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**TEMPORARY CONSTRUCTION EASEMENT
AND
PERMANENT STORM AND SANITARY SEWER EASEMENT**

THIS TEMPORARY CONSTRUCTION EASEMENT AND PERMANENT STORM AND SANITARY SEWER EASEMENT ("Agreement") is made and entered into as of the 8th day of December, 2016, by and among: (i) LEXINGTON HABITAT FOR HUMANITY, INC. ("Owner"), a Kentucky non-profit corporation, with a mailing address of 700 E. Loudon Avenue, Lexington, Kentucky 40508; (ii) LEXINGTON HOME OWNERSHIP COMMISSION II, INC., ("LHOC"), a Kentucky non-profit corporation, with a mailing address of 300 W. New Circle Road, Lexington, Kentucky 40505; and (iii) LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT ("LFUCG"), an urban county government created pursuant to Kentucky Revised Statutes Chapter 67A, with a mailing address of 200 West Main Street, Lexington, Kentucky 40507.

RECITALS:

A. Owner is the owner in fee simple of certain real property located at 301 Ash Street, Lexington, Kentucky ("Owner's Property").

B. LHOC is the owner in fee simple of certain real property located at 366 and 370 Glen Arvin Avenue, Lexington, Kentucky (collectively, "LHOC Property"), which is adjacent to the Owner's Property and upon which LHOC plans to develop residential housing units.

C. As part of the development of the LHOC Property, LHOC desires to construct storm and sanitary sewer pipelines across the Owner's Property and the LHOC Property (collectively, "Sewer Lines"), as described more particularly herein.

D. LFUCG has agreed to accept, operate and maintain the Sewer Lines.

E. Owner now desires to grant a temporary construction easement across the Owner's Property for the purpose of constructing the Sewer Lines and a permanent right of way easement across the Owner's Property for the purpose of operating and maintaining the Sewer Lines, all as described herein.

AGREEMENT:

NOW, THEREFORE, in consideration of \$1.00 and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. TEMPORARY CONSTRUCTION EASEMENT.

1.1 Grant of Easement. Owner hereby grants and conveys unto LHOC and LFUCG, their successors and assigns, a non-exclusive temporary right and easement ("Temporary Easement") on, over and across that portion of the Owner's Property described as a "20' Storm & Sanitary Sewer Easement" on Exhibit A attached hereto and incorporated herein by reference ("Temporary Easement Area"), for the benefit of LHOC, its successors, assigns, invitees and licensees, for the purpose of laying and constructing the Sewer Lines along, across, under and through the Temporary Easement Area.

Owner from any and all liability, cost, expenses (including attorneys' fees, consultant fees and court costs), damages, actions and claims of any nature whatsoever arising directly or indirectly from the construction of the Sewer Lines and the use of the Temporary Easement Area.

4. BINDING EFFECT; EASEMENTS RUN WITH LAND. The Easements created hereby shall be deemed to run with the land and all rights and obligations hereunder shall bind and inure to the benefit of the parties hereto and their respective heirs, successors and assigns, provided, however, that in the event the Sewer Lines are abandoned, removed or no longer active, LFUCG shall remove the Sewer Lines and all related appurtenances and shall execute a release of easement terminating the Permanent Easement.

5. CERTIFICATE OF CONSIDERATION. Pursuant to KRS 382.135, the undersigned hereby certify that the consideration paid by LHOC to Owner for the Easements granted herein is \$1.00.

[Signatures begin on following page]

COMMONWEALTH OF KENTUCKY)
)SS:
COUNTY OF FAYETTE)

The foregoing instrument was acknowledged before me this 7 day of December 2016 by Rachel Childress the CEO of Lexington Habitat for Humanity, Inc., a Kentucky non-profit corporation, on behalf of the company.

