



202305100099

FAYETTE CO, KY FEE \$65.00

PRESENTED / LODGED: 05-10-2023 11:23:27 AM

RECORDED: 05-10-2023

SUSAN LAMB

CLERK

BY: EMILY GENTRY

DEPUTY CLERK

BK: DB 4015

PG: 642-651

DEED OF EASEMENT

This **PERMANENT SANITARY SEWER EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT** is made and entered into this the 25th day of April, 2023 by and between **NATIONAL RETAIL PROPERTIES, LP**, a **Delaware limited partnership**, 450 S. Orange Avenue, Suite 900, Orlando, FL 32801, (hereinafter "Grantor"), and **LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT**, 200 East Main Street, Lexington, Kentucky 40507 (hereinafter "Grantee").

WITNESSETH:

That for and in consideration of the sum of **NINETY-THREE THOUSAND EIGHT HUNDRED DOLLARS AND 00/100 CENTS (\$93,800.00)**, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, said Grantor has **BARGAINED** and **SOLD** and does hereby **GIVE, GRANT** and **CONVEY**

Return to:
Cynthia Cannon-Ferguson
LFUCG, Dept. of Law, 11th Floor
200 East Main Street
Lexington, KY 40507

unto the Grantee, its successors and assigns, permanent right to excavate, grade, construct, alter, re-grade and perform related work for the purpose of sanitary sewer improvements and construction, installation and relocation through and across the following tract of land located in the confines of Lexington, Fayette County, Kentucky, depicted on the attached Exhibit "A", and more particularly described as follows, to wit:

Permanent Sanitary Sewer Easement
Wolf Run Trunk F
Sewer Improvement Project
(a portion of 1927 Harrodsburg Road)

Tract A

All that strip or parcel of land situated southwest of the intersection of Harrodsburg Road (US Highway 68) and Spring Meadows Drive in Lexington, Fayette County, Kentucky, and being more fully described and bounded as follows, to wit:

BEGINNING, at a found iron pipe, said point being a common corner with Brenda Patton (Deed Book 3772, Page 570), said point also being in the southeasterly boundary line of Lot 1 as shown on the Amended Final Record Plan of H&E Property (Harrod's Park), Unit 3, Lots 1 & 2 (Plat Cabinet F, Slide 520);

Thence leaving the southeasterly boundary line of Unit 3, Lot 1 of the H&E Property (Harrod's Park), with the northeasterly property line of Brenda Patton, S 48°47'28" E, 39.41 feet to the **TRUE POINT OF BEGINNING**;

Thence with the northeasterly property line of Brenda Patton, N 48°47'28" W, 24.73 feet to a point;

Thence leaving the northeasterly property line of Brenda Patton, with a new permanent sanitary sewer easement line through the lands of National Retail Properties, LP for four (4) calls:

- 1) N 77°14'03" E, 42.54 feet to a point;
- 2) S 48°37'47" E, 179.20 feet to a point;
- 3) N 41°22'13" E, 5.00 feet to a point; and
- 4) S 48°37'47" E, 49.02 feet to a point in the northwesterly right-of-way line of Harrodsburg Road (US Highway 68);

Thence with the northwesterly right-of-way line of Harrodsburg Road, S 54°25'41" W, 14.73 feet to a point, said point being a common corner with the aforesaid Brenda Patton (Deed Book 3772, Page 570);

Thence leaving the northwesterly right-of-way line of Harrodsburg Road, with the northeasterly property line of Brenda Patton for two (2) calls:

- 1) N 47°30'28" W, 30.80 feet to a point; and
- 2) S 54°57'32" W, 6.44 feet to a point;

Thence leaving the northeasterly property line of Brenda Patton, with a new permanent sanitary sewer easement line through the lands of National Retail Properties, LP for four (4) calls:

- 1) N 48°37'47" W, 13.39 feet to a point;
- 2) S 41°22'13" W, 5.00 feet to a point;
- 3) N 48°37'47" W, 168.98 feet to a point; and
- 4) S 77°14'03" W, 17.77 feet to the **TRUE POINT OF BEGINNING;**
and,

The above-described parcel contains 0.111 Acres (4,835 sq. ft.) of permanent easement; and,

Tract A, being a portion of the property shown on the Record Plat of a Portion of Lewis B. Sherrod Property, of record in Plat Cabinet A, Slide 726, in the Fayette County Clerk's Office and being a portion conveyed to National Retail Properties, LP, a Delaware limited partnership, by deed dated August 24, 2015, of record in Deed Book 3341, Page 377, all in the Fayette County Clerk's Office.

