

RESOLUTION NO. 132, SERIES 2017

A RESOLUTION AUTHORIZING THE MAYOR ON BEHALF OF METRO GOVERNMENT TO ACCEPT AN AMENDED AND RESTATED DEED OF SCENIC CONSERVATION EASEMENT ON A 5.58 ACRE EASEMENT PREVIOUSLY RECORDED ON PROPERTY NOW OWNED BY WILLIAM CRAWFORD LOCATED ON GRINSTEAD DRIVE IN JEFFERSON COUNTY, KENTUCKY.

SPONSORED BY: COUNCILMAN BILL HOLLANDER

WHEREAS, the current scenic conservation easement held by Metro Government was previously recorded in two tracts. The first tract was recorded in 1981 by Nanine Hilliard Greene and her husband Herbert Greene and was entitled the "Hilliard Scenic-Conservation Easement". The second adjacent tract was recorded in August, 2007 by W. Austin Musselman, Jr. and his wife Layla George Musselman and became known as the "Musselman Conservation Easement". The entire tract composed of the two Easements was conveyed to the current owner, William Crawford, now unmarried, in August, 2007; and

WHEREAS, the provisions of the original Hilliard Scenic-Conservation Easement and the original Musselman Conservation Easement should now be amended and restated as one Easement for the following reasons: (1) to support and strengthen the conservation purposes of both easements; (2) to correct ambiguities between both the Hilliard easement (granted in 1981) and the Musselman easement (granted in 2007); (3) to simplify easement administration by having uniform and effective provisions that ensure clarity for stewardship and protection of the conservation values of the property; (4) to incorporate best practices into the one conservation easement document; and (5) to significantly control invasive species on the easement property; and

WHEREAS, all of the terms, conditions and provisions of the Hilliard Scenic-Conservation Easement and the Musselman Conservation Easement would be set aside, canceled and revoked and the constituent parts thereof be merged and incorporated into this one Amended and Restated Deed of Scenic Conservation Easement, a copy of which is attached; and

WHEREAS, the property was and is still unimproved and has conservation value to the public and it is in the public interest that the property remain in its natural state, including the trees and other natural growth, and the property is valuable to the public as a wildlife preserve or sanctuary; and

WHEREAS, pursuant to KRS 382.800 *et seq.* Metro Government is authorized to accept conservation easements to retain and protect natural, scenic and open space values of real property and is qualified to accept such easements under Section 170(h) of the Internal Revenue Code; and

WHEREAS, the Council desires to authorize the Mayor on behalf of Metro Government to accept the Amended and Restated Deed on the Crawford property.

NOW, THEREFORE BE IT RESOLVED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT AS FOLLOWS:

SECTION I: The Mayor is hereby authorized to accept the attached Amended and Restated Deed of Scenic Conservation Easement on property owned by William Crawford on Grinstead Drive in Jefferson County, Kentucky.

SECTION II: This Resolution shall take effect upon its passage and approval.



H. Stephen Ott
Metro Council Clerk

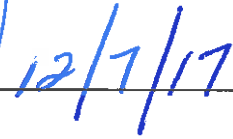


David Yates
President of the Council



Greg Fischer
Mayor

Approved:
Date:



APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

By: 

R-170-17 (jgc)



AMENDED AND RESTATED DEED OF SCENIC CONSERVATION EASEMENT

THIS AMENDED AND RESTATED DEED OF SCENIC CONSERVATION EASEMENT (the "Restated Deed") is made this ___ day of _____, 2017, (the "Restatement Date"), by William Crawford, unmarried, having an address at 344 South Peterson Avenue, Louisville, Kentucky 40206 ("Grantor"), in favor of LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT, having an address at 527 W. Jefferson Street, Louisville, Kentucky 40202 by and through the LOUISVILLE/JEFFERSON COUNTY ENVIRONMENTAL TRUST having an address at P.O. Box 37280 Louisville, Kentucky 40233-7280 ("Grantee").

WITNESSETH:

WHEREAS, on the 19th day of December, 1981, Nanine Hilliard Greene and Herbert Greene, her husband, granted and conveyed to the City of Louisville, Kentucky a Deed of Scenic-Conservation Easement on a part of the Property described below. The original Deed was recorded on the 28th day of December, 1981 in Jefferson County, Kentucky in Deed Book 5267, Page 790, The undersigned Grantor and Grantee in this Restated Deed desire by the execution and recordation of this Grant to amend and restate herein the Original Deed in its entirety commencing as of the Restatement Date set forth above;

WHEREAS, the original Grantors were the owners in fee simple of the Property described therein and desired to grant a scenic-conservation easement to be known as the "Hilliard Scenic-Conservation Easement" over that Property to the Grantee in accordance with the restrictions therein described as a memorial to Nanine and Edward H. Hilliard, Sr., Theodore I. Hilliard and Edward H. Hilliard, Jr., each of whom during their lives were concerned with the preservation and conservation of wild and natural areas;

WHEREAS, the Grantors and Grantee therein recognized the natural scenic, aesthetic and special character of the region in which the Hilliard Scenic-Conservation Easement was located, and had the common purpose of conserving the natural values of the Property by the conveyance to the Grantee of the Hilliard Scenic-Conservation Easement on, over and across that Property, which shall conserve the natural values of the Property, conserve and protect the animal and plant populations, and prevent the use or development of the Property for any purpose or in any manner which would conflict with the maintenance of the Property in its natural, scenic and open condition for both that generation and future generations;

WHEREAS, the Property was and is still unimproved and still has scenic value to the public as viewed from two public streets and a highway, retention of the Property as open space will add to the amenities of living adjoining or neighboring urbanized areas; it is in the public interest that the Property remain in its natural state, including the trees and other natural growth and the Property is valuable to the public as a wildlife preserve or sanctuary:

WHEREAS, the City of Louisville and Jefferson County were merged into the Louisville/Jefferson County Metro Government as of January 6, 2003 pursuant to KRS 67C;

WHEREAS, on the 14th day of August, 2007, W. Austin Musselman Jr. and Layla George Musselman granted and conveyed to Louisville/Jefferson County Metro Government a

Deed of Conservation Easement on the remaining part of the Property described below. The original deed was recorded on the 14th of August, 2007 in Jefferson County Deed Book 9088, Page 461 and a Deed of Correction was recorded on the 12th day of December 2008 in Jefferson County, Kentucky in Deed Book 9335, Page 195. The undersigned Grantor and Grantee in this Restated deed desires by the execution and recordation of this Grant to amend and restate the Original Deed in its entirety commencing as of the Restatement Date set forth above.

WHEREAS, the original Grantors were the owners in fee simple of the Property described therein and which included the Hilliard Scenic-Conservation Easement Property, and desired to grant a conservation easement over the Property to the Grantee in accordance with restrictions hereinafter described;

WHEREAS, the Grantors and Grantee therein recognized the natural, scenic, aesthetic and special character of the area in which the Musselman Conservation Easement was located, and had the common purpose of conserving the natural values of the Property by conveyance to the Grantee of the Musselman Conservation Easement on, over and across the Property, which shall conserve the natural values of the Property, conserve and protect the animal and plant populations, and prevent the use or development of the Property for any purpose or in any manner which would conflict with the maintenance of the Property in its natural, scenic and open condition for both this generation and future generations;

WHEREAS, the Property was and is still unimproved and still has conservation value to the public, retention of the Property as open space will add to the amenities of living adjoining or neighboring urbanized areas; it is in the public interest that the Property remain in its natural state, including the trees and other natural growth and the Property is valuable to the public as a wildlife preserve or sanctuary;

WHEREAS, Grantor in this Restated Deed is the sole owner in fee simple of this same real property in Jefferson County, Kentucky, more particularly described in the legal description attached as Exhibit A hereto, and shown on the Exhibit Drawing attached as Exhibit B hereto, both of which are incorporated herein by this reference (the "Property");

WHEREAS, the Property possesses conservation values of importance to Grantor, the people of Jefferson County, and the people of the Commonwealth of Kentucky, which, if preserved, will yield significant public benefits, including protection of natural plant and wildlife habitat, preservation of historic features and land, preservation of open space, and forestland for the scenic enjoyment and environmental benefit of the general public (collectively, "Conservation Values");

WHEREAS, the provisions of the original Hilliard Scenic-Conservation Easement and the original Musselman Conservation Easement should now be amended and restated for the following reasons: (1) To support and strengthen the conservation purposes of both easements; (2) To correct ambiguities between both the Hilliard easement (granted in 1981) and the Musselman easement (granted in 2007); (3) To simplify easement administration by having uniform and effective provisions that ensure clarity for stewardship and protection of the conservation values of the property; and (4) To incorporate best practices into the conservation easement document;

WHEREAS, all of the terms, conditions and provisions of the Hilliard Scenic-Conservation Easement and the Musselman Conservation Easement are set aside, canceled and revoked and the constituent parts thereof are merged and incorporated into this Amended and Restated Deed of Scenic Conservation Easement (the "Restated Deed") as of the Restated Date set forth above;

WHEREAS, the restatement of the grant of a conservation easement on the Property by the Grantor to Grantee shall assure in preserving and maintaining the Property and the Conservation Values and significance of the Property;

WHEREAS, Grantee is a political subdivision of the Commonwealth of Kentucky and a qualified organization under Sections 170(h) of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder (the "Internal Revenue Code");

WHEREAS, Grantee is authorized to accept conservation easements as required to retain and protect natural, scenic, historic or open-space values of real property, assuring its availability for, forest or open-space use, protecting natural resources, and to preserve the historical, archaeological, or cultural aspects of real property in Kentucky and is qualified to accept such easements under Section 170(h) of the Internal Revenue Code;

WHEREAS, this Restated Deed of conservation easement on the Property by Grantor to Grantee assures, in particular, protection of outstanding natural resources including riparian areas associated with Beargrass Creek and its tributaries, wildlife habitat, prominently visible views of the land that provide scenic enjoyment to the general public, and historically significant land areas that are listed on the National Register of Historic Places;

WHEREAS, the Restated Deed of conservation easement on the Property will serve the clearly delineated governmental policies of Kentucky Revised Statutes 382.800 *et seq.* to retain or protect "natural, scenic or open space values of real property, assuring its availability for agricultural, forest, recreational or open space use" and for "protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archeological, or cultural aspects of real property,"

WHEREAS, the preservation of the Conservation Values of the Property will assist in the accomplishment of Cornerstone 2020, adopted and approved by Louisville and Jefferson County Planning Commission on June 15, 2000, all of which are of great importance to Grantor, Grantee, and the people of Jefferson County, Kentucky and the people of the Commonwealth of Kentucky in that it will, assist in the following goals of Cornerstone 2020:

- (a) Minimize the impact of changing land use on natural features and ecosystems;
- (b) Protect, to the extent possible, wildlife sanctuaries, wetlands, major forested areas, nature preserves, publicly owned parks, unique natural areas and other areas with significant landscape features;
- (c) Preserve through voluntary measures, such as outright public acquisition, conservation easements and scenic easements, privately owned open space, unique natural areas and other landscape features determined to be of community-wide significance;

