

**ORDINANCE NO. 1, 2020**

**AN ORDINANCE OF THE CITY OF PARK HILLS, IN KENTON COUNTY, KENTUCKY, AMENDING §32.36 OF THE CODE OF ORDINANCES AS IT RELATES TO THE SCHEDULE OF COMMITTEE MEETINGS**

**WHEREAS**, KRS §61.820 requires all meetings of all public agencies to be held at specified times and places which are convenient to the public;

**WHEREAS**, KRS §61.820(2) permits public agencies to provide for a schedule of regular meetings by ordinance, order, resolution, bylaws, or by whatever other means may be required for the conduct of business of that public agency;

**WHEREAS**, the irregularity of committee meetings has required the City Council to amend §32.36 of the Code of Ordinances a number of times over the last few years;

**WHEREAS**, the City Council of the City of Park Hills desires to establish the schedule of its regular committee meetings by order so as to not require an ordinance every time a meeting schedule is changed.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY OF PARK HILLS, KENTUCKY, AS FOLLOWS:**

**SECTION I**

(A) The City Council shall meet for its regular Council meeting on the second Monday of each month, beginning at 7:00 p.m. prevailing time, at the facility located at 1601 Hilton Drive, Park Hills, Kentucky.

(B) Pursuant to KRS §61.820, [Committee] meetings of the following Committees shall occur as scheduled by order or resolution [occur as follows]:

(1) The Economic Development Committee [~~shall meet on the Wednesday following the regularly scheduled caucus meeting. The meeting will begin at 6:30 p.m. and be held at the Park Hills City Building, 1106 Amsterdam Road, Park Hills, Kentucky.~~].

(2) The Financial Oversight Committee [~~shall meet on the first Monday of each month. The meeting will begin at 7:00 p.m. and be held at the Park Hills City Building, 1106 Amsterdam Road, Park Hills, Kentucky.~~].

(3) The Historic Preservation Committee [~~shall meet on the Tuesday following the regularly scheduled Council meeting. The meeting will begin at 7:00 p.m. and be held at the Park Hills City Building, 1106 Amsterdam Road, Park Hills, Kentucky.~~].

(4) The Infrastructure and Public Works Committee [~~shall meet on the Thursday following the regularly scheduled caucus meeting. The meeting will~~

~~begin at 4:30 p.m. and be held at the offices of Bayer Becker, Inc., 209 Grandview Drive, Fort Mitchell, Kentucky].~~

~~(5) The Parks, Beautification and Recreation Committee [shall meet on the Thursday following the regularly scheduled Council meeting. The meeting will begin at 7:00 p.m. and be held at the Park Hills City Building, 1106 Amsterdam Road, Park Hills, Kentucky].~~

~~(6) The Personnel Committee [shall meet on the Monday before the regularly scheduled caucus meeting. The meeting will begin at 6:00 p.m. and be held at the facility located at 1601 Hilton Drive, Park Hills, Kentucky].~~

~~(7) The Communications Committee [shall meet on the Wednesday following the regularly scheduled Council meeting. The meeting will begin at 7:00 p.m. and be held at the Park Hills City Building, 1106 Amsterdam Road, Park Hills, Kentucky].~~

(C) The City Council shall meet for its regular caucus meeting on the fourth Monday of each month, beginning at 7:00 p.m. prevailing time, at the facility located at 1601 Hilton Drive, Park Hills, Kentucky.

(D) Special meetings of the Council may be called by the Mayor or upon written request of a majority of the Council. In the call, the Mayor or Council shall designate the purpose, time, and place of the special meeting with sufficient notice for the attendance of Council members and for compliance with KRS Ch. 61.

(E) At a special meeting, no business may be considered other than that set forth in the designation of purpose.

(F) The minutes of every meeting shall be signed by the person responsible for maintaining city records provided under §32.56 and by the officer presiding at the meeting.

## **SECTION II**

Any and all ordinances in conflict with this ordinance shall be, and hereby are, repealed to the extent of said conflict.

## **SECTION III**

If any part of this ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this ordinance are severable.

**SECTION IV**

That this ordinance shall become effective upon its passage and shall be published under KRS §83A.060(9) and other applicable law. This ordinance may be published by summary.

CITY OF PARK HILLS, KENTUCKY

By: \_\_\_\_\_  
Kathy Zembrodt, Mayor

ATTEST:

\_\_\_\_\_  
Julie Alig, City Clerk

FIRST READING: \_\_\_\_\_

SECOND READING: \_\_\_\_\_

PUBLICATION: \_\_\_\_\_

**MUNICIPAL ORDER NO. 1, 2020**

**MUNICIPAL ORDER OF THE CITY OF PARK HILLS, KENTUCKY, TO ESTABLISH A SCHEDULE OF REGULAR COMMITTEE MEETINGS PURSUANT TO KRS §61.820**

**WHEREAS**, KRS §61.820(2) requires public agencies to provide for a schedule of regular meetings by ordinance, order, resolution, bylaws, or by whatever other means may be required for the conduct of business of that public agency;

**WHEREAS**, the City Council of the City of Park Hills desires to establish its schedule of Committee Meetings by order.

**BE IT ORDERED** that meetings of Committees of the City of Park Hills shall occur as follows:

1. The Economic Development Committee shall meet as noticed in accordance with special meeting requirements.
2. The Financial Oversight Committee shall meet on the first Monday of every month. The meeting will begin at 6:00 p.m. at the Council Chambers of the City Building (1106 Amsterdam Road, Park Hills).
3. The Historic Preservation Committee shall meet as noticed in accordance with special meeting requirements.
4. The Infrastructure and Public Works Committee shall meet on the first Thursday of every month. The meeting will begin at 12:00 p.m. at the Council Chambers of the City Building (1106 Amsterdam Road, Park Hills).
5. The Parks, Beautification and Recreation Committee shall meet as noticed in accordance with special meeting requirements.
6. The Personnel Committee shall meet as noticed in accordance with special meeting requirements.
7. The Communications Committee shall meet as noticed in accordance with special meeting requirements.

