

## AGREEMENT TO PROVIDE SEWER EASEMENTS

**THIS AGREEMENT TO PROVIDE SEWER EASEMENTS** (this "Agreement") is made and entered into this 29<sup>th</sup> day of January, ~~2023~~ 2024 ("Effective Date") by (i) **BONIFICATA LLC**, a Kentucky limited liability company, with a mailing address of 604 East St. Catherine, Louisville, Kentucky 40203; and **STEPHANIE PERRI**, individually with a mailing address of 604 East Saint Catherine Street, Louisville, Kentucky 40203 (collectively "Bonificata"), and (ii) **BRENTWOOD COMMONS ONE LLC**, an Ohio limited liability company, with a mailing address of 7007 East Pleasant Valley Road, Independence, Ohio 44131 ("Brentwood Commons").

### **RECITALS:**

- A. Brentwood Commons is the owner in fee simple, of that certain property located at 10509 Bardstown Bluff Road in Jefferson County, Kentucky (PVA Parcel ID # 006100870000) by virtue of that certain Deed of record in Deed Book 10590, Page 947, in the Office of the Clerk of Jefferson County, Kentucky (the "Brentwood Commons Property"), upon which Brentwood Commons has constructed a 135-unit multi-family development pursuant to the approval in Docket # 15ZONE1015.
- B. Stefanie Perri, as a principal of Bonificata LLC, is the owner of that certain property located at 10503 ½ Bardstown Bluff Road in Jefferson County, Kentucky (PVA Parcel ID # 0061001130000) pursuant to that certain Warranty Deed of record in Deed Book 11216, Page 682 in Office of the Clerk of Jefferson County, Kentucky (the "Bonificata Property"), which Bonificata intends to develop as a wedding venue pursuant to that certain Conditional Use Permit approved on October 21, 2019 (the "CUP") in Docket # 19CUP1036 as shown on that certain Conditional Use Permit Plan, a copy of which is attached hereto as Exhibit A and incorporated herein by reference (the "CUP Plan").
- C. As part of developing the Bonificata Property pursuant to the CUP Plan, Bonificata desires to obtain, across the Brentwood Commons Property, a permanent sanitary sewer and drainage easement for the benefit of the Metropolitan Sewer District ("MSD") ("Permanent Easement"), and a related temporary sewer construction easement for the benefit of Bonificata ("Temporary Easement") in order for Bonificata to construct and install and subsequently dedicate a sewer line and related sewer facilities for sewer service to the Bonificata Property as more particularly set forth on the Off Site Sewer Extension Exhibit attached hereto as Exhibit B and incorporated herein by reference, and other related sewer work required by the MSD (collectively, the "Sewer Work");
- D. In connection therewith, Brentwood Commons agrees to grant the Permanent Easement and the Temporary Easement, a copy of which (with accompanying easement plat and other necessary exhibits included) are attached hereto as Exhibit C-1 and Exhibit C-2, respectively, and incorporated herein by reference (collectively, the "Sewer Easements"); and
- E. Bonificata and Brentwood Commons desire to enter into this Agreement to evidence their agreement set forth above.

**NOW, THEREFORE**, in consideration of the mutual obligations of the parties set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Assignment; Beneficial Parties; Binding Effect.** The rights, privileges, obligations and burdens hereby imposed and all other terms of this Agreement shall be, without limitation, binding upon and inure to the benefit of the parties hereto, their successors and permitted assigns as well as their employees, tenants, invitees and guests.
2. **Sewer Easement.** Upon reimbursement of all initial expenses contemplated by Section 4 hereof, Brentwood Commons will provide Bonificata with executed and notarized Sewer Easements (including any necessary lender consents) and will cooperate with Bonificata regarding the recording thereof (which recording costs will be paid by Bonificata).
3. **Sewer Work.** Bonificata shall perform the Sewer Work (i) in accordance with and as set forth on Exhibit B and the forthcoming Construction Plans (defined herein), (ii) in compliance with the terms and conditions of the Sewer Easements, (iii) in accordance with all applicable laws, statutes and ordinances, and (iii) subject to the following additional requirements:
  - a. Bonificata shall limit the sanitary flow into the sanitary line to be no more than 1,500 gallons per day, being the equivalent to five apartments;
  - b. Bonificata shall shift the proposed manhole #3 as far west as possible (within the easement area) while hugging the Brentwood Commons Property line working with Asher Engineering Inc.'s ("Asher Engineering") Rich Linker on the construction details and design;
  - c. Bonificata shall ensure that Asher Engineering's Rich Linker is physically on site during all Sewer Work to monitor and document the completion of the Sewer Work and the accompanying reclamation work;
  - d. Bonificata shall complete and document a full inspection of the existing retaining wall with Asher Engineering before and after the completion of the Sewer Work;
  - e. Bonificata shall obtain the prior written approval of Asher Engineering for the size of all machinery completing the Sewer Work. No large equipment will be allowed, only a mini-excavator and skid steer;
  - f. Bonificata shall commence construction only after obtaining all required MSD and Kentucky Division of Water approval; and
  - g. Bonificata shall pay, as and when due, all costs and invoices associated with the Sewer Work, such that no mechanics', material providers' or similar liens are recorded against the Brentwood Commons Property.

To the extent of any inconsistencies between this Agreement and the other applicable documents and plans, the provision that is more protective of Brentwood Commons and/or stricter on Bonificata shall control.