- (d) Encourage programs that help support landowners who wish to maintain or establish agricultural operations in Louisville and Jefferson County;
- (e) Encourage the preservation of significant farmland through public acquisition or voluntary land protection strategies for land owners;
- (f) Identify and preserve riparian corridors and woodlands;
- (g) Preserve and enhance significant habitat for wildlife species;
- (h) Adopt a management philosophy that encourages natural resource stewardship; and develop and implement appropriate regulatory and non-regulatory mechanisms and design standards to protect important scenic and historic resources and visual quality of life

WHEREAS, the specific Conservation Values of the Property are documented in an inventory of relevant features of the Property, of even date herewith, a complete copy of which is on file at the offices of Louisville Metro Parks and Recreation, and a duplicate copy is located in the Louisville Metro Office of Historic Preservation and Archives, consisting of reports, maps, photographs, and other documentation (the "Current Conditions Report"), that the parties agree provide, collectively, an accurate representation of the Property at the time of this Restated Deed of this grant and which is intended to serve as an objective, though nonexclusive, information baseline for monitoring compliance with the terms of this grant, all of which is incorporated herein by this reference;

WHEREAS, Grantor intends the Conservation Values of the Property to be preserved and maintained by the restatement of this Easement, in perpetuity, and that the continuation of land use patterns, existing at the time of this Easement and so identified in the Current Conditions Report shall not be permitted to impair or interfere with those values;

WHEREAS, Grantor and Grantee desire to restate the existing conservation easement and scenic easement on the Property, that were originally created pursuant to the Kentucky Revised Statutes Sections 382.800 through 382.860 and the terms of this Easement;

WHEREAS, Grantee agrees by accepting this Restated Deed, that Grantee shall endeavor to honor the intentions of the original Grantors and Grantees as stated therein and endeavor to preserve and protect in perpetuity the Conservation Values of the Property;

WHEREAS, Grantor further intends as owner of the Property, that the restatement of the conservation easement shall preserve and protect the Conservation Values of the Property in perpetuity; and

WHEREAS, because the Property is located within the Louisville Metropolitan Statistical Area as defined by the Office of Management and Budget and therefore meets the requirements of Section 2031(c) of the Internal Revenue Code (specifically, Subsection 2031(c) (8)(A)(i)(1) thereof), the Property qualifies for the benefits of said Section 2031(c) as of the effective date of this grant;

NOW, THEREFORE, in consideration of the above and the mutual covenants, terms, conditions, and restrictions contained herein, and pursuant to Section 170(h) of the Internal Revenue Code and the laws of the Commonwealth of Kentucky, and in particular KRS 382.800 et seq., Grantor hereby voluntarily grants and conveys to Grantee a real property interest immediately vested in Grantee, and Grantor and Grantee hereby voluntarily agree to restate a conservation easement and scenic easement that are in perpetuity over the Property, together with all unreserved development rights associated with the Property, of the nature and character and to the extent hereinafter set forth.

1. Purpose. It is the purpose of this restatement of this Easement to assure that the Property will be retained forever predominantly in its existing condition as documented in the Baseline Documentation of the Property on file in the office of Grantee, and to prevent any use of the Property that will impair or interfere with the Conservation Values of the Property. Grantor intends that this Easement will confine the use of the Property to such activities as are not inconsistent with the purpose of this Easement.

2. Rights of Grantee. To accomplish the purpose of this Easement the following rights are conveyed to Grantee by this Easement:

- (a) To preserve and protect the Conservation Values of Property;
- (b) To enter upon the Property at reasonable times, at least once per year, in order to monitor compliance with and otherwise enforce the terms of this Easement; provided that, except in cases where Grantee determines that immediate entry is required to prevent, terminate, or mitigate a violation of this Easement, such entry shall be upon prior reasonable notice to Grantor, and Grantee shall not in any case unreasonably interfere with Grantor's use and quiet enjoyment of the Property;
- (c) To prevent any activity on or use of the Property that is inconsistent with the purpose of this Easement and to require the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use.

3. Prohibited Uses. Any activity on or use of the Property inconsistent with the purpose of this Easement is prohibited. Except as reserved under Section 4, without limiting the generality of the foregoing, the following activities and uses are expressly prohibited:

- (a) Any further legal or *de facto* division, subdivision or portioning of the three existing tracts on the Property, except as permitted under Section 4;
- (b) The use, exercise, or transfer of development rights on or to the Property. For the purposes of this subparagraph, "development rights" include, without limitation, any and all rights, however designated, now or hereafter associated with the Property or any other property that may be used, pursuant to applicable zoning laws or other governmental laws or regulations, to compute permitted size, height, bulk or number of structures, development density, lot yield, or any similar development variable on or pertaining to the Property or any other property. The parties agree that the development rights so conveyed are terminated and extinguished and may not be used

on or transferred to any portion of the Property as it is now or hereafter may be bounded or described;

- (c) Any commercial or industrial use of or activity on the Property other than those relating to educational or recreational uses as permitted under Section 4 of this Easement;
- (d) Construction of any residences;
- (e) The placement, construction, enlargement or maintenance of any buildings, structures, camping accommodations or mobile homes or other improvements of any kind including, without limitation, fences, roads, parking lots, radio towers, towers for cellular telecommunications, and utility transmission lines and related facilities, above or below the ground, except as expressly permitted in Section 4 of this Easement;
- (f) Any alteration of the surface or subsurface of the land, including, without limitation, filling, the excavation or removal of organic or mineral substances including soil, sand, gravel, rock, natural gas, oil, fuel, or sod without the prior written approval of Grantee and except as expressly permitted in Section 4 of this Easement;
- (g) Any use or activity that causes or is likely to cause significant soil degradation or erosion or significant depletion or pollution of any surface or subsurface waters;
- (h) The draining, filling, dredging, or diking or any area of the Property or the cultivation or other disturbance of the soil, except for repair of damage caused by erosion without the prior written approval of Grantee and except as expressly permitted in Section 4 of this Easement;
- (i) The alteration or manipulation of ponds, water courses, wetlands and wells located on the Property, or the creation of new water impoundments, water courses, or wells, for any purpose other than permitted uses of the Property without prior written approval of Grantee;
- (j) The harvesting, destruction or removal of trees and other natural growth on the Property, except as expressly permitted in Section 4 of this Easement;
- (k) The installation of underground storage tanks, or the processing, storage, dumping, or the disposal of wastes, trash, rubbish, vehicle bodies or parts, refuse, and debris on the Property;
- (l) The placement of any signs or billboards on the Property, except that signs whose placement, number, and design do not significantly diminish the scenic character of the Property may be displayed to state the name and address of the Property and the names of persons living on the Property, to advertise the Property for sale or rent, to post the Property to control unauthorized entry or use, to identify the property as a conservation easement site and to place a temporary sign explaining projects that will improve the ecological health of the Property;

- (m) The construction of new roads, or trails, except as expressly permitted in Section 4 of this Easement and with prior written approval of Grantee;
- (n) The establishment, maintenance, or operation of any commercial feedlot. As used herein, "commercial feedlot" is defined as a confined area or facility within which land is not grazed or cropped at least annually and/or which is used to receive livestock that has been raised off the Property for feeding and fattening for market;
- (o) The construction or installation of a golf course or driving range, or other commercial or non-profit recreational facility on the Property;
- (p) The use of motorized recreational vehicles on the Property, including but not limited to snowmobiles, all-terrain vehicles, dirt bikes, and motorcycles except for use of such vehicles for agricultural operations and other uses permitted on the property; and
- (q) Any unanticipated activity or use of the Property which is inconsistent with the conservation purposes of this Easement which would impair significant Conservation Values is prohibited unless such use or activity is necessary for the protection of the Conservation Values that are the subject of this Easement, in which case such use or activity shall be subject to the prior approval of Grantee as provided in Section 6.2 herein.

4. Reserved Rights. Grantor reserves to himself, and to his personal representatives, heirs, successors, and assigns, all rights accruing from his ownership of the Property, including the right to engage in, or permit or invite others to engage in, all uses of the Property that are not expressly prohibited herein and are not inconsistent with the purpose of this Easement. Without limiting the generality of the foregoing, and subject to the terms of paragraph 3, the following rights are expressly reserved:

- (a) Any existing structures such as the stone wall, paths, fences and similar features on the Property may be repaired and maintained;
- (b) The right to permit the Metropolitan Sewer District ("MSD") to complete its proposed CSO 125 Stormwater Separation Project, ("the "MSD Project") on the Property as described in MSD's letters dated March 15, 2017 and July 19, 2017, copies of which are attached as Exhibit D, which will result in one new permanent sanitary sewer and drainage easement with temporary construction easements as shown in Exhibit E, and invasive species control on the Property; provided, however, Grantee must give its written approval of the final MSD Project before any work begins on the Property;
- (c) The right to engage in wildlife conservation uses of the Property;
- (f) The right to engage in activities related to environmental education and wildlife conservation, on the Property;
- (i) The right to conduct woodland conservation activities including the use of herbicides, pesticides, fungicides, and natural controls (including the control of invasive plants) provided these activities do not materially impair the Conservation Values of the

Property and provided such use is in compliance with all applicable federal, state and local statutes and regulations;

- (j) The right to engage in and permit others to engage in recreational uses of the Property, including, but not limited to hiking and wildlife observation that require or result in no surface alteration, with the exception of excavation for additional ponds or wetlands to support wildlife;
- (k) Any existing fences on the Property may be repaired and replaced; new fences may be built on the Property, provided that such fences do not obstruct the scenic view of, or interfere with the open space character of the Property;
- (l) The right to all manner of residential use and enjoyment of the grounds of the Property, including but not limited to the maintenance, repair, and restoration of permitted fences, and paths, the right to cut and remove grass or other vegetation, and the right to perform routine maintenance, landscaping, horticultural activities, and upkeep consistent with the purpose of this Easement;
- (m) The right to maintain trees, shrubs and lawns on the Property in good condition and appearance. Grantee specifically agrees that Grantor may without the approval of Grantee, (i) undertake such landscaping with the use of native plants on the Property which may involve removal or alteration of present landscaping, including trees, shrubs, or other vegetation, (ii) plant new native trees, shrubs, grasses and other vegetation; (iii) the right to build vegetable and/or flower gardens on the Property;
- (n) The right to selectively prune, burn or cut trees or remove plants on the Property, only as recommended in a Forest Stewardship Plan prepared by the Kentucky Division of Forestry (or successor agency) and as necessary for fire prevention, thinning, elimination of diseased growth, control of invasive, non-native species, control insects and disease, enhance habitat, preserve scenic vistas or prevent personal injury or property damage, in accordance with best management practices recommended by the Kentucky Division of Forestry or successor agency;
- (q) As permitted by law and in compliance with all applicable governmental regulations, the right to compost or store vegetative waste generated by permitted activities and uses and the right to store for removal at reasonable intervals normal and customary waste generated on the Property by permitted activities and uses;
- (r) The right to create new trails or footpaths using permeable materials (such as sand, gravel, or crushed stone);
- (s) The right to engage in outdoor recreational activities for personal, noncommercial purposes that are not disruptive of the natural environment and are in compliance with all applicable federal, state and local statutes and regulations;
- (u) The right to post all or a portion of the Property against trespassing and hunting;

- (v) The right to lease or grant other less-than-fee interests in all or a portion of the Property for any use permitted to the Grantor under this Easement, provided that such lease or other interest is consistent with and subject to the terms of this Easement;
- (w) The right to erect temporary structures required for the maintenance or rehabilitation of the Property, such as construction trailers, tents or similar temporary structures erected for social, charitable, historical, educational or similar purposes. These structures shall be removed within 30 days after the construction or event has ended;
- (x) The right to erect or construct an accessory building no larger than 200 square feet for storage of tools and equipment needed for gardening, landscaping or property maintenance;
- (y) Unless otherwise specified, Grantor shall not be required to take any action to restore the condition of the property after any act of God or other event over which Grantor has no control.

