

STORMWATER FACILITY MAINTENANCE AGREEMENT

THIS STORMWATER FACILITY MAINTENANCE AGREEMENT (the "Agreement") is entered into between TM BTR of Texas, LLC ("Landowner") and the City of Saginaw, Texas ("City"), effective when executed by both parties.

WITNESSETH

WHEREAS, Landowner is the owner of that certain tract of real property described as approximately 18.532 acres of land located in the B. THOMAS SURVEY, ABSTRACT No. 1497, Tarrant County, Texas on **Exhibit A** (the "Property"); and

WHEREAS, stormwater management facilities, hereafter defined as the "Facility", shall be constructed offsite on a tract of land owned by Fort Worth MF LP, as described in **Exhibit B** Page 1 of 2; and

WHEREAS, the City requires that the Facility be maintained by Landowner, its successors and assigns, at no cost to the City.

NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants contained herein, and the following terms and conditions, the parties hereto agree as follows:

1. Landowner, its successors and assigns, shall construct and adequately maintain the 48-inch reinforced concrete storm sewer drainage pipe and associated easement, as shown on **Exhibit B** Page 2 of 2 (the "Facility"), at no expense to the City in accordance with the design specifications for the Facility. Adequate maintenance is herein defined as good working condition so that these facilities are performing their design functions. The Stormwater Facility Operation and Maintenance Plan, attached to this Agreement as **Exhibit C**, and the Stormwater Structural Control Maintenance Checklists, attached to this Agreement as **Exhibit D**, are to be used to establish what good working condition is acceptable to the City.
2. Landowner, its successors and assigns, shall inspect the Facility and submit an inspection report to the City annually. The purpose of the inspection is to assure safe and proper functioning of the Facility. Components of the Facility which need maintenance or replacement to perform their design function shall be noted in the

inspection report along with the corrective actions to be taken.

3. Landowner, its successors and assigns, hereby grant permission to the City, its authorized agents and employees, to enter upon the Property and to inspect the Facility, with at least 48 hours prior written notice to Landowner. The purpose of inspection is to follow-up on reported deficiencies. The City shall provide to Landowner copies of the inspection findings and a directive to commence with the repairs if necessary.
4. In the event Landowner, its successors and assigns, fails to maintain the Facility in good working condition as specified herein, the City, its authorized agents and employees, after 48 hours prior written notice to Landowner, may enter upon the Property and take steps necessary to correct deficiencies identified in the inspection report and to charge the costs of such repairs to Landowner, its successors and assigns. It is **expressly understood and agreed that the City is under no obligation to routinely maintain or repair said Facility, and in no event shall this Agreement be construed to impose any such obligation on the City, such obligation is Landowner's.**
5. Landowner, its successors and assigns, will perform the work necessary to keep the Facility in good working order as appropriate. In the event the City pursuant to this Agreement, performs work of any nature, or expends any funds in performance of said work for labor, use of equipment, supplies, materials, and the like, in accordance with Section 4, Landowner, its successors and assigns, shall reimburse the City upon demand, within thirty (30) days of receipt thereof for all actual costs incurred by the City hereunder. In the event Landowner or its successors or assigns fail to pay the City for the costs incurred under Section 4, the City may impress a lien for the costs of such work upon other lots owned by Landowner. Such lien shall be perfected by filing in the office of the County Clerk of Tarrant County, Texas an affidavit identifying the property to be charged with such lien, stating the amount hereof, and making reference to this Agreement. The City shall deliver a copy of the recorded lien to Landowner within five (5) business days after recording.

6. This Agreement imposes no liability of any kind whatsoever on the City. LANDOWNER AGREES TO HOLD THE CITY HARMLESS FROM ANY LIABILITY IN THE EVENT THE FACILITY FAILS TO OPERATE PROPERLY. LANDOWNER COVENANTS AND AGREES AND DOES HEREBY INDEMNIFY, HOLD HARMLESS AND DEFEND THE CITY, ITS AGENTS, SERVANTS AND EMPLOYEES FROM AND AGAINST ALL COSTS, EXPENSES, LOSSES, DAMAGES, CLAIMS OR CAUSES OF ACTION WHATSOEVER ARISING, OR WHICH MIGHT ARISE, FROM THE FAILURE OF LANDOWNER TO MAINTAIN THE FACILITY; OR FAILURE TO PERFORM ANY OTHER DUTIES OR OBLIGATIONS HEREUNDER.
7. This Agreement shall be recorded in the land records of Tarrant County, Texas, shall constitute a covenant running with the land, and shall be binding on Landowner.
8. Notwithstanding anything to the contrary contained or implied elsewhere herein, TM BTR of Texas, LLC may assign all rights and obligations pursuant to this Agreement to a homeowners association or to the owner of all of any part of the Property without the consent of, but with written notice to, the City of such assignment including the Notice information for the assignee. Upon such assignment, all liabilities, indemnities and obligations of TM BTR of Texas, LLC as Landowner hereunder, shall expire and be of no further force or effect, save and except for any liabilities, indemnities and obligations of TM BTR of Texas, LLC which have accrued and are due, payable and/or performable as of the date of such transfer. Thereafter, the assignee(s) shall be the Landowner pursuant to this Agreement.
9. Any notices, certifications, approvals, or other communications required to be given by one party to another under this Agreement (a "Notice") shall be given in writing addressed to the party to be notified at the address set forth below and shall be deemed given: (i) when the Notice is delivered in person to the person to whose attention the Notice is addressed; (ii) when received if the Notice is deposited in the United States Mail, certified or registered mail, return receipt requested, postage prepaid; or (iii) when the Notice is delivered by Federal Express, UPS, or another

nationally recognized courier service with evidence of delivery signed by any person at the delivery address. If any date or period provided in this Agreement ends on a Saturday, Sunday, or legal holiday, the applicable period for calculating notice shall be extended to the first business day following the Saturday, Sunday, or legal holiday. For the purpose of giving any Notice, the addresses of the parties are set forth below. The parties may change the address set forth below by sending Notice of such changes to the other party as provided in this section.

To the City:

City of Saginaw
Attn: Mayor and City Secretary
333 W. McLeroy Blvd.
Saginaw, TX 76179

To Landowner:

TM BTR of Texas, LLC
6735 Salt Cedar Way
Building 1, Suite 200
Frisco, TX 75034

10. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of such counterparts shall constitute one and the same document.

[THE NEXT PAGE IS THE SIGNATURE PAGE]

CITY OF SAGINAW, TEXAS

By: _____
Todd Flippo, Mayor

Date: _____

ATTEST:

By: _____
Janice England, City Secretary

STATE OF TEXAS

COUNTY OF TARRANT

BEFORE ME, the undersigned authority in and for the City of Saginaw, Texas, on this day personally appeared **Todd Flippo**, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he is the Mayor of the City of Saginaw, Texas, and that he