193	1								1		
194	1	1							1		318
195	1								1		
196	1									1	
197	1	1							1		326
E Main St (Rose to Vine)											SS
198	1	1					1		1		330
199	1								1		
200	1								1		
201	1									1	348
202	1								1		
203	1									1	
204	1								1		362
205	1								1		
206	1								1		
207	1								1		
208	1								1		
E Vine St (E Main St to Rose)											NS
209	1	1					1		1		
210	1										
211	1										
212	1						1				
213	1						1				
214	1										
215	1										
216	1										
217	1						1				
218	1										
219	1										
220	1										
221	1						1				
222	1	1	1					1			
E Vine St (Rose To Quality)											NS
223	1	1	1					1			
224	1										
225	1										
226	1							1			
227	1										
228	1										
229	1								1		
E Vine St (Quality to Ayres Aly)											NS
230	1								1		
231	1										
232	1								1		
233	1							1			
234	1								1		
235	1							1			
E Vine St (Ayres Aly to Hernando Aly)											NS
236	1							1			
237	1								1		

238	1					1					
239	1										
240	1							1			
241	1					1					
242	1										
243	1							1			
244	1										
E Vine St (Hernando Aly to Limestone)											NS
245	1										
246	1							1		1	
247	1										
248	1									1	
249	1	1					1		1		
S Limestone (Centre Point)											NS
250											
W Vine St (S Limestone to S Upper)											NS
251											
252											
253											
254											
255											
256											
257											
W Vine St (S Upper to Mill)											NS
258	1	1	1				1				
259	1							1			
260	1									1	
261	1								1		
262	1										
263	1							1	1		
264	1									1	
265	1	1		1			1				
W Vine St (S Mill to S Broadway)											NS
266	1	1		1			1				333
267	1							1		1	
268	1										
269	1						1				
270	1							1			
271	1									1	
272	1										
W Vine St (S Broadway to S Mill)											SS
273	1	1	1				1				
274	1									1	
275	1							1			
276	1										
277	1						1				
278	1							1		1	
279	1	1	1				1				
W Vine St (S Mill to S Upper)											SS
280	1	1	1				1				
281	1									1	
282	1							1	1		
283	1						1				
284	1							1			
285	1									1	
286	1							1			
287	1	1	1				1				
W Vine St (S Upper to S Limestone)											SS

288	1	1					1		1		
289	1							1			
290	1									1	
291	1							1	1		
292	1									1	
293	1							1	1		
294	1	1					1		1		
E Vine St (S Limestone to Beck Aly)											SS
295	1	1					1	1	1		
296	1									1	
297	1										
298	1							1			
299	1										739
300	1						1				
301	1										
E Vine St (Beck Aly to Rose)											SS
302	1										
303	1										
304	1										
305	1										
306	1						1				
307	1										
308	1						1				
309	1										
310	1										
311	1										
312	1	1	1					1			
E Vine St (Rose to Old Vine)											SS
313	1	1		1				1			
314	1							1			
315	1										
E Vine St (Old Vine to Grand Blvd)											SS
316	1										
317	1										
318	1							1			
319	1										
320	1										
E Vine St (Grand Blvd to E Main St)											SS
321	1										
322	1										
323	1							1			400
324	1										
325	1										
326	1	1	1					1			
S. Limestone (Avenue of Champions to E Maxwell)											SS
400	1	1									
401	1							1			
402	1							1			
403	1							1			
404	1							1			
405	1							1			
406	1							1			
407	1							1			
408	1							1			342
409	1							1			
410	1							1			
411	1										
412	1							1			

EXHIBIT B

Locations of Granville Lights and Underground Facilities

[This Exhibit consists of the following seven (7) pages.]

Unless otherwise indicated, all locations are shown from one or more communication units. This information is for informational purposes only and should not be used for navigation. Accuracy is not guaranteed. Accuracy may vary due to the accuracy of the information used in the creation of this map.