4. **Costs and Expenses.** Bonificata shall reimburse Brentwood Commons for its costs and expenses related to the Sewer Easement grant and Sewer Work, including, but not limited to, the fees from Asher Engineering, its attorneys' fees, construction lender review fees,

etc. within 15 days of submittal of same to Bonificata for payment. Any costs incurred by Brentwood Commons as of the Effective Date of this Agreement shall be paid prior to Brentwood Commons delivering the signed and notarized Sewer Easements.

5. **Sewer Construction Plans.** Bonificata's Mindel Scott & Associates, Inc. ("MSA") shall have a predesign meeting with Asher Engineering prior to preparing the detailed sanitary sewer construction plans which shall include an erosion control plan, storm water plan, and reclamation plan (collectively, the "Construction Plans"). The Construction Plans shall be reviewed and approved in writing by Brentwood Commons and its engineering contractor Asher Engineering prior to commencement of construction by Bonificata.

6. **Indemnification.** Bonificata agrees to protect, defend, hold harmless and indemnify Brentwood Commons, and its successors, assigns, managers, employees, tenants, agents, licensees and affiliates from and against all claims, demands, actions, suits, damages, liabilities, losses, settlements, judgments, costs, and expenses, including but not limited to reasonable attorneys' fees and costs, actually or allegedly, directly or indirectly, arising out of or related to (i) any breach or violation of any covenant or other obligation or duty of Bonificata under this Agreement, the Sewer Easements, or under applicable law, or (ii) Bonificata's exercise of its rights under the Sewer Easements.

7. **Enforcement; Remedies.** Upon either party's failure to comply with the provisions of this Agreement, all remedies in law and equity will be available to the other party, who may take such action as necessary, including court action, to enforce compliance therewith, and the non-complying party shall immediately, upon demand, reimburse the enforcing party or other performing party for all expenses incurred in so doing, together with allowable statutory interest. In addition to all remedies in law and equity, each party shall also have the right to restrain by injunction any violation or threatened violation by the other party of any of the terms, covenants or conditions of this Agreement or to obtain a decree to compel specific performance of any such terms, covenants or conditions, it being agreed that the remedy at law for a breach of any such term, covenant or condition is not adequate.

8. **Severability.** Should any provision of this Agreement be declared invalid by legislative, administrative or judicial body of competent jurisdiction, the other provisions of this Agreement shall remain in full force and effect and shall be unaffected by such invalidity.

9. **Amendment; Termination; Assignment.** This Agreement shall not be terminated or modified except by writing executed by all parties. This Agreement shall not be assigned by any party without the written consent of the other party.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed as of the day and year first above written.

**BONIFICATA LLC**

a Kentucky limited liability company

By: 

Name: Stefanie Perri

Title: Manager

  
Stefanie L. Perri

**BRENTWOOD COMMONS ONE LLC**

an Ohio limited liability company

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed as of the day and year first above written.