5. Existing Easements. Anything to the contrary herein notwithstanding, the Property is subject to all existing easements of record prior to the date this Restated Deed is recorded, and this Conservation Easement does not affect the rights or obligations of any such easements.

6. Notice and Approval.

6.1 Notice of Intention to Undertake Certain Permitted Actions. The purpose of requiring Grantor to notify Grantee prior to undertaking certain permitted activities (as described in Sections 3(f), 3(h), 3(i), 3(m), 3(q), and 4(b)) is to afford Grantee an adequate opportunity to monitor the activities in question to ensure that they are designed and carried out in a manner that is not inconsistent with the purpose of this Easement. Whenever notice is required Grantor shall notify Grantee in writing not less than 45 days prior to the date Grantor intends to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable, and any other material aspect of the proposed activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with the purpose of this Easement.

6.2 Grantee's Approval. Where Grantee's approval is required under the terms of this Easement, the Louisville/Jefferson County Environmental Trust Board, or successor organization, may act on behalf of Grantee. Approval shall be granted or withheld in writing within 45 days of receipt of Grantor's written request therefor. Approval may be withheld only upon a reasonable determination by Grantee or the Louisville/Jefferson County Environmental Trust Board that the action as proposed would be inconsistent with the purpose of this Easement.

7. Grantee's Remedies.

7.1 Notice of Violation; Corrective Action. If Grantee determines that a violation of the terms of this Easement has occurred or is threatened, Grantee shall give written notice to Grantor of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent

with the purpose of this Easement, to restore the portion of the Property so injured to its prior condition in accordance with a plan approved by Grantee.

7.2 Injunctive Relief. If Grantor fails to cure the violation within 45 days after receipt of notice thereof from Grantee, or under circumstances where the violation cannot reasonably be cured within a 45-day period, fails to begin curing such violation within the 45-day period, or fails to continue diligently to cure such violation until finally cured, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation, *ex parte* as necessary, by temporary or permanent injunction, and to require the restoration of the Property to the condition that existed prior to any such injury.

7.3 Damages. Grantee shall be entitled to recover damages for violation of the terms of this Easement or injury to any Conservation Values protected by this Easement, including, without limitation, damages for the loss of scenic, aesthetic, or environmental values. Without limiting Grantor's liability therefore, Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Property.

7.4 Emergency Enforcement. If Grantee, in good faith, determines that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values of the Property, Grantee may pursue its remedies under this Section 7 without prior notice to Grantor or without waiting for the period provided for cure to expire.

7.5 Scope of Relief. Grantee's rights under this Section 7 apply equally in the event of either actual or threatened violations of the terms of this Easement. Grantor agrees that Grantee's remedies at law for any violation of the terms of this Easement are inadequate and that Grantee shall be entitled to the injunctive relief described in paragraph 7.2, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this Section 7 shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

7.6 Costs of Enforcement. All reasonable costs incurred by Grantee in enforcing the terms of this Easement against Grantor, including costs and expenses of suit and reasonable attorneys' fees, and any costs of restoration necessitated by Grantor's violation of the terms of this Easement arising directly or indirectly from Grantor's negligent act or omission or willful misconduct shall be borne by Grantor; provided, however, that if Grantor ultimately prevails in a judicial enforcement action, the Louisville/Jefferson County Metro Government agrees to indemnify Grantor to the extent Metro Government is permitted by Kentucky law for injuries, damages, losses or expenses, including attorneys' fees, arising out of or resulting, directly or indirectly, from Metro Government's negligent act or omission or willful misconduct provided that such claim, damage, loss or expense is: (1) attributable to personal injury, bodily injury, sickness, death or to injury to or destruction of property, including the loss of use resulting therefrom, and (2) is not caused directly or indirectly by the negligent act or omission or willful misconduct of Grantor. This indemnification clause shall in no way be limited by any financial responsibility or insurance requirements and shall survive the termination of this Easement.

7.7 Forbearance. Forbearance by Grantee to exercise its rights under this Easement in the event of any breach of any term of this Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Easement or of any of Grantee's rights under this Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.

7.8 Waiver of Certain Defenses. Grantor hereby waives any defense of laches, estoppel, or prescription.

7.9 Acts Beyond Grantor's Control. Nothing contained in this Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Property resulting from causes beyond Grantor's control, including without limitation, fire, flood, storm, and earth movement, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes.

7.10 Mediation. If a dispute arises between the parties concerning the consistency of any proposed use or activity with the purpose of this Easement, and Grantors agree not to proceed with the use or activity pending resolution of the dispute, either party may but is not required to refer the dispute to non-binding mediation by request made in writing to the other party. Within 30 days of the receipt of such a request, the parties shall select a single trained and impartial mediator. If the parties are unable to agree on the selection of a single mediator, then the parties shall, within 45 days of the initial request, jointly apply to a court of competent jurisdiction for the appointment of a trained and impartial mediator. Mediation shall then proceed in accordance with the following guidelines:

(a) Purpose. The purpose of this mediation is to promote discussion between the parties, assist the parties to develop and exchange pertinent information concerning the issues in dispute, and assist the parties to develop proposals which will enable them to arrive at a mutually acceptable resolution of the controversy. The mediation is not intended to result in any express or *de facto* modification or amendment of the terms, conditions or restrictions of this Easement.

(b) Participation. The mediator may meet with the parties and their counsel jointly or ex parte. The parties agree that they will participate in the mediation process in good faith and expeditiously, attending all sessions scheduled by the mediator. Representatives of the parties with settlement authority will attend mediation sessions as requested by the mediator.

(c) Confidentiality. All information presented to the mediator shall be deemed confidential and shall be disclosed by the mediator only with the consent of the parties of their representative counsel. The mediator shall not be subject to subpoena by any party. No statements made or documents prepared for mediation sessions shall be disclosed in any subsequent proceeding or construed as an admission of a party.

(d) Time Period. Neither party shall be obligated to continue the mediation process beyond a period of 180 days from the date of receipt of the initial request or if the mediator concludes that there is no reasonable likelihood that continuing mediation will result in a mutually agreeable resolution of the dispute.

(e) **Costs.** The costs of mediation shall be borne equally by the parties. The parties shall bear their own expenses, including attorneys' fees, individually.

8. Public Access. No right of access by the general public to any portion of the Property is conveyed by this Easement. Grantor may allow public access to the Property, for educational or other purposes. Nothing contained in this Easement grants, nor shall be interpreted to grant, to the public any unfettered right to enter on the Property.

9. Costs, Liabilities, Taxes, and Environmental Compliance.

9.1 Costs, Legal Requirements, and Liabilities. Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Property, including the maintenance of adequate liability insurance coverage. Grantor remains solely responsible for obtaining any applicable governmental permits and approvals for any construction or other activity or use permitted by this Easement, and all such construction or other activity or use shall be undertaken in accordance with all applicable federal, state, and local laws, regulations, and requirements. Grantor shall keep the Property free of any liens arising out of any work performed for, materials furnished to, or obligations incurred by Grantor.

9.2 Valuation. This Easement constitutes a real property interest immediately vested in Grantee, which the parties stipulate to have a value of 10% of the fair market value of the Property unencumbered by the Easement.

9.3 Taxes. Grantor shall pay before delinquency all taxes, assessments, fees, and charges of whatever description levied on or assessed against the Property by competent authority (collectively "taxes"), including any taxes imposed upon, or incurred as a result of, this Easement, and shall furnish Grantee with satisfactory evidence of payment upon request.

9.4 Representations and Warranties. Grantor represents and warrants that, after reasonable investigation and to the best of their knowledge:

- (a) Grantor and the Property are in compliance with all federal, state, and local laws, regulations, and requirements applicable to the Property and its use;
- (b) There is no pending or threatened litigation in any way affecting, involving, or relating to the Property; and
- (c) No civil or criminal proceedings or investigations have been instigated at any time or are now pending, and no notices, claims, demands, or orders have been received, arising out of any violation or alleged violation of, or failure to comply with, any federal, state, or local law, regulation, or requirement applicable to the Property or its use, nor do there exist any facts or circumstances that Grantor might reasonably expect to form the basis for any such proceedings, investigations, notices, claims, demands, or orders;
- (d) No substance defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to air, water, soil or that is in any way harmful or threatening to human

health or the environment exists or has been released, generated, treated, stored, used, disposed of, deposited, abandoned or transported in, on, from or across the Property;

- (e) There are not now any underground storage tanks located on the Property, whether presently in service or closed, abandoned or decommissioned, and no underground storage tanks have been removed from the Property in a manner not in compliance with applicable federal, state and local laws, regulations and requirements.

9.5 Remediation. If, at any time, there occurs, or has occurred, a release in, on, or about the Property of any substance now or hereafter defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, Grantor agrees to take all steps necessary to assure its containment and remediation, including any cleanup that may be required, unless the release was caused by Grantee, in which case Grantee shall be responsible therefor. If the release is caused by a third party, Grantor agrees to notify both the third party and the Grantee so that both Grantor and Grantee can cooperate to ensure that the release is contained and remediated.

9.6 Control. Nothing in this Easement shall be construed as giving rise, in the absence of a judicial decree, to any right or ability in Grantee to exercise physical or managerial control over the day-to-day operations of the Property, or any of Grantor's activities on the Property, or otherwise to become an operator with respect to the Property within the meaning of The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), and KRS 224.01-010 *et seq.*

9.7 Hold Harmless. Grantor hereby releases and agrees to hold harmless and indemnify Grantee and its members, directors, officers, employees, agents, and contractors and the heirs, personal representatives, successors, and assigns of each of them (collectively "Indemnified Parties") from and against any and all liabilities, penalties, fines, charges, costs, losses, damages, expenses, causes of action, claims, demands, orders, judgments, or administrative actions, including, without limitation, reasonable attorneys' fees, arising from or in any way connected with: (1) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Property, regardless of cause, unless due solely to the negligence of any of the Indemnified Parties; (2) the violation or alleged violation of, or other failure to comply with, any state, federal, or local law, regulation, or requirement, including, without limitation, CERCLA and KRS 224.01-010 *et seq.*, by any person other than any of the Indemnified Parties, in any way affecting, involving, or relating to the Property, at any time, or any substance now or hereafter defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, unless caused solely by any of the Indemnified Parties; and, (3) the obligations, covenants, representation, and warranties of paragraphs 9.1 through 9.5.