**READ, ADOPTED AND APPROVED**, this \_\_\_\_ day of March, 2020.

CITY OF PARK HILLS, KENTUCKY

By: \_\_\_\_\_  
Kathy Zembrodt, Mayor

ATTEST:

\_\_\_\_\_  
Julie Alig, City Clerk

FIRST READING: \_\_\_\_\_

SECOND READING: \_\_\_\_\_

PUBLICATION: \_\_\_\_\_

**CITY OF PARK HILLS, KENTUCKY**

**RESOLUTION NO. 5, 2020**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PARK HILLS, IN KENTON COUNTY, KENTUCKY, TO AUTHORIZE THE MAYOR, ON BEHALF OF THE CITY, TO EXECUTE AN AGREEMENT TO AMEND A PERMANENT ACCESS EASEMENT WITH ARLINGTON PROPERTIES, INC.**

**WHEREAS**, Arlington Properties, Inc. (“Arlington”) entered into a Real Estate Purchase Agreement with Northern Kentucky University, whereby Arlington agreed to purchase and acquire certain real property generally located at 1401 Dixie Highway, Kenton County, Covington, Kentucky 41011 (the “Property”).

**WHEREAS**, the City of Park Hills and Northern Kentucky University previously entered into a Permanent Access Easement dated as of March 26, 2003 and recorded February 6, 2004 in Official Record Book C-2043, Page 136 of the Kenton County, Kentucky Records (the “Easement”), whereby Northern Kentucky University granted and conveyed to the City of Park Hills a fifty-foot wide permanent right of way and access easement along, through, across and upon a portion of the Property, as more particularly described in the Easement, for the purpose of providing continuous access from Mt. Allen Lane and Mt. Allen Road.

**WHEREAS**, in connection with its acquisition of the Property from Northern Kentucky University, Arlington has requested that the City amend the Easement.

**WHEREAS**, the City Council of the City of Park Hills desires to amend the Easement in exchange for certain promises made by Arlington and included in the Agreement to Amend the Permanent Access Easement.

**NOW, THEREFORE, BE IT RESOLVED**, as follows:

1. That the City Council of the City of Park Hills hereby authorizes the Mayor to amend the Easement as contemplated under the Agreement to Amend Permanent Access Easement attached hereto as **Exhibit A**.
2. That the City Council of the City of Park Hills authorizes the Mayor to execute the Agreement to Amend Permanent Access Agreement; and
3. That the City Council of the City of Park Hills authorizes the Mayor to execute the Amended and Restated Permanent Access Easement Agreement attached as Exhibit B to the Agreement to Amend Permanent Access Agreement; and
4. The City Council of the City of Park Hills authorizes and directs the Mayor to amend, modify, execute and/or deliver any and all documents that she deems necessary and advisable in order to complete the transaction authorized by this resolution and to perform such other acts, as in her judgment may be necessary or appropriate in order to effectuate the intent and purposes of the foregoing resolution.

Approved by the City Council this \_\_\_\_ day of April 2020.

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Kathy Zembrodt, Mayor

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Julie Alig, City Clerk

## AGREEMENT TO AMEND PERMANENT ACCESS EASEMENT

This AGREEMENT TO AMEND PERMANENT ACCESS EASEMENT (this “**Agreement**”), dated as of \_\_\_\_\_, 2020 (the “**Effective Date**”), is entered into by and between **Arlington Properties, Inc.**, an Alabama corporation (“**Arlington**”), and **City of Park Hills, Kentucky**, a municipal corporation and city of the home rule class, its successors and assigns (“**City**”), under the circumstances set forth below.

### RECITALS:

A. Arlington entered into that certain Real Estate Purchase Agreement with Northern Kentucky University, a Kentucky public university, the Northern Kentucky University Foundation, Inc., a Kentucky non-profit corporation, and NKUF Properties 5, LLC, a Kentucky limited liability company, dated as of May 24, 2019, as subsequently amended by that First Amendment to Real Estate Purchase Agreement dated as of September 20, 2019, as subsequently amended by that Second Amendment to Real Estate Purchase Agreement dated as of October 18, 2019, as subsequently amended by that Third Amendment to Real Estate Purchase Agreement dated as of November 18, 2019, as subsequently amended by that Fourth Amendment to Real Estate Purchase Agreement dated as of December 17, 2019, and as subsequently amended by that Fifth Amendment to Real Estate Purchase Agreement dated as of February 4, 2020 (collectively, as amended and/or assigned, the “**Purchase Agreement**”), whereby Arlington agreed to purchase and acquire certain real property generally located at 1401 Dixie Highway, Kenton County, Covington, Kentucky 41011, as such property is more particularly described on **Exhibit A** attached hereto and made a part hereof (the “**Property**”).

B. Pursuant to the Purchase Agreement, Arlington is currently scheduled to complete the acquisition of the Property on or about September 2, 2020 (the “**Closing**”).

C. City and the Board of Regents of Northern Kentucky University, being formerly known as The Board of Regents of Northern Kentucky State College (the “**Board**”), entered into that certain Permanent Access Easement dated as of March 26, 2003 and recorded February 6, 2004 in Official Record Book C-2043, Page 136 of the Kenton County, Kentucky Records (the “**Easement**”), whereby the Board granted and conveyed to City a fifty-foot wide permanent right of way and access easement along, through, across and upon a portion of the Property, as more particularly described in the Easement, for the purpose of providing continuous access from Mt. Allen Lane and Mt. Allen Road.

D. In connection with the Closing, Arlington has requested to amend the Easement, and City has agreed to such request, as more particularly described in this Agreement.

Arlington and City agree as follows:



1. **Recitals.** The recitals set forth above are acknowledged to be true and correct and are incorporated by reference as if stated in full.

