

**FILED**Nov 17 2021 SLG  
JOHN E. PETALAS  
LAKE COUNTY AUDITOR**DRAINAGE EASEMENT**

Prepared by and Return To:

Anthony J. Jacob  
Hinshaw & Culbertson LLP  
151 N. Franklin St.  
Suite 2500  
Chicago, IL 60606 <sup>TE</sup>

Parcel Number:

45-13-19-400-017.000-046  
45-13-19-400-016.000-046  
45-13-19-400-019.000-046  
45-13-19-400-018-000-046

THIS DRAINAGE EASEMENT (the "Agreement") is made and entered into this 29th day of October 2021, by and between SIR RLJ, LLC, an Indiana limited liability company (hereinafter referred to as "Grantor"), and VELOCITY PROPERTIES LLC, an Indiana limited liability company (hereinafter referred to as "Grantee").

**WITNESSETH:**

The following recitals of fact are a material part of this Agreement.

- A. Grantor is the owner of certain parcels of land in the County of Lake and State of Indiana, legally described in Exhibit "A" attached hereto and by this reference made a part hereof (the "Grantor Property").
- B. Grantee is the owner of certain parcels of land in the County of Lake and State of Indiana, legally described in Exhibit "B" attached hereto and by this reference made a part hereof ("Benefited Property"), said Benefited Property being adjacent to the Grantor Property.
- C. Grantor desires to redevelop the Grantor Property, which requires, among other things, the need to relocate the existing drainage retention area and relocate the drainage of storm water and/or runoff from the Benefited Property across the Grantor Property.
- D. Grantor wishes to grant and Grantee wishes to obtain, subject to terms and conditions herein provided, including Grantor's right to relocate the drainage retention area, a temporary non-exclusive drainage easement in, over, through, across and upon portions of the Grantor Property legally described in Exhibit C

("Existing Easement Premises") to be terminated and replaced with a non-exclusive perpetual drainage easement in, over, through, across and upon the New Easement Premises, defined below, and legally described in Exhibit D.

NOW, THEREFORE, in consideration of the foregoing, the sum of One and No/100 Dollars (\$1.00), the mutual covenants and agreements of the parties hereto and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Recitals Incorporated By Reference.** The provisions of the aforesated recital paragraphs are, by this reference, herein incorporated as if they had been set forth in the text of this Agreement.

2. **Grant of Easement.** Subject to the terms of this Agreement and to all matters and conditions of record, Grantor hereby grants, gives and conveys to Grantee, its tenants, tenant's subtenants, customers, agents, representatives, successors and assigns, for the purposes herein stated and for no other purpose: (a) a temporary non-exclusive easement for the drainage of storm water from the Benefitted Property in, over, on and through the Existing Easement Premises in the current matter, but not to be increased by the Grantee, subject to relocation and termination once the New Easement Premises has been constructed, and (b) a non-exclusive perpetual easement for the drainage of storm water from the Benefitted Property in, over, on and through the portion of the New Easement Premises in the current manner, but not to be increased by the Grantee, subject to the construction of a new, relocated drainage retention area. After completion of construction, reconstruction, and/or maintenance of the new drainage retention area on the New Easement Premises, the easement over the Existing Easement Premises described in the foregoing clause (a) shall automatically terminate. Grantor agrees to maintain the new drainage retention area located on the New Easement Premises.

3. **Relocation of Existing Easement Premises and Construction of New Easement Premises.** In Grantor's sole right and discretion, Grantor shall be responsible for the construction, alteration, removal, relocation, reconfiguration and modification of the Existing Easement Premises as Grantor deems necessary to construct the new, relocated drainage retention area for the purposes herein stated and for no other purpose, as to be depicted by Grantor on a portion of the New Easement Premises. Upon the completion of the drainage retention area on the New Easement Premises, Grantor shall notify Grantee that the Existing Easement Premises has been extinguished, terminated and replaced with the New Easement Premises, for the same use as a non-exclusive perpetual easement for the drainage of storm water from the Benefitted Property in, over, on and through the portion of the New Easement Premises as limited by the terms of this Agreement. Grantor shall be responsible for the construction and maintenance of the drainage retention area on the New Easement Premises.

4. **Reservations of Rights.** Subject to the terms of this Agreement, Grantor reserves the following rights with respect to the Existing Easement Premises, New Easement Premises and Grantor Property:

- (a) The right to use the surface areas of the Grantor Property and the non-exclusive right to use the sub-surface areas of the Grantor Property for any

reason and in such manner as Grantor shall deem proper, in its sole discretion; and

- (b) The right to grant additional access, utility or other easements over, upon and under, and the right to grant others the right to use, the Existing Easement Premises and the New Easement Premises, so long as Grantee's use of the Existing Easement Premises and the New Easement Premises are not materially adversely affected.