10. Extinguishment and Condemnation.

10.1 Extinguishment. Grantor and Grantee hereby recognize that an unexpected change in the conditions of the Property may make impossible the continued ownership or use of

the Property for conservation purposes and necessitate a partial or full extinguishment of this Easement. Any such extinguishment must comply with the following requirements:

(a) The extinguishment must be the result of a final judicial proceeding in a court of competent jurisdiction.

(b) This Easement constitutes a real property interest immediately vested in Grantee, which the parties stipulate to have a value of 10% of the fair market value of the Property unencumbered by the Easement. Grantee shall be entitled to share in the net proceeds resulting from the extinguishment in an amount equal to 10% of the fair market value of Grantee's interest in the Property unencumbered by this Easement.

10.2 Condemnation. If all or any part of the Property is taken by exercise of the power of eminent domain or acquired by purchase in lieu of condemnation, whether by public, corporate, or other authority, so as to terminate this Easement, in whole or in part, Grantor and Grantee shall act jointly to recover the full value of the interests in the Property subject to the taking or in lieu purchase and all direct or incidental damages resulting therefrom. All expenses reasonably incurred by Grantor and Grantee in connection with the taking or in lieu purchase shall be paid out of the amount recovered. Grantee's share of the balance of the amount recovered shall be 10% of the fair market value of the Property unencumbered by this Easement.

10.3. Change in Economic Conditions. The fact that any use of the Property that is expressly prohibited by the terms of this Easement may become more economically valuable than uses permitted by the terms of this Easement, or that neighboring properties may, in the future, be put entirely to uses that are not permitted by the terms of this Easement, has been considered by Grantor in granting this Easement. Grantor believes that any such changes in the use of neighboring properties will increase the benefit to the public of the continuation of this Easement, and Grantor and Grantee intend that any such changes shall not be deemed to be circumstances justifying the termination or extinguishment of this Easement pursuant to Paragraph 10(a). In addition, the inability of Grantor, its successor or assigns, to conduct or implement any or all of the uses permitted under the terms of this Easement, or the unprofitability of doing so, shall not impair the validity of the Easement or be considered grounds for its termination or extinguishment pursuant to Paragraph 10.1.

10.4 Application of Proceeds. Grantee agrees to apply all of the portion of the net proceeds it receives from or following the extinguishment of the Easement to the conservation of other real property having cultural, natural, scenic, agricultural or open-space value and significance to the people of Jefferson County, Kentucky.

10.5 Net Proceeds. Net proceeds shall include, without limitation, insurance proceeds, condemnation proceeds or awards, proceeds from a sale in lieu of condemnation, and proceeds from the sale or exchange by Grantor of any portion of the Property after the extinguishment, but shall specifically exclude any preferential claim of a Mortgagee under Section 17; provided, however, notwithstanding Section 17, no mortgagee shall be entitled to receive any portion of the net proceeds to which Grantee is entitled under Section 10.2 .

11. Amendment. If circumstances arise under which an amendment to or modification of this Easement would be appropriate, Grantor and Grantee are free to jointly amend this Easement in writing, signed by all parties to this Easement; provided that no

amendment shall be allowed that will affect the qualification of this Easement or the status of Grantee under any applicable laws, including Section 170(h) of the Internal Revenue Code, and any amendment shall be consistent with the purpose of this Easement and shall not affect its perpetual duration. Any such amendment shall be consistent with the protection of the conservation and preservation values of the Property and the Purpose of this Easement; shall not affect its perpetual duration; shall not permit any private inurement to any person or entity; and shall not adversely affect the overall architectural, cultural, scenic, environmental and conservation values protected by this Easement. Any such amendment shall be recorded in the Office of the Clerk of Jefferson County, Kentucky. Nothing in this paragraph shall require the Grantor or Grantee to agree to any amendment or to consult or negotiate regarding any amendment. Amendments to this Easement shall be approved only if consistent with and in furtherance of the Conservation Values outlined herein, and only to strengthen the protections offered by this Easement or to further preserve other purposes of this Easement and to meet changing conditions that may require an amendment or amendments consistent with this Easement.

12. Assignment. This Easement is transferable, but Grantee may assign all or any portion of its rights and obligations under this Easement only to an organization that is a qualified organization at the time of transfer under Section 170(h) of the Internal Revenue Code (or any successor provision then applicable), and authorized to acquire and hold conservation easements under applicable laws of the Commonwealth of Kentucky or the laws of the United States. As a condition of such transfer, Grantee shall require that the conservation purpose that this grant is intended to advance continue to be carried out. Grantee agrees to give written notice to Grantor of an assignment at least 30 days prior to the date of such assignment. The failure of Grantee to give such notice shall not affect the validity of such assignment nor shall it impair the validity of this Easement or limit its enforceability in any way.

13. Subsequent Transfers. Grantor agrees to incorporate the terms of this Easement by specific reference in any deed or other legal instrument by which they divest themselves of any interest in all or a portion of the Property, including, without limitation, a leasehold interest. Grantor further agrees to give written notice to Grantee of the transfer of any interest at least 30 days prior to the date of such transfer. The failure of Grantor to perform any act required by this paragraph shall not impair the validity of this Easement or limit its enforceability in any way.

14. Notices. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage prepaid, addressed as follows:

To Grantor: William Crawford
344 South Peterson Avenue
Louisville, Kentucky 40206

To Grantee: Director
Louisville Metro Parks and Recreation
P.O. Box 37280
Louisville, KY 40233-7280

With Copy to: Chair, Louisville/Jefferson County Environmental Trust
4233 Bardstown Road, Suite 100-A
Louisville, KY 40218

or to such other address as either party from time to time shall designate by written notice to the other. Mailed notices shall not be deemed given or served until three business days after the date of mailing thereof or if delivery is by nationwide commercial courier, service of notice shall be deemed given one business day after the date of delivery thereof to said courier. Rejection or refusal to accept, or inability to deliver because of changed addresses or because no notice of changed address was given, shall be deemed a receipt of such notice.

15. Recordation. Grantee shall record this instrument in timely fashion in the Office of the Clerk of Jefferson County, Kentucky, and may re-record it at any time as may be required to preserve its rights in this Easement.

16. Existing Liens. Grantor warrants that to the best of his knowledge and belief there are no liens or mortgages on the Property. Grantor shall immediately cause to be satisfied or released any lien or claim of lien that may hereafter come to exist against the Property which would have priority over any of the rights, title or interest hereunder of Grantee, provided however, Grantor may contest in good faith the assertion of any tax lien, mechanics' lien or other lien on the Property through any administrative or judicial remedies available to Grantor, but Grantor shall promptly satisfy any such lien finally adjudged to be valid.

17. Subordination of Mortgages. Grantor has the right to use the Property as collateral to secure the repayment of debt, provided that the right of the Grantee to enforce the terms, restrictions and covenants created under this Easement shall not be extinguished upon foreclosure of any mortgage or any publicly or privately placed lien, regardless of date. Upon request, Grantee agrees to subordinate its rights under this Easement to the valid claims of any future mortgage holders or beneficiaries of deed of trust to the proceeds of any sale, condemnation proceedings, or insurance involving the Property, or to the leases, rents, and profits thereof, and likewise to subordinate its rights under any lien that may be created by Grantee's exercise of any of its rights under this Easement after the date of such subordination; provided that any such mortgage or deed of trust shall remain subordinated and junior to the Easement to the extent necessary to permit Grantee to enforce the purposes of this Easement in perpetuity and to prevent any modification or extinguishment of this Easement by the exercise of any rights of such mortgage holder or trust deed beneficiary; and provided further that, in the unlikely event this Easement is terminated under the circumstances described in Section 10, Grantee shall be entitled to compensation in accordance with the terms of Section 10. Grantee agrees to execute any documents required to effect a subordination pursuant to this paragraph.

18. Leases. Grantor warrants that there are currently no lease agreements (whether written, oral, for a fixed term or month-to-month) in effect conveying any interest in the Property for use or occupation by any person.

19. Grantee's Interest. Grantor acknowledges that upon execution and recording of this Easement, Grantee shall be immediately vested with a real property interest in the Property.

20. Estoppel Certificates. Upon request by Grantor, Grantee shall within 30 days execute and deliver to Grantor, or to any party requested by Grantor, any document, including an estoppel certificate, which certifies, to the best of Grantee's knowledge, Grantor's compliance with any of the obligations of Grantor contained in this Easement, or otherwise evidences the status of this Easement. Such certification shall be limited to the condition of the Property as of

Grantee's most recent inspection. If Grantor requests more current documentation, Grantee shall conduct an inspection, at Grantor's expense, within 30 days of Grantor's written request therefor.

20. General Provisions.

20.1 Controlling Law. The interpretation and performance of this Easement shall be governed by the laws of the Commonwealth of Kentucky.

20.2 Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to effect the purpose of this Easement. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid. The rule of construction resolving ambiguities against the drafting party shall not be employed in the interpretation of this Easement.

20.3 Severability. If any provision of this Easement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

20.4 Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Easement, all of which are merged herein. No alteration or variation of this instrument shall be valid or binding unless contained in an amendment that complies with paragraph 11.

20.5 No Forfeiture. Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.

20.6 Successors. The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Property. The terms "Grantor" and "Grantee," wherever used herein, and any pronouns used in place thereof, shall include, respectively, the above-named Grantors and their personal representatives, heirs, successors, and assigns, and the above-named Grantee and its successors and assigns.

20.7 Termination of Rights and Obligations. A party's rights and obligations under this Easement terminate upon transfer of the party's interest in the Easement or Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

20.8 Approval. Whenever in this Easement Grantee's approval or consent is required, said approval or consent shall not be unreasonably withheld, delayed or denied.

20.9 Enforceability. The invalidity of any applicable statute or any part thereof shall not affect the validity and enforceability of this Easement according to its terms, it being the intent of the parties to agree and to bind themselves, their respective successors, heirs and assigns in perpetuity to each term of this Easement whether this Easement be enforceable by

reason of any statute, common law or private agreement either in existence now or at any time subsequent hereto. This Easement may be re-recorded at any time by any person if the effect of such re-recording is to make more certain the enforcement of this Easement or any part thereof. The invalidity or unenforceability of any provision of this Easement shall not affect the validity or enforceability of any other provision of this Easement or any ancillary or supplementary agreement relating to the subject matter hereof.

20.10 Joint Obligation. The obligations imposed by this Easement upon Grantor shall be joint and several upon his heirs, personal representatives, successors and assigns.

20.11 Captions. The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument, and shall have no effect upon construction or interpretation.

20.12 Counterparts. The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the record counterpart shall be controlling.

TO HAVE AND TO HOLD unto Grantee, its successors, and assigns forever.

IN WITNESS WHEREOF, Grantor and Grantee have set their hands on the day and year first above written.

GRANTOR:


William Crawford

Approved as to form:

MICHAEL J. O'CONNELL
Jefferson County Attorney

BY: _____
Assistant County Attorney

GRANTEE:

LOUISVILLE/JEFFERSON COUNTY
METRO GOVERNMENT

BY: _____
Greg Fischer, Mayor

COMMONWEALTH OF KENTUCKY)
) SS.
COUNTY OF JEFFERSON)

Subscribed, sworn to, and acknowledged before me by William Crawford, this 7 day of September, 2017.