My commission expires: 11/28/2018

Alycym Smite #522700
NOTARY PUBLIC

COMMONWEALTH OF KENTUCKY)
)SS:
COUNTY OF FAYETTE)

The foregoing instrument was acknowledged before me this 9th day of December 2016 by Austin J. Simms the President of Lexington Home Ownership II, Inc., a Kentucky non-profit corporation, on behalf of the company.

My commission expires: 1-8-2017

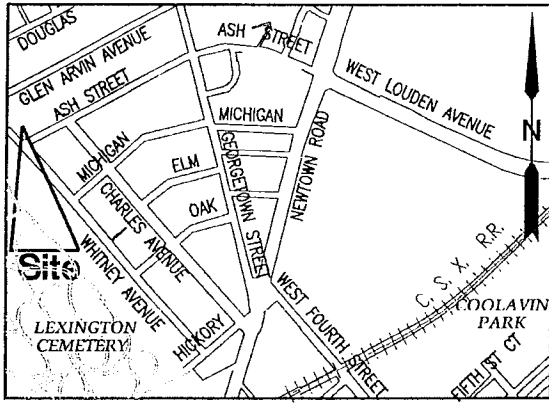
Andrea Wild
NOTARY PUBLIC

COMMONWEALTH OF KENTUCKY)
)SS:
COUNTY OF FAYETTE)

~~2016~~ ²⁰¹⁷ The foregoing instrument was acknowledged before me this 22nd day of March, 2017 by Jim Gray the Mayor of Lexington Fayette Urban County Government, an urban county government, on behalf of the government.

My commission expires: 28 Dec-2019

Stacy J. [Signature] #541793
NOTARY PUBLIC



Vicinity Map
SCALE: 1" = 1,000'

