

AFTER RECORDING RETURN TO:
Ron H. Hamden
Triplett Woolf Garretson, LLC
2959 N. Rock Road, Suite 300
Wichita, KS 67226

AGREEMENT REGARDING DRAINAGE

This Agreement Regarding Drainage ("Agreement") is made and entered this 4TH day of AUGUST, 2023, by and between 3F2R Holdings, LLC, a Kansas limited liability company ("Holdings") and 53rd & Oliver, LLC, a Kansas limited liability company ("53rd & Oliver").

RECITALS:

A. Holdings owns the residential subdivision legally described as Bristol Hollows, City of Bel Aire, Sedgwick County, Kansas ("Hollows");

B. Hollows includes Reserve A ("Reserve A"). Reserve A currently serves as a dry detention facility pursuant to the existing drainage plan for the Hollows;

C. 53rd & Oliver owns an unplatted tract of land legally described on Exhibit "A," and proposed to be platted as Chapel Landing 7th Addition (hereafter referred to as the "7th Addition"). The 7th Addition is contiguous to the Hollows, and is specifically contiguous to Reserve A;

D. The City of Bel Aire ("City") has requested that 53rd & Oliver, in connection with the platting and drainage planning of the 7th Addition, revise the existing drainage plan for the Hollows, as required and approved by the City and establish a drainage plan for the 7th Addition as required and approved by the City for 53rd & Oliver, so that both drainage from the Hollows and the 7th Addition (following the platting and development thereof as a residential subdivision) shall drain into and be detained within Reserve A. Such wet detention shall require the construction of a pond, or ponds, within Reserve A;

E. The process of revising and preparing the revised and new drainage plans for the Hollows and the 7th Addition, including the preparation of all drawings, all meetings and communications with the City and all engineering associated therewith are referred to herein, collectively, as the "Drainage Authorization Process";

F. Holdings has agreed to cooperate with 53rd & Oliver in connection with the Drainage Authorization Process, which shall be performed at the sole cost and expense of 53rd & Oliver. The Drainage Authorization Process and the specific drainage plans and related documents (collectively, the "Drainage Documents") for the Hollows and the 7th Addition must be approved by the City, and

each of the parties hereto, which approval by such parties shall not be unreasonably withheld, delayed or conditioned; and

G. Upon the final approvals and completion of the Drainage Authorization Process and the Drainage Documents, fully executed by all applicable parties, Holdings shall convey to 53rd & Oliver the portion of Reserve A on the east side thereof which is designated according to all such plans as the portion of Reserve A to serve the 7th Addition (the "7th Addition Reserve A Area").

NOW THEREFORE for good and valuable consideration, the receipt of which is hereby irrevocably acknowledged the parties hereto agreed as follows:

1. The Recitals contained above are hereby incorporated into this Agreement.
2. Promptly following the date hereof, 53rd & Oliver shall engage Baughman Company, P.A. ("Baughman") to commence the Drainage Authorization Process and preparation of the Drainage Documents. Baughman shall delineate the 7th Addition Drainage Area as part of the Drainage Documents.
3. Holdings hereby grants to 53rd & Oliver, Baughman and their contractors such access to and on Reserve A as may be reasonably required for the platting of the 7th Addition and performing the Drainage Authorization Process and Drainage Documents. 53rd & Oliver shall require Baughman to provide to Holdings all drawings and information completed by Baughman regarding the Drainage Authorization Process and Drainage Documents. Holdings shall be made aware of meetings with the City and shall have an opportunity to be present and provide input regarding the Drainage Authorization Process and Drainage Documents.
4. 53rd & Oliver and Holdings shall cooperate using diligence to complete the Drainage Authorization Process and Drainage Documents as soon as reasonably possible. Holdings, as the current owner of Reserve A, shall execute applications and other documentation requested by the City or Baughman associated with the Drainage Authorization Process and Drainage Documents for submission to the City, but shall not incur any costs or expense related thereto.
5. When the Drainage Authorization Process and Drainage Documents are finally approved by the City and the parties hereto and shall have been executed, are processed and recorded in accordance with the City's requirements, Holdings shall convey to 53rd & Oliver by a special warranty deed the 7th Addition Reserve A Area, free of any mortgages or liens, other than a lien for the non-delinquent real estate taxes and assessments applicable to such land.
6. As soon as reasonably possible following the conveyance of the 7th Addition Reserve A Area to 53rd & Oliver as provided in paragraph 5 above, 53rd & Oliver shall commence the excavation and other construction on Reserve A as provided in the final Drainage Authorization Process and Drainage Documents, including excavation thereof, and all costs thereof shall be paid by 53rd & Oliver or specially assessed by the City to the 7th Addition. Following the completion of all applicable work on Reserve A required by the Drainage Authorization Process and Drainage Documents, Holdings and 53rd & Oliver shall be responsible for the care, maintenance, repair, and replacement of the portions of Reserve A owned by them.