FURTHER, for and in consideration of the sum hereinbefore mentioned, the receipt and sufficiency of which is hereby acknowledged, Grantor has **BARGAINED** and **SOLD** and does hereby **GIVE, GRANT** and **CONVEY** unto the Grantee, its successors and assigns, temporary right to excavate, grade, construct, alter, re-grade and perform related work for the purpose of sanitary sewer placement and construction, installation and relocation through and across the following tract of land located in the confines of Lexington, Fayette County, Kentucky, depicted on Exhibit "A" attached hereto, and more particularly described as follows:

Temporary Construction Easement
Wolf Run Trunk F
Sewer Improvement Project
(a portion of 1927 Harrodsburg Road)

Tract B

All that strip or parcel of land situated southwest of the intersection of Harrodsburg Road (US Highway 68) and Spring Meadows Drive in Lexington, Fayette County, Kentucky, and being more fully described and bounded as follows, to wit:

BEGINNING, at a found iron pipe, said point being a common corner with Brenda Patton (Deed Book 3772, Page 570), said point also being in the southeasterly boundary line of Lot 1 as shown on the Amended Final Record Plan of H&E Property (Harrod's Park), Unit 3, Lots 1 & 2 (Plat Cabinet F, Slide 520);

Thence leaving the southeasterly boundary line of Unit 3, Lot 1 of the H&E Property (Harrod's Park), with the northeasterly property line of Brenda Patton, S 48°47'28" E, 39.41 feet to the **TRUE POINT OF BEGINNING**;

Thence leaving the northeasterly property line of Brenda Patton, with a new permanent sanitary sewer easement line through the lands of National Retail Properties, LP for two (2) calls:

- 1) N 77°14'03" E, 17.77 feet to a point; and
- 2) S 48°37'47" E, 34.56 feet to a point;

Thence with a new temporary construction easement line, S 41°12'58" W, 14.28 feet to a point in the northeasterly property line of the aforesaid Brenda Patton (Deed Book 3772, Page 570);

Thence with the northeasterly property line of Brenda Patton, N 48°47'28" W, 45.01 feet to the **TRUE POINT OF BEGINNING**, and,

The above-described parcel contains 0.013 Acres (571 sq. ft.) of temporary construction easement; and,

Tract C

All that strip or parcel of land situated southwest of the intersection of Harrodsburg Road (US Highway 68) and Spring Meadows Drive in Lexington, Fayette County, Kentucky, and being more fully described and bounded as follows, to wit:

BEGINNING, at a found iron pipe, said point being a common corner with Brenda Patton (Deed Book 3772, Page 570), said point also being in the

southeasterly boundary line of Lot 1 as shown on the Amended Final Record Plan of H&E Property (Harrod's Park), Unit 3, Lots 1 & 2 (Plat Cabinet F, Slide 520);

Thence with the southeasterly boundary line of Unit 3, Lot 1 of H&E Property (Harrod's Park), N 41°12'32" E, 50.00 feet to a point;

Thence leaving the southeasterly boundary line of Unit 3, Lot 1 of H&E Property (Harrod's Park), with a new temporary construction easement line through the lands of National Retail Properties, LP, for two (2) calls:

- 1) S 48°47'28" E, 84.43 feet to a point; and
- 2) S 41°12'58" W, 15.72 feet to a point;

Thence with a new permanent sanitary sewer easement line for two (2) calls:

- 1) N 48°37'47" W, 44.72 feet to a point; and
- 2) S 77°14'03" W, 42.54 feet to a point in the northeasterly property line of the aforesaid Brenda Patton (Deed Book 3772, Page 570);

Thence with the northeasterly property line of Brenda Patton, N 48°47'28" W, 14.68 feet to the **TRUE POINT OF BEGINNING**, and,

The above-described parcel contains 0.052 Acres (2,255 sq. ft.) of temporary construction easement; and,

Tracts B and C, being a portion of the property shown on the Record Plat of a Portion of Lewis B. Sherrod Property, of record in Plat Cabinet A, Slide 726, in the Fayette County Clerk's Office and a being portion conveyed to National Retail Properties, LP, a Delaware limited partnership, by deed dated August 24, 2015, of record in Deed Book 3341, Page 377, all in the Fayette County Clerk's Office.