**BONIFICATA LLC**  
a Kentucky limited liability company

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
Stephanie Perri

**BRENTWOOD COMMONS ONE LLC**  
an Ohio limited liability company

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

Name: Steve Kimmelman

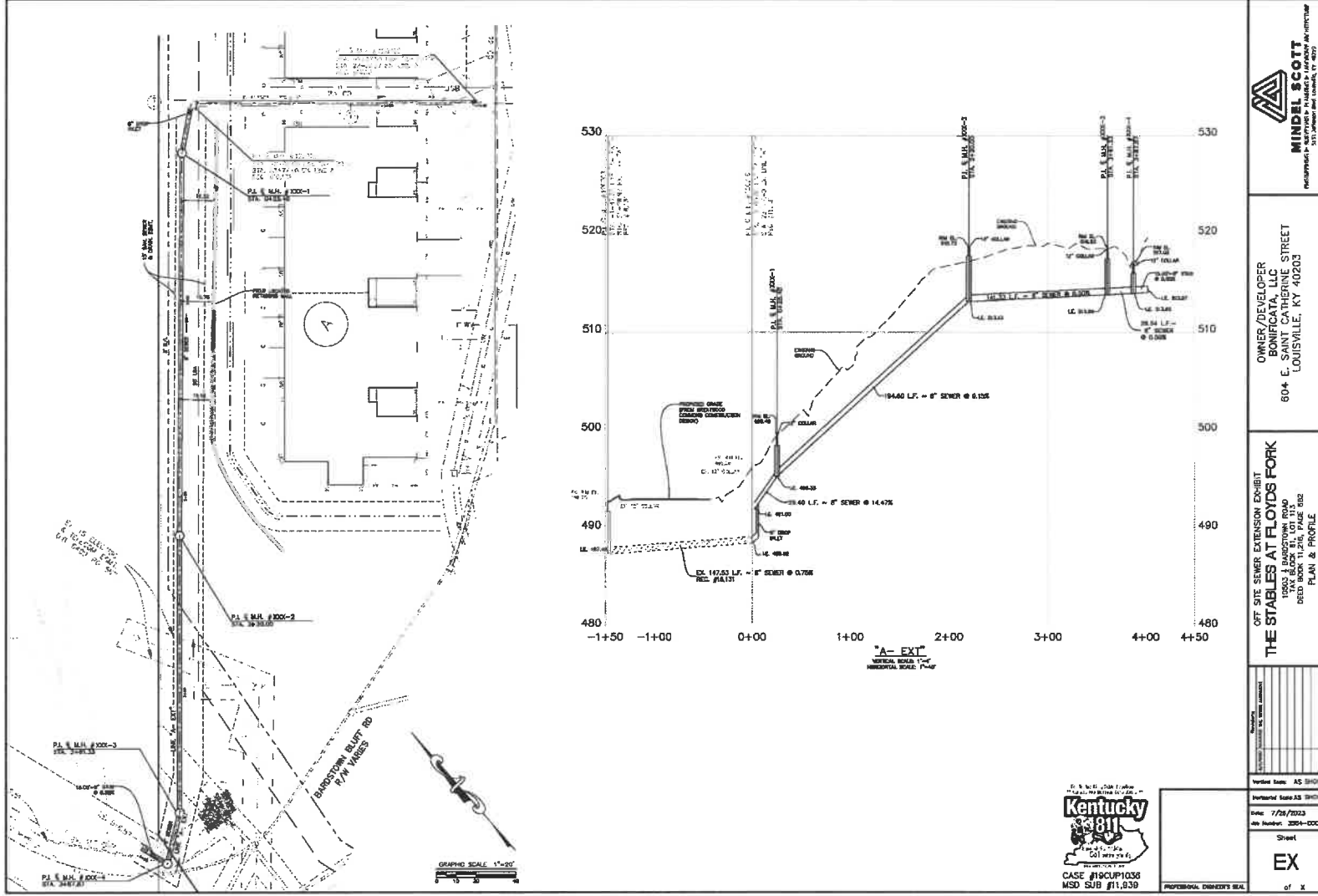
Title: Authorized Manager

## CUP Plan



# EXHIBIT B

## Plans for Sewer Work



**EXHIBIT C-1**

**Permanent Easement**



## CERTIFICATE OF SANITARY SEWER AND DRAINAGE EASEMENT

For valuable consideration, the receipt of which is hereby acknowledged by **BRENTWOOD COMMONS ONE LLC**, an Ohio limited liability company (“**GRANTOR**”), **GRANTOR** hereby grants to the **LOUISVILLE AND JEFFERSON COUNTY METROPOLITAN SEWER DISTRICT (MSD)**, its successors and assigns, a perpetual easement on, over and under strips of land and spaces as defined and marked “Sanitary Sewer and Drainage Easement” on the plat attached hereto.

The grant is made on the following terms:

1. **MSD** has the right of ingress and egress over **GRANTOR**’s property to and from the easement at all times for the purpose of constructing, operating, maintaining, repairing and reconstructing sanitary sewers, drains, and related equipment, structures or materials, hereinafter referred to as appurtenances, under **MSD**’s jurisdiction, control, and supervision, provided however to the extent responsibly possible **MSD** will attempt to limit its access to **GRANTOR**’s property to the areas which are now or hereafter improved with roadways or driveways.
2. Nothing shall be placed in, on, over or under the sanitary sewer and drainage easement which will obstruct or interfere with the purposes of said easement.
3. **MSD** may authorize any public agency or others to carry out the purposes as set forth in paragraph 1.
4. The **GRANTOR** covenants that they are (he/she is) lawfully seized of the property through which the sanitary sewer and drainage easement is granted and that they have (he/she has) full right and power to convey the same and said property is free from all encumbrances, except current taxes and restrictions and/or mortgages of record.
5. The **GRANTOR** acknowledges that the consideration received for the conveyance made herein does not include any express or implied release or waiver by **MSD** of rights to subject **GRANTOR** and their (his/her) property to sewer rates, drainage fees, rentals and other charges, including special assessments, as may be authorized by law.
6. **MSD** covenants that it will assume full responsibility for claims resulting from damage to any land, improvement, or the environment within or outside the sanitary sewer and drainage easement granted herein, or to any land or improvements used for ingress and egress to such easement, caused by or at the direction of **MSD** during construction, operation, maintenance, repair or reconstruction of said sanitary sewers, drains, and appurtenances unless damage is caused by the placing of any structure within or outside the easement in violation of this certificate, in such case no liability will be assumed by **MSD**.
7. If shown, a temporary easement, as defined and marked “Temporary Construction Easement” on the plat attached hereto is hereby reserved for **MSD**’s use as needed during original construction of said sanitary sewers, drains, and appurtenances. Such easement shall terminate and automatically revert to the property owners upon completion of the original construction.

IN TESTIMONY WHEREOF, witness the signature of the **GRANTOR** on this \_\_\_\_ day of \_\_\_\_\_, 2023.

BRENTWOOD COMMONS ONE LLC,  
an Ohio limited liability company

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

**COMMONWEALTH OF** \_\_\_\_\_

**COUNTY OF** \_\_\_\_\_

I, the undersigned Notary Public in and for the Commonwealth and County aforesaid, do hereby certify that the foregoing instrument was this day presented to me by:

\_\_\_\_\_

who, being by me first duly sworn, declared that \_\_\_\_\_

signed the foregoing instrument as \_\_\_\_\_

of BRENTWOOD COMMONS ONE LLC, an Ohio limited liability company,  
by authority and direction of its Managers, as a true and proper act and deed.