2. **Amendment to Easement Agreement.** Arlington and City agree to amend and restate the Easement after the Closing to, among other things, amend the location and size of the access easement created by the Easement. Upon Closing, Arlington shall notify City and within ten (10) days after receipt of such notice, Arlington and City shall execute an amended and restated easement agreement in substantially the form attached hereto as **Exhibit B** (the “**Amended Easement**”). Arlington shall thereafter record the Amended Easement in the Kenton County, Kentucky Clerk’s Office, at Arlington’s sole cost.

3. **New Access Drive.** In connection with the Amended Easement, upon Closing, Arlington shall construct and install, at its sole cost and expense, an approximately twenty (20) foot wide access driveway (the “**Access Drive**”), as the Access Drive is generally depicted on Exhibit B to the Amended Easement. The Access Drive shall be constructed in accordance with specifications as shall be mutually agreed to between Arlington and City prior to the start of construction. During the period of time in which the Access Drive is being constructed, Arlington shall at all times provide a temporary alternate route of access for the residents of Mt. Allen Lane to, from, and between Mt. Allen Road and Mt. Allen Lane. Neither Mt. Allen Road nor the Access Drive shall be used as an entrance or an exit point for construction vehicles associated with the larger development project associated with the Property, but only construction vehicles associated with the construction of the Access Drive shall be permitted. Upon completion of construction of the Access Drive, City shall be responsible for all future maintenance and repair obligations pursuant to the terms of the Amended Easement. In addition, Arlington, at its sole cost and expense, shall initially install landscaping in accordance with a landscaping plan to be approved in advance by the City (“**Green Space**”). Arlington, and its successors and assigns, shall be responsible for all future maintenance and upkeep of the Green Space after its initial installation. Arlington, at its sole cost and expense, shall also install two (2) stone benches within the Green Space, the location and style of which shall be approved in advance by the City so that the benches are similar in appearance to other public benches located within the City. For purposes of binding future owners, successors, and assigns of the Property, applicable provisions set forth in this Section 3 shall also be incorporated into the final recorded Amended Easement.

Any access from the Access Drive to the Property shall be gated and locked to prevent access to the Property for egress and ingress, except in the case of an emergency and to comply with any approvals that may be required by the City of Covington, Kentucky. The City shall be provided all necessary means to open and close any gated access. However, at least one access from the Access Drive shall be constructed by Arlington, which may also be used as turnaround for emergency vehicles, trucks and school buses that may use the Access Drive, the location of which shall be determined during the final design for the development of the Property, and which shall be included in the final Amended Easement. The final Amended Easement shall include an amended Exhibit B

that reflects the turnaround for emergency vehicles, trucks, and school buses that may use the Access Drive.

4. **Entire Agreement.** This Agreement, including the attached Exhibits, contains the entire agreement between the parties and all of the terms and conditions to which the parties have agreed and supersedes all prior oral or written agreements or understandings concerning the subject matter.

5. **Successors.** This Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the parties hereto.

6. **Counterparts.** This Agreement may be signed in any number of counterparts, each of which shall be deemed to be an original, with the same effect as if the signatures thereto and hereto were on the same instrument.

7. **Electronic Signature.** For purposes of this Agreement, a document or signature page signed and transmitted by e-mail, facsimile machine or telecopier shall be treated as an original document. The signature of any person on an electronically transmitted document or signature page is to be considered as an original signature, and the document transmitted shall have the same binding effect as an original signature on an original document.

8. **Contingency.** This Agreement is contingent upon Arlington closing the Purchase Agreement and acquiring title to the Property. If Arlington shall not acquire title to the Property for any reason, then this Agreement shall terminate and neither party shall have any further rights, obligations, or duties pursuant hereto.

[Signature Page to Follow]

IN WITNESS WHEREOF, the parties have executed this Agreement on the Effective Date above.

**ARLINGTON:**

**Arlington Properties, Inc.,**  
an Alabama corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**CITY:**

**City of Park Hills, Kentucky,** a municipal corporation and city of the home rule class, also known as The City of Park Hills

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT A**

Property

**Tract I: Parcel No. 041-30-00-023.00/ Group Nos. 2251 & 3150:**

A certain tract of land being bounded on the North by Dixie Highway (U.S. 25) and on the South by Mt. Allen Road and on the East by Interstate 75 and being located in the City of Park Hills, County of Kenton, Commonwealth of Kentucky and being part of the lands as described in the Deed of the Board of Regents of Northern Kentucky State College, Deed Book Number 566, Page Number 44 of the records of the Kenton County Court Clerk's Office at Covington, Kentucky and being more particularly described as follows:

Beginning at a set steel pin in the Westerly right of way of said Interstate 75, said point being located 170.00 feet left of Interstate 75 Centerline P.O.C. Station 513+50.00, as per the Kentucky Department of Highways, Transportation Cabinet Plan Data, Job Number RS59-315-10;

Thence continuing with the right of way of said Interstate 75 along a concentric circular curve having the following data: Central Deflection Angle = 15°14'24" Left, Degree of Curvature = 05°05'36", Radius = 1,124.93 feet, Arc Length = 299.22 feet and Long Chord = 298.34 feet having a bearing of South 17°51'42" West to a set steel pin being in the Northerly line of the lands of the Sanitation District No. 1 of Campbell and Kenton Counties as described in Deed Book Number 590, Page Number 109;

Thence leaving the right of way of said Interstate 75 and continuing with said Sanitation District South 79°28'24" West for a distance of 429.93 feet to a set steel pin;

Thence leaving the line of said Sanitation District and continuing with the line of C.A. and Martha Bramlage as described in Deed Book Number 368, Page Number 225 South 85°13'24" West for a distance of 100.00 feet to a set steel pin;

Thence leaving the line of said Bramlage and continuing through the lands of said Board of Regents North 19°04'38" West for a distance of 197.87 feet to a set steel pin in the proposed right of way of and 25.00 feet from the centerline of said Mt. Allen Road;

