

KENTUCKY TRANSPORTATION CABINET
 DEPARTMENT OF HIGHWAYS
ROUTING RECORD

Date: April 23, 2023

TO		DATE	INITIAL	TO		DATE	INITIAL
3	James Ballinger State Highway Engineer	4/23/2026	<small>Initial</small> JB	4	Mike Hancock Deputy Secretary	4/23/2026	<small>Initial</small> MH
5	Rebecca Goodman Secretary	4/24/2026	<small>Initial</small> RNG				
1	Shane Tucker KYTC D7			2	Will Fogle Legal	4/23/2026	<small>Initial</small> WF

Document Title: 7-593.2 Newtown Pike Phase II Mitigation Project Revised Sunset Language

Please let me know if you have any questions.

Thank you,
 Shane Tucker
 KYTC - D7

THIRD MODIFICATION
to the
**Sunset Provisions for Newtown Pike Extension Environmental
Justice Mitigation**

WHEREAS, the Department of Highways (Department) and the Lexington Fayette County Government (LFUCG) entered into an agreement on December 13, 2000 and series of six supplemental agreements (SA), including the Supplemental Agreement No. 6 (SA#6) which incorporated by reference the Sunset Provisions for Newtown Pike Extension Environmental Justice Mitigation (Sunset Agreement) relating to the Newtown Pike Extension Project (NPE), including mitigation of project impacts to a low income and minority neighborhood, Davis Bottom N/K/A Davis Park; and

WHEREAS, in SA#6, the Department agreed to authorize and reimburse LFUCG an \$800,000 allocation of SLX funds with \$200,000 matching funding to be provided by LFUCG for design and construction of Davis Park in addition to KYTC's agreement to authorize \$750,000 of federal STP funds with a state match to LFUCG to design a bus stop and install streetscape amenities; and

WHEREAS, in early 2023 the Department, LFUCG, and the LCLT, the three principal parties of the Sunset Agreement, desired to make modifications to specific terms of the Sunset Agreement, reapportioning funding from one component of the project to another. Specifically, \$200,000 STP funds previously directed to the design of a bus stop and installation of streetscape amenities was redirected to allow an additional \$200,000 for the design and construction of Davis Park. The principal parties also agreed to extend specific deadline dates and confirm assurances that outstanding commitments are kept. On March 10th, 2023 the first Modification was executed by all parties and subsequently incorporated by reference into a 7th SA by and between the Department and LFUCG.

WHEREAS, in September 2024 the three principal parties desired to make a third modification to the Sunset Agreement, reapportioning \$550,000 of funding from the acquisition of Right of Way to the design and construction of the institution/community building. This reallocation of funding allowed a total of \$1,562,000 to be dedicated to the completion of the institutional/community building. The parties also extended deadlines to the community building, installation of the streetscape, construction of bus stops, installation of historical markers, and continuing to provide the LCLT with office space at no cost. On September 3, 2024 the Second Modification of the Sunset Agreement was executed by all parties and subsequently incorporated by reference into an 8th SA by and between the Department and LFUCG.

NOW THEREFORE, in March 2026 there are four final items to complete the environmental justice commitments for this project. The park is completed, historical markers have been installed, and the LCLT offices are now located in the completed community building. As such, there are 3 deadlines to extend, and two items recently

recommended for revision. All remaining environmental justice commitments have new a completion date of December 2027. None of these date revisions should be interpreted to allow any unnecessary pause in construction and/or installation of the activities that are currently underway or scheduled in the future.

1. **Streetscape** The completion date for the installation of streetscape, originally set for June 2023 is now revised and will be completed by December 2027.

2. **Bus Stops** The completion date for the construction of the bus stops, originally set for June 2023 is now revised and will be completed by December 2027.

3. **Reimbursements** The LCLT will have until December 30, 2027, to submit invoices for reimbursement for all project expenditures eligible for said reimbursement as set forth in the SAs. While the Department may aid the LCLT in preparing said requests for reimbursement, it is and will remain the LCLT's ultimate responsibility to provide said requests and accompanying required documentation to the LFUCG in a timely manner.