7. Miscellaneous.

a. This Agreement contains the entire understanding of the parties hereto on the subject matter hereof and may not be amended or modified except by an instrument in writing, executed by the parties hereto or the successors or assigns thereof, including the respective successor owners of Reserve A.

b. This Agreement shall run with the land and be binding on the successors and assigns of the parties hereto, including specifically, the property associations established for Hollows and the 7th Addition which shall, respectively, perform the maintenance, repair and replacement to the portion of Reserve A applicable to Hollows and 7th Addition.

c. In the event any provisions, or portions thereof, of this Agreement are held to be unenforceable or invalid by any court, the validity and enforceability of the remaining provisions, or portions thereof, shall not be affected thereby.

d. In the event either party defaults in the performance of its obligations hereunder, the non-defaulting party may give written notice to the defaulting party specifying such default and if the defaulting party fails to cure the default within five (5) business days following receipt of such notice, then the non-defaulting party may exercise any rights or remedies available at law or equity.

e. This Agreement may be recorded in the records of the Sedgwick County, Kansas Register of Deeds.

f. The laws of the State of Kansas shall govern the interpretation, validity, performance and enforcement of this Agreement. Any dispute or arbitration involving this Agreement shall have its exclusive venue and jurisdiction in Sedgwick County, Kansas.

g. This Amendment may be executed in two or more counterparts, each of which will be deemed to be an original copy of this Amendment and all of which, when taken together, will be deemed to constitute one and the same agreement.

[Signature page follows.]

Executed as of the day and year first above written.

Holdings:

3F2R Holdings, LLC

By:

Name:

Title:

STATE OF KANSAS)

) ss:

COUNTY OF SEDGWICK)

53rd & Oliver:

53rd & Oliver, LLC

By: The Jay Russell Revocable Trust, as amended and restated June 23, 2020, a Member

By:

Jay W Russell, Trustee

BE IT REMEMBERED, that on this 6th day of SEPTEMBER, 2023, before me a Notary Public in and for the County and State aforesaid, personally appeared PHILIP J. RUFFO, member of 3F2R Holdings, LLC, a Kansas limited liability company, personally known to me to be the same person who executed the above and foregoing instrument in writing on behalf of said limited liability company and such person duly acknowledged the execution of the same to be the act and deed of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year last above written.

NOTARY PUBLIC

My Appointment Expires:

8/27/2025

STATE OF KANSAS)

) ss:

COUNTY OF SEDGWICK)



BE IT REMEMBERED, that on this 4th day of AUGUST, 2023, before me a Notary Public in and for the County and State aforesaid, personally appeared Jay W. Russell, Trustee of the Jay W. Russell Revocable Trust, as amended and restated June 23, 2020, a Member of 53rd & Oliver, LLC, a Kansas limited liability company, personally known to me to be the same person who executed the above and foregoing instrument in writing on behalf of said limited liability company and such person duly acknowledged the execution of the same to be the act and deed of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year last above written.

NOTARY PUBLIC

My Appointment Expires:

4/13/24

Jeffrey K. Campbell, Notary Public State of Kansas
My Appt Expires 4/13/24

Exhibit "A"

7th Addition Legal Description

That part of the Northeast Quarter of Section 24, Township 26 South, Range 1 East of the Sixth Principal Meridian, Sedgwick County, Kansas described as follows: Beginning at the northeast corner of said Northeast Quarter; FIRST COURSE, thence $S00^{\circ}09'40''E$, (basis of bearings, east line of said Northeast Quarter as platted in Chapel Landing, Bel Aire, Sedgwick County, Kansas), coincident with the east line of said Northeast Quarter, 1.01 feet to the intersection with the northwest line of an Enbridge Pipeline (KPC) Amendment of Right of Way Contract described and recorded in the Office of the Sedgwick County Register of Deeds in DOC.#/FLM-PG: 28860053 and the northwest line of a ConocoPhillips Amendment of Right-of-Way Agreement described and recorded in the Office of the Sedgwick County Register of Deeds in DOC.#/FLM-PG: 28883860, (hereinafter referred to as Pipeline Rights-of-Way); SECOND COURSE, thence $S64^{\circ}17'22''W$ coincident with the northwest line of said Pipeline Rights-of-Way, 1558.68 feet to the southeast corner of Reserve "A", Bristol Hollows, City of Bel Aire, Sedgwick County, Kansas; THIRD COURSE, thence $N19^{\circ}42'50''W$ coincident with the east line of said Reserve "A", 664.27 feet to the northeast corner of said Reserve "A"; FOURTH COURSE, thence $N00^{\circ}17'10''E$, 60.00 feet to the intersection with the north line of said Northeast Quarter; FIFTH COURSE, thence $S89^{\circ}42'50''E$ coincident with the north line of said Northeast Quarter, 1628.16 feet to the point of beginning, subject to a 30.00 foot road right-of-way lying south of and abutting the north line of said Northeast Quarter.