TO HAVE AND TO HOLD the above-described easements together with all rights, appurtenances, and improvements thereunto belonging unto Grantee, its successors and assigns forever, for the purposes and uses herein designated.

The above-described temporary construction easement runs with the land for the duration of the improvement project and is binding upon the successors and assigns of the Grantor. The above-described permanent easement runs with the land in perpetuity

and is binding upon the successors and assigns of the Grantor. The temporary construction easement shall take effect upon the commencement of construction of the project and will expire upon the earlier of (i) completion of the project or (ii) three (3) years from commencement of the project.

Grantor shall have the full right to use the surface of the land lying over said permanent easement for any purpose desired, provided such use will not interfere with the Grantee's free use of the easement herein granted and provided further that no building or structure shall be erected upon, across, over or through said permanent easement without prior written consent of the Grantee.

Grantor does hereby release and relinquish unto the Grantee, its successors and assigns forever, all of its right, title, and interest in and to the property to the extent of the interests conveyed herein, including all exemptions allowed by law, and does hereby covenant to and with the Grantee, its successors and assigns forever, that it is lawfully seized in fee simple of said property and has good right to sell and convey the easements as herein done, and that it will **WARRANT SPECIALLY** said title.

The obtaining of this easement was authorized by Resolution 042-2022, passed by the Lexington-Fayette Urban County Council on February 10, 2022, by Resolution 163-2023, passed by the Lexington-Fayette Urban County Council on March 23, 2023, which amended Resolution 042-2022, and by Resolution No. 601 – 2022, passed by the Lexington-Fayette Urban County Council on October 27, 2022. Pursuant to KRS 382.135(2)(a), this deed of easement, which pertains to a public utility, need not contain a statement of consideration.

Grantee shall exercise its rights hereunder in a manner as to not unreasonably interfere with the business operations being conducted on Grantor's land. Once work commences in the easement area, Grantee shall diligently and continuously pursue to completion any installation, maintenance and/or repair of the facilities. Grantee shall at all times keep the driveway open on Harrodsburg Road so as to afford full access to and from Grantor's property and Harrodsburg Road. Grantee shall not be in breach of this paragraph, and shall be excused from performance thereof, if and to the extent it may be delayed in or prevented from performing or carrying out any of the provisions of this paragraph, arising out of or from any act, omission, or circumstance by or in consequence of any act of God, labor disturbance, sabotage, failure of contractors or suppliers of materials, act of the public enemy, war, invasion, insurrection, riot, fire, storm, flood, ice, earthquake, explosion, epidemic, breakage or accident to machinery or equipment (including breakage to the bore head or any cause resulting in the bore head's failure), or any causes beyond the Grantee's control, or by making of repairs necessitated by an emergency circumstance not limited to those listed above upon the relevant property or equipment.

Any damage to the property of Grantor or Grantor's tenants shall be restored by Grantee to as good a condition as same was in prior to such damage.

IN TESTIMONY WHEREOF, the Grantor has signed this Deed of Easement, this the day and year first above written.

GRANTOR:

JBS VS

NATIONAL RETAIL PROPERTIES, LP,
a Delaware limited partnership

By: NNN GP Corp., a Delaware corporation,
as general partner

By: *[Signature]*
Name: Christopher P. Tessitore
Title: Executive Vice President

STATE OF FLORIDA

COUNTY OF ORANGE

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 25th day of April, 2023 by **Christopher P. Tessitore**, as Executive Vice President of NNN GP Corp., a Delaware corporation, as general partner of National Retail Properties, LP, a Delaware limited partnership, on behalf of the partnership. He is personally known to me.