Witness my hand this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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

\_\_\_\_\_  
**NOTARY PUBLIC**

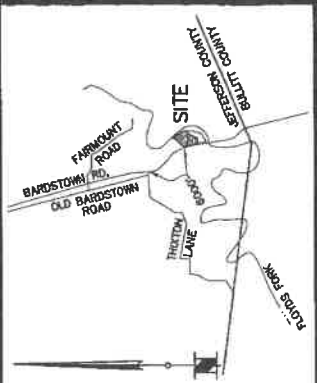
\_\_\_\_\_  
Notary ID #

This Instrument Prepared By:

\_\_\_\_\_  
Attorney at Law  
700 West Liberty Street  
Louisville, Kentucky 40203-1913

**LOUISVILLE AND JEFFERSON COUNTY  
METROPOLITAN SEWER DISTRICT  
700 WEST LIBERTY STREET  
LOUISVILLE, KENTUCKY 40203-1913**

Record No. \_\_\_\_\_



**LOCATION MAP**  
NO SCALE

**NOTES:**

1. THIS PLAT DOES NOT CONSTITUTE A BOUNDARY SURVEY AND SHOULD NOT BE USED AS SUCH.
2. THE BOUNDARY LINES SHOWN HEREON WERE DETERMINED FROM DEEDS OF RECORD AND HAVE NOT BEEN VERIFIED.
3. THIS PLAT IS SUBJECT TO EASEMENTS AND RESTRICTIONS WHETHER RECORDED OR NOT.

**LEGEND**

- FOUND REBAR WITH CAP #3757
- FOUND R/W MONUMENT
- ▨ DENOTES SANITARY SEWER AND DRAINAGE EASEMENT "BEING GRANTED" = 5,844 SQUARE FEET

| LINE | BEARING       | DISTANCE |
|------|---------------|----------|
| L1   | N 16°32'46" W | 73.96'   |
| L2   | N 06°46'55" E | 69.81'   |
| L3   | N 77°20'01" E | 53.98'   |
| L4   | N 29°50'34" E | 166.44'  |
| L5   | N 41°12'33" E | 171.18'  |

DENIS & GRACE BRYAN RD.  
10903 BARDSTOWN RD.  
D.B. 6193, LOT BLUFF RD.  
N/C1  
D.B. 6193, PG. 412

EX. 15' SAN. SEWER & DRAINAGE ESMT. "BEING GRANTED"

**BARDSTOWN ROAD**  
R/W VARIES

FOUND R/W MONUMENT  
S 43°44'30" W, 1.35'  
FROM CORNER

15.00' (TIE)

54.61' (TIE)

EX. 15' SAN. SEWER & DRAINAGE ESMT. D.B. 11563, PG. 228

NORTH & ALL BEARINGS SHOWN  
HEREON ARE BASED ON KY  
STATE PLANE COORDINATES  
SYSTEM, NORTH ZONE (NAD 83).

STATE OF KENTUCKY  
DAVID A. MINDEL  
2843  
LICENSED  
PROFESSIONAL  
LAND SURVEYOR

**LAND SURVEYOR'S CERTIFICATE**

I HEREBY CERTIFY THE INFORMATION  
DEPICTED HEREON WAS GATHERED UNDER  
MY DIRECT SUPERVISION AND MEETS OR  
EXCEEDS THE REQUIREMENTS FOR  
NON-BOUNDARY SURVEY WORK AS DEFINED  
IN SECTION 13 OF 201 KAR 18:150.

*David A. Mindel*  
DATE: 11/16/23  
PLS# 2843

DAVID A. MINDEL  
NOT VALID WITHOUT ORIGINAL SIGNATURE AND SEAL OF THE PROFESSIONAL SURVEYOR



**MINDEL SCOTT**  
ENGINEERING ► SURVEYING ►  
PLANNING ► LANDSCAPE ARCHITECTURE  
5151 Jefferson Blvd. Louisville, KY 40219  
502-485-1508 ► MindelScott.com

GRAPHIC SCALE 1"=50'  
0 25 50 100

BEING A PART OF THE SAME PROPERTY CONVEYED  
TO THE GRANTOR BY DEED RECORDED IN DEED  
BOOK 10590, PAGE 947, IN THE OFFICE OF THE  
LOUISVILLE METRO CLERK.

**SANITARY SEWER & DRAINAGE  
EASEMENT PLAT**

PROPERTY OF:  
BRENTWOOD COMMONS ONE, LLC.  
7510 PLEASANT VALLEY ROAD  
INDEPENDENCE, OHIO 44131  
TAX BLOCK 0061, LOT 0087  
DEED BOOK 10590, PAGE 947  
PROPERTY ADDRESS:  
10509 BARDSTOWN BLUFF ROAD  
LOUISVILLE, KY. 40291

DATE: 11/16/23 SCALE: 1"=50'

**EXHIBIT C-2**

**Temporary Easement**

## TEMPORARY CONSTRUCTION EASEMENT AGREEMENT

THIS TEMPORARY CONSTRUCTION EASEMENT AGREEMENT (the “Agreement”) is made and entered into as of this \_\_\_\_ day of \_\_\_\_, 20\_\_ (the “Effective Date”) by and between BRENTWOOD COMMONS ONE LLC, an Ohio limited liability company, having an address at 7007 East Pleasant Valley Road, Independence, Ohio 44131 (“Grantor”), and BONIFICATA LLC, a Kentucky limited liability company, having an address at 604 East Saint Catherine Street, Louisville, Kentucky 40203, and STEFANIE L. PERRI, an unmarried individual, having an address at 604 East Saint Catherine Street, Louisville, Kentucky 40203 (collectively, “Grantee”).