My commission expires: Dec 28, 2020



Emina Eljazovic
Notary Public, State at Large
Kentucky

COMMONWEALTH OF KENTUCKY)
) SS.
COUNTY OF JEFFERSON)

Subscribed, sworn to, and acknowledged before me by Greg Fischer, Mayor of Louisville/Jefferson County Metro Government, this ___ day of _____, 20__.

My commission expires: _____

Notary Public, State at Large
Kentucky

This instrument prepared by:

Assistant Jefferson County Attorney
531 Court Place, Suite 900
Louisville, KY 40202
(502) 574-6333

SCHEDULE OF EXHIBITS

- A. Legal Description of Property Subject To Easement**
- B. Survey of Property**
- C. Aerial Photograph of Property**
- D. MSD Letters dated March 15, 2017 and July 19, 2017**
- E. Variable Sanitary Sewer and Drainage Easement and Temporary Construction Easement**

EXHIBIT A**Parcel 1**

~~BEGINNING on the West side of Peterson Avenue 1525 feet 7 inches south of Frankfort Avenue, the true place of beginning, running thence south 84 degrees 02 minutes 59 seconds west 224 feet to a point, running thence south 6 degrees 25 minutes 30 seconds east 125 feet to a point, thence north 84 degrees 02 minutes 59 seconds east 224 feet to a point in the west line of Peterson Avenue, running thence along the west line of Peterson Avenue north 6 degrees 25 minutes 30 seconds west 125 feet to the place of beginning, being Tract 2-A as shown on the attached plat approved by the Louisville & Jefferson County Planning Commission on July 31, 1986 (229-86) and attached to deed of record in Deed Book 5624, Page 654 in the Office of the Clerk of the County Court of Jefferson County, Kentucky~~

Parcel 2

BEGINNING on the East side of Ewing Avenue (formerly Raymond Avenue) 1214 feet South of Frankfort Avenue; thence East in a line parallel with Frankfort Avenue 223 feet to an alley; thence South parallel with Ewing Avenue (formerly Raymond Avenue) and along the West line of said alley 684 feet 7-1/2 inches; thence West 6 feet to a point in the North of Grinstead Drive (formerly Long Avenue); thence West along the North line of Grinstead Drive 218 feet 6 inches to Ewing Avenue (formerly Raymond Avenue); thence North along the East line of Ewing Avenue (formerly Raymond Avenue) 659 feet to the BEGINNING;

EXCEPTING THEREFROM so much as was conveyed to the Commonwealth of Kentucky by Deed dated June 21, 1968, of record in Deed Book 4203, Page 193, in the Office aforesaid.

Parcel 3

BEGINNING at a pipe in the Westerly line of Ewing Avenue (formerly Raymond Avenue) 180 feet North of the Northwesterly corner of Ewing Avenue and Grinstead Drive (formerly Long Avenue); thence South 81 degrees 13 minutes West with the Southerly line of the lot conveyed to Samuel J. Dohrman by Deed dated July 8, 1904, of record in Deed Book 609, Page 227, in the Office of the Clerk of Jefferson County, Kentucky, 300 feet to a pipe at the Southwesterly corner of said lot; thence North 8 degrees 53 minutes West and parallel with Ewing Avenue 219.56 feet to a pipe; thence due East 151.56 feet; thence North 82 degrees 11 minutes East 41 feet; thence North 75 degrees 26 minutes East 60 feet; thence North 60 degrees 44 minutes East 53 feet to a pipe in the Westerly line of Ewing Avenue; thence with the Westerly line of said Avenue, South 8 degrees 53 minutes East 220.60 feet to the BEGINNING.

Parcel 4

Property located at the Northwest corner of Peterson Avenue and Grinstead Drive, more particularly described as follows:

Being Tract 2B as shown on Minor Subdivision Plat approved by the Planning Commission on July 31, 1986, Docket No. 229-86, attached to and made a part of Deed, dated October 7, 1986, and recorded in Deed Book 5643, Page 467, in the Office of the Clerk of Jefferson County, Kentucky.

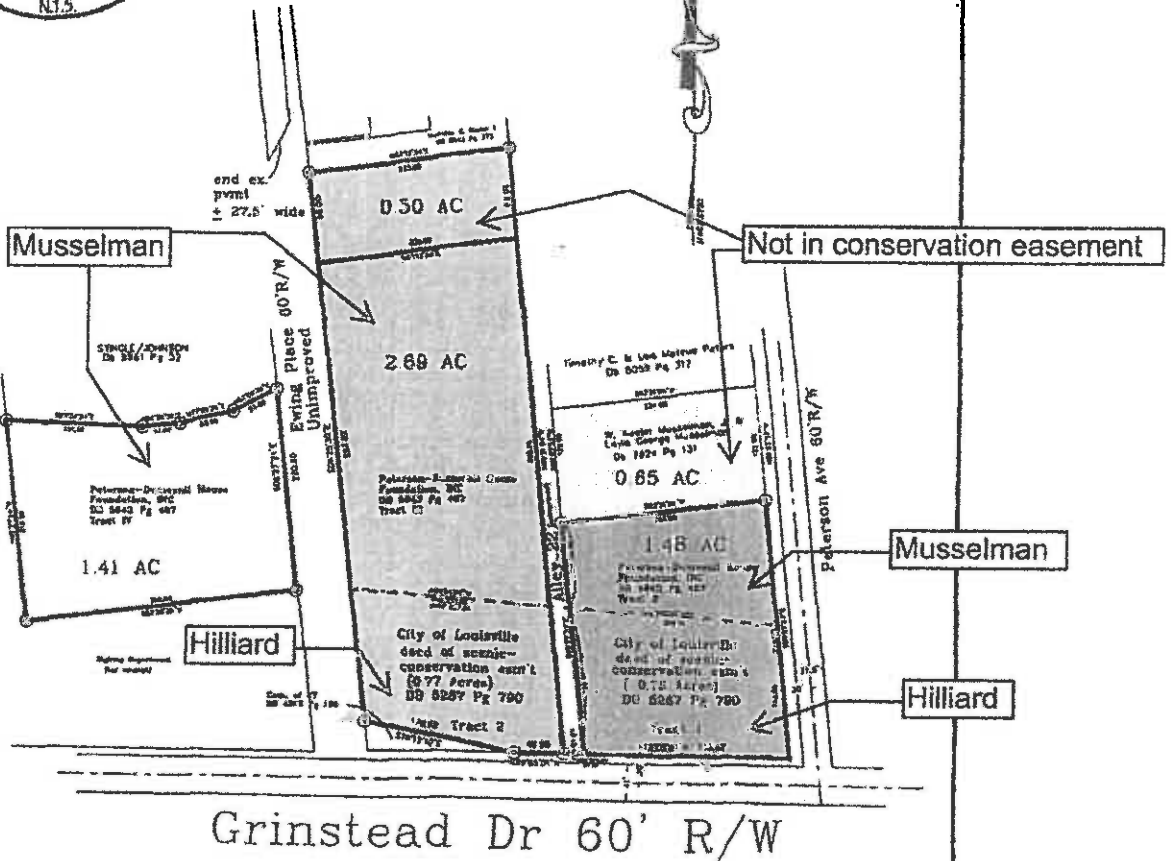
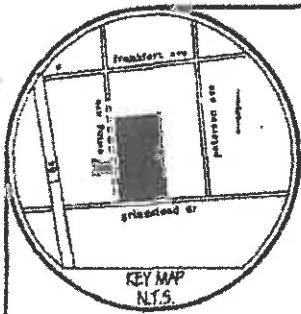
Document No.: DR2007132313
 Lodged By: BORDERS AND BORDERS
 Recorded On: 08/14/2007 03:21:03
 Total Fees: 1,267.00
 Transfer Tax: 1,258.00
 County Clerk: BOBBIE HOLSCAM-JEFF CO KY
 Deputy Clerk: CAROL

END OF DOCUMENT

EXHIBIT A

⊙=SET IRON PIN & CAP
LS# 3125 SEELY

EXHIBIT B



GRAPHIC SCALE 1=150

LAND SURVEYOR'S CERTIFICATE

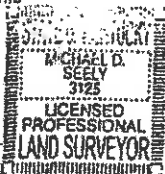
I hereby certify that this plot and survey were made under my direct supervision on MAR. 2007 and that the angular and linear measurements, as witnessed by monuments, shown hereon, are true and correct to the best of my knowledge and belief.

- SURVEY CLASS "A" -

This survey meets or exceeds the minimum standards of governing authorities.

I hereby certify that the improvements shown on this plot ARE NOT in a flood prone area as shown by the F.I.R.M. index map dated FEB. 2, 1994 Com#/Panel/Suff: 210122 0080/0090 Zone X

Signature of Michael D. Seely, Licensed Land Surveyor



MIKE SEELY & ASSOCIATES
3923 1/2 BARDSTOWN ROAD
LOUISVILLE, KY. 40218
(502) 491-7010

- BOUNDARY SURVEY -

FOR: W. AUSTIN MUSSELMAN, JR.

LOCATION: 329 & 342 S. EWING PLACE
LOUISVILLE, KY.

RECORD BLOCKS 71A LOT 1
SOURCES: BLOCK 70H LOT 31
D.B. 5267 PG. 790 & D.B. 5643 PG. 457

COUNTY: JEFFERSON CHECKED BY:

SCALE: 1=150 DATE: APR. 23, 2007 27

END OF DOCUMENT

EXHIBIT C





700 West Liberty Street Louisville, KY 40203-1891
Phone: 502.540.6000 LouisvilleMSD.org

March 15, 2017

William Crawford Jr.
344 S Peterson Avenue
Louisville, Kentucky 40206

Louisville/Jefferson County Environmental Trust
c/o Louisville Metro Parks
Attn: Kurt Mason, Chairman
P.O. Box 37280
Louisville, Kentucky 40233

Subject: CSO 125 Stormwater Separation Project

Misters Crawford and Mason:

Following our meeting on December 20, 2016 and the subsequent e-mail correspondence following that meeting, MSD herein lists the terms and conditions that have been agreed upon to date.

1. Restoration of Intermittent Streams 1 and 2 per the attached Stream Restoration Planform and Profile.
2. Enhancement of Wetland 1 and expansion of the wetland area by regrading to create additional area to store and treat the increased stormwater discharges.
3. Restoration of the hydrologic connection between Intermittent Stream 2 and Wetland 1 by the removal of the berm between these features to allow the natural flushing of the wetland, that is currently stagnant.
4. The following invasive species; bush honeysuckle, wintercreeper, burning bush, porcelain berry and privet, will be controlled, using chemical herbicide combined with mechanical and hand-pulling efforts, within the Hilliard Scenic-Conservation Easement (DB 5267 x Pg 790) and Tracts IV, II and B in their entirety as shown on the Minor Plat included in the Special Warranty Deed (DB 9500 x Pg 406). MSD will provide a one-time treatment to remove and spray for these species. To accomplish this task, MSD will need to execute (at no cost to MSD) a Consent and Release Agreement with the property owner.
5. MSD will plant a total of 78 trees and shrubs along the stream and wetland restoration area as specified in the attached Planting Plan. The trees and shrubs will be 3-gallon size.
6. MSD will plant a total of 16 hardwood trees and 4 shrubs in areas where invasive species were removed within the conservation easement area outlined above. The trees and shrubs will be 3-gallon size from the species list in the attached Planting Plan Details and Tables.
7. MSD will restore the disturbed areas within the construction limits of the stream and wetland restoration project with a native seed mix specified in the attached Planting Plan.
8. The existing conservation easement will be amended to allow for the construction of the MSD CSO 125 Stormwater Separation project and the use of chemical herbicides to control invasive species in order to allow the area to be more effectively maintained.
9. As consideration for completing Items 1 through 8 above as part of the MSD CSO 125 Stormwater Separation project, the Permanent Sanitary Sewer and Drainage Easements and the Temporary Construction Easements as shown on the attached easement plat (Exhibits 1 and 2) will be granted (at no cost) to MSD.