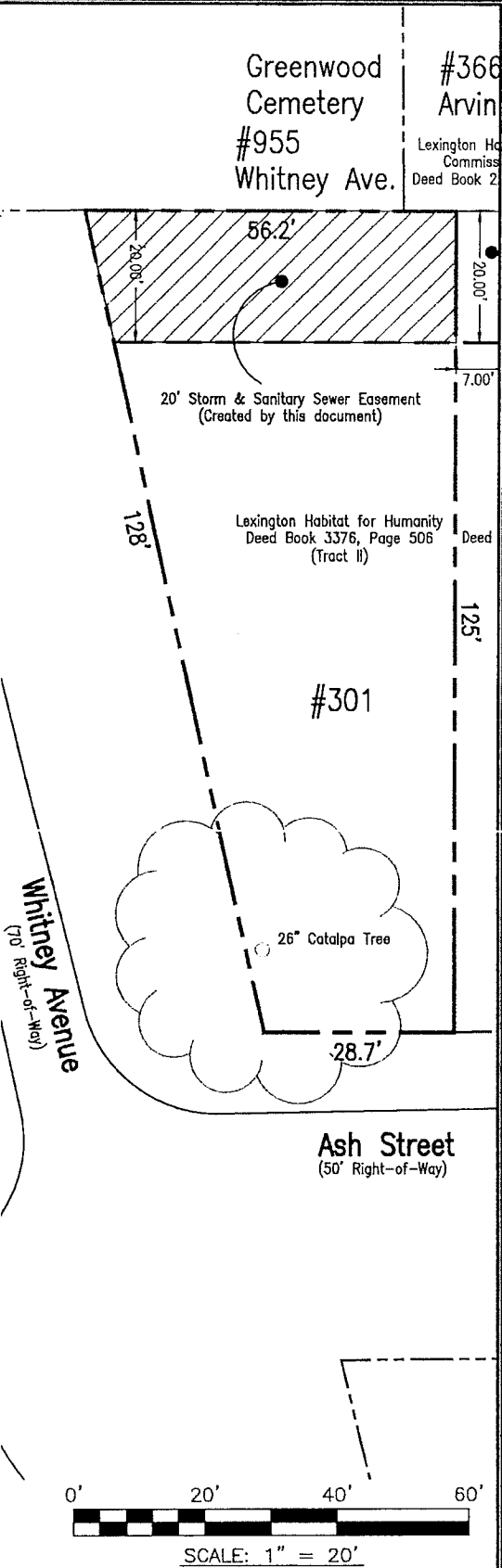
RECORD SOURCE AND LOT INFORMATION

Owner: Lexington Habitat for Humanity
 Deed Book: 3376, Page 506 (Tract II)
 Plat Cabinet: E Slide: 53 (LOT 1, BLOCK 'F')
 Zoning: R-2 (Infill applies)
 Subdivision: Forest Hill

NOTES

According to the FEMA Flood Insurance Rate Map 2100670109E (Lexington-Fayette Urban County Government, Kentucky) this property is not in a special flood hazard area. It is in Zone 'X'.

Corner monuments were NOT set. This plan is based on the dimensions established on the plat of record for this property as it is recorded in Plat Cabinet "E", Slide 53. Elevations are based on a GNSS survey to the site using KYTC CORS.



Greenwood Cemetery #366
 Arvin
 #955
 Whitney Ave. Lexington Hb Commiss Deed Book 21

Z:\9683 30' Ash Street\3683a Ash Street Easement Exhibit.dwg, 11/14/2016 5:57:01 PM, 1:1, Endris Engineering, KMP

THIS EXHIBIT DOES NOT REPRESENT A BOUNDARY SURVEY AND IS NOT INTENDED FOR LAND TRANSFER

EE **ENDRIS**
engineering
 771 ENTERPRISE DRIVE
 LEXINGTON, KENTUCKY 40610

EASEMENT EXHIBIT
#301 Ash Street

PREPARED FOR: Lexington Home Ownership Commission II, Inc
 PROPERTY ADDRESS: 301 Ash Street
 FILE: 3683a - Ash Street Easement Exhibit.dwg
 JOB NUMBER: 3683a

MAYOR JIM GRAY



LEXINGTON

CHARLES MARTIN, P.E.
DIRECTOR
WATER QUALITY

TO: Mayor Jim Gray
Urban County Council

FROM: Charles H. Martin, PE *CHM*
Director – Division of Water Quality

CC: Steve Farmer, PE, Hillard Newman, PE
Thomas Clements, PE

DATE: February 21, 2017

SUBJECT: Acceptance of Storm and Sanitary Sewer Easements
301 Ash Street and 305 Ash Street

Request

We are requesting the Mayor and Council accept temporary construction easements and permanent storm and sanitary sewer easements from owners of record for 301 and 305 Ash Street.

Purpose of Request

Lexington Habitat for Humanity and Lexington Home Ownership Commission intend on constructing housing units on 366 and 370 Glen Arvin Avenue. These Glen Arvin properties are located adjacent to 301 and 305 Ash Street.

In order for the proposed Glen Arvin development to be served with storm and sanitary sewers it will be necessary to construct storm and sanitary sewers across 301 and 305 Ash Street. The subject easements are therefore necessary for construction of the sewer. LFUCG is not responsible for the cost or construction of the sewer infrastructure.

Project Cost

There will be no cost to the LFUCG for these easements.

File Number:

Martin/Hoskins-Squier

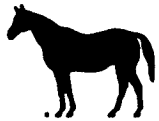


Law Review Acknowledgment

Charles Martin

To: Steve Farmer
Subject: RE: Easements - Ash Street

Charles H. Martin, P.E.
Director, LFUCG Division of Water Quality
(859) 425-2455



LEXINGTON

From: Steve Farmer
Sent: Tuesday, February 21, 2017 8:32 AM
To: Charles Martin
Subject: FW: Easements - Ash Street

Hi Charlie.

Attached is a blue sheet cover memo requesting that the LFUCG accept temporary and permanent storm and sanitary sewer easements at 301 and 305 Ash. Reasons are as explained in the memo.

