

**ENCROACHMENT AGREEMENT**

**THIS AGREEMENT**, made and entered into on this the 22<sup>nd</sup> day of June, 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 15<sup>th</sup> 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.

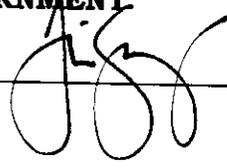
**IN WITNESS WHEREOF**, the parties hereto have executed this agreement on this the day and year first above written.

**CITY:**

**LEXINGTON-FAYETTE URBAN COUNTY**

**GOVERNMENT**

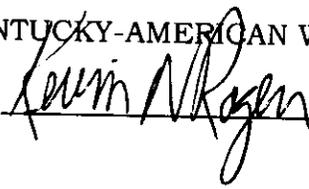
By: \_\_\_\_\_



**SECOND PARTY:**

KENTUCKY-AMERICAN WATER COMPANY

By: \_\_\_\_\_



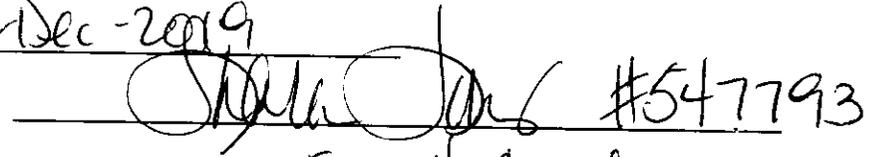
**ACKNOWLEDGEMENT**

COMMONWEALTH OF KENTUCKY)

COUNTY OF FAYETTE)

The foregoing instrument was acknowledged before me this 7<sup>th</sup> day of July, 2017, by Jim Gray, Mayor of the Lexington-Fayette Urban County Government, a governmental entity, on behalf of that entity.

My Commission expires: 28-Dec-2019



NOTARY PUBLIC, Fayette County, KY

#547793

**ACKNOWLEDGEMENT**

COMMONWEALTH OF KENTUCKY)

COUNTY OF FAYETTE)

The foregoing instrument was acknowledged before me this 16<sup>th</sup> 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:

Lindsey W. Ingram III  
Stoll Keenon Ogden PLLC  
300 West Vine Street, Suite 2100  
Lexington, KY 40507  
859-231-3000

By: Lindsey W. Ingram III

LT. STA. 10+00 CONST 1-CONCRETE  
 MEDIAN BARRIER END (4.07 CY CONC. &  
 163 LBS REINFORCEMENT) AND 1-CRASH  
 CUSHION TYPE VI-BT

LT. STA. 9+89.40 TO RT. STA. 10+06.54 CONST.  
 90 L.F. STD. CURB & GUTTER

12,80' LT. STA. 11+95.6 CONST. 1-JUNCTION BOX-18 INCH  
 WITH 411/2" STD. 18" STORM SEWER PIPE

33' LT. STA. 12+38 CONST  
 3-REMOVABLE BOLLARDS

21.77' LT. STA. 12+09.7 CONST. 1-SURFACE INLET TYPE 'B'  
 WITH 69 L.F. STD. 18" STORM SEWER PIPE

LT. STA. 10+45.25 TO STA. 12+20 CONST.  
 101.54' 4" CONC. SIDEWALK

3008 ATKINSON AVE  
 AAA ALLIED GROUP INC  
 A DELAWARE NON-STOCK CORPORATION  
 ATTN: TIM HOLTMAN  
 15 W CENTRAL PKWY  
 CINCINNATI, OH 45202  
 Book 2588 Page 451  
 Book 2765 Page 620  
 PC 'W', SLD 142

1837 PLAUDIT PL  
 KYROB II LLC  
 A KENTUCKY LIMITED LIABILITY COMPANY  
 343 WALLER AVE  
 Suite 100  
 LEXINGTON, KY 40504  
 Book 2491 Page 632  
 P.C. W, SL. 663

1/2" 1044.50  
 FL 1038.16

BRYANT RD.  
 Road #2  
 Sta. 12+49.67  
 -25.00'

RELOCATED WATER SERVICE (EA.1)

NOTE:  
 24 INCH WATERMAIN CROSSING  
 CENTERLINE AT STA. 11+81 SHALL  
 NOT BE DISTURBED. CONTRACTOR  
 SHALL CONTACT THE KENTUCKY-  
 AMERICAN WATER COMPANY  
 BEFORE EXCAVATING IN THIS AREA

LF 1/2" C  
 DEDICATION  
 RAILS-TO-TRAILS  
 STAGING AREA  
 Book 2788  
 Page 216  
 PLAT M.S.U. 663

SILT TRAP  
 TYPE C

RT. STA. 10+46 TO STA. 12+20  
 REMOVE EXISTING SIDEWALK  
 & CONST. SOD (99 ST)

RT. STA. 12+19 TO STA. 13+25  
 REMOVE EXISTING PAVEMENT (105 ST)

3109 WEYMOUTH CT  
 JAMIE AND JENNIFER  
 WEBB  
 Book 3181  
 Page 412

P.I. Sta: 12+35.27  
 Delta: 4' 42" 43" RT.  
 T = 8.23'  
 L = 16.45'  
 R = 200.00'  
 E = 0.17'

STA. 10+00 CONST 116 SY  
 9 INCH CONCRETE PAVEMENT  
 NOTE: USE AS BASES FOR  
 MEDIAN BARRIER ENDS &  
 CRASH CUSHIONS & MEDIAN  
 PAVEMENT.

RT. STA. 10+00 CONST 1-CONCRETE  
 MEDIAN BARRIER END (4.07 CY CONC. &  
 163 LBS REINFORCEMENT) AND 1-CRASH  
 CUSHION TYPE VI-BT

3105 WEYMOUTH CT  
 GALEN R & LOIS T WILSON  
 Book 2718  
 Page 396

EROSION CONTROL SCHEDULE			
STATION	DEVICE	UNIT	QUANTITY
9+55.6 Lt.	Storm Water Inlet Protection	EA.	1
9+61.3 Rt.	Storm Water Inlet Protection	EA.	1
11+65.9 Rt.	Storm Water Inlet Protection	EA.	1
10+29.5 Lt.	Storm Water Inlet Protection	EA.	1
10+37.2 Rt.	Storm Water Inlet Protection	EA.	1
11+93.4 Rt.	Storm Water Inlet Protection	EA.	1
8+00-9+36 Lt.	Silt Fence	LF	174
8+00-9+38 Rt.	Silt Fence	LF	155
10+56-12+50 Lt.	Silt Fence	LF	211
10+59-12+50 Rt.	Silt Fence	LF	215

KENTUCKY UTILITIES  
 SUBSTATION

MATCH LINE 8+00.00

MATCH LINE 12+50.00

BRIGHTON TRAIL PLAN  
 STA. 8+00.00 TO STA. 12+50.00