As time is important to us to complete this needed project, please let us know as soon as possible if the above mentioned terms and conditions are acceptable or if you would like to schedule another meeting to discuss. It is MSD's understanding that the amended conservation easement language has been completed and once we agree on terms and conditions the aforementioned amended conservation easement language will be presented to Metro Council for approval. The easement documents will be furnished to Mr. Crawford for execution upon their completion. MSD appreciates the opportunity to present this matter and should you have any additional questions or concerns regarding this project please do not hesitate to contact me at (502) 540-6632 or via e-mail at brandon.faherty@louisvillemetro.org. Your cooperation and patience is appreciated as this project moves forward.

EXHIBIT D1



300 West Liberty Street Louisville, KY 40203-1921
Phone: 502.540.6000 louisvillemsd.org

Sincerely,

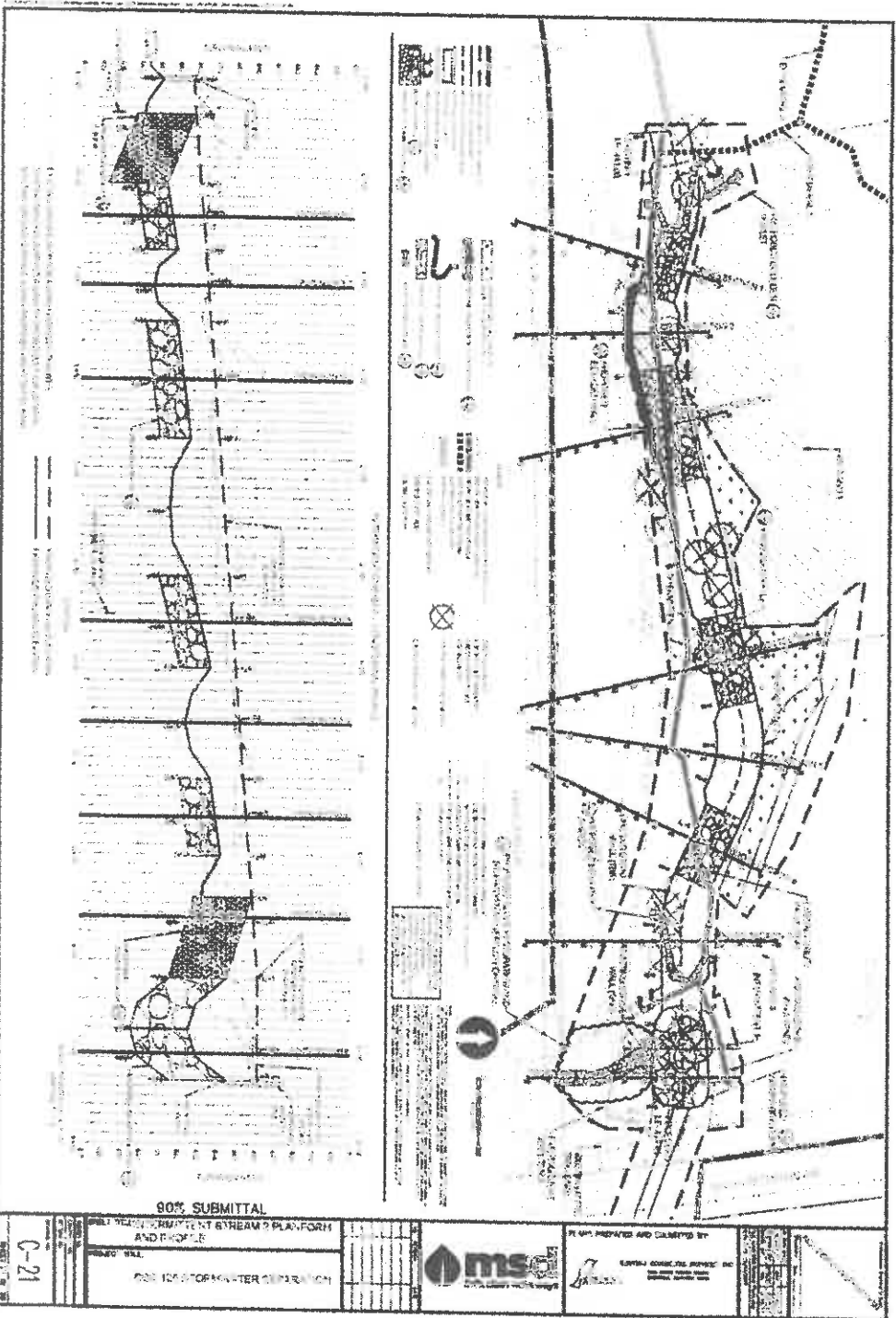
A handwritten signature in black ink that reads "B. Flaherty". The signature is written in a cursive, somewhat stylized font.

Brandon Flaherty, P.E.
Engineer II

cc: **Scott Porter, MSD**
 Greg Powell, MSD
 File

Bill Sanders, Heritage
Brad Anderson, Redwing
Kiersten Fuchs, Redwing
Lisa Hite, Metro Parks

Attachments: **Exhibit 1**
 Exhibit 2
 Stream Restoration Planform and Profile
 Planting Plan
 Planting Plan Details and Tables



90% SUBMITTAL

PLAN VIEW OF STREAM CHANNEL AND PLATFORM AND PLATFORM
 AND PLATFORM
 FOR THE WATER COMPANY

C-21



DESIGNED AND CALCULATED BY
 ENGINEER
 CIVIL ENGINEER

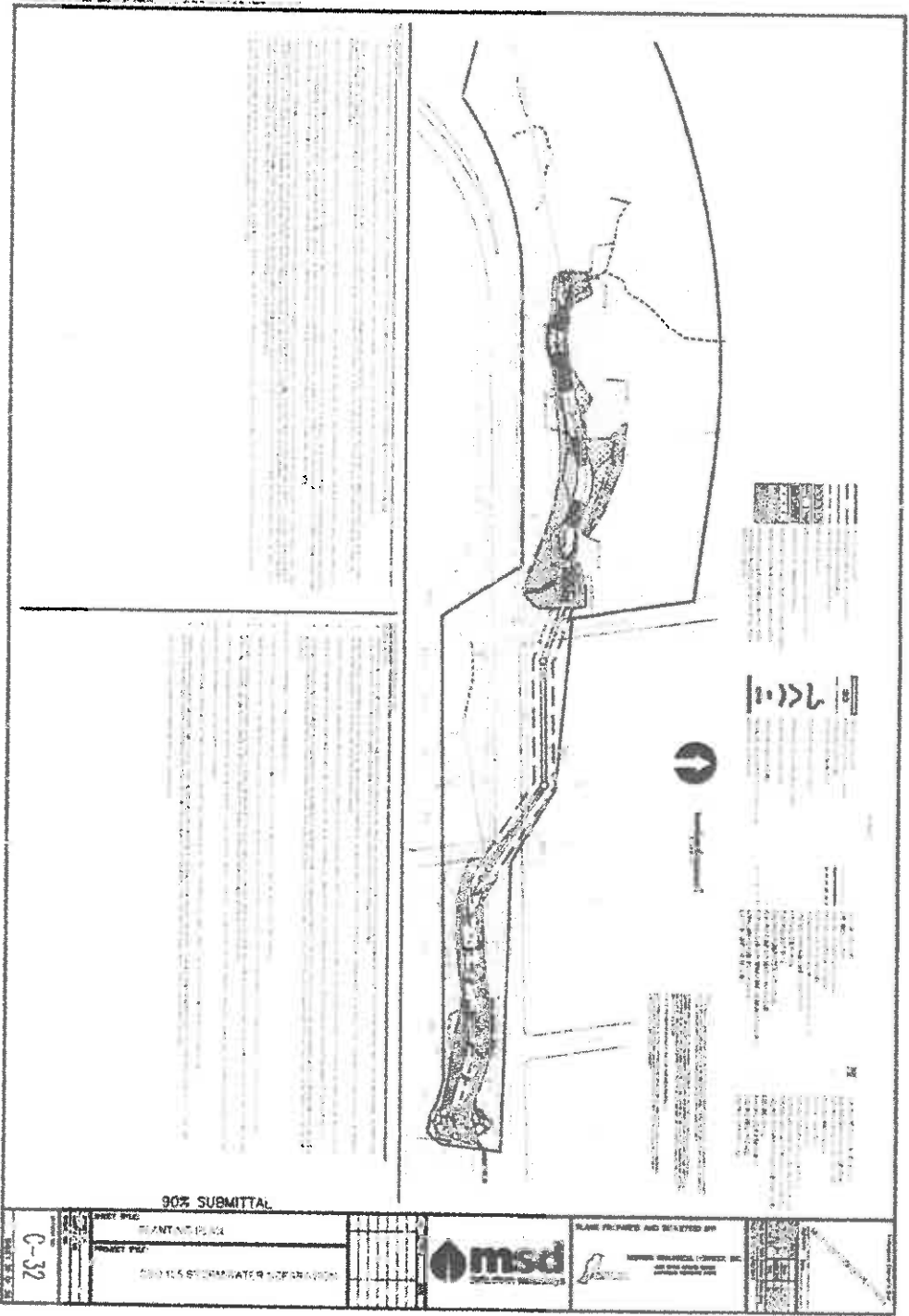
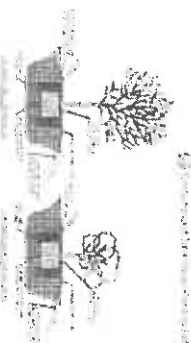



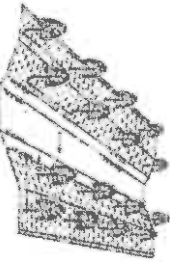



EXHIBIT D4

 <p style="text-align: center;">LANDSCAPE PLAN</p>	 <p style="text-align: center;">LANDSCAPE PLAN</p>	 <p style="text-align: center;">LANDSCAPE PLAN</p>
 <p style="text-align: center;">LANDSCAPE PLAN</p>	 <p style="text-align: center;">LANDSCAPE PLAN</p>	 <p style="text-align: center;">LANDSCAPE PLAN</p>

90% SUBMITTAL



<p>C-33</p>	<p>SHEET TITLE PLANTING PLAN ESTABLISHMENT TABLES</p> <p>PROJECT NAME KNOX 100% STORMWATER DETENTION</p>		<p>PLANS PREPARED AND SUBMITTED BY <i>[Signature]</i></p> <p><small>MSD (A) REGISTERED SERVICE INC. 2000 W. 100th Street Tulsa, Oklahoma 74134</small></p>	
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EXHIBIT D5



700 West Liberty Street Louisville, KY 40203-1231
Phone: 502.540.6000 Louisville@MSD.org

July 19, 2017

William Crawford Jr.
344 S Peterson Avenue
Louisville, Kentucky 40206

Subject: CSO 125 Stormwater Separation Project

Mr. Crawford:

In addition to the terms and conditions that have been agreed upon to date, as stated in my letter to you dated March 15, 2017, MSD has received your additional requests for a second follow-up treatment for the invasive species as well as having the entire property seeded with a native grass mix. In the aforementioned letter, MSD agreed to a one-time treatment to remove and spray for the invasive species and restore the disturbed areas within our construction limits of the stream and wetland restoration project with a native seed mix. On similar type projects it has been MSD's practice to provide the property owner compensation for the easement which would facilitate them, if they so desire, to perform subsequent treatments. Therefore, MSD hereby makes you an offer of \$20,000 for the purchase of the permanent and temporary easements for this project.

