

MEMORANDUM OF AGREEMENT

This Memorandum of Agreement, made and entered into on this 6th day of SEPTEMBER, 2024, by and between the **LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT** ("LFUCG"), an urban county government organized pursuant to KRS 67A, which has its principal office at 200 East Main Street, Lexington, Kentucky 40507, **STONEWALL EQUESTRIAN ESTATES ASSOCIATION, INC.** ("Stonewall"), a non-profit Kentucky corporation, whose mailing address is at 814 Cindy Blair Way, Lexington, Kentucky 40503, and Keith & Joyce Barbary ("Horse Owner"), an individual whose property address is 823 Cindy Blair Way, Lexington, Kentucky 40503.

WITNESSETH

WHEREAS, pursuant to that certain Declaration of Covenants, Restrictions, and Easements applicable to Stonewall Equestrian Estates, Unit No. 10, dated June 6, 1966, a copy of which is of record in Deed Book 870, Page 74, as amended by amendments thereto dated August 4, 1967, June 30, 1968, January 18, 2005, and September 27, 2005, copies of which are of record in Deed Book 906, Page 180, Deed Book 936, Page 31, Deed Book 2524, Page 454, and Deed Book 2588, Page 361, respectively, in the Fayette County Clerk's Office ("the Declaration"), the Developer subjected certain real property located in Fayette County, Kentucky, described on Exhibits A and B to the Declaration, including, without limitation, the property known as Stonewall Equestrian Estates, Unit No. 10, as shown on plats of record in the Fayette County Clerk's Office, to the covenants, conditions, restrictions, and easements of the Declaration; and

WHEREAS, pursuant to Article IV of the Declaration ("Property Rights in the Common Properties"), every owner who is a member of the Stonewall Equestrian Estates Association, Inc., shall have a right and easement for the use and enjoyment in and to the Common Properties, which easement shall be appurtenant to and pass with the title to every lot, and which use and enjoyment is expressly intended, under the terms of Article IV, Section 3(f), to include the use of the Common Properties "primarily by the members, their families, and bona fide guests as an area for the exercise and care of pleasure horses for horseback riding"; and

WHEREAS, Horse Owner is a member of the Stonewall Equestrian Estates Association, Inc., and has a right and easement for use of the Common Properties for the exercise and care of pleasure horses; and

WHEREAS, LFUCG is scheduled to complete a sanitary sewer improvement project identified as the Blenheim Way Trunk sewer Improvements (the "Project"); and

WHEREAS, the Project involves the installation of sanitary sewer infrastructure in the approximate area adjacent to, in the vicinity of, or in, under, across, and/or through portions of the Common Properties to which Stonewall and the Horse Owner,

respectively, have an interest, and which Common Properties are used for the exercise and care of pleasure horses; and

WHEREAS, LFUCG has an easement for existing sanitary sewer infrastructure in the approximate area adjacent to, in the vicinity of, or in, under, across, and/or through portions of the Common Properties so designated for the construction of the Project and has obtained an additional right of entry to the Common Properties so designated for the construction of the Project; and

WHEREAS, in order to facilitate the Project, LFUCG needs to accommodate the temporary relocation and boarding of Horse Owner's horse(s) for the duration of the construction of the Project, and is willing to provide an agreed-upon payment to Horse Owner for the boarding and care of Horse Owner's horse(s) at an appropriate facility, contingent upon the Horse Owner privately making provision for the boarding and care of their horse(s) for the duration of the Project with such facility and further contingent upon an agreement to release, indemnify, and hold LFUCG harmless on any claims related to the temporary relocation and boarding of horses pursuant to this Agreement; and

WHEREAS, Stonewall is in agreement with the provisions of this Agreement and, having an interest in the Common Properties, joins this Agreement for the purposes set forth herein.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein expressed, the receipt and sufficiency of which are acknowledged, the parties hereto agree as follows:

1. This Agreement shall commence on January 6th, 2025 and shall continue for a period of 6 (six) months, unless extended by written agreement of the parties hereto or as otherwise provided herein.
2. Horse Owner shall contract with an appropriate facility for the boarding and care of horses for the duration of the Project and shall provide evidence to the satisfaction of LFUCG that provision for the boarding and care of horses has been made by Horse Owner, which evidence may include, but is not limited to, copies of agreements between Horse Owner and the boarding facility, invoices for the payment made to the boarding facility, and/or canceled checks evidencing payment for the boarding and care of horses.
3. LFUCG shall provide payment to Horse Owner in the total amount of \$ 855 / month, representing reimbursement for the costs associated with the boarding and care of 1 horse(s) in an amount equal to \$ 855 / month per horse for a period not exceeding 6 (six) months. If completion of the Project is delayed due to a non-force majeure event, LFUCG shall provide payment to Horse Owner in an amount equal to \$ 855 / month per horse per month until completed. The determination regarding the date in which the Project is completed shall be made in the sole and reasonable discretion of LFUCG. Force majeure events shall include, but are not limited to, any pandemic, strike,

factory closure, explosion, maritime peril, natural disaster, act by a public enemy, fire, flood, accident, war, riot, insurgence or any other similar event outside the control of LFUCG or its contractors.