5. **Limitations on Use; Restrictions on Maxim Road.** The rights granted to Grantee by this Agreement shall be limited to use for storm water drainage and runoff purposes only and shall benefit and burden each of the Grantor Property and Benefitted Property on the terms and conditions set forth herein. Grantor and its successor owners shall have the right to use the Grantor Property in any way non inconsistent with this Agreement and the rights granted to Grantee hereunder. Additionally, Grantor shall not utilize Maxim Road running North and South to and from U.S. Route 30 located along the Eastside of the Benefitted Property for semi-truck traffic.

6. **Covenants Run With Land.** All provisions of this Agreement, including the benefits and burdens, shall run with the land and are binding upon and inure to the benefit of all parties having or acquiring any right, title or interest in or to any portion of, or interest or estate in, the Grantor Property, Existing Easement Premises, New Easement Premises or the Benefitted Property.

7. **Release of Claims; Indemnity.** Grantee assumes sole and entire responsibility for any and all loss of life, injury to persons or damage to property (wherever such property may be located) that may be sustained directly or indirectly due to the activities, operations or use of the Existing Easement Premises and New Easement Premises (including, without, limitation, any such loss, injury or damage due to the construction, maintenance, restoration, operation, replacement or repair of the drainage line or any improvements thereto) by Grantee, its agents, employees and contractors, and for those claiming through any of them (collectively, the "Grantee Group"). Grantee, for itself and for those claiming through Grantee, hereby releases Grantor, its officers, directors, partners, employees, agents, mortgagees, licensees, contractors, guests and invitees (and their respective officers, directors, partners, employees, agents, mortgagees, licensees, contractors, guests and invitees, subsidiaries, affiliates, successors, grantees and assigns) (collectively the "Grantor Indemnitees") from any and all liability, loss, claims, demands, liens, damages, penalty, fines, interest, costs and expenses (including, without limitation, reasonable attorneys' fees and litigation costs incurred by the Grantor Indemnitees in connection therewith) and for damage, destruction or theft of property, that may arise from operations on, or the use of, the Existing Easement Premises and New Easement Premises (including without limitation, any such liability, loss, claims, demands, liens, damages, penalty, fines, interest, costs and expenses that may arise as a result of the construction, maintenance, restoration, operation, replacement or repair of the water and sewer facilities or any improvements thereto) by Grantee Group. Grantee hereby agrees to indemnify, defend and hold harmless the Grantor Indemnitees from and against any and all liability, loss, claims, demands, liens, damages, penalty, fines, interest, costs and expenses (including, without limitation, reasonable attorneys' fees and litigation costs incurred by Grantor Indemnitees in connection

therewith) and for any and all loss of life, injury to persons or damage to property which is directly or indirectly due to the activities, operations or use of the Existing Easement Premises and New Easement Premises (including, without limitation, any such loss, injury or damage due to the construction, maintenance, restoration, operation, replacement or repair of the sewer line) by Grantee Group, excluding actions and liabilities caused by Grantor's gross negligence or willful misconduct.

8. **Covenants of Grantee.** Grantee covenants and agrees not to construct, erect, maintain or permit any structure, installation, facility or improvement of any kind or nature whatsoever on or above the surface of the Existing Easement Premises and New Easement Premises.

9. **Non-Interference by Grantee.** Grantee hereby agrees not to interfere with the use of any existing easement on, under, above or across the Grantor Property or the Existing Easement Premises or the New Easement Premises. Furthermore, Grantee hereby agrees not to interfere with the use of any easement hereafter granted on, under, above or across the Grantor Property or the Existing Easement Premises or the New Easement Premises or with any other use of the Existing Easement Premises or the New Easement Premises so long as such easement, the use thereof or any other use does not materially interfere with Grantee's rights hereunder.

10. **No Lien.** Grantee shall not permit any lien to stand against the Existing Easement Premises or the New Easement Premises, the Grantor Property or any improvements thereon for any labor or materials in connection with work of any character performed or claimed to have been performed on the Existing Easement Premises, the New Easement Premises or the Grantor Property at the direction or sufferance of any member of the Grantee Group. In the event of any such lien attaching to the Existing Easement Premises, the New Easement Premises, the Grantor Property or any improvements thereon, Grantee shall immediately have such lien released and failure by Grantee to do so shall constitute a breach of this Agreement.

11. **Compliance with Laws.** All construction, maintenance, alteration, replacement, operation and repair of the Existing Easement Premises or New Easement Premises by Grantee shall comply with all applicable laws, statutes, building codes and regulations of general application (collectively, "Laws"). This Agreement does not abrogate or supersede any applicable Laws requiring the parties to obtain permits, licenses, inspections or approvals in order to construct, maintain, alter, replace, operate or repair the underground drainage line within the Existing Easement Premises and New Easement Premises as contemplated herein.

12. **Breach.** If either party breaches any provision in this Agreement and fails to commence to cure any such breach within thirty (30) days after written notice thereof, the injured party shall have the right, but not the obligation, to perform same and the breaching party shall reimburse the injured party for the cost thereof, together with interest accruing thereon at an annual rate of interest equal to one percent (1%) from and after the date of the injured party's demand therefore until the date of the injured party's receipt of full payment therefore, in addition to any other right or remedy available at law or in equity.