NOTICE: It is understood that while the USER has the right to believe that these data are accurate, the USER understands that the USER makes NO representation of any kind, including but not limited to the accuracy, reliability, or completeness of any data, and that the USER assumes all responsibility for any use of the data. THE USER'S USE OF THE DATA IS AT HIS OR HER OWN RISK. THE USER'S USE OF THE DATA IS NOT LIMITED TO THE OPERATIONS OF THE USER'S BUSINESS OR PERSONAL LIFE. THE USER'S USE OF THE DATA IS LIMITED TO THE OPERATIONS OF THE USER'S BUSINESS OR PERSONAL LIFE.

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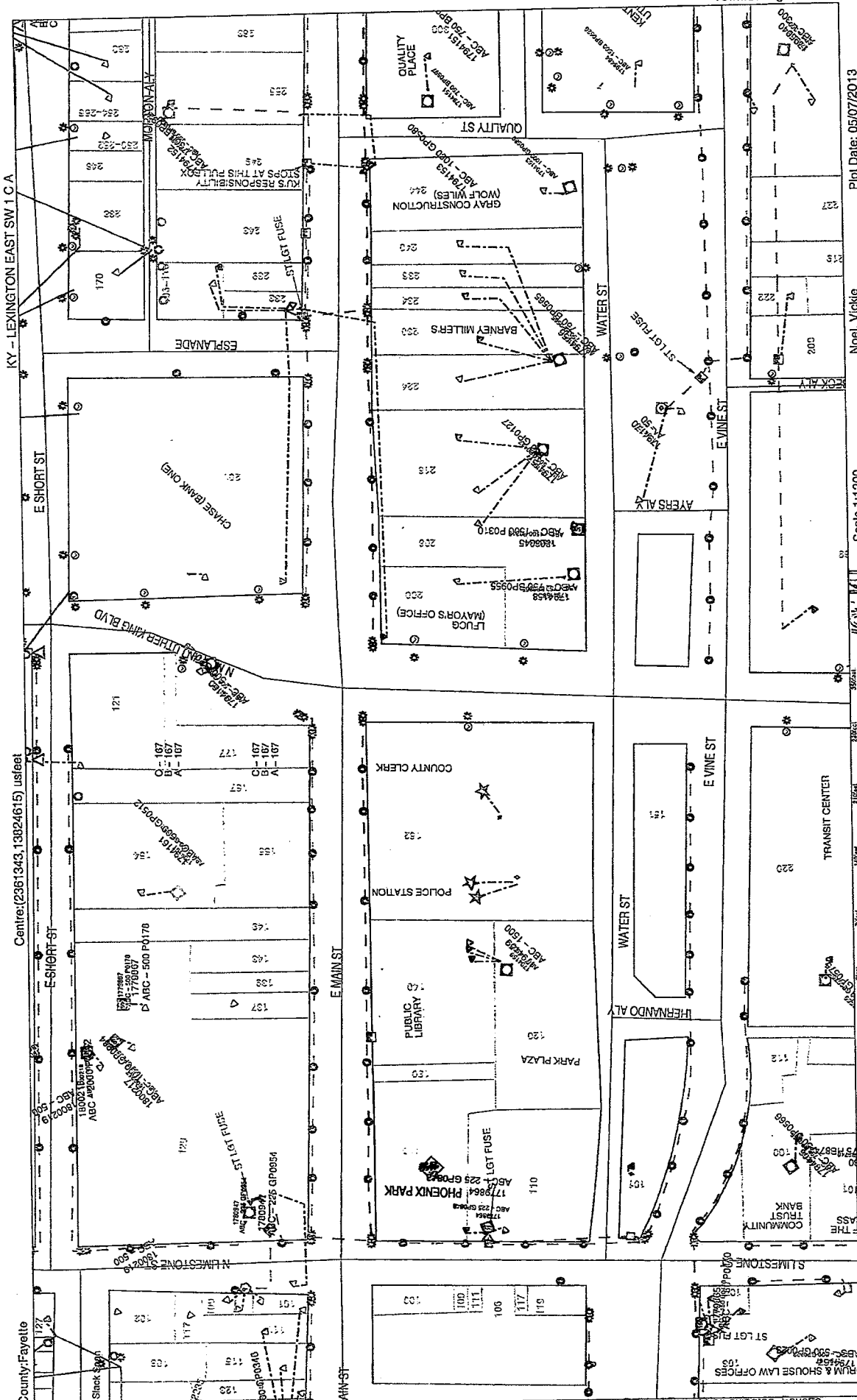
MAIN & VINE - LIMESTONE TO QUALITY

