

LOCAL SERVICE DRAINAGE EASEMENT

Permanent Parcel Numbers:

13-A-007-0-00-022-0
13-A-007-0-00-023-0
13-A-007-0-00-028-0
13-A-007-0-00-031-0
13-A-007-0-00-032-0

This Easement for Local Service Drainage, Inspection and Maintenance (the "LSDE") is entered into this _____ day of _____, 2021 by and between:

Pebble Brook Development, LLC, an Ohio limited liability company (the "Owner" and "Grantor")

ATTN: George E. Davis, III
9124 Tyler Boulevard
Mentor, Ohio 44060

and

Village of Grand River, an Ohio political subdivision (the "Village" and "Grantee")

ATTN: Office of the Mayor
205 Singer Avenue
Grand River, Ohio 440445

and shall inure to the benefit of the Village as well as to the future Owners the rights set forth herein for the following property of the Grantor:

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13-A-007-0-00-032-0

the legal descriptions of which are collectively attached hereto as Exhibit "A" and incorporated herein by this reference as if fully re-written (individually and collectively, the "Property"). Pursuant to subdivision plat for the Pebble Brook Estates Subdivision, filed concurrently herewith, these parcels are re-subdivided into new Sublots 1 through 9. Sublot references contained in this LSDE are to these newly platted sublots. The Deeds from the Grantor for the initial sales of the sublots shall include a reference to this Easement.

WHEREAS, the Village has a comprehensive storm water management program, as required by State and Federal law, and the Property is required pursuant to said laws, as a condition of its development, to have a comprehensive storm water management plan, a required component of which is on-site storm water management infrastructure for the post-development control of quantity and quality of storm water; and

WHEREAS, it is required by State and Federal law that the Village periodically inspect such private storm water management infrastructure to verify that it is being maintained and operated in accordance with law; and

WHEREAS, it is the purpose and intent of this LSDE to secure to the Village in accordance with law a right of periodic inspection of the storm water management infrastructure such that both the Village and Owner are in compliance with all applicable laws; and

WHEREAS, it is a co-equal purpose and intent of this LSDE to secure to the future Owner(s) of the Property, in perpetuity, rights for storm water management infrastructure of intrinsic benefit to their respective Property(ies) and to further establish affirmative obligations to ensure the continued maintenance of all storm water management infrastructure.

NOW THEREFORE, in consideration of the mutual covenants herein set forth and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows.

(1) Sole Agreement. This LSDE is the sole applicable agreement pertaining to storm water management for the Property.

(2) Responsible Party.

(a) "Owner" shall mean the Grantor until such time as Grantor transfers its fee simple legal interest to Sublots 6, 7 & 8 of the Pebble Brook Estates Subdivision (which is where the Dry Pond(s) and/or Extended Detention Basin(s) or other components of the storm water management system are located), at which time, the new fee owner(s) of Sublots 6, 7 & 8 of the Pebble Brook Estates Subdivision shall be the Owner within the meaning of this LSDE, together with their respective successors, executors, administrators, successors-in-interest, transferees and assigns. A person in possession of any subplot in the Pebble Brook Estates Subdivision ("the Property") is also subject to the responsibilities

imposed by this LSDE except to the extent they are clearly inapplicable to a person not having a fee simple interest in the Property.

(b) Notwithstanding paragraph (a) immediately above, until completion of all construction phases and expiration of any warranty period, the Grantor shall remain responsible for maintaining the storm water management system in accordance with all applicable laws and the approved storm water management plan, and as same may be amended from time-to-time.

(3) Declaration of Easements and Rights. Grantor hereby declares non-exclusive perpetual easements for storm drainage purposes within the easement areas shown on the Pebble Brook Estates Subdivision Plat, Vol. _____, Pg. _____ of the Lake County Map Records (attached for convenience hereto as Exhibit "B") for the Property and for the mutual benefit of the Owner(s) of the Sublots upon which such easements are located, to utilize the storm drainage facilities within said easements. For purposes of this LSDE, these easements may be utilized by any Owner of a parcel included in this LSDE (the "Adjacent Parcel Owners") (Adjacent Parcel Owners includes the Owners of Sublots 6, 7 & 8 in Pebble Brook Estates Subdivision) for the purposes described herein. The Owner of a parcel upon which an easement is located is enjoined not to commit any act, nor to allow or suffer any person to commit any act, which impedes the purpose of the LSDE.

(4) Mutual Maintenance and Repair Responsibilities. The Adjacent Parcel Owners shall have equal rights and responsibilities to access, lay, maintain, repair, replace and remove pavements, storm sewer pipe, manholes, culverts, drains, ditches, swales, plantings and/or appurtenances within such easement areas (the "Maintenance Work") in accordance with the approved storm water management plan. In addition, the Adjacent Parcel Owners shall have the rights and responsibilities for removing, clearing, cutting and pruning of underbrush, weeds, stumps, and other growth that impairs the flow of storm drainage through the easement areas, and shall keep the same in a clean and sanitary condition (the "Additional Work").

The Owner of any parcel included in this LSDE may perform any Maintenance Work and/or Additional Work as described herein pursuant to (and may obtain recompense) as described in section 13 below.

(5) Ultimate Responsibility. The Village shall not be responsible for any work or maintenance related to the storm water management plan and/or easement area(s), nor for any liability which arises from the design, use, maintenance, or any injury occurring upon the easement areas. This responsibility shall rest entirely with all of the Owner(s) of the parcels in the Pebble Brook Estates subdivision as identified herein.

(6) The Village may, in its sole discretion, order the Adjacent Parcel Owners or other person with a possessory interest in a parcel, upon which an easement is located, to make repairs, maintenance, or improvement as directed by said Village to ensure that the easement area continues to function properly as a drainage area. In the event the Adjacent Parcel Owners or person with a possessory interest fails to perform the work required by the Village and in addition to other remedies that are available to the Village, the Village may, in

its sole discretion, file suit to enjoin the property owner or person with a possessory interest to perform the work. Said suit shall not be filed unless and until the Village gives the parcel owners and/or the person being sued thirty days written notice to perform the required work.

(7) There shall be a corresponding right on the part of the Owner of any parcel to file suit to enjoin the Adjacent Parcel Owners or other person with a possessory interest in a parcel, upon which an easement is located, to make repairs, maintenance, or improvement to ensure that the easement area continues to function properly as a drainage area. Said suit shall not be filed unless and until said person filing suit gives the person being sued thirty days written notice to perform the required work.

(8) Permanent Components of The Storm Water Management System.

(a) The storm water management system for the Property consists of the following management practices or components:

+ <i>Curb inlet sumps or filters</i>	+ <i>Manholes</i>	+ <i>Storm water drainage ways & swales</i>
+ <i>Infiltration areas</i>	+ <i>Stormceptor</i>	+ <i>Storm water detention ponds</i>
+ <i>BioRetention Structures</i>	+ <i>Storm Sewers</i>	+ <i>Detention pond outfall control structures</i>

(b) The drainage areas served by the storm water management system components include the entirety of the Property (S/Ls 1 through 9).

(9) Inspection and Maintenance Schedule.

(a) The Owner(s) grants permission to the Village to enter the Property and to inspect all aspects of the storm water management system and related drainage whenever the Village deems necessary, upon reasonable (48 hours) advance notice, except in the case of an emergency, as determined by the Village's sole discretion and judgment.

(b) All components of the storm water management system shall be inspected by the Owner and at the discretion of the Village:

- (i) at least semiannually in early Spring and early Autumn; and
- (ii) within 72 hours following any major storm or flood event of sufficient intensity or duration to pose significant risk of damage to the system.

(c) Components shall be inspected by the Owner, and at the discretion of the Village more frequently, in conformity with Exhibit "C" attached hereto.

(d) Maintenance of any Dry Pond(s) and/or Extended Detention Basin(s) shall be in conformity the schedule attached hereto as Exhibit "D."

(e) The Owner shall make the appropriate repairs whenever the performance of a storm water management practice or component is compromised due to sediment or debris.

(10) Funding.

(a) Routine Inspection and Maintenance. It shall be the sole responsibility of the Owner upon whose Property any component of the storm water management system is located to provide, at that Owner's sole cost and expense, all funding for "routine inspection" (as identified in Exhibit "C") and "routine maintenance" (as identified in Exhibit "D").

(b) Non-routine Maintenance. It shall be the joint responsibility of all Owners to provide at that their equal (1/9th) cost and expense all funding for the "non-routine maintenance" of the storm water management system, as identified on Exhibit "D." In the event the Owner(s) should fail after notice to perform, the Village may, but shall not be required, to retain (at its sole discretion) and coordinate with any inspectors, engineers and construction firms for a non-routine maintenance project. The Owners may be required to place their respective shares of the project costs and expenses into an escrow fund (with the costs of escrow likewise shared equally). In the event any Owner(s) fails to contribute their share, then, the Village and/or aggrieved Owner(s) may proceed against that noncompliant Owner pursuant to section 13 of this LSDE.

11) Standards. It shall be the sole responsibility of the Owner(s) on whose Parcel(s) any component subject to this LSDE is located perform (or to refrain from, as applicable) the following acts:

(a) Mowing in buffer areas, pond banks and drainage ways shall be minimized to the greatest extent possible in order to maximize filtration of runoff. If occasional mowing is necessary, the mowing height shall be no shorter than six inches.

(b) Applications of fertilizers, herbicides, pesticide or other chemical applications are prohibited in buffer areas, on pond banks and along drainage ways, unless specifically authorized by the Village of Grand River on an individual event basis, and provided that the application is performed by professional personnel certified for that purpose.

(c) Snow shall not be dumped directly onto conditioned planting beds designed for infiltration or for bioretention, or on sites designated as buffer areas.

(12) Maintenance of Inspection Records.

(a) The Owner upon whose Property any component of the storm water management system is located shall maintain records of the results of all site inspections and any enforcement actions, correction actions or other documented contacts and any follow-up actions taken by or at the direction of Owner for three years after such action and on a semi-annual basis shall provide a copy of any such all site inspections and any enforcement actions, correction actions or other documented contacts and any follow-up actions taken by or at the direction of Owner to the Village.

(b) The Village shall maintain public records of the results of all Village inspections, shall inform the Owner(s) of the inspection results, and shall indicate any

specific corrective actions required to bring the storm water management practice or component into accordance with this LSDE, as per section 13.

(13) Default by Owner. In the event that an Owner(s) of Sublots 6, 7 & 8 in Pebble Brook Estates Subdivision and/or the Adjacent Parcel Owners have failed to comply with any of the responsibilities set forth in this LSDE, the Village and/or any Adjacent Parcel Owner shall give written notice to the Owner(s) at fault, identifying any said default, and requiring compliance within the period of time stated in sections 6 and 7, as applicable. In the event the Owner(s) fails to complete any actions required to remedy the default within said time period, unless extended in writing, Owner consents that the Village and/or an Adjacent Parcel Owner may enter the property on which private storm water management systems and practices are located, correct the default and do any one or more of the following: (a) charge the cost of such corrective action plus fifteen percent (15%) for inspections and administration to the Owner(s) of Sublots 6, 7 &/or 8 in Pebble Brook Estates Subdivision and/or the Adjacent Parcel Owners as the case may be. If the Owner fails to pay for said costs of corrective action within thirty (30) days, then the Village and/or Adjacent Parcel Owner, as applicable, shall have a lien against the Property of that Owner, plus interest at the then current statutory rate. In any legal action to enforce the lien, the lienholder shall be entitled to all costs and expenses, including costs of preliminary and final judicial reports, filing fees, costs, and reasonable attorney's fees;(b) certify all costs that were incurred by the Village to the tax duplicate of the Owner(s) of Sublots 6, 7 &/or 8 in Pebble Brook Estates Subdivision and/or the Adjacent Parcel Owners as the case may be because the failure to maintain the easement area constitutes a nuisance; and/or (c) file a special assessment against the sublots in the Pebble Brook Estates Subdivision pursuant to the provisions of Chapter 727 or 729 of the Ohio Revised Code.

In the event that the Village has to exercise the right to certify the costs to the tax duplicate pursuant to Section 13(b) or to file for a special assessment pursuant to Section 13(c), the Owners and Adjacent Parcel Owners, and their heirs, executors and assigns by accepting the deed to a subplot in this Subdivision, consent to the assessment under either Section 13(b) or 13(c) of this Section and any such Owners and Adjacent Parcel Owners, and their heirs, executors and assigns hereby waive any right to object to any such assessment.

(14) Severability. All provisions of this LSDE are severable, and if any one or more provision is deemed unenforceable for any reason, the remaining provisions shall remain in full force and effect.

(15) Indemnification.

(a) The Owner and Adjacent Parcel Owners hereby agrees that they shall save, hold harmless, and indemnify the Village and its employees and officers from and against all liability, losses, claims, demands, costs and expenses arising from, or out of, default or failure by the Owner to maintain the storm water management system, in accordance with the terms and conditions set forth herein, or from acts of the Owner arising from, or out of, the construction, operation, repair or maintenance of the storm water management system.

(b) The parties hereto expressly do not intend by execution of this LSDE to create in the public, or any member thereof, any rights as a third-party beneficiary or to

authorize anyone not a party hereof to maintain a suit for any damages pursuant to the terms of this LSDE.

(16) Binding Effect. The terms, covenants, conditions and agreements herein shall run with the land and inure to the benefit of and binding upon the Grantor and all present and future owners of the Parcels and their respective heirs, executors, administrator, successors and assigns.

(17) Amendment; Termination. This LSDE may be amended or terminated by a document signed by all Owners and Adjacent Parcel Owners and the Village.

(18) Requirement to Record. This LSDE and any subsequent amendments thereto shall be recorded at the Lake County Recorder's Office.

(19) Governing Law. This LSDE at all times shall be enforced in accordance with the laws of the State of Ohio.

(20) Assignment. An Owner's obligations may not be assigned to another party without the prior written consent of Village except that such consent is not required when an Owner transfers fee simple title to a buyer who is required to assume the duties of this LSDE.

(21) Notices. All notices to be given under the terms of this LSDE shall be in writing and signed by the person serving the notice and shall be sent by first class mail, postage prepaid, or hand delivered to the addresses of the parties listed herein above or to the current tax mailing address as indicated by the records of the Lake County Treasurer.

IN WITNESS WHEREOF, the parties have executed this LSDE as of the date first written above.

FOR THE OWNER / GRANTOR:

By: _____

Name: George E. Davis, III

Title: Managing Member

Date: ___/___/2021

FOR THE VILLAGE / GRANTEE:

By: _____

Name: _____

Title: Mayor

Date: ___/___/2021

STATE OF OHIO)
) ss.
COUNTY OF LAKE)

No oath or affirmation was administered to the signer with regard to the notarial act.

Before me, a notary public in and for said County and State, personally appeared the above-named George E. Davis, III, who acknowledged that he did sign the foregoing instrument on behalf of Pebble Brook Development, LLC, with authority, and that the same is his free act and deed and that of the company.

In Testimony Whereof, I have hereunto set my hand and official seal at _____, Ohio this _____ day of _____, 2021.

Notary Public, State of Ohio

My Commission: _____

STATE OF OHIO)
) ss.
COUNTY OF LAKE)

No oath or affirmation was administered to the signer with regard to the notarial act.

Before me, a notary public in and for said County and State, personally appeared the above-named _____, who acknowledged that he did sign the foregoing instrument on behalf of the Village of Grand River, Ohio, with authority, and that the same is his free act and deed and that of the Village.

In Testimony Whereof, I have hereunto set my hand and official seal at _____, Ohio this _____ day of _____, 2021.

Notary Public, State of Ohio

My Commission: _____

This instrument prepared by:

Joseph P. Szeman (0064822)
Hennig, Szeman & Klammer Co., L.P.A.
8500 Station Street, Suite 245
Mentor, Ohio 44060

**PEBBLE BROOK ESTATE SUBDIVISION
LSDE
Exhibit "A"**

**PEBBLE BROOK ESTATE SUBDIVISION
LSDE
Exhibit "B"**

**PEBBLE BROOK ESTATE SUBDIVISION
LSDE
Exhibit "C"**

**PEBBLE BROOK ESTATE SUBDIVISION
LSDE
Exhibit "D"**