### W I T N E S S E T H :

WHEREAS, Grantor is the owner of that certain parcel of land located at 10509 Bardstown Bluff Road in the County of Jefferson and Commonwealth of Kentucky, known as Parcel No. 006100870000 and as more particularly described in that certain Deed of Conveyance of record in Deed Book 10590, Page 947 in the Office of the Clerk of Jefferson County, Kentucky and as further described on Exhibit A attached hereto and incorporated herein (the “Grantor’s Premises”);

WHEREAS, Stefanie L. Perri, as a principal of Bonificata LLC, is the owner of that certain parcel of land located at 10503 ½ Bardstown Bluff Road in the County of Jefferson and Commonwealth of Kentucky, known as Parcel ID 006101130000 and more particularly described in that certain Warranty Deed of record in Deed Book 11216, Page 682 in the Office aforesaid and as further described on Exhibit B attached hereto and incorporated herein (the “Grantee’s Premises”); and

WHEREAS, to facilitate the development of the Grantee’s Premises, Grantee has requested, and Grantor desires to grant to Grantee, subject to the terms and conditions contained herein, a temporary construction easement to tie into the existing sanitary sewer system located on the Grantor’s Premises.

NOW, THEREFORE, in consideration of the mutual covenants, promises and agreements herein contained, Grantor and Grantee hereby agree as follows:

Section 1. Temporary Construction Easement. Grantor hereby grants and conveys unto Grantee, its agents, contractors and employees, a non-exclusive temporary construction easement (the “Temporary Construction Easement”) over, through, under and upon a portion of the Grantor’s Premises substantially in the location legally described and/or depicted in Exhibit C attached hereto and incorporated herein (the “Easement Area”) for the purpose of constructing a sanitary sewer line and the associated appurtenances (collectively, the “Sanitary Sewer System”) that will tie into the existing sanitary sewer system located on the Grantor’s Premises. The construction of the Sanitary Sewer System shall be in compliance with the terms and conditions set forth herein,

as well as the terms and conditions of that certain unrecorded Agreement to Provide Sewer Easements between Grantor and Grantee, dated \_\_\_\_\_ (“Unrecorded Agreement”) (including, without limitation, the plans referenced therein). To the extent of any inconsistencies between this Agreement and the Unrecorded Agreement, the provision that is more protective of Grantor and/or stricter on Grantee shall control).

Section 2. Ingress, Egress and Access. The Temporary Construction Easement granted hereunder from Grantor to Grantee shall include the right of access, ingress and egress by Grantee over the Grantor’s Premises, but only to the extent reasonably necessary for Grantee to exercise its rights under this Agreement and only during such times as Grantee is exercising such rights.

Section 3. Use of Temporary Construction Easement. Grantee’s exercise of any of the rights herein granted shall signify Grantee’s agreement to and acceptance of all the terms and conditions herein contained, including, without limitation, the following:

- A. Grantee shall, at all times, at its sole cost and expense, construct, maintain, repair, use and operate the Sanitary Sewer System in accordance with all applicable laws, ordinances and governmental rules and regulations and in such a manner that will not adversely materially interfere with the full use and enjoyment of the Grantor’s Premises by Grantor.
- B. Grantee’s use of the Easement Area shall be in accordance with all applicable laws, ordinances and governmental rules and regulations.
- C. No work with respect to the Easement Area shall be commenced until all construction plans and designs, including the machinery to be used in connection with such work, relating to the Sanitary Sewer System have been approved by Grantor and any other parties required by Grantor.
- D. All work with respect to the Easement Area shall be commenced only upon notice first given to Grantor, and such work shall be diligently pursued to completion and all materials, tools, vehicles and debris shall be removed from the Grantor’s Premises and Easement Area upon completion of all work. Grantee shall not disrupt the sanitary sewer service to Grantor’s Premises at any time, and will take commercially reasonable efforts to minimize noise, disruptions and other disturbances to the residents living within Grantor’s Premises.
- E. Unless otherwise agreed by Grantor, no work with respect to the Easement Area shall be commenced or performed without the supervision of Grantor or its agents, contractors and/or employees.
- F. No materials, tools, vehicles, or debris shall at any time be placed or stored on the Easement Area so as to unreasonably impede, restrict or interfere with Grantor’s or any occupant’s use of the Grantor’s Premises.

G. No trash, waste, garbage, litter, junk or debris shall be thrown, dumped or left on any portion of the Grantor's Premises or the Easement Area.

H. All work with respect to the Easement Area and the Sanitary Sewer System shall be subject to the review and approval of Grantor.

I. Upon completion of any work performed hereunder by Grantee, the Grantor's Premises and the Easement Area shall be immediately returned, including grading, as nearly as possible, to substantially the same condition as existed immediately prior to the performance of any work permitted hereunder.

Section 4. Termination of Temporary Construction Easement. The Temporary Construction Easement shall automatically terminate once all work associated with the construction of the Sanitary Sewer System has been completed and the Sanitary Sewer System has been approved and accepted by the Louisville and Jefferson County Metropolitan Sewer District. Notwithstanding the foregoing, however, in no event shall the Temporary Construction Easement extend for more than twelve (12) months after the Effective Date of this Agreement.