KY - LEXINGTON EAST SW 1 C A

Centre: (2361343, 13824615) usfeet

County: Fayette

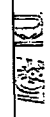
Political Township: Lexington - Fayette



Plot Date: 05/07/2013

Noel, Vickie

Scale 1:1200



Page: 1

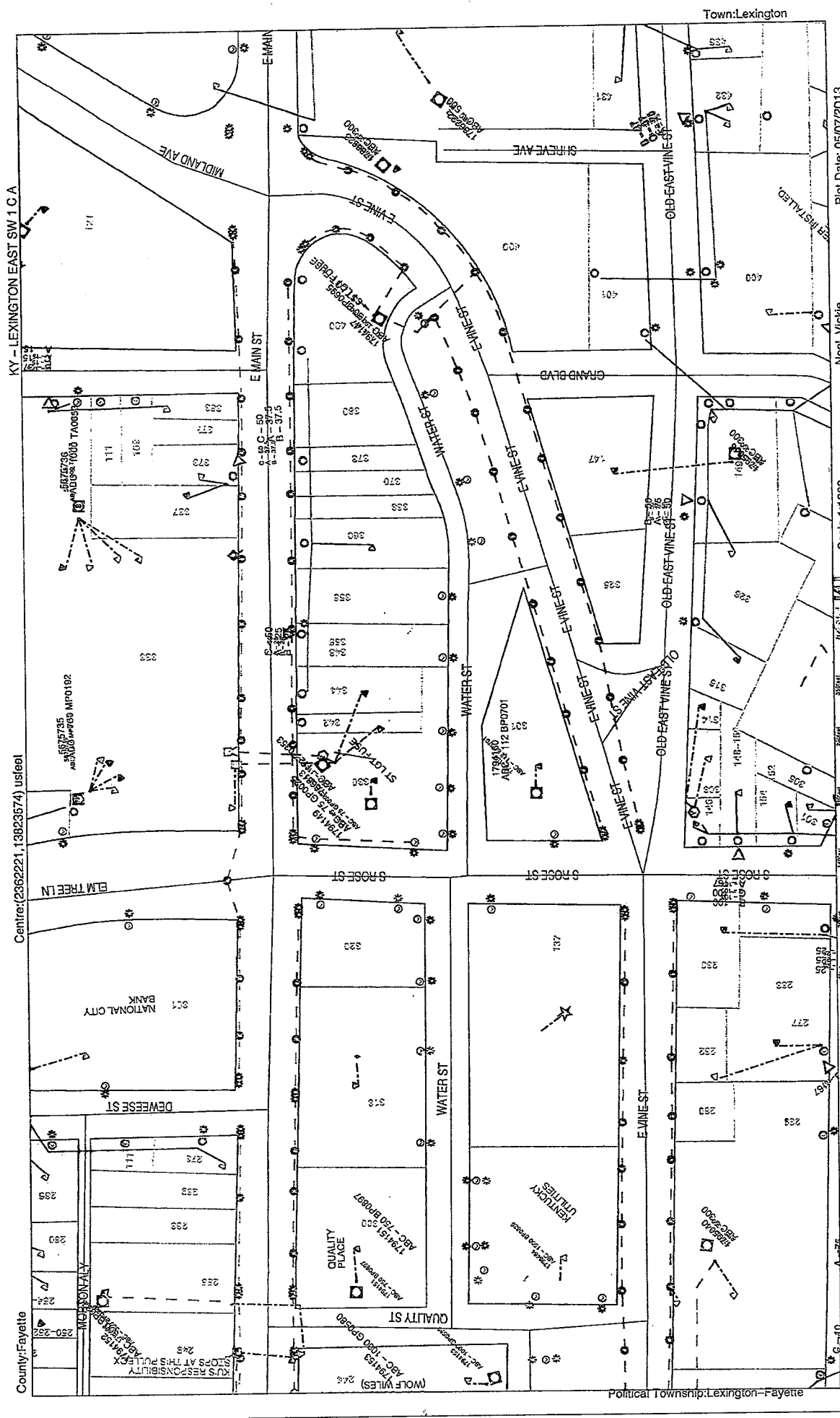
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Unless otherwise indicated, all locations are shown from office records and should be verified in the field. This map is not a warranty of accuracy or of performance with existing multiple trackway system.