We are blue sheeting this because it seems as if no one else will. Note Michael Cravens sentence [REDACTED]

Engineering has reviewed and approved the plans for the Glen Arvin development but the developers cannot make the subject easements part of the development plan since they are not located on the development property.

We do not have original documents yet but as soon as I get an okay from you, I will contact Tony Barret and get them sent over.

Please let me know if you have questions or need any additional information.

Hard copies are going in your in-box in just a few minutes.

*Steve Farmer, PE
Municipal Engineer Senior
Division of Water Quality
125 Lisle Industrial Avenue
Suite 180
Lexington, KY 40511
859-425-2404 (O)
849-425-2461 (F)
859-576-5270 (C)*

From: Michael Cravens
Sent: Friday, February 17, 2017 11:37 AM

To: Steve Farmer
Subject: RE: Easements - Ash Street

Hi, Steve,

Sorry I didn't give you a heads-up on this – Tony called me late yesterday afternoon about this, and I told him that I'd reviewed on behalf of Law, and we're OK with the easements, [REDACTED]. I didn't know what else to tell him other than to talk to Thomas and/or you.

I think you're right about what the bluesheet should say. I'd keep it fairly simple – basically, you're requesting authorization for the Mayor to accept deeds of permanent storm and sanitary sewer easements from owners of record on the properties located at 301 Ash Street and 305 Ash Street, for sanitary sewer and storm sewer improvements, at no cost to the Urban County Government.

Michael Cravens
Attorney Senior
Lexington-Fayette Urban County Government
Department of Law
200 E. Main Street
Lexington, KY 40507
Phone: (859)-258-3500
Fax: (859)-258-3538
E-mail: MCravens@lexingtonky.gov

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From: Steve Farmer
Sent: Friday, February 17, 2017 10:27 AM
To: Michael Cravens
Subject: RE: Easements - Ash Street

Hi Michael.

I talked with Tony Barret this morning and it looks as if we (DWQ) are going to be the blue sheet originators on this. I am checking with Thomas to be sure that Barret has submitted the detailed plan to the satisfaction of DOE and DWQ. I wanted to run some language by you before we get to the blue sheet.

I think wording on the blue sheet should be something to the effect that we are accepting these easements for sanitary sewer and storm sewer improvements to be done sometime in the near future. No cost to LFUCG and improvements will be constructed by the developer and maintenance of said improvements will be done by LFUCG.

Does that sound about right?

Steve Farmer, PE
Municipal Engineer Senior
Division of Water Quality
125 Lisle Industrial Avenue
Suite 180
Lexington, KY 40511
859-425-2404 (O)
849-425-2461 (F)
859-576-5270 (C)

From: Michael Cravens
Sent: Friday, January 20, 2017 4:05 PM
To: Thomas Clements; Steve Farmer
Cc: Dowell Hoskins-Squier; Charles Martin; Keith Horn
Subject: RE: Easements - Ash Street

Thomas and Steve,

Thank you for providing background information about the attached easements, which were received by the Department of Law.

I have reviewed the attached easements. Other than the fact that LFUCG's address is incorrectly stated as 200 West Main Street, I have no legal issues or objections with regard to the attached. As I'm sure you know, accepting easements before the sewer lines are constructed may result in a need to correct or amend the easements before dedication if construction necessitates a change to the location of the lines, but that does not preclude accepting these easements.

Since the Mayor is required to sign deeds and easements, these easements will need to be bluesheeted. I am happy to prepare the necessary resolution and get the originals to the Council Clerk for signature, but bluesheeting will need to be handled by another division.

Let me know if you need anything else on this.

