

ENCROACHMENT AGREEMENT

THIS AGREEMENT, made and entered into on this the ____ day of _____, 2017, by and between the Lexington-Fayette Urban County Government, an urban-county government created pursuant to KRS Chapter 67A, located at 200 East Main Street, Lexington, Kentucky 40507, hereinafter referred to as "City" and KENTUCKY AMERICAN WATER COMPANY, a Kentucky corporation, having its principal office and place of business at 2300 Richmond Road, Lexington, Kentucky 40502, hereinafter referred to as "Utility";

WITNESSETH:

WHEREAS, Utility was granted an easement and permanent right-of-way over the lands of Thomas L. Adams and Amanda Adams, hereinafter referred to as "Owners" in Lexington, Fayette County, Kentucky by virtue of an Easement Agreement dated the 15th day of March, 1985, and of record in Deed Book 1365, Page 604, in the Fayette County Court Clerk's office; and

WHEREAS, City proposes to locate an abutment supporting a planned pedestrian bridge (to be constructed pursuant to the Brighton Rail Trail Bridge Project) above said property, a portion of which will encroach upon Utility's easement as shown on the attached exhibit which is made a part hereof; and

WHEREAS, City understands that Utility will not release any portion of its easement but has requested Utility to consent to said encroachment, and the parties have now reached an agreement, which they desire to reduce to writing.

NOW, THEREFORE, in consideration of the foregoing and of the mutual promises and covenants herein contained, it is agreed by and between the parties as follows:

1. Utility hereby consents to the encroachment upon its easement as described and set forth hereinabove.
2. No alterations or additions are to be made to the aforesaid facility(ies) following completion, which could result in any additional encroachment.
3. City (a) shall make no claim against Utility for any losses or damages, or whatsoever nature, sustained by it, and (b) shall indemnify, to the extent allowed by law, and save harmless Utility from any and all claims for personal injury or property or other damages made by or on behalf of any persons, firms or corporations, including agents and employees of Utility, and (c) shall indemnify, to the extent allowed by law, and save harmless Utility from any losses or expenses, of whatsoever nature, sustained by Utility, arising from or growing out of the encroachment upon Utility's easement or arising from any work or thing whatsoever done in or about the facility(ies) constituting the encroachment. This indemnification provision shall in no way be construed to limit or waive City's sovereign immunity or any other available third party legal defenses, or affect City's right to assert the same in a legal proceeding.
4. Notwithstanding Section 3 of this Agreement, Utility hereby agrees to use reasonable care in the operation and maintenance of its facilities located in the vicinity of the encroachment area, and shall conduct its activities in a manner to reasonably minimize interference with the aesthetic and structural integrity of City's facilities constituting the encroachment.
5. This indemnification shall be a covenant running with the land described herein.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on this the day and year first above written.

CITY:

LEXINGTON-FAYETTE URBAN COUNTY

GOVERNMENT

By: _____

SECOND PARTY:

KENTUCKY-AMERICAN WATER COMPANY

By: Kevin N. Ragan _____

ACKNOWLEDGEMENT

COMMONWEALTH OF KENTUCKY)

COUNTY OF FAYETTE)

The foregoing instrument was acknowledged before me this ____ day of _____, 2017, by _____ of the Lexington-Fayette Urban County Government, a governmental entity, on behalf of that entity.

My Commission expires: _____

NOTARY PUBLIC, _____, KY

ACKNOWLEDGEMENT

COMMONWEALTH OF KENTUCKY)

COUNTY OF FAYETTE)

The foregoing instrument was acknowledged before me this 16th day of May, 2017, by Kevin N. Rogers of Kentucky-American Water Company, a corporation, on behalf of that corporation.