Section 5. Insurance Requirements. Grantee shall cause all of its contractors to maintain, and, to the extent Grantee is performing any work with respect to the Temporary Construction Easement, Grantee shall maintain, general comprehensive liability insurance insuring against any claims, including, but not limited to, claims on account of loss of life, bodily injury or property damage or any other claims or losses that may arise from, or be occasioned by the condition, use or occupancy of the Easement Area or the Temporary Construction Easement. Any such general comprehensive liability insurance shall name Grantor and, upon notice to such insuring party, its mortgagees and any other party reasonably designated as additional insureds thereunder. Said insurance shall be carried by a reputable insurance company or companies qualified to do business in the Commonwealth of Kentucky, with single limit liability coverage of not less than Three Million and 00/100 Dollars (\$3,000,000.00), and shall provide that such insurance may not be canceled or materially modified without first giving Grantor not less than thirty (30) days' prior written notice of cancellation or material modification. Grantee shall also maintain or cause to be maintained contractual liability insurance specifically endorsed to cover Grantee's agreement to indemnify as set forth in Section 7. Such insurance may be carried under a "blanket" policy or policies covering other properties of Grantee and its subsidiaries, or controlling or affiliated corporations or entities and shall provide that such insurance may not be canceled or materially modified without first giving Grantor not less than thirty (30) days' prior written notice of cancellation or material modification. Grantee shall, upon written request from Grantor, furnish to Grantor certificates of insurance evidencing the existence of the insurance required to be carried hereunder.

Section 6. No Dedication. Nothing in this Agreement is intended nor shall it be construed as creating any rights in or for the benefit of the general public. This Agreement does not constitute

a dedication for public use, and the Temporary Construction Easement granted herein is solely for the benefit of Grantee and does not constitute a grant for public use.

Section 7. Miscellaneous Provisions.

- A. Grantee shall indemnify, defend and hold Grantor harmless from and against any and all losses, costs, damages, liens, expenses, claims, demands, actions or causes of action arising as a result of or relating to the exercise of Grantee's rights hereunder.
- B. Grantor reserves unto itself the right to use the Easement Area for all lawful purposes that do not materially interfere with the rights of Grantee herein granted.
- C. This Agreement shall be governed by and interpreted under the laws of the Commonwealth of Kentucky, shall run with the land and shall be binding upon and inure to the benefit of Grantor and Grantee and their respective successors and assigns.
- D. If any provision, or portion thereof, of this Agreement or the application thereof to any person or circumstances shall, to any extent, be invalid and unenforceable, the remainder of this Agreement, or the application of such provision, or portion thereof, to any other person or circumstances shall not be affected thereby and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
- E. Any notice required or permitted to be given hereunder shall be given in writing and delivered by hand delivery or registered or certified mail, return receipt requested to the addresses set forth on the first page of this Agreement, or to such other address of which any party may notify the other parties in accordance herewith.
- F. This Agreement contains the entire agreement of the parties as to the matters set forth herein. There are no oral representations, warranties or other statements whatsoever except as expressed herein. This Agreement shall not be modified except in writing signed by all of the parties hereto or their respective successors and assigns.
- G. This Agreement may be signed in several counterparts, each of which will be deemed an original document, and when taken together shall be considered one and the same instrument.  
  
(signatures follow)



Grantor has hereunto set its hands to this Agreement as of the date and year first above written.

BRENTWOOD COMMONS ONE LLC,  
an Ohio limited liability company

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

STATE OF \_\_\_\_\_ )  
 )  
 ) SS:  
 )  
COUNTY OF \_\_\_\_\_ )

This is an acknowledgement clause. No oath or affirmation was administered to the signer.

BEFORE ME, a Notary Public in and for said County and State, personally appeared the above-named BRENTWOOD COMMONS ONE LLC, an Ohio limited liability company, by \_\_\_\_\_, its \_\_\_\_\_, who acknowledged that he did sign this instrument on behalf of such entity and that the same is his free act and deed and the free act and deed of said entity.

IN TESTIMONY HEREOF, I have hereunto set my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_\_\_\_.

Notary Public

My commission expires:

Grantee hereby consents to this Agreement as of the date and year first above written.

**BONIFICATA LLC,**  
a Kentucky limited liability company

By: \_\_\_\_\_  
Name: Stefanie L. Perri  
Title: \_\_\_\_\_

COMMONWEALTH OF KENTUCKY )  
 )  
JEFFERSON COUNTY )  
 )  
SS.

The foregoing instrument was subscribed, sworn to and acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by Stefanie L. Perri, as \_\_\_\_\_ of \_\_\_\_\_ BONIFICATA LLC, a Kentucky limited liability company, on behalf of the company.

My Commission expires: \_\_\_\_\_  
Notary ID: \_\_\_\_\_

Notary Public, State-at-Large, Kentucky

(second Grantee signature on following page)

Signature Page - Grantee

Grantee hereby consents to this Agreement as of the date and year first above written.

\_\_\_\_\_  
STEFANIE L. PERRI

COMMONWEALTH OF KENTUCKY     )  
                                                          )  
JEFFERSON COUNTY                    )     SS.

The foregoing instrument was subscribed, sworn to and acknowledged before me this \_\_\_\_  
day of \_\_\_\_\_, 20\_\_, by Stefanie L. Perri.

My Commission expires: \_\_\_\_\_  
Notary ID: \_\_\_\_\_

\_\_\_\_\_  
Notary Public, State-at-Large, Kentucky

*No Examination of Title*

**THIS INSTRUMENT PREPARED BY:**

\_\_\_\_\_  
Nicholas R. Pregliasco, Esq.  
**BARDENWERPER, TALBOTT & ROBERTS, PLLC**  
Building Industry Association of Greater Louisville Bldg.  
1000 N. Hurstbourne Pkwy., Suite 200  
Louisville, Kentucky 40223  
(502) 426-6688

E:\CLIENT FOLDER\Veech, Carin\Bardstown Bluff Rd\Brentwood Commons One LLC-Temporary Construction Easement 11.13.2023 V2.docx

Signature Page - Grantee

## CONSENT OF MORTGAGEE

THE HUNTINGTON NATIONAL BANK, a national banking association, as the current owner and holder of that certain Construction Mortgage, Assignment of Leases and Rents, Security Agreement, and Financing Statement dated June 26, 2020 ("Mortgage") from BRENTWOOD COMMONS ONE LLC, an Ohio limited liability company, recorded as Instrument No. 2020127175 of the Jefferson County Clerk's Office, does hereby consent to the preceding Temporary Construction Easement ("Easement") and agrees that said Easement shall remain in effect even in the event of foreclosure of its Mortgage.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

THE HUNTINGTON NATIONAL BANK,  
a national banking association

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

STATE OF \_\_\_\_\_ )  
 )  
 ) SS:  
 )  
COUNTY OF \_\_\_\_\_ )

This is an acknowledgment clause. No oath or affirmation was administered to the signer.