Michael Cravens
Attorney Senior
Lexington-Fayette Urban County Government
Department of Law
200 E. Main Street
Lexington, KY 40507
Phone: (859)-258-3500
Fax: (859)-258-3538
E-mail: MCravens@lexingtonky.gov

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From: Thomas Clements
Sent: Wednesday, January 18, 2017 3:56 PM
To: Michael Cravens
Cc: Dowell Hoskins-Squier; Charles Martin; Rodney Chervus
Subject: RE: Easements - Ash Street

Mike,

For background I attached the plan that has been submitted to engineering and included the email I sent to Tony about how he would need to proceed. Basically Tony needs easements for storm and sanitary lines to serve a proposed development.

We have not agreed to accept, operate or maintain these sewer lines as they have not been constructed. Tony intends to dedicate easements prior to construction, which is not typical but is permitted.

I presume you would review the language in the document, Engineering and Water Quality could review the proposed easement locations. Tony will need to submit a more detailed plan to DWQ/DOE so we can verify the proposed easements and infrastructure alignment will work.

Feel free to give me a call.

Best,

Thomas Clements, P.E.
Senior Municipal Engineer
LFUCG Division of Engineering, New-Development
Phone: (859) 258-3598
Fax: (859) 258-3458
tclements@lexingtonky.gov

From: Michael Cravens
Sent: Wednesday, January 18, 2017 12:48 PM
To: Thomas Clements
Cc: Dowell Hoskins-Squier; Charles Martin; Rodney Chervus
Subject: RE: Easements - Ash Street

Thomas,

The Department of Law has received the attached easements from Tony Barrett for review. While I'm happy to review the easements, I'd like to know a little bit more about this. Have we agreed to accept, operate, and maintain these sewer lines? I'm not as knowledgeable about our development process as I should be, so I want to make sure they've gone through the appropriate review process and that we are good with what is being proposed.

Any background info you can provide will assist me to better understand what I'm reviewing. Thanks.

Michael Cravens
Attorney Senior
Lexington-Fayette Urban County Government
Department of Law
200 E. Main Street
Lexington, KY 40507
Phone: (859)-258-3500
Fax: (859)-258-3538
E-mail: MCravens@lexingtonky.gov

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From: Dowell Hoskins-Squier
Sent: Tuesday, January 17, 2017 9:54 AM
To: Charles Martin; Michael Cravens; Rodney Chervus
Subject: RE: Easements - Ash Street

Tony Barrett called me about this issue a couple weeks ago, and I referred him to Thomas Clements in Engineering.

Dowell Hoskins Squier, P.E.
Commissioner
Dept. of Environmental Quality & Public Works
Lexington-Fayette Urban County Government

From: Charles Martin
Sent: Tuesday, January 17, 2017 9:24 AM

To: Michael Cravens; Rodney Chervus
Cc: Dowell Hoskins-Squier
Subject: RE: Easements - Ash Street

Nothing I've been involved with.

Sent via the Samsung Galaxy Note® 3, an AT&T 4G LTE smartphone

----- Original message -----

From: Michael Cravens <mcravens@lexingtonky.gov>
Date: 17/01/2017 9:17 AM (GMT-05:00)
To: Charles Martin <chmartin@lexingtonky.gov>, Rodney Chervus <rchervus@lexingtonky.gov>
Cc: Dowell Hoskins-Squier <dhoskinssquier@lexingtonky.gov>
Subject: Easements - Ash Street

Charlie/Rod,

The Law Department has received the attached easements for review from Tony Barrett, granting storm and sanitary sewer easements across properties located at 301 Ash Street and 305 Ash Street. The easements expressly provide that LFUCG has agreed to accept, operate, and maintain sewer lines across these properties.

Since I was not privy to the discussions that culminated in these easements, and since I am not familiar with the background regarding this request, I wanted to make sure that this is something that we have in fact agreed to do, and that we are comfortable accepting these easements/sewer lines. Let me know.

Michael Cravens
Attorney Senior
Lexington-Fayette Urban County Government
Department of Law
200 E. Main Street
Lexington, KY 40507
Phone: (859)-258-3500
Fax: (859)-258-3538
E-mail: MCravens@lexingtonky.gov

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