4. **Supplemental Rent Fund and Capital Improvement Fund** The Supplemental Rent Fund was established in accordance with Supplement Agreement No. 3 in the initial amount of \$194,928.00 for the benefit of individuals who were displaced by the Project and reside in housing units located within the LCLT for at least 78 months beyond their initial 42-month rental term as provided by the Record of Decision. The second account, the Maintenance, Repair, and Improvement a/k/a the Capital Improvement Fund, was also established by SA No. 3 in the initial amount of \$348,173.00 for the maintenance, repairs, and improvements of the original 14 rental housing units (800, 804, 808, 812, 820, and 830 DeRoode Street) constructed on LCLT property. Originally, these funds were not to be available until 2029 when the 14 rental housing units became property of the LCLT. These funds were to remain available to the LCLT for 99 years, the length of the original land lease for these properties. These accounts are currently being held by the LFUCG for the benefit of the Lexington Community Land trust with a \$392,778.65 balance in the Capital Improvement Fund as of as of October 31, 2025, and a \$193,033.73 balance in the Supplemental Rent Fund as of October 31, 2025.

Project delays and other issues resulted in lost opportunities for the LCLT to build out the remainder of the Davis Park area. Therefore, the primary parties agree that these combined funds should presently be made available to the LCLT for use in preparing for the last two residential development areas located in Davis Park. The LCLT currently is working with Habitat for Humanity to develop eight single family residential homeownership homes and approximately 13 homeownership townhomes.

Upon execution of this agreement, the two funds will be combined into a Capital Improvement fund as is required per Supplemental Agreement No. 6, as the last remaining relocatee died in November of 2022. The funds shall then be made available

to the LCLT when the contract for development with the builder of last two residential development areas is made final and enforceable. The transfer amount will include the original amount and all interest accrued up to and including the date of transfer.

As is noted, this is a reallocation of existing project funds. This account shall be held in an interest-bearing account to be used for the purposes set out in addendum A to this agreement, as provided by the LCLT.

The parties further agree that the LCLT will establish a Maintenance, Repair, and Improvement fund for the 14 rental housing units with any remaining funds not used for the last two Davis Park residential developments, or if said funds are used in their entirety, the LCLT will make a good faith effort to obtain and designate a percentage of any development fee received, if any, from their work on these two developments toward funding for the Maintenance, Repair, or Improvement fund for the original 14 rental housing units

5. **Set Aside Fund.** Pursuant to SA#6 and the Original Sunset Agreement, \$200,000 was established to cover deficiencies in affordability on the resale of homes owned by original Davis Bottom residents.

Aside from this reallocation of existing project funds, **NO ADDITIONAL FUNDS** will be requested or forthcoming pertaining to social justice mitigation and/or the LCLT.

6. **Notice of Completion.** Upon completion of the obligations set forth in this Third Amendment to the Sunset Agreement SA #s 6-9, KYTC will send notice to the LCLT and LFUCG that all environmental justice mitigation commitments are fulfilled and concluded as to KYTC for the NPE Project. The LCLT will confirm in writing they are in agreement with KYTC's assessment of completion of the environmental justice mitigation commitments.

7. **Dispute Resolution.** Any dispute regarding a question of fact between the principal parties concerning or relating to the terms of this modification, including funding, shall be referred to the Secretary of Transportation of the Kentucky Transportation Cabinet, or their duly authorized representative, whose decision shall be final.

8. **Future Modifications.** Any additional proposed change or extension to this Agreement shall be at the mutual consent of the principal parties. Future modifications, if any, which have no financial impact to the parties may be accomplished by a letter of agreement between the parties and executed by their authorized representatives.

THE REMAINDER OF THIS PAGE WAS INTENTIONALLY LEFT BLANK

IN TESTIMONY WHEREOF, the three principal parties have caused these presents to be executed by their duly authorized officers:


Jonathan Wright
Executive Director
Lexington Community Land Trust

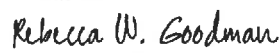
5-11-26
Date

Reviewed as to form and legality:

Signed by:

785D021141D148D
William Fogle
Office of Legal Services
Kentucky Transportation Cabinet

4/23/2026
Date

Signed by:

464FF0185C704A8
Rebecca Goodman
Secretary
Kentucky Transportation Cabinet

4/24/2026
Date

Reviewed as to form and legality:

Department of Law
Lexington-Fayette Urban County Government

Date

Linda Gorton
Mayor
Lexington-Fayette Urban County Government

Date

ADDENDUM A

Resolution of the Board of Directors of the Lexington Community Land Trust, Inc. Regarding Use of Reallocated Capital Improvement Funds

WHEREAS, the Lexington Community Land Trust, Inc. (“LCLT”) is a Kentucky nonprofit corporation organized for the purpose of developing, stewarding, and preserving permanently affordable housing and supporting community development in Lexington, Kentucky, specifically in the Davis Park neighborhood; and

WHEREAS, LCLT is a principal party to the Sunset Provisions for Newtown Pike Extension Environmental Justice Mitigation (Sunset Agreement) entered into on December 13, 2000, relating to the Newtown Pike Extension Project (NPE), including mitigation of project impacts to a low income and minority neighborhood, Davis Bottom N/K/A Davis Park. The Sunset Agreement was incorporated into Supplemental Agreement No. 6. Said Sunset Agreement has been modified twice, once in March 2023 and again in September of 2024. The parties have now determined that a Third Modification to said agreement is now required; and

WHEREAS, Item 4, page 2, of the Third Modification of the Sunset Agreement provides for the combination and transfer to LCLT of previously established mitigation funds (Supplemental Rent Fund and Capital Improvement Fund) into a single Capital Improvement Fund, to be held in an interest-bearing account and used for purposes set forth in this Addendum A; and

WHEREAS, the funds are now to be reallocated to address project delays and deferred development opportunities and to support completion of the final two residential development areas within Davis Park; and

WHEREAS, LCLT is currently finalizing plans to develop these remaining sites, which will require substantial site development and public infrastructure investments; and

WHEREAS, the use of the Capital Improvement Fund will be coordinated with and complementary to additional public funding sources, including funding referenced in LCLT’s Community Development Block Grant (CDBG) application for Davis Park public infrastructure improvements;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Lexington Community Land Trust, Inc. hereby authorizes and obligates the organization to use funds transferred into the Capital Improvement Fund for the following purposes:

1. Primary Use – Site Development and Infrastructure

Funds shall be used first to pay eligible costs associated with site development, public infrastructure, and related pre-development and construction expenses necessary to prepare and deliver the two remaining residential development sites in Davis Park to contractors and/or development partners ready for affordable housing construction.

Eligible costs may include, but are not limited to:

- a. Engineering, surveying, and site planning
- b. Grading, utilities, drainage, streets, sidewalks, and related public infrastructure
- c. Permitting, inspections, and construction administration
- d. Other directly related capital costs required to deliver construction-ready lots to contractors and/or development partners

2. Secondary Use – Capital Expense Reserve

Any portion of the Capital Improvement Fund not expended on the site development and infrastructure needs of the two remaining Davis Park residential sites shall be retained by LCLT in a restricted capital expense fund for its original purpose, that being to maintain, repair, or improve the original 14 rental housing units after the LCLT takes ownership of said units. If the entirety of the Capital Improvement fund is used for the last two residential developments in Davis Park, the LCLT will make a good faith effort to obtain and designate a percentage of any development fee received from their work on these two developments toward funding for the maintenance, repair, or improvement fund for the original 14 rental housing units

3. Permitted Future Capital Uses

Remaining funds held in the capital expense fund may be used for future capital expenditures, including but not limited to:

- a. Capital repair, replacement, or improvement needs associated with Davis Park View or other residential properties in Davis Park owned by LCLT;
- b. Capital investments necessary to preserve or enhance LCLT-owned improvements within the Davis Park neighborhood; and
- c. Other board-approved capital projects consistent with LCLT's mission and long-term stewardship responsibilities.

4. Fund Administration and Oversight

The LCLT's Executive Director is authorized to establish and manage the Capital Improvement Fund in accordance with this resolution, applicable agreements, and generally accepted nonprofit financial practices, subject to ongoing oversight by the Board of Directors.

BE IT FURTHER RESOLVED that this resolution shall take effect immediately upon adoption and shall remain in force unless amended or rescinded by subsequent action of the Board of Directors.

ADOPTED by the Board of Directors of the Lexington Community Land Trust, Inc. on this 4th day of May, 2026.


Secretary
Lexington Community Land Trust, Inc.