As time is important to us to complete this needed project, please let us know by no later than Friday July 28, 2017 if the above mentioned terms and conditions are acceptable. It is MSD's understanding that the amended conservation easement language has been completed and once we agree on terms and conditions the aforementioned amended conservation easement language will be presented to Metro Council for approval. The easement documents will be furnished to you for execution upon their completion. MSD appreciates the opportunity to present this matter and should you have any additional questions or concerns regarding this project please do not hesitate to contact me at 502.540.6632 or via e-mail at brandon.flaherty@louisvillemisd.org. Your cooperation and patience is appreciated as this project moves forward.

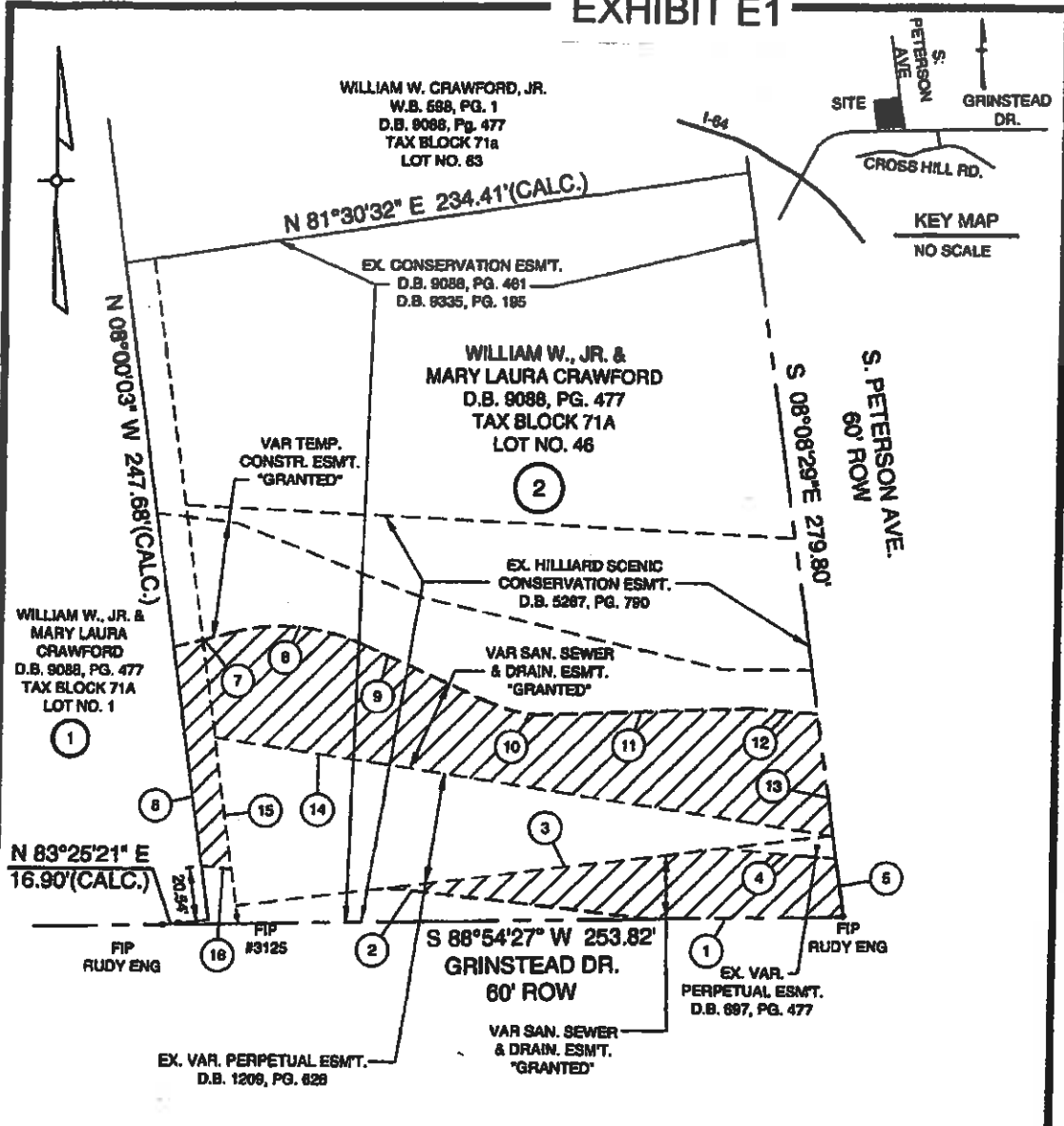
Sincerely,

Greg Powell, P.E.
Engineering Manager | Collections System and Construction

cc: Scott Porter, MSD
Brandon Flaherty, MSD
File
Bill Sanders, Heritage
Brad Anderson, Redwing
Lisa Hite, Metro Parks
Kurt Mason, JCET

EXHIBIT D6

EXHIBIT E1

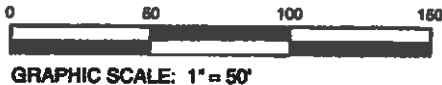


ALL BOUNDARY DISTANCES SHOWN ARE PER DEED BOOK 8335, PAGE 195 AND BASED ON THE ALLEY CLOSING BY LOUISVILLE JEFFERSON COUNTY METRO, LETTERS DATED 10-28-2009 UNLESS OTHERWISE NOTED.

THE REFERENCE MERIDIAN USED ON THIS PLAT TO DETERMINE THE DIRECTIONS OF SURVEY LINES WAS BASED ON KENTUCKY STATE PLANE COORDINATES, NORTH ZONE, 1983 N.A.D.

BEING A PART OF THE SAME PROPERTY CONVEYED TO THE GRANTOR BY DEED DATED AUG. 14, 2007, RECORDED IN DEED BOOK 8088 PAGE 477, IN THE OFFICE OF THE CLERK OF JEFFERSON COUNTY, KENTUCKY.
TAX BLOCK 71A, LOT NO. 46

SANITARY SEWER & DRAINAGE EASEMENT
12,610 SQ. FT.
TEMPORARY CONSTRUCTION EASEMENT
6,792 SQ. FT.
CIVIL DESIGN, INC.
3404 STONY SPRING CIRCLE
LOUISVILLE, KENTUCKY 40220
PH: 671-0060 FAX: 671-0311



I HEREBY CERTIFY THAT THIS PLAT WAS MADE UNDER MY SUPERVISION AND IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. THE PROPERTY LINES SHOWN ARE BEST FIT TO THE PROPERTY CORNER MONUMENTS FOUND IN THE PROJECT AREA. THE DISTANCES SHOWN ARE FOR RELATING THE SUBJECT PROPERTY TO THE DESCRIBED EASEMENT AND THEREFORE SHOULD NOT BE USED FOR ESTABLISHING PROPERTY CORNERS. THIS PLAT MEETS OR EXCEEDS THE MINIMUM STANDARDS OF GOVERNING AUTHORITIES.

STATE OF KENTUCKY
BRIAN L. BEWLEY
3477
LICENSED PROFESSIONAL LAND SURVEYOR

SURVEYOR: *B. Bewley* DATE: 4-14-17
JOB: R2196.01 DWG: PLAT 71A LOT 46

THIS PLAT DOES NOT REPRESENT A BOUNDARY SURVEY AND IS NOT INTENDED FOR LAND TRANSFER
LOUISVILLE AND JEFFERSON COUNTY METROPOLITAN SEWER DISTRICT
700 WEST LIBERTY STREET
LOUISVILLE, KENTUCKY 40203
SANITARY SEWER & DRAINAGE EASEMENT
PROPERTY OF
WILLIAM W., JR. & MARY LAURA CRAWFORD
PROPERTY ADDRESS: 346 S. PETERSON AVE.
LOUISVILLE, KY 40206
MAILING ADDRESS: 344 S. PETERSON AVE.
LOUISVILLE, KY 40206
PARCEL NO. 2 RECORD NO. 15892
DATE 4/14/17 SHEET 1 OF 4

1 WILLIAM W., JR. & MARY LAURA CRAWFORD
D.B. 8088, PG. 477
TAX BLOCK 70H
LOT NO. 31

4 LAYLA G. MUSSELLMAN
D.B. 9893, PG. 808
D.B. 9901, PG. 830
TAX BLOCK 71A
LOT NO. 75

7 JANE G. EMKE
D.B. 8445, PG. 552
TAX BLOCK 71A
LOT NO. 44

2 RENATE A. STINGL & TONYA LYNN JOHNSON
D.B. 8881, PG. 52
TAX BLOCK 70H
LOT NO. 14

5 ROBERT & MARSHA GAGEL ILLBACK
D.B. 7021, PG. 629
TAX BLOCK 71A
LOT NO. 42

8 KENNETH E. & MOLLY WINGFIELD
D.B. 10198, PG. 272
TAX BLOCK 71A
LOT NO. 45

3 ELIZABETH HAGAN
D.B. 10411, PG. 815
TAX BLOCK 70H
LOT NO. 16

6 ERIC R. WALZ
D.B. 8324, PG. 319
TAX BLOCK 71A
LOT NO. 43

9 WILLIAM W. CRAWFORD, JR.
W.B. 588, PG. 1
TAX BLOCK 71A
LOT NO. 63

EASEMENT DESCRIPTION

LINE NO.	BEARING	DISTANCE
1	S 13°32'40" E	29.73'
2	S 88°48'10" E	32.58'
3	S 74°18'28" E	R=75.00' 37.53'
4	S 89°05'27" E	23.01'
5	N 76°05'35" E	R=45.00' 151.74'
6	N 07°32'42" W	458.95'
7	N 81°12'22" E	12.18'
8	S 08°00'03" E	540.11'
9	N 83°35'03" W	41.09'
10	S 89°22'28" W	5.21'
11	S 82°19'55" W	R=21.25' 100.69'
12	N 60°12'42" W	88.45'



GRAPHIC SCALE: 1" = 100'

I HEREBY CERTIFY THAT THIS PLAT WAS MADE UNDER MY SUPERVISION AND IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. THE PROPERTY LINES SHOWN ARE BEST FIT TO THE PROPERTY CORNER MONUMENTS FOUND IN THE PROJECT AREA. THE DISTANCES SHOWN ARE FOR RELATING THE SUBJECT PROPERTY TO THE DESCRIBED EASEMENT AND THEREFORE SHOULD NOT BE USED FOR ESTABLISHING PROPERTY CORNERS. THIS PLAT MEETS OR EXCEEDS THE MINIMUM STANDARDS OF GOVERNING AUTHORITIES.