Thence continuing with said proposed right of way of Mt. Allen Road, North 67°34'05" East for a distance of 55.06 feet to a point;

Thence continuing with said proposed right of way North 41°48'00" East for a distance of 54.07 feet to a point;

Thence continuing with said proposed right of way North 19°44'58" East for a distance of 50.41 feet to a point; Thence continuing with said proposed right of way North 06°12'46" West for a distance of 60.08 feet to a point; Thence continuing with said proposed right of way North 40°13'29" West for a distance of 106.54 feet to a point; Thence continuing with said proposed right of way North 52°36'35" West for a distance of 124.93 feet to a point; Thence continuing with said proposed right of way North 57°18'58" West for a distance of 53.24 feet to a point; Thence continuing with said proposed right of way North 56°39'27" West for a distance of 143.03 feet to a point; Thence continuing with said proposed right of way North 50°23'17" West for a distance of 138.03 feet to a point; Thence continuing with said proposed right of way North 52°22'14" West for a distance of 149.94 feet to a point; Thence leaving said proposed right of way of Mt. Allen Road and continuing through the lands of said Board of Regents North 00°19'53" West for a distance of 221.55 feet to a point in the right of way of and 30.00 feet from the centerline of said Dixie Highway (U.S. 25);

Thence continuing with the right of way of said Dixie Highway (U.S. 25) North 86°56'46" East for a distance of 150.85 feet to a point; Thence continuing with said right of way North 89°18'04" East for a distance of 150.93 feet to a point; Thence continuing with said right of way South 88°24'09" East for a distance of 640.83 feet to a point; Thence continuing with said right of way North 61°05'51" East for a distance of 127.81 feet to a point;

Thence leaving the right of way of said Dixie Highway (U.S. 25) and continuing through the lands of said Board of Regents South 63°11'12" East for a distance of 118.88 feet to a point being the Northerly most corner of a permanent impounding easement of the Commonwealth of Kentucky as described in Deed Book Number 460, Page Numbers 409, 410;

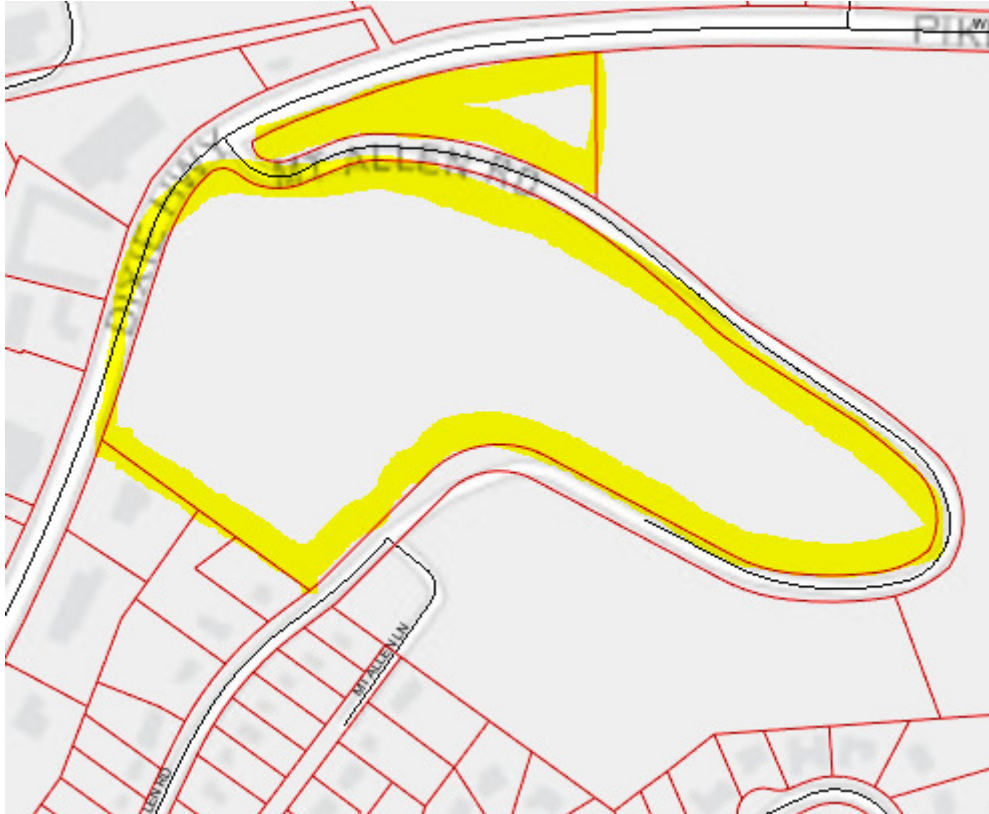
Thence continuing with said permanent easement South 41°52'00" West for a distance of 436.00 feet to a point; Thence continuing with said permanent easement and along an existing access control fence line South 48°08'00" East for a distance of 342.00 feet to a point; Thence continuing with said permanent easement and said access control fence line South 41°52'00" West for a distance of 62.00 feet to a recovered fence post;

Thence continuing with said permanent easement and said access control fence line South 48°08'00" East for a distance of 77.00 feet to the said Point of Beginning.

This tract of land contains 16.9417 acres (737,981 square feet), was field surveyed by David E. Estes Engineering Corporation on December of 1989. The source of bearings is existing deeds and plats of record.