BEFORE ME, a Notary Public in and for said County and State, personally appeared the above-named THE HUNTINGTON NATIONAL BANK, a national banking association, by \_\_\_\_\_, its \_\_\_\_\_, who acknowledged that he/she was duly authorized to execute such instrument on behalf of such entity and that the same is his/her free and voluntary act and deed and is the free and voluntary act and deed of said entity.

IN TESTIMONY HEREOF, I have hereunto set my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

## Notary Public

My commission expires:

Consent of Mortgagee

## Exhibit A

### Grantor's Premises

BEING Residual Tract 1, containing 34.11 acres, as shown on the Minor Plat attached to and made a part of Deed Book 9312, Page 60, in the Office of the County Court Clerk of Jefferson County, Kentucky.

BEING A PART OF the same property conveyed to Gina L. Smith, a single person, by Quit Claim Deed dated June 1, 2004 and recorded June 4, 2004, of record in Deed Book 8423, Page 925, in the Office aforesaid; and

THEREAFTER, being a part of the same property conveyed to Gina L. Nice and Darrel L. Nice, wife and husband, by Quit Claim Deed dated April 11, 2008 and recorded April 18, 2008, of record in Deed Book 9212, Page 904, in the Office aforesaid.

The aforescribed Residual Tract 1 is also described as:

Being a certain tract of land in Jefferson County, Kentucky, located south of Interstate 265 and north of Oakland Hills Trail, being bound on the east by Floyds Fork Creek and bound on the west by Bardstown Road and being more particularly described as follows:

Beginning at a found Iron Pin with no cap in the east right-of-way line of said Bardstown Road, approximately 1800 feet north of Oakland Hills

Trail, said point being the northwest corner to a tract of land conveyed to 21st Century Parks, Inc. as recorded in Deed Book 9312, Page 60 in the office of the Clerk of Jefferson County, Kentucky;

Thence with the east right-of-way line of said Bardstown Road the following (7) seven calls: Thence N 13°54'02" W, a distance of 512.34 feet to a found iron pin with cap #3757; Thence S 75°13'48" W, a distance of 19.74 feet to a found iron pin with cap #3757; Thence N 14°53'18" W, a distance of 380.88 feet to a found Iron Pin with no cap; Thence N 11°40'18" E, a distance of 125.16 feet to a found iron pin with cap #3757; Thence N 40°28'21" W, a distance of 63.61 feet to a found iron pin with cap #3757; Thence N 16°32'46" W, a distance of 73.96 feet to a found PVC pipe (homemade monument); Thence N 06°46'55" E, a distance of 69.61 feet to a found iron pin with cap #3757, being the southwest corner to a tract of land conveyed to Denis R. & Grace C. Bryan as recorded in Deed Book 6193, Page 412 in the office aforesaid, said iron pin being referenced by a found right-of-way monument at N:-1.52 feet, E: 0.85 feet from the true corner; Thence leaving said Bardstown Road and running with the south line of said Bryan tract, N 41°12'33" E, passing an existing 1/2 inch iron pin with "witness" cap #3757 at 948.93 feet, 1048.93 feet in all to a point in the center of Floyds Fork Creek; Thence with the centerline of said Floyds Fork Creek the following (6) six calls: S 49°33'45" E, a distance of 189.86 feet to a point, said point being reference by a set 5/8 inch rebar with "witness" cap #3890 at (N:-69.69 feet, E:-71.73 feet) from point; Thence S 38°47'22" E, a distance of 198.59 feet to a point, said point being reference by a set 5/8 inch rebar with "witness" cap #3890 at (N:-57.19 feet, E:-82.03 feet) from point; Thence S 30°58'51" E, a distance of 238.88 feet to a point, said point being reference by an existing 1/2 inch iron pin with "witness" cap #3757 at (N:-48.79 feet, E:-87.35 feet) from point; Thence S 24°09'05" E, a distance of 175.84 feet to a point, said point being reference by a set 5/8 inch rebar with "witness" cap #3890 at (N:-37.84 feet, E:-92.56 feet) from point; Thence S 20°19'02" E, a distance of 185.87 feet to a point, said point being reference by a set 5/8 inch rebar with "witness" cap #3890 at (N:-21.61 feet, E:-97.64 feet) from point; Thence S 04°38'29" E, a distance of 211.40 feet to a point, said point being the northwest corner to a tract of land conveyed to 21st Century Parks, Inc. as recorded in Deed Book 9132, Page 60 in the office aforesaid, said point being reference by an existing 1/2 inch iron pin with "witness" cap #3757 at (N:-69.41 feet, E:-72.15 feet) from point; Thence with the west line of said 21st century parks tract the following (3) three calls: S 46°12'43" W, passing a found iron pin with cap #3152 at 96.26 feet, a found 1/2 inch rebar with cap #3757 at 100.00 feet, 444.28 feet in all to a found iron pin with cap #3152, being referenced by a found mag nail and hub at (N: 0.31 feet, E: 1.26 feet) from corner; Thence S 21°06'02" W, a distance of 550.71 feet to a found steel post; Thence S 76°05'49" W, a distance of 462.22 feet to the point of beginning.