STATE OF KENTUCKY
BRIAN L. BEWLEY
3477
LICENSED PROFESSIONAL LAND SURVEYOR

SURVEYOR: *Brian Bewley* DATE: 4-14-17

JOB: R2195.01 DWG: PLAT 71A LOT 1

CIVIL DESIGN, INC.
3404 STONY SPRING CIRCLE
LOUISVILLE, KENTUCKY 40220
PH: 671-0060 FAX: 671-0311

THIS PLAT DOES NOT REPRESENT A BOUNDARY SURVEY AND IS NOT INTENDED FOR LAND TRANSFER

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

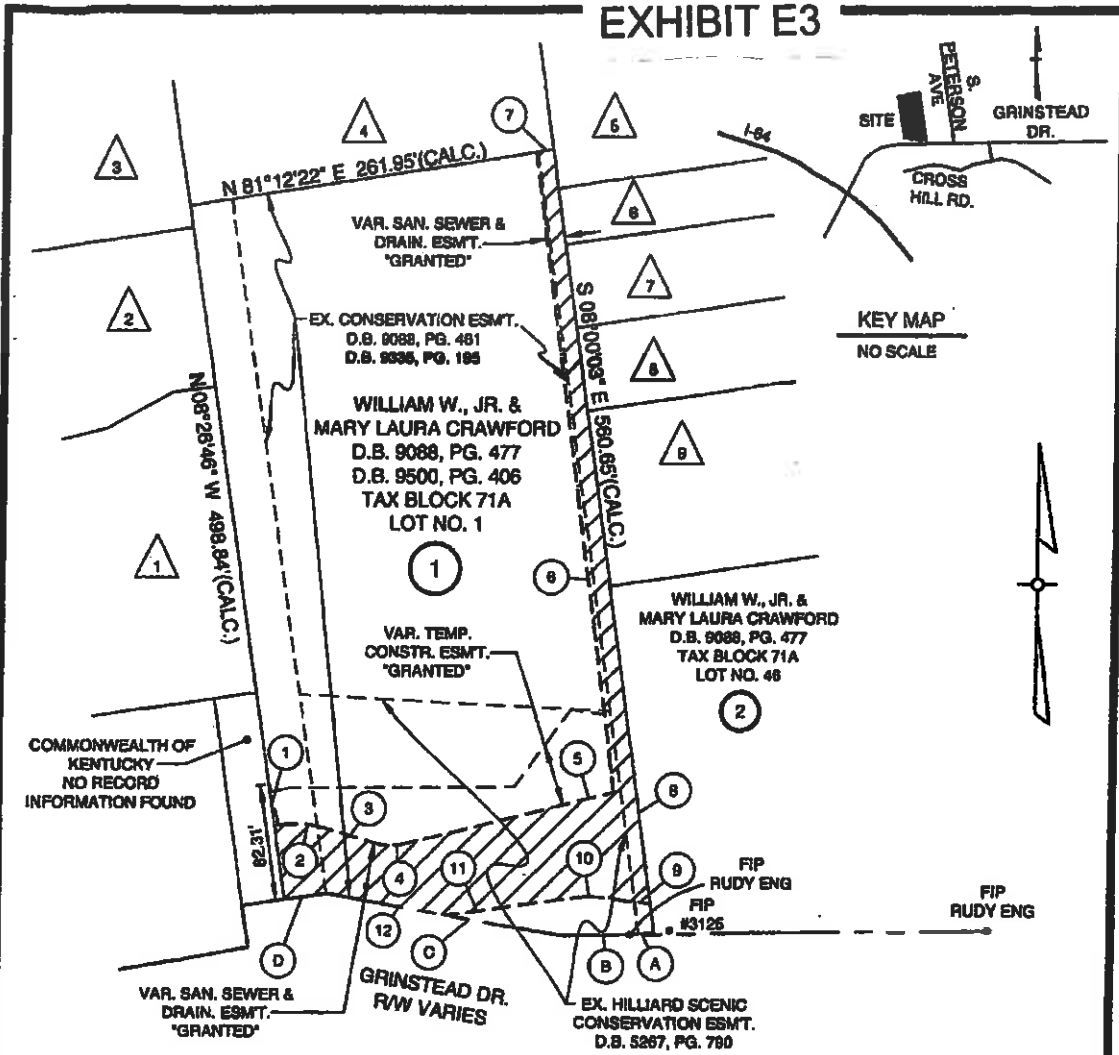
SANITARY SEWER & DRAINAGE EASEMENT PROPERTY OF

WILLIAM W., JR. & MARY LAURA CRAWFORD
PROPERTY ADDRESS: 329 S. EWING AVE.
LOUISVILLE, KY 40206
MAILING ADDRESS: 344 S. PETERSON AVE.
LOUISVILLE, KY 40206

PARCEL NO. 1 RECORD NO. 15892

DATE 4/14/17 SHEET 2 OF 4

EXHIBIT E3



KEY MAP
NO SCALE

BOUNDARY DESCRIPTION

LINE NO.	BEARING	DISTANCE
A	S 83°25'21" W	16.90(CALC.)
B	S 88°54'27" W	48.80'
C	N 80°12'42" W	170.88'
D	S 81°33'14" W	30.18(CALC.)

ALL BOUNDARY DISTANCES SHOWN ARE PER DEED BOOK 9336, PAGE 196 AND BASED ON ALLEY AND ROAD CLOSING BY LOUISVILLE JEFFERSON COUNTY METRO, LETTERS DATED 10-23-2008 AND 10-28-2009, UNLESS OTHERWISE NOTED.

THE REFERENCE MERIDIAN USED ON THIS PLAT TO DETERMINE THE DIRECTIONS OF SURVEY LINES WAS BASED ON KENTUCKY STATE PLANE COORDINATES, NORTH ZONE, 1883 N.A.D.

BEING A PART OF THE SAME PROPERTY CONVEYED TO THE GRANTOR BY DEED DATED AUG. 14, 2007, RECORDED IN DEED BOOK 9088, PAGE 477, IN THE OFFICE OF THE CLERK OF JEFFERSON COUNTY, KENTUCKY.
TAX BLOCK 71A, LOT NO. 1

SANITARY SEWER & DRAINAGE EASEMENT
21,410 SQ. FT.
TEMPORARY CONSTRUCTION EASEMENT
6,808 SQ. FT.

CIVIL DESIGN, INC.
3404 STONY SPRING CIRCLE
LOUISVILLE, KENTUCKY 40220
PH: 671-0060 FAX: 671-0311



GRAPHIC SCALE: 1" = 100'

I HEREBY CERTIFY THAT THIS PLAT WAS MADE UNDER MY SUPERVISION AND IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. THE PROPERTY LINES SHOWN ARE BEST FIT TO THE PROPERTY CORNER MONUMENTS FOUND IN THE PROJECT AREA. THE DISTANCES SHOWN ARE FOR RELATING THE SUBJECT PROPERTY TO THE DESCRIBED EASEMENT AND THEREFORE SHOULD NOT BE USED FOR ESTABLISHING PROPERTY CORNERS. THIS PLAT MEETS OR EXCEEDS THE MINIMUM STANDARDS OF GOVERNING AUTHORITIES.

STATE OF KENTUCKY
BRIAN L. BEWLEY
3477
LICENSED PROFESSIONAL LAND SURVEYOR

SURVEYOR: *Brian L. Bewley* DATE: 4-14-17
JOB: R2185.01 DWG: PLAT 71A LOT 1

THIS PLAT DOES NOT REPRESENT A BOUNDARY SURVEY AND IS NOT INTENDED FOR LAND TRANSFER

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

SANITARY SEWER & DRAINAGE EASEMENT
PROPERTY OF
WILLIAM W., JR. & MARY LAURA CRAWFORD
PROPERTY ADDRESS: 329 S. EWING AVE.
LOUISVILLE, KY 40206
MAILING ADDRESS: 344 S. PETERSON AVE.
LOUISVILLE, KY 40206

PARCEL NO. 1 RECORD NO. 15892
DATE 4/14/17 SHEET 1 OF 4

EXHIBIT E4

EASEMENT DESCRIPTION

LINE NO.	BEARING	DISTANCE
1	S 88°54'27" W	72.15'
2	N 83°38'08" W	98.30'
3	N 82°48'02" E	125.05'
4	S 86°25'57" E	42.77'
5	S 08°08'28" E	22.14'
6	N 08°00'03" W	82.64'
7	N 78°08'35" E	22.89'
8	S 84°53'13" E	48.88'
		R=75.00'
9	S 85°52'01" E	51.48'
10	S 78°00'18" E	18.99'
		R=53.94'
11	N 87°52'38" E	79.37'
12	S 88°04'53" E	24.92'
13	S 08°00'03" W	45.98'
14	N 81°22'31" E	233.78'
15	S 08°00'03" W	48.88'
16	N 83°35'03" W	11.36'

CIVIL DESIGN, INC.
 3404 STONY SPRING CIRCLE
 LOUISVILLE, KENTUCKY 40220
 PH: 671-0060 FAX: 671-0311

THIS PLAT DOES NOT REPRESENT
 A BOUNDARY SURVEY AND IS NOT
 INTENDED FOR LAND TRANSFER

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

SANITARY SEWER & DRAINAGE EASEMENT
 PROPERTY OF
 WILLIAM W., JR. & MARY LAURA CRAWFORD
 PROPERTY ADDRESS: 348 S. PETERSON AVE.
 LOUISVILLE, KY 40206
 MAILING ADDRESS: 344 S. PETERSON AVE.
 LOUISVILLE, KY 40206

PARCEL NO. 2 RECORD NO. 15882
 DATE 4/14/17 SHEET 2 OF 4

I HEREBY CERTIFY THAT THIS PLAT WAS MADE UNDER MY SUPERVISION AND IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. THE PROPERTY LINES SHOWN ARE BEST FIT TO THE PROPERTY CORNER MONUMENTS FOUND IN THE PROJECT AREA. THE DISTANCES SHOWN ARE FOR RELATING THE SUBJECT PROPERTY TO THE DESCRIBED EASEMENT AND THEREFORE SHOULD NOT BE USED FOR ESTABLISHING PROPERTY CORNERS. THIS PLAT MEETS OR EXCEEDS THE MINIMUM STANDARDS OF GOVERNING AUTHORITIES.

STATE OF KENTUCKY
 BRIAN L. BEWLEY
 3477
 LICENSED PROFESSIONAL LAND SURVEYOR

SURVEYOR: Brian L. Bewley DATE: 4-14-17

JOB: R2185.01 DTG: PLAT 71A LOT 45