**Tract II: Parcel No. 041-30-00-022.00 / Group Nos. 2251 & 3150:**

*The Land depicted below represents the mother parcel from which the parcel to be insured as Tract II is derived, as shown by the county tax map records; a new legal description and Plat of Survey in a form acceptable to and approved by the Company and the county is required.*



**EXHIBIT B**

Form of Amended and Restated Easement Agreement

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(ABOVE LINE FOR RECORDER'S USE ONLY)

**AMENDED AND RESTATED**

**PERMANENT ACCESS EASEMENT AGREEMENT**

**THIS AMENDED AND RESTATED PERMANENT ACCESS EASEMENT AGREEMENT** (this “**Easement**”) is made this \_\_\_ day of \_\_\_\_\_, 2020, by and between **Arlington Properties, Inc.**, an Alabama corporation (the “**Grantor**”), and **City of Park Hills, Kentucky**, a municipal corporation and city of the home rule class, also known as The City of Park Hills (the “**Grantee**”). Grantor and Grantee may be hereinafter individually referred to as a “**Party**” and jointly referred to as the “**Parties**.”

**RECITALS:**

A. Grantor is the fee owner of certain real property generally located at 1401 Dixie Highway, Kenton County, Covington, Kentucky 41011, as such property is more particularly described on Exhibit A attached hereto and made a part hereof (the “**Grantor Property**”).

B. The Board of Regents of Northern Kentucky University, being formerly known as The Board of Regents of Northern Kentucky State College, predecessor-in-interest to Grantor (“**Original Grantor**”), and Grantee entered into that certain Permanent Access Easement dated as of March 26, 2003 and recorded February 6, 2004 in Official Record Book C-2043, Page 136 of the Kenton County, Kentucky Records (the “**Original Easement**”), whereby Original Grantor granted and conveyed to Grantee a fifty-foot wide permanent right of way and access easement along, through, across and upon a portion of the Grantor Property, as more particularly described in the Original Easement, for the purpose of providing continuous access from Mt. Allen Lane and Mt. Allen Road.

C. Grantor and Grantee entered into that certain Agreement to Amend Permanent Access Easement dated as of \_\_\_\_\_, 2020 (the “**Agreement**”), whereby Grantor and Grantee agreed to execute this Easement in accordance with the terms set forth therein.

D. Pursuant to Section 2 of the Agreement, Grantor and Grantee desire to amend and restate the Original Easement in its entirety so that the Original Easement is superseded and replaced by the terms and conditions set forth in this Easement.

NOW THEREFORE, for and in consideration of the mutual covenants and promises herein contained, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. **Recitals; Amendment and Restatement.** The recitals set forth above are acknowledged to be true and correct and are incorporated by reference as if stated in full. As of the Effective Date of this Easement, the Original Easement is hereby deleted and replaced in its entirety by the terms and conditions of this Easement.

2. **Access Easement.** Grantor hereby grants and conveys to Grantee, its successors and assigns and their agents, invitees, licensees, contractors, occupants and tenants, an approximate twenty-five (25) foot wide perpetual, non-exclusive, appurtenant easement for vehicular and pedestrian ingress and egress and all customary access purposes (the “**Access Easement**”) on, over and across that portion of the Grantor as depicted on Exhibit B and described on Exhibit B-1, each attached hereto and made a part hereof (the “**Access Easement Area**”). The Access Easement shall include the right to enter upon the Access Easement Area in order to maintain, repair and replace the approximately twenty (20) foot wide access driveway (which shall be initially constructed by Grantor pursuant to the Agreement), together with landscaping and related improvements necessary for the Access Easement (the “**Access Drive**”).

3. **Reservation of Rights.** Grantor hereby reserves for itself, its successors and assigns, the right to use the Access Easement Area for any purpose which is not inconsistent with Grantee’s use of the Access Easement Area in accordance with this Easement, provided that Grantor shall not unreasonably interfere with the rights granted to Grantee under this Easement.

4. **Maintenance.** Upon completion of the Access Drive by Grantor pursuant to the Agreement, Grantee, its successors and assigns, at its sole cost and expense, shall thereafter maintain, repair, and when necessary, replace the Access Drive located within the Access Easement Area so that the Access Drive is at all times in good working order, condition and repair. Notwithstanding the foregoing, any damage or destruction of the Access Drive or any portion thereof caused by the negligence or willful misconduct of either Party, its agents, tenants, employees or contractors shall be repaired at the sole cost and expense of such Party.



5. **Limitations.**

(a) Grantor shall not, without the prior written consent of Grantee, construct or install any building or above-ground structure upon the Access Easement Area.

(b) Grantor shall not, without the prior written consent of Grantee, excavate or fill any portion of the Access Easement Area.

(c) Grantor and Grantee shall not cause or permit parking within or obstruction of the Access Easement Area, whether by the parking of vehicles, storage of materials or otherwise. Any use of the Access Easement Area by each Party and their Permittees shall be strictly limited to vehicular and pedestrian ingress and egress and customary access purposes.

Before taking any action which might adversely affect the Access Drive and/or the Access Easement Area, each Party shall provide the other with at least 15 days' advance notice.

6. **Indemnity.** Each Party shall indemnify and hold harmless the other Party from and against any and all liens, claims, liability, loss, damage and expenses, including reasonable attorney's fees and costs, and for all loss of life, injury to persons or damage to property, arising out of or as the result of such Party's exercise of their rights granted by this Easement and from the use of the Access Easement Area.

7. **Mechanics' Liens.** Grantee shall not suffer or permit any mechanic's, laborer's, or materialman's lien to be filed against all or any portion of the Grantor Property; and if such lien shall at any time be so filed, Grantee shall cause it to be canceled and discharged of record (by bonding or otherwise), within thirty (30) days after receipt of written notice of the filing thereof, and Grantee shall indemnify, defend and hold harmless Grantor from any loss incurred in connection therewith.