Having an area of 1,482,272.78 square feet or 34.028 acres more or less.

Subject to all encumbrances, easements and exceptions of record or not.

Being a portion of the same property conveyed to Gina L. & Darrel L. Nice by deed dated April 11, 2008 of record in Deed Book 9212, Page 904 and amended by the minor subdivision plat of the same as recorded in Deed Book 9312, Page 60 on file in the office of the County Clerk of Jefferson County, Kentucky.

**Exhibit B**

**Grantee's Premises**

Being a 6.04 acre tract as shown as Tract 2 on Minor Subdivision Plat of Hilda Ellis, plat of which is of record in Deed Book 7156, Page 266, Jefferson County Clerk's office.

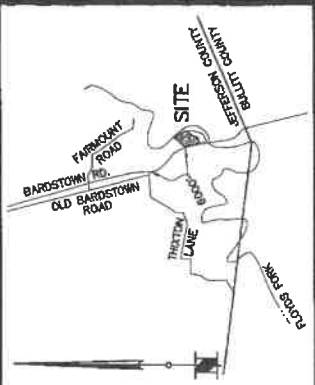
PIDN No.: 22-0061-0113-0000 commonly known as 10503 1/2 Bardstown Bluff Road Louisville KY 40291

**Exhibit C**

**Easement Area**

[see attached]





**LOCATION MAP**

NO SCALE

**NOTES:**

1. THIS PLAT DOES NOT CONSTITUTE A BOUNDARY SURVEY AND SHOULD NOT BE USED AS SUCH.
2. THE BOUNDARY LINES SHOWN HEREON WERE DETERMINED FROM DEEDS OF RECORD AND HAVE NOT BEEN VERIFIED.
3. THIS PLAT IS SUBJECT TO EASEMENTS AND RESTRICTIONS WHETHER RECORDED OR NOT.

**LEGEND**

- FOUND REBAR WITH CAP #3757
- FOUND R/W MONUMENT
- ▨ DENOTES SANITARY SEWER AND DRAINAGE EASEMENT "BEING GRANTED" = 5,844 SQUARE FEET

| LINE | BEARING       | DISTANCE |
|------|---------------|----------|
| L1   | N 16°32'46" W | 73.96'   |
| L2   | N 06°46'55" E | 69.61'   |
| L3   | N 77°20'01" E | 53.98'   |
| L4   | N 29°50'34" E | 166.44'  |
| L5   | N 41°12'33" E | 171.18'  |

DEEDS & GRACE BRYAN  
10903 BARDSTOWN RD.  
D.B. 6193, PG. 412  
N/C

N 41°12'33" E

EX. 15' SAN. SEWER  
& DRAINAGE ESMT.  
"BEING GRANTED"

EX. 15' SAN. SEWER  
& DRAINAGE ESMT.  
D.B. 11563, PG. 228

NORTH & ALL BEARINGS SHOWN  
HEREON ARE BASED ON KY  
STATE PLANE COORDINATES  
SYSTEM, NORTH ZONE (NAD 83).

**BARDSTOWN ROAD  
R/W VARIES**

FOUND R/W MONUMENT  
S 43°44'30" W, 1.35'  
FROM CORNER

STATE OF KENTUCKY  
DAVID A. MINDEL  
2843  
LICENSED  
PROFESSIONAL  
LAND SURVEYOR

**LAND SURVEYOR'S CERTIFICATE**

I HEREBY CERTIFY THE INFORMATION  
DEPICTED HEREON WAS GATHERED UNDER  
MY DIRECT SUPERVISION AND MEETS OR  
EXCEEDS THE REQUIREMENTS FOR  
NON-BOUNDARY SURVEY WORK AS DEFINED  
IN SECTION 13 OF 201 KAR 18:150.

*David A. Mindel* 2843 11/16/23  
DAVID A. MINDEL  
NOT VALID WITHOUT ORIGINAL SIGNATURE AND SEAL OF THE PROFESSIONAL SURVEYOR  
PLS# 2843  
DATE:

GRAPHIC SCALE 1"=50'  
0 25 50 100

BEING A PART OF THE SAME PROPERTY CONVEYED  
TO THE GRANTOR BY DEED RECORDED IN DEED  
BOOK 10590, PAGE 947, IN THE OFFICE OF THE  
LOUISVILLE METRO CLERK.

**SANITARY SEWER & DRAINAGE  
EASEMENT PLAT**

PROPERTY OF:  
BRENTWOOD COMMONS ONE, LLC.  
7510 PLEASANT VALLEY ROAD  
INDEPENDENCE, OHIO 44131  
TAX BLOCK 0061, LOT 0087  
DEED BOOK 10590, PAGE 947  
PROPERTY ADDRESS:  
10509 BARDSTOWN BLUFF ROAD  
LOUISVILLE, KY. 40291

DATE: 11/16/23 SCALE: 1"=50'



**MINDEL SCOTT**  
ENGINEERING & SURVEYING  
PLANNING & LANDSCAPE ARCHITECTURE  
5151 Jefferson Blvd. Louisville, KY 40219  
502-485-1508 ▶ MindelScott.com