NOTICE: It is understood that the LGS&E has no jurisdiction over the location, design, construction, or maintenance of any utility, but it is not limited to the warranties of MERCHANTABILITY and FITNESS FOR A PARTICULAR USE. NO PART OF THIS MAP OR THE INFORMATION CONTAINED HEREIN IS TO BE RELIED UPON FOR ANY PURPOSE OTHER THAN THAT FOR WHICH IT WAS PREPARED.

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MAIN & VINE - QUALITY TO MIDLAND



Centre: (2362221, 13823574) usfeet

County: Fayette

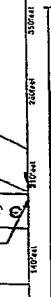
Town: Lexington

Political Township: Lexington-Fayette

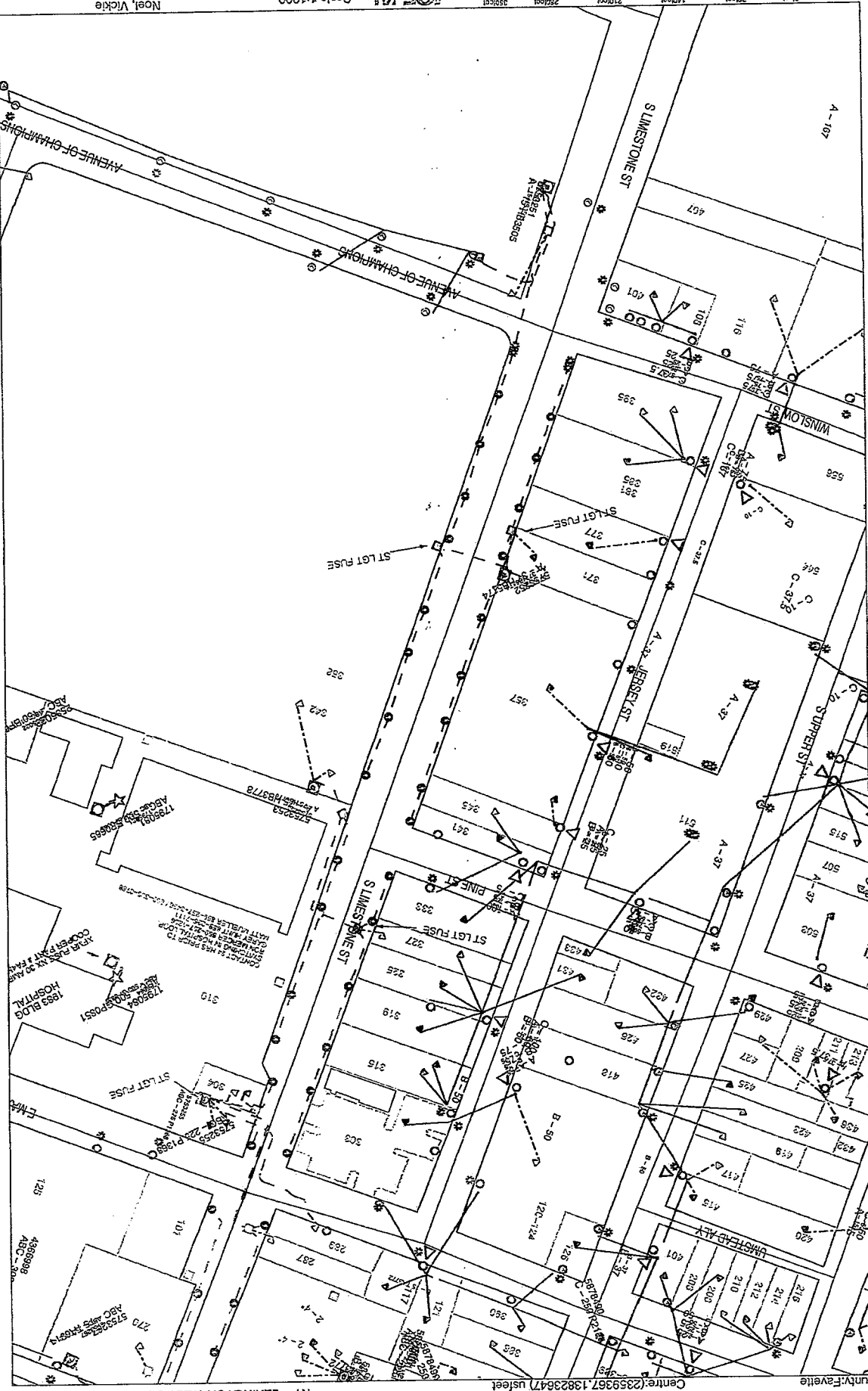
Plot Date: 05/07/2013

Noel, Vickie

Scale 1:1200



This map was prepared by LGS&E and AU in any field company, for the government of KY and the City of Lexington, KY. It is not a warranty of accuracy or of performance with existing multiple trackway system.



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Plot Date 05/07/2013

Town: Lexington

Political Township: Lexington-Fayette

Noel, Vickie

Scale 1:1200

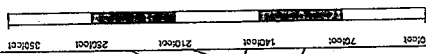


EXHIBIT C

Form of Bill of Sale

BILL OF SALE

THIS BILL OF SALE is entered into this 21st day of November, 2014, by and between **Kentucky Utilities Company**, a Kentucky corporation (the "Seller") and **Lexington-Fayette Urban County Government** (the "Buyer").

1. Transfer of Title: In exchange for consideration of \$475,000, receipt of which is hereby acknowledged by Seller, Seller hereby transfers to Buyer title to the "Property" as such term is defined in that certain Asset Purchase and Sale Agreement between Buyer and Seller dated 11-21, 2014.