[Signature]
Printed Name: Ivette Cordero
Commission #: _____
My commission expires: _____



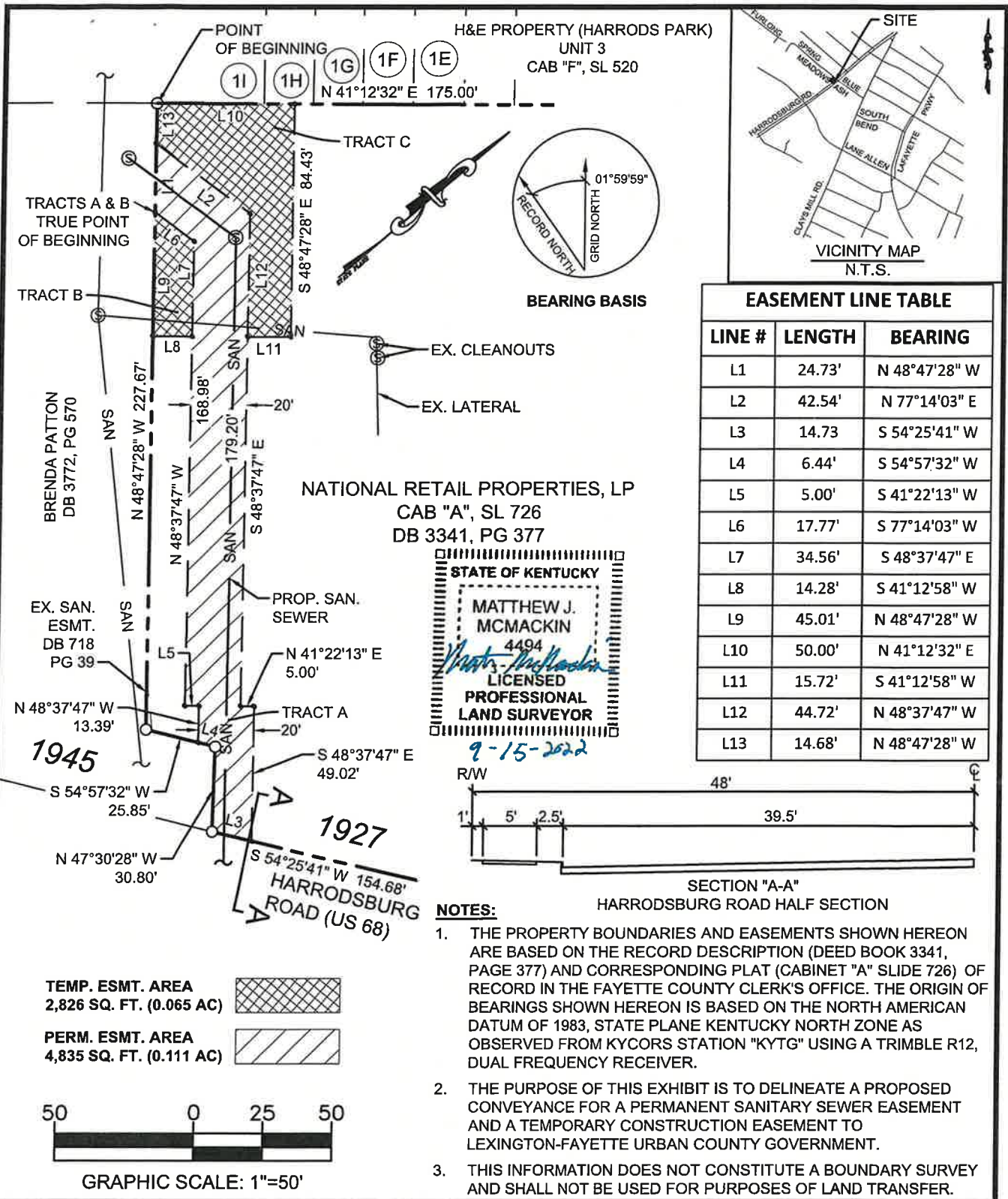
PREPARED BY:



EVAN P. THOMPSON,

Attorney Sr.
Lexington-Fayette Urban
County Government
Department of Law, 11th Floor
200 East Main Street
Lexington, Kentucky 40507
(859) 258-3500

X:\Cases\WATER-AIR\22-RE0016\RE\00778146.DOC



**SANITARY SEWER EASEMENT EXHIBIT
 NATIONAL RETAIL PROPERTIES, LP
 1927 HARRODSBURG ROAD
 WOLF RUN TRUNK F SEWER IMPROVEMENTS
 LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT
 LEXINGTON, KENTUCKY**



FIGURE 1

SEPTEMBER 2022

2815.288