

CITY OF BROOK PARK, OHIO

P/C _____
CA _____
1st R 6/17/25
2nd R _____
3rd R _____
D/C _____

RESOLUTION NO: 13-2025

INTRODUCED BY: COUNCIL AS A WHOLE

**A RESOLUTION GRANTING THE APPROVAL FOR A STORM WATER ACCESS
EASEMENT AGREEMENT AT 5340 WEST 161ST STREET, LOCATED IN THE U7-B
ZONING DISTRICT, AND DECLARING AN EMERGENCY**

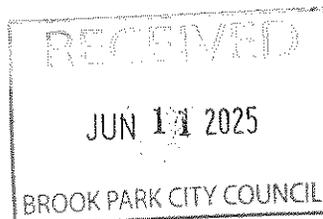
WHEREAS, on June 2, 2025, the Planning Commission approved and referred to Council a request for approval for a Storm Water Access Easement at 5340 West 161st Street, located in the U7-B Zone.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Brook Park, State of Ohio, that:

SECTION 1: The storm water access easement, by and between EL Mustee & Sons, Inc. and the City of Brook Park (attached as Exhibit "A") approved by the Planning Commission on June 2, 2025, is hereby authorized and approved by the Council of the City of Brook Park.

SECTION 2: It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3: This Resolution is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare of said City, and for the further reason to approve this storm water access easement agreement; therefore, provided this ordinance receives the affirmative vote of at least five (5) members elected to Council. It shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, from and after the earliest period allowed by law.



PASSED: June 17, 2025

Richard [Signature]
PRESIDENT OF COUNCIL

ATTEST: Carol Johnson
Clerk of Council

APPROVED: [Signature]
MAYOR

6-18-25
DATE

CERTIFICATE

Carol Johnson, Clerk of Council, of the City of Brook Park, Ohio, do hereby certify that the foregoing is a true and accurate copy of Ordinance / Resolution No. 13-2025 passed on the 17 day of June 20 25 by said council.

Carol Johnson
Clerk of Council

	Yea	Nay
Troyer	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mencini	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Roberts	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Scott	<input checked="" type="checkbox"/>	<input type="checkbox"/>
McCorkle	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Poindexter	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Dufour	<input checked="" type="checkbox"/>	<input type="checkbox"/>

I HEREBY APPROVE THE WITHIN INSTRUMENT AS TO LEGAL FORM AND CORRECTNESS.

Victor [Signature]
DIRECTOR OF LAW



STORMWATER MANAGEMENT LONG TERM MAINTENANCE AGREEMENT

THIS STORMWATER MANAGEMENT MAINTENANCE AGREEMENT, ("Agreement"), made and entered into this 12th day of May, 2025, by and between EL Mustee & Sons, Inc. its successors and assigns, (the "Owner") hereinafter referred to as the "Owner", and the City of Brook Park, Ohio (the "City"), (referred to collectively herein as "Parties) provides as follows:

WITNESSETH,

WHEREAS, the Owner is responsible for certain real estate known as PPN 343-09-002 and referred to as the "Property" and that said Property is to be developed; and

WHEREAS, the Owner proposes to build on and develop the Property; and

WHEREAS, the Owner is providing a stormwater management system consisting of the storm water management facilities and practices as shown on the attached site and/or utility plans and calculations and as approved by the City to provide for water quality treatment of stormwater and are further described on the attached Exhibit A; and

WHEREAS, to comply with Codified Ordinances of the City, the Owner has agreed to maintain the storm water management system for the proposed development located on the Property, in accordance with the terms and conditions set forth in this Agreement:

NOW, THEREFORE, for and in consideration of the mutual covenants and undertaking of the Parties, the Parties hereby agree as follows:

A. MAINTENANCE PLANS FOR THE STORMWATER MANAGEMENT SYSTEM

1. The Owner agrees to maintain, in perpetuity, the storm water management system in accordance with, (1) the approved Maintenance Plans listed in B(2) of this Agreement; (2) in a manner that will permit the stormwater management system to perform the purposes for which it was designed and constructed; and (3) in accordance with the standards by which it was designed and constructed, all as shown and described in the approved SWPPP. The system includes all pipes and channels built to convey storm water to the storm water management system, as well as structures, improvements, and vegetation provided to control the quantity and quality of the stormwater.

2. The Owner agrees to adhere to the following Maintenance Plan for each part or portion of the storm water management system. The Owner shall maintain, update, and store all records for such maintenance. **(Check all that apply and remove the non-approved systems)**

(a) Storm water Pond/Basin: To be completed MONTHLY.

- (1) Remove floating/residual debris.
- (2) Selective removal of woody vegetative growth from pond/basin area including embankments per the approved design.
- (3) Remove trash and/or accumulated sediment.
- (4) Remove obstructions in orifices and/or outlets.
- (5) Mow embankments as seasonally required.

(b) Storm water Pond/Basin: To be completed ANNUALLY.

- (1) Repair erosion to outfall or spillway.
- (2) Repair and/or replace damaged structures, such as catch basins, risers, pipes, and headwalls.
- (3) Repair animal burrows and/or other leaks in the dam structures.
- (4) Remove debris from overflow spillway and grates.
- (5) Inspect and remove invasive plants.
- (6) Dredge micro pool / pond on a 3-7 year cycle or as necessary to retain design capacity.

(c) Other storm water management system(s) being used on site per the approved SWPPP. (Please provide a maintenance plan(s) as applicable for this item to the City for review.) The approved maintenance plan(s) shall be attached and will be part of this Agreement.

3. The Owner shall perform all maintenance in accordance with the above Maintenance Plan and shall complete all repairs identified through regular inspections and any additional repairs as requested by the City, in writing.

B. INSPECTION AND REPAIR OF STORMWATER MANAGEMENT SYSTEM

1. The Owner shall inspect the storm water management system listed under Section B above every three (3) months and after major storm events for the first year of operation.
2. The Owner shall inspect the stormwater management system listed under Section B at least once each year after the first year of operation.
3. The Owner shall keep a log of the inspection reports to be viewed as requested by the City Engineer, and the reports shall include the following information: the date of inspection; name of Inspector; the condition and/or presence of the components of the storm water management system; and any other item that could affect the proper function of the facilities. Maintenance and inspection reports shall be sent to the City Engineer yearly.
4. The Owner grants permission to the City to enter the Property and to inspect all aspects of the stormwater management system and related drainage at all times whenever the City deems necessary upon written notice to the Owner. The City shall provide the Owner copies of the inspection findings and a directive to commence with any necessary repairs.
5. The Owner shall make all necessary repairs within ten (10) business days of their discovery through Owner inspections or through a request from the City. If repairs will not occur within this ten (10) day period, the Owner must receive written approval from the City Engineer for a repair schedule, which approval will not be unreasonably withheld, conditioned or delayed.
6. If the Owner fails to perform any of the covenants and warranties regarding the maintenance of the storm water management system; or, if the Owner fails to maintain the various components of the storm water management system according to the approved design standards and Maintenance Plan; or, if an emergency arises as determined by the City, the City, after providing reasonable notice to the Owner, may enter the Property and take all steps necessary to correct deficiencies and shall charge the cost of such repairs to the Owner. The Owner shall reimburse the City upon demand, within thirty (30) days of receipt of an invoice for all actual costs incurred by the City. All costs expended by the City in performing any necessary maintenance or repair shall constitute a lien against the Property. If necessary, the City shall be entitled to file and record an assessment for the costs of the repair with

the Cuyahoga County Fiscal Office which shall be charged on the real property tax billings to the Owner by the County. Nothing in this Agreement shall obligate the City to maintain the storm water management system.

C. FUNDING

The Owner shall be responsible for funding of the perpetual inspection, operation, and maintenance of the stormwater management system listed in this Agreement.

D. GENERAL PROVISIONS

1. Compliance with Laws: The Parties will comply with all applicable federal, state, and local laws, statutes, codes, ordinances, resolutions, orders, rules, and regulations.
2. Notice: Any notice permitted or required to be given pursuant to the terms of this Agreement shall be deemed properly given if either hand delivered, or mailed by certified U.S. Mail, return receipt requested, or sent by overnight courier requiring signature of receipt, to the following addresses:

IF TO THE OWNER:

Name: E.L. Mustee & Sons, Inc.

Address: 5431 W 164th St.

Cleveland, OH 44142

Contact: Robert Mustee

Phone: (216) 267-3100

E. INDEMNIFICATION

1. Owner agrees to hold harmless, and indemnify the City 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 stormwater management system, in accordance with the terms and conditions set forth in this Agreement, or from acts of the Owner arising from, or out of, the construction, operation, repair, or maintenance of the storm water management system, but not

including claims arising from the gross negligence or intentional misconduct of the City and its employees and officers.

2. The Parties expressly do not intend, by execution of this Agreement, to create in the public, or any member of the public, any rights as a third party beneficiary or to authorize anyone other than the Parties to maintain a suit for any damages pursuant to the terms of this Agreement.
3. This Agreement shall be a covenant that runs with the land and shall inure to the benefit of and shall be binding upon Parties, their respective successors and assigns, and all subsequent owners of the Property.
4. The current Owner shall promptly notify the City when the Owner legally transfers any of the Owner's responsibilities for the storm water management system. The Owner shall supply the City with a copy of any document of transfer, as executed by both parties.
5. Upon execution of this Agreement, the Owner shall be responsible for its recording it with Cuyahoga county.
6. Any and all prior LTMA agreements pertaining to the Property by and between the Parties are here-by rescinded and this agreement constitutes the full and final agreement. Any amendment to this Agreement must be made in writing and agreed to by all Parties.

IN WITNESS WHEREOF, this Agreement has been executed on behalf of each Party by a duly authorized officer as of the _____ day of _____, 20_____.

CITY OF BROOK PARK, OHIO:

BY: _____

THE STATE OF OHIO }
COUNTY OF CUYAHOGA }

The foregoing instrument was acknowledged before me this _____ day of _____, _____, by _____

(Seal)

Signature of Notary Public

ROBERT J. MUSTEE
Printed Name of Company/Owner

E. C. MUSTEE & SONS, INC.
Printed Name of Company Official/Owner

BY: [Signature]
Signature of Company Official/Owner

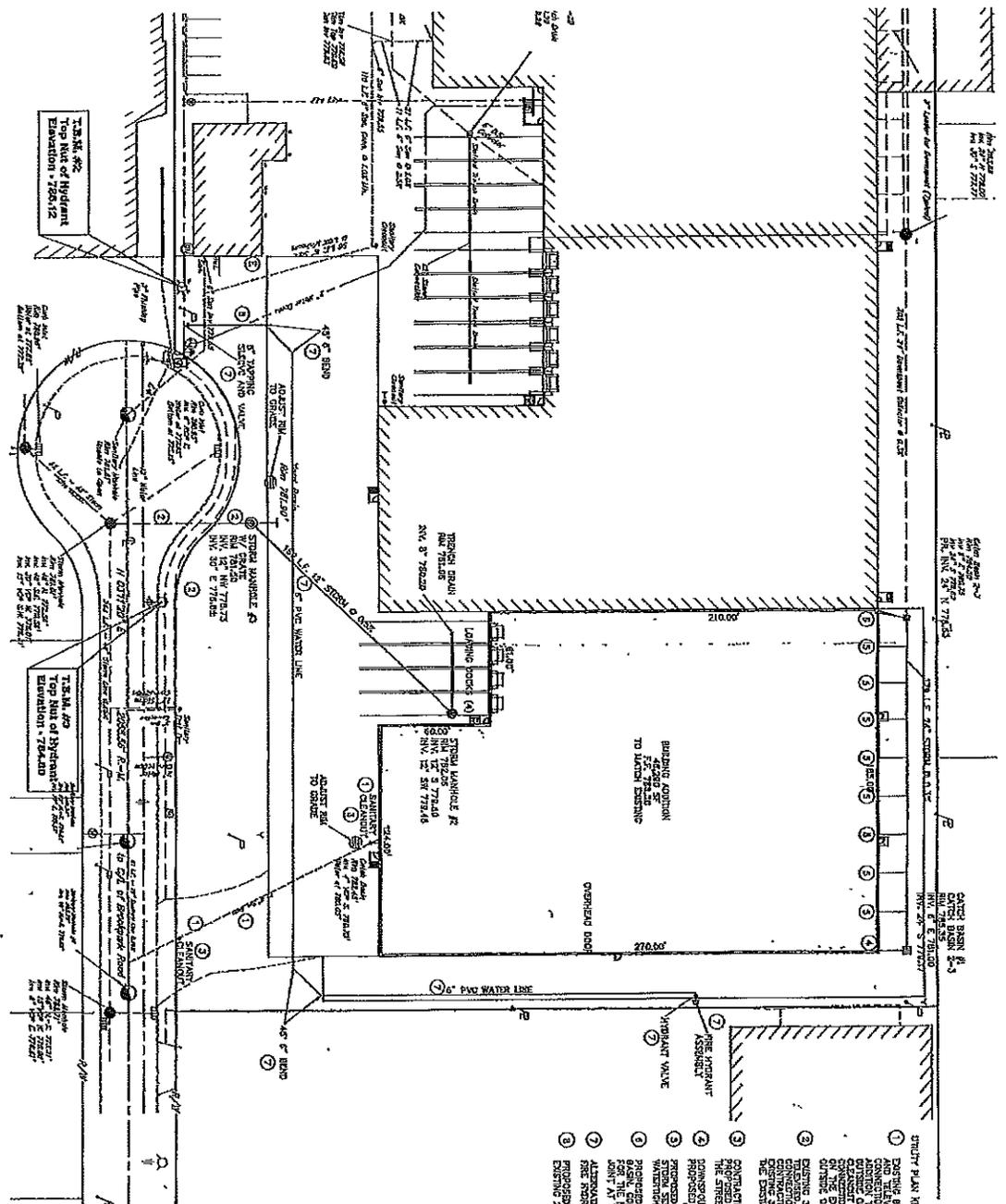
THE STATE OF OHIO }
COUNTY OF CUYAHOGA }

The foregoing instrument was acknowledged before me this 16 day of May, 2025
by Robert Mustee

(Printed Name of Company Official)

[Signature]
Signature of Notary Public





1. DESIGN OF SERVICE CONNECTIONS, LOCATED BY CONVEYOR AND THE EXISTING CONNECTION TO EXISTING WATER MAINS, SHALL BE THE RESPONSIBILITY OF THE CITY ENGINEER. NEW SERVICE CONNECTIONS TO THE BUILDING SHALL BE THE RESPONSIBILITY OF THE BUILDING OWNER. CONVEYORS TO INSTALL NEW SERVICE CONNECTIONS SHALL BE RESPONSIBLE FOR THE DESIGN OF THE SERVICE CONNECTIONS TO THE EXISTING CONNECTIONS ON THE EXISTING MAINS.
2. EXISTING SERVICE CONNECTIONS, LOCATED BY CONVEYOR AND CONVEYORS, SHALL BE THE RESPONSIBILITY OF THE CITY ENGINEER. NEW SERVICE CONNECTIONS TO THE EXISTING MAINS SHALL BE THE RESPONSIBILITY OF THE BUILDING OWNER AND VERIFY THE EXISTING SERVICE CONNECTIONS.
3. CONVEYOR SHALL NOTIFY A NEW DESIGNER, WHERE THE EXISTING CONNECTIONS ARE TO BE CONNECTED TO THE EXISTING MAINS.
4. CONVEYOR SHALL NOTIFY THE CITY ENGINEER, WHERE THE EXISTING CONNECTIONS ARE TO BE CONNECTED TO THE EXISTING MAINS.
5. CONVEYOR SHALL NOTIFY THE CITY ENGINEER, WHERE THE EXISTING CONNECTIONS ARE TO BE CONNECTED TO THE EXISTING MAINS.
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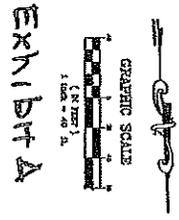
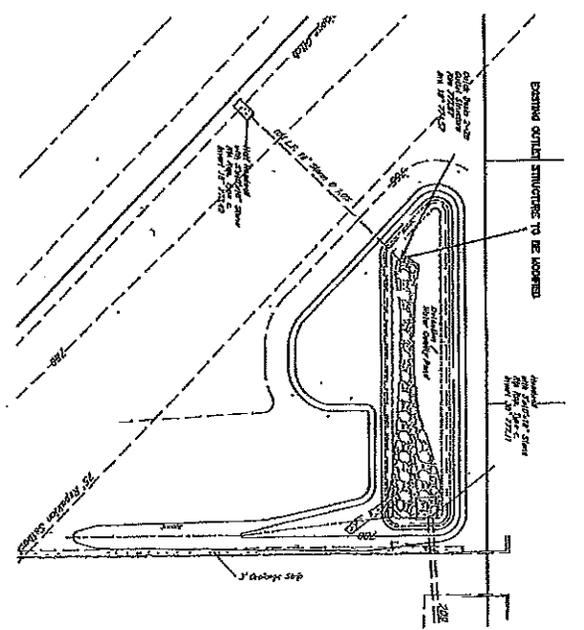
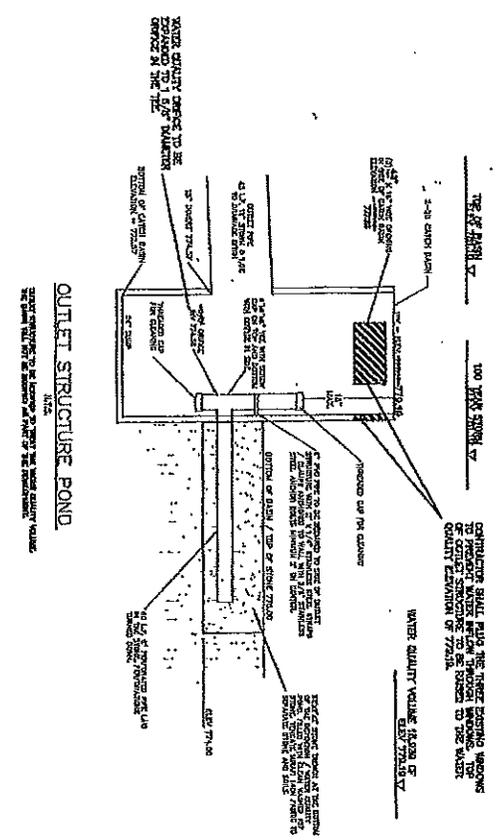


EXHIBIT A

	<p>E.L. MUSTEE BUILDING ADDITION - PHASE B WEST 161ST STREET BROOK PARK, OH 44142</p>	<p>2024-874</p>	
<p>PLAN NO. 2024-874</p>	<p>ISSUED DATE: 05/08/2024 2024-05-08 2024-05-08</p>	<p>PROJECT NO. 2024-874</p>	<p>DATE REVISIONS:</p>
<p>2024-874</p>	<p>ISSUED DATE: 05/08/2024 2024-05-08 2024-05-08</p>	<p>PROJECT NO. 2024-874</p>	<p>DATE REVISIONS:</p>



GRAPHIC SCALE
 1" = 20' (AS SHOWN)
 1" = 40' (AS SHOWN)
Exhibit A

	2024-374 LAND SURVEYING & ENGINEERING 4800 LAKERSIDE AVENUE - SUITE 100 BROOK PARK, OH 44142 PHONE: (419) 491-2500 FAX: (419) 491-6640 WWW.RIVERSTONESURVEYING.COM	
	E.L. MUSTEE BUILDING ADDITION - PHASE B WEST 161ST STREET BROOK PARK, OH 44142 UTILITY PLAN	
PLANT REVISIONS DATE: 08/20/24 BY: [Redacted] CHECKED: [Redacted] APPROVED: [Redacted]	ISSUED FOR: Tom Packer 271 DICKENS NET RISE SUBMITTAL	PROJECT NO.: 2024-374