2. Delivery of Personal Property. The Property is presently located in public rights of way of Buyer or has been physically delivered to Buyer and delivery is complete.
3. The Property is transferred subject to the lien under the Indenture from Seller to Bank of New York Mellon, Trustee, dated October 1, 2010, as amended by supplemental indentures (the "Indenture Lien"). Seller shall cause the Indenture Lien to be released with respect to the Personal Property within 90 days following the date of this Bill of Sale.
4. Limited Warranty. Seller expressly warrants that Seller has title to the Property, free of liens or encumbrances created by, through, or under Seller other than the Indenture Lien which shall be released as provided above. Seller transfers the Property and Buyer accepts the Personal Property AS IS, WHERE IS AND WITH ALL FAULTS. OTHER THAN THE WARRANTY EXPRESSLY SET FORTH ABOVE IN THIS BILL OF SALE, SELLER MAKES NO EXPRESS OR IMPLIED WARRANTIES REGARDING THE PROPERTY INCLUDING WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
5. Governing Law. This Bill of Sale shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky.
6. Counterparts. This Bill of Sale may be executed in any number of counterparts and each such counterpart shall for all purposes be deemed to be an original, and all such counterparts shall together constitute but one and the same instrument.

[Signature page follows]

Kentucky Utilities Company:

Lexington-Fayette Urban County Government:

Signed by: Walter C. Fin

Signed by: Jim Gray

Title: MAJOR ACCOUNTS' ED - MANAGER

Title: MAYOR

Date: 11-21-14

Date: 11-21-2014

Jane Carol Lunsford - November 21, 2014
March 12, 2016
Notary ID # 460245