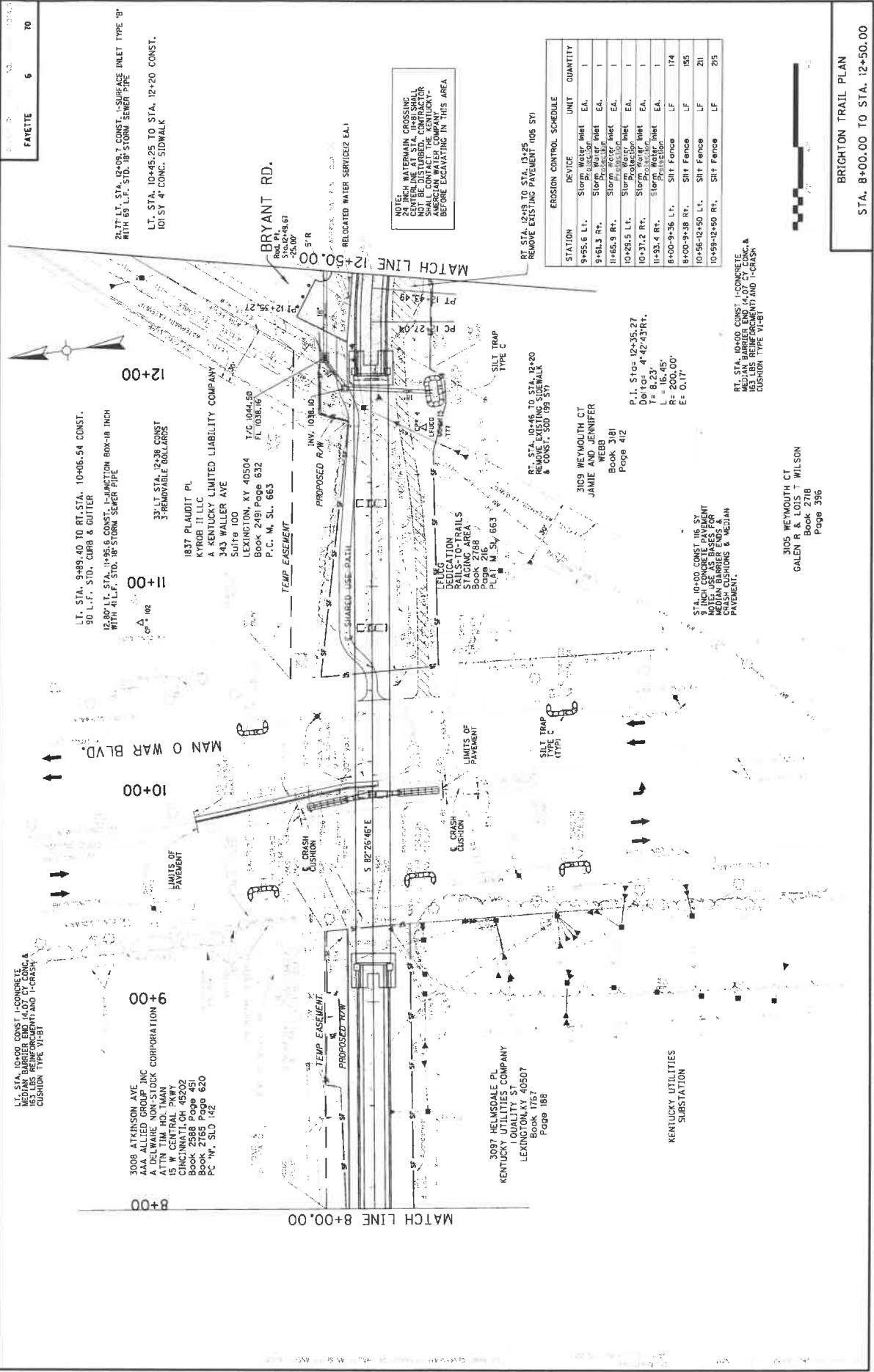
My Commission expires: 10/3/2020
Peggy A. Stone
NOTARY PUBLIC, State at Large, KY



THIS INSTRUMENT PREPARED BY:

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By: Lindsey W. Ingram III



LT. STA. 9+89.40 TO RT. STA. 10+06.64 CONST.
 90 L.F. STD. CURB & GUTTER
 12"Ø L.F. STA. 11+95.6 CONST. 12" JUNCTION BOX-R INCH
 WITH 4" L.F. STD. 18" STORM SEWER PIPE

35' LT. STA. 10+38 CONST
 3" RENEWABLE COLLARS
 1837 PLAUDIT PL
 KYROB II LLC
 A KENTUCKY LIMITED LIABILITY COMPANY
 343 WALLER AVE
 SUITE 100
 LEXINGTON, KY 40504
 T/G 1044.50
 FL 1038.16
 Book 2491 Page 632
 P.C. M. SL. 663

3008 ATKINSON AVE
 AT ALLED GROUP, INC
 A DELAWARE NON-STOCK CORPORATION
 ATTN TIM HOLTMAN
 15 W CENTRAL PKWY
 CINCINNATI, OH 45202
 Book 2788 Page 451
 P.C. M. SL. 660
 PC "N", SLD 142

3097 HELMSDALE PL
 KENTUCKY UTILITIES COMPANY
 1 QUALITY ST
 LEXINGTON, KY 40507
 Book 1767
 Page 188

3105 WEYMOUTH CT
 GALEN R & LOIS T WILSON
 Book 2718
 Page 395

3109 WEYMOUTH CT
 JAMIE AND JENNIFER
 Book 3181
 Page 412

RT. STA. 10+46 TO STA. 12+20
 REMOVE EXISTING SIDEWALK
 & CONST. 500 (93 SY)

STA. 10+00 CONST. 18" Ø
 5" INCH CONCRETE PAVEMENT
 WITH 4" BASES FOR
 CRASH CUSHIONS & MEDIAN
 PAVEMENT.

RT. STA. 10+00 CONST. 1" CONCRETE
 18" Ø WITH 4" BASES FOR
 CRASH CUSHIONS AND 1" CONCRETE
 CUSHION TYPE VI-BT

STATION	DEVICE	UNIT	QUANTITY
9+55.6 Lt.	Storm Water Inlet	EA.	1
9+61.3 Rt.	Storm Water Inlet	EA.	1
11+65.9 Rt.	Storm Water Inlet	EA.	1
10+25.5 Lt.	Storm Water Inlet	EA.	1
10+37.2 Rt.	Storm Water Inlet	EA.	1
11+93.4 Rt.	Storm Water Inlet	EA.	1
8+00-9+36 Lt.	Silt Fence	LF	174
8+00-9+38 Rt.	Silt Fence	LF	195
10+56-12+50 Lt.	Silt Fence	LF	211
10+58-12+50 Rt.	Silt Fence	LF	215

P.I. STA. 12+35.27
 De 10' 4' 42" 13 Rt.
 L = 16.45'
 T = 8.23'
 E = 0.17'