4. In consideration for the obligations placed upon the HOA described in this Agreement, LFUCG shall provide payment to HOA in the total amount of \$1,500.00.
5. During construction of the project and until remediation of the area is completed, including the growth of satisfactory ground cover, Horse Owner agrees to prevent its horses (either owned or leased, now or in the future), and the horses of any guests or invitees, from utilizing the Common Properties.
6. During construction of the project and until remediation of the area is completed, including the growth of satisfactory ground cover, HOA agrees to prohibit the horses of its members (either owned or leased, now or in the future), and the horses of any guests or invitees of its members, from utilizing the Common Properties.
7. During construction of the project and until remediation of the area is completed, the HOA shall be the LFUCG's point of contact for the HOA's members. HOA shall communicate with its members on behalf of LFUCG regarding the progress of the project, as requested by LFUCG.
8. No party may assign, transfer, or subcontract any of its obligations or duties under this agreement.
9. Horse Owner agrees to assume all responsibility and liability for the provision of the temporary relocation and boarding of horses required hereunder as consideration for payment by LFUCG, and for any and all damages to persons or property caused by or resulting from or arising out of any act or omission on the part of Horse Owner, their contractors, subcontractors, agents, servants, owners, principals, licensees, or assigns, under or in connection with this Agreement and/or the provision of services and/or the performance or failure to perform any obligation(s) required thereby. Further, Horse Owner, to the extent permitted by law, hereby agrees to release, indemnify, and hold harmless LFUCG and its elected or appointed officials, employees, agents, volunteers, and successors in interest from and against all claims, suits, damages, costs, losses, and expenses of any nature whatsoever in any manner arising out of or in connection with this Agreement. Notwithstanding the foregoing, Horse Owner shall not be required to indemnify or hold harmless LFUCG against claims, suits, damages, costs, losses, arising from the temporary relocation and boarding of horses caused solely by the active negligence or willful misconduct of LFUCG. This paragraph shall survive the termination of this Agreement.
10. This Agreement shall be binding upon, and shall inure to the benefit of, the executors, heirs, successors, and assigns of the Parties hereto, and neither party shall assign, sublet, or transfer its interests in this Agreement without the written consent of the other parties.
11. The failure or delay of any party to exercise any right, power, or privilege hereunder shall not operate as a waiver thereof.
12. This Agreement constitutes the entire agreement and understanding between the parties with respect to the subject matter contained herein and supersedes all prior offers, negotiations, and other agreements concerning the subject matter contained herein. No part of this Agreement may be altered, modified, or changed in any way

except in writing signed by the parties hereto or signed by the duly authorized representatives of said parties.

13. Nothing in this Agreement, expressed or implied, is intended to or shall be construed to confer upon or give to any person other than the parties hereto any person other than the parties hereto any right, remedy, or claim under or by reason of such agreement or covenant, condition, or stipulation herein contained. Nothing expressed or mentioned in or to be implied from this Agreement is intended or shall be construed to give to any person other than the parties hereto any legal or equitable right, remedy, or claim under or in respect to the Agreement.
14. This Agreement and any causes of action arising from or in relation to this Agreement shall be governed by applicable provisions of the Kentucky Revised Statutes. Venue for any legal action shall be a court of appropriate jurisdiction in Fayette County, Kentucky.
15. This Agreement may only be amended by a written agreement of all the parties hereto. No revision of this Agreement shall be valid unless made in writing and signed by the parties hereto.
16. The execution, delivery, and performance of this Agreement and any documents relating hereto have been duly authorized by all necessary parties, and this Agreement is enforceable in accordance with its terms. LFUCG, Stonewall, and Horse Owner hereby represent that they have full power and authority to enter into this Agreement, to execute and deliver all instruments and documents referred to herein, and to consummate the transactions contemplated hereby.

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IN WITNESS WHEREOF, the parties have set their hands the date first above written:

LEXINGTON-FAYETTE URBAN
COUNTY GOVERNMENT

STONEWALL EQUESTRIAN
ESTATES ASSOCIATION, INC.

BY: Linda Gorton
Linda Gorton, Mayor

BY: Clinton Kent
Printed Name: Clinton Kent
Title: President SEENA

HORSE OWNER:

BY: Keith Barbering
Printed Name: Keith Barbering
Address: 823 Cindy Blair Way
40503

KEENE RIDGE

F • A • R • M

Client Information

Date of Arrival: Jan 5, 2025

Type of Board (Select One):

- Stall-Full Board \$775 per Month
- Pasture Board- \$450 Per Month

Name: Keith Burberry

Address: 823 Cindy Blair Way

Phone Number: 859 552 4923

Email Address: KBurberry

Emergency Contact Name: Joice Burberry Phone: 859 492 4097

Horses Name: Kipper Age: 18

Breed: Eastern Ky Mtn

Specials Requirements (Feed, ETC): _____

Signed: [Signature] Date: 9/6/24

KEENE RIDGE

F • A • R • M

IN WITNESS WHEREOF, the undersigned has hereunto set his or her hand this
the 6 day of Sept 2024.

RELEASOR (please sign here): [Signature]

PLEASE PRINT: Keith Burberry

Mailing Address: 823 Cindy Glaser Way

City/State/Zip: Lexington Ky 40503

Phone: 859 552 4923

Email: KBurberry@me.com

FOR MINORS - COMPLETED BY PARENT OR GUARDIAN
(Under 18 years of age)

The undersigned parent or legal guardian hereby represents that he or she is, in fact, acting in such capacity and agrees to save and hold harmless and indemnify all of the parties referred to above from all liability, claims, demands, actions, and causes of action whatsoever which may be imposed on behalf of the minor and the parents or legal guardian.

PARENT OR GUARDIAN OF MINOR

DATE