8. **Self-Help.** Except as otherwise set forth in Section 3, if either Party fails to perform any of its obligations set forth in this Easement (such Party being herein called a "**Defaulting Party**"), which default reasonably affects any other Party (an "**Affected Party**") and continues for a period of twenty (20) days after written notice is provided by the Affected Party to the Defaulting Party, or in the case of a default which cannot with due diligence be cured within a period of twenty (20) days, if the Defaulting Party fails to proceed promptly after the service of such notice and with all due diligence to cure the same and thereafter to prosecute the curing of such default with due diligence, such Affected Party shall have the right, in addition to any other remedies under this Agreement or at law or in equity, to perform such obligation for the Defaulting Party. In such event, the Defaulting Party shall, within ten (10) days after receiving a written request therefor along with a paid invoice (together with reasonable supporting documentation), reimburse the Affected Party for the cost thereof. Notwithstanding the foregoing provisions, if a default is of such a nature that access to or the use of the Grantor Property and/or Access Drive, as applicable, by an Affected Party is materially impaired, the Affected Party may exercise its cure rights under this Section after prior

notice that is reasonable under the circumstances (including notification by telephone or electronic means as long as the Affected Party uses reasonable effort to have actual contact with representatives of the Defaulting Party).

9. **Notices.** All notices required or permitted to be given to a Party under this Easement shall be deemed given when delivered to that Party's address as set forth below via commercial courier service, or when mailed by certified United States mail, postage prepaid, return receipt requested, addressed as set forth below:

If to Grantor:                   Arlington Properties, Inc.  
  2 20<sup>th</sup> Street North  
  Birmingham, Alabama 35203  
  Attn: \_\_\_\_\_

If to Grantee:                    City of Park Hills, Kentucky  
  1106 Amsterdam Road  
  Park Hills, Kentucky 41010  
  Attn: Mayor

Either Party may change its notice address by notice to the other Party in accordance with this Section 9.

10. **Covenants Running with the Land.** All easements and covenants set forth herein shall be construed as covenants running with the land and all easements set forth herein shall be construed as being appurtenant to the site benefited thereby.

11. **No Partnership.** This Easement shall not create an association, partnership, joint venture or a principal and agency relationship between the parties or their respective tenants or licensees.

12. **Governing Law; Severability.** This Easement shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky. If any provisions or portions hereof are determined to be invalid or unenforceable, the remainder of such provisions or portions thereof to any person or circumstances shall not be affected thereby and each provision of this Easement shall be valid and enforceable to the fullest extent permitted by law.

13. **Modifications; Counterparts.** No agreement shall be effective to add to, change, modify, waiver or discharge this Easement in whole or part, unless such agreement is in writing and signed by all of the Parties to this Easement. This Easement may be executed in any number of counterparts, all of which shall be deemed an original and all of which shall be construed together as one document.

14. **Successors and Assigns.** This Easement shall be binding upon and shall inure to the benefit of Grantor, Grantee, their respective successors and assigns, invitees, tenants, guests, licensees, employees, agents and mortgagees.

15. **No Waiver.** No waiver of any provision hereof shall be deemed to imply or constitute a further waiver thereof or any other provision set forth herein.

16. **Third Party Actions.** The rights and duties created under this Easement shall extend only in favor of the Parties hereto and unless expressly provided otherwise, shall not inure to the benefit of any other party outside this Easement having an interest in the real estate subject hereto. Nothing in this Easement shall be construed as enlarging, extending, adding to, or modifying any previous agreement or instrument governing the real estate that is the subject of this Easement.

*Remainder of Page Intentionally Blank. Signatures to Follow.*



**GRANTEE:**

**City of Park Hills, Kentucky**, a municipal corporation and city of the home rule class, also known as The City of Park Hills

By: \_\_\_\_\_  
Kathy Zembrodt, Mayor

COMMONWEALTH OF KENTUCKY )  
 ) :ss  
COUNTY OF KENTON )

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 2020, by Kathy Zembrodt, the Mayor of City of Park Hills, Kentucky, a municipal corporation and city of the home rule class, also known as The City of Park Hills, on behalf of City of Park Hills.

\_\_\_\_\_  
Notary Public

My Commission expires: \_\_\_\_\_

This Instrument Prepared By:

\_\_\_\_\_  
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Cincinnati, Ohio 45202  
(513) 579-6400

**EXHIBIT A**

Grantor Property Legal Description

**Tract I: Parcel No. 041-30-00-023.00/ Group Nos. 2251 & 3150:**

A certain tract of land being bounded on the North by Dixie Highway (U.S. 25) and on the South by Mt. Allen Road and on the East by Interstate 75 and being located in the City of Park Hills, County of Kenton, Commonwealth of Kentucky and being part of the lands as described in the Deed of the Board of Regents of Northern Kentucky State College, Deed Book Number 566, Page Number 44 of the records of the Kenton County Court Clerk's Office at Covington, Kentucky and being more particularly described as follows:

Beginning at a set steel pin in the Westerly right of way of said Interstate 75, said point being located 170.00 feet left of Interstate 75 Centerline P.O.C. Station 513+50.00, as per the Kentucky Department of Highways, Transportation Cabinet Plan Data, Job Number RS59-315-10;

Thence continuing with the right of way of said Interstate 75 along a concentric circular curve having the following data: Central Deflection Angle = 15°14'24" Left, Degree of Curvature = 05°05'36", Radius = 1,124.93 feet, Arc Length = 299.22 feet and Long Chord = 298.34 feet having a bearing of South 17°51'42" West to a set steel pin being in the Northerly line of the lands of the Sanitation District No. 1 of Campbell and Kenton Counties as described in Deed Book Number 590, Page Number 109;

Thence leaving the right of way of said Interstate 75 and continuing with said Sanitation District South 79°28'24" West for a distance of 429.93 feet to a set steel pin;

Thence leaving the line of said Sanitation District and continuing with the line of C.A. and Martha Bramlage as described in Deed Book Number 368, Page Number 225 South 85°13'24" West for a distance of 100.00 feet to a set steel pin;

Thence leaving the line of said Bramlage and continuing through the lands of said Board of Regents North 19°04'38" West for a distance of 197.87 feet to a set steel pin in the proposed right of way of and 25.00 feet from the centerline of said Mt. Allen Road;

Thence continuing with said proposed right of way of Mt. Allen Road, North 67°34'05" East for a distance of 55.06 feet to a point;

Thence continuing with said proposed right of way North 41°48'00" East for a distance of 54.07 feet to a point;

Thence continuing with said proposed right of way North 19°44'58" East for a distance of 50.41 feet to a point; Thence continuing with said proposed right of way North 06°12'46" West for a distance of 60.08 feet to a point; Thence continuing with said proposed right of way North 40°13'29" West for a distance of 106.54 feet to a point; Thence continuing with said proposed right of way North 52°36'35" West for a distance of 124.93 feet to a point; Thence continuing with said proposed right of way North 57°18'58" West for a distance of 53.24 feet to a point; Thence continuing with said proposed right of way North 56°39'27" West for a distance of 143.03 feet to a point; Thence continuing with said proposed right of way North 50°23'17" West for a distance of 138.03 feet to a point; Thence continuing with said proposed right of way North 52°22'14" West for a distance of 149.94 feet to a point; Thence leaving said proposed right of way of Mt. Allen Road and continuing through the lands of said Board of Regents North 00°19'53" West for a distance of 221.55 feet to a point in the right of way of and 30.00 feet from the centerline of said Dixie Highway (U.S. 25);

Thence continuing with the right of way of said Dixie Highway (U.S. 25) North 86°56'46" East for a distance of 150.85 feet to a point; Thence continuing with said right of way North 89°18'04" East for a distance of 150.93 feet to a point; Thence continuing with said right of way South 88°24'09" East for a distance of 640.83 feet to a point; Thence continuing with said right of way North 61°05'51" East for a distance of 127.81 feet to a point;

Thence leaving the right of way of said Dixie Highway (U.S. 25) and continuing through the lands of said Board of Regents South 63°11'12" East for a distance of 118.88 feet to a point being the Northerly most corner of a permanent impounding easement of the Commonwealth of Kentucky as described in Deed Book Number 460, Page Numbers 409, 410;

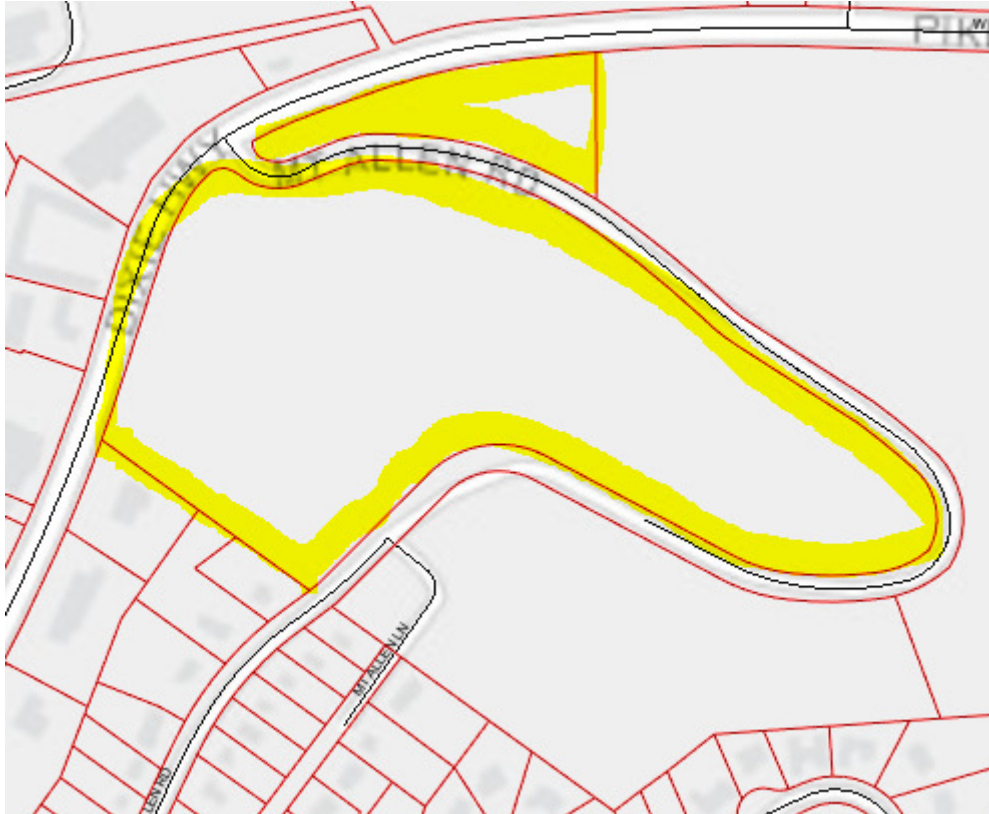
Thence continuing with said permanent easement South 41°52'00" West for a distance of 436.00 feet to a point; Thence continuing with said permanent easement and along an existing access control fence line South 48°08'00" East for a distance of 342.00 feet to a point; Thence continuing with said permanent easement and said access control fence line South 41°52'00" West for a distance of 62.00 feet to a recovered fence post;

Thence continuing with said permanent easement and said access control fence line South 48°08'00" East for a distance of 77.00 feet to the said Point of Beginning.

This tract of land contains 16.9417 acres (737,981 square feet), was field surveyed by David E. Estes Engineering Corporation on December of 1989. The source of bearings is existing deeds and plats of record.

**Tract II: Parcel No. 041-30-00-022.00 / Group Nos. 2251 & 3150:**

*The Land depicted below represents the mother parcel from which the parcel to be insured as Tract II is derived, as shown by the county tax map records; a new legal description and Plat of Survey in a form acceptable to and approved by the Company and the county is required.*





**EXHIBIT B**  
Access Easement Area Depiction

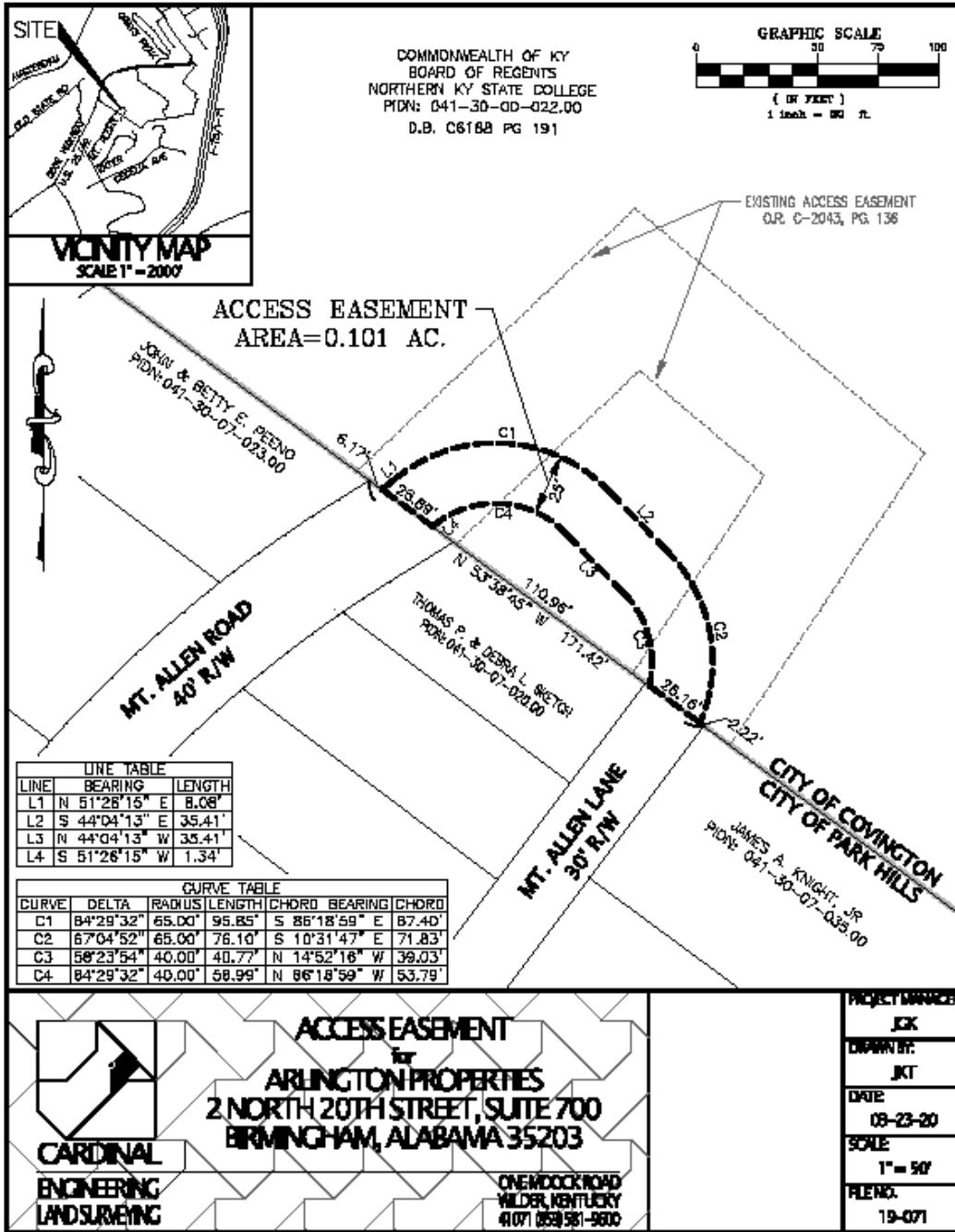


EXHIBIT B-1  
Description of Access Easement Area

Access Easement

Area=0.101 Acres

Lying in the City of Covington, Kenton County Kentucky, at the north terminus of Mt. Allen Road (40' right of way) in the south line of Commonwealth of KY Board of Regents Northern KY State College (Deed Book C6188, Page 191);

Commencing at the north terminus of Mt. Allen Road;

Thence with the terminus of Mt. Allen Road, South 53°38'45" East a distance of 6.17 feet to the POINT OF BEGINNING of this description:

Thence through the lands of Commonwealth of KY Board of Regents Northern KY State College for the following four (4) calls:

North 51°26'15" East a distance of 8.08 feet to a point;

Along a curve to the right with a radius of 65.00 feet ( $\Delta=84^{\circ}29'32''$ , chord bearing = South 86°18'59" East, chord distance = 87.40 feet) an arc length of 95.85 feet to a point;  
South 44°04'13" East a distance of 35.41 feet to a point;

Along a curve to the right with a radius of 65.00 feet ( $\Delta=67^{\circ}04'52''$ , chord bearing = South 10°31'47" East, chord distance = 71.83 feet) an arc length of 76.10 feet to a point in the terminus of Mt. Allen Lane (30' right of way);

Thence with the terminus of Mt. Allen Lane, North 53°38'45" West a distance of 26.16 feet to a point;

Thence through the lands of Commonwealth of KY Board of Regents Northern KY State College for the following four (4) calls:

Along a curve to the left with a radius of 40.00 feet ( $\Delta=58^{\circ}23'54''$ , chord bearing = North 14°52'16" West, chord distance = 39.03 feet) an arc length of 40.77 feet to a point;

North 44°04'13" West a distance of 35.41 feet to a point;

Along a curve to the left with a radius of 40.00 feet ( $\Delta=84^{\circ}29'32''$ , chord bearing = North 86°18'59" West, chord distance = 53.79 feet) an arc length of 58.99 feet to a point;

South 51°26'15" West a distance of 1.34 feet to a point in the terminus of Mt. Allen Road;

Thence with the terminus of Mt. Allen Road, North 53°38'45" West a distance of 25.89 feet to the POINT OF BEGINNING.

Said herein description contains 0.101 acres.