In any legal action brought to enforce the terms of this Agreement, the prevailing party shall have the right to collect its reasonable attorneys' fees and costs from the non-prevailing party.

13. **No Warranties; Integration.** Grantee acknowledges that Grantee has not been induced in the making, execution and delivery of this Agreement by any representations, statements, warranties or agreements of Grantor. This Agreement embodies the entire understanding of the parties and there are no further or other agreements or understandings, written or oral, in effect between the parties relating to the subject matter hereof. The terms "Grantor" and "Grantee" as used herein shall be deemed to include any and all successors, grantees and assigns of such parties and their respective successors, grantees and assigns.

14. **Notices.** All notices and other communications given pursuant to this Agreement shall be in writing and shall be deemed properly served if delivered on the first day following delivery to an overnight courier service or on the third day after deposit in the U.S. mail as registered or certified mail, return receipt requested, postage prepaid, as follows:

If to Grantor: SIR RLJ, LLC  
5441 E. Lincoln Hwy.  
Merrillville, IN 46410  
Attention: James Dragon

If to Grantee: Velocity Properties LLC  
5901 E. 81<sup>ST</sup> AVE  
MERRILLVILLE IN 46410

Names and addresses may be changed by the parties by notice given in accordance with the provisions hereof.

15. **Transfer by Grantor.** Upon any transfer or conveyance of the Existing Easement Premises, the New Easement Premises or Grantor Property by Grantor, the transferor shall be released from any liability under this Agreement relative to the real estate so transferred or conveyed, and the transferee shall be bound by and deemed to have assumed the obligations of Grantor arising after the date of such transfer or conveyance.

[Signature Page Follows]

LAKE COUNTY, INDIANA, 021-586-0, 1 5

# NOT AN OFFICIAL DOCUMENT

IN WITNESS WHEREOF, the parties hereto have executed this Drainage Easement as of the day and year first above written.

**GRANTOR:**

**GRANTEE:**

SIR RLJ, LLC

VELOCITY PROPERTIES LLC

By: James Dragon

James Dragon, Authorized Agent

By: Terry Robinson

Its: Authorized Representative

name: Terry Robinson

Property of Lake County Recorder

# NOT AN OFFICIAL DOCUMENT

LAKE COUNTY, INDIANA, (821-5566), I

STATE OF INDIANA )  
 ) SS.  
COUNTY OF LAKE )

I, the undersigned a Notary Public, in and for said County, in the State aforesaid, DO HEREBY CERTIFY that James Dragon personally known to me to be an authorized agent of SIR RLJ, LLC, the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his free and voluntary act for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 29 day of October, 2021  
Commission Expires 1/10/24  
\_\_\_\_\_  
Notary Public



STATE OF INDIANA )  
 ) SS.  
COUNTY OF LAKE )

I, the undersigned a Notary Public, in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Teary Robinson personally known to me to be Authorized representative of VELOCITY PROPERTIES LLC, the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his free and voluntary act for the uses and purposes therein set forth..

GIVEN under my hand and Notarial Seal this 29 day of October, 2021.  
\_\_\_\_\_  
Notary Public



I affirm under the penalties for perjury that I have taken responsible care to redact each social security number in this document unless required by law  
Anthony J. Jacob

**EXHIBIT A**

**LEGAL DESCRIPTION OF GRANTOR'S PROPERTY**

Lot 3 of the Velocity Development, an addition to the City of Hobart as recorded in the Lake County Recorder's Office, in Book 101 page 44.

Parcel Number: 45-13-19-400-017.000-046.

Lot 2 of the Velocity Development, an addition to the City of Hobart as recorded in the Lake County Recorder's Office, in Book 101 page 44.

Parcel Number: 45-13-19-400-016.000-046.

Lot 4 of the Velocity Development, an addition to the City of Hobart as recorded in the Lake County Recorder's Office, in Book 101 page 44.

Parcel Number: 45-13-19-400-019.000-046.

Private Drainage Easement of the Velocity Development, an addition to the City of Hobart as recorded in the Lake County Recorder's Office, in Book 101 page 44.

Parcel Number: 45-13-19-400-018.000-046.



EXHIBIT B

LEGAL DESCRIPTION OF GRANTEE'S BENEFITED PROPERTY

Lot 1 of the Velocity Development, an addition to the City of Hobart as recorded in the Lake County Recorder's Office, in Book 101 page 44.

Parcel Number: 45-13-19-400-016.000-046.

Property of Lake County Recorder

EXHIBIT C

LEGAL DESCRIPTION OF EXISTING EASEMENT PREMISES

Private Drainage Easement of the Velocity Development, an addition to the City of Hobart as recorded in the Lake County Recorder's Office, in Book 101 page 44.

Parcel Number: 45-13-19-400-018.000-046.

Property of Lake County Recorder

**EXHIBIT D**

**LEGAL DESCRIPTION OF NEW EASEMENT PREMISES**

Lot 2 of the Velocity Development, an addition to the City of Hobart as recorded in the Lake County Recorder's Office, in Book 101 page 44.

Parcel Number: 45-13-19-400-016.000-046.

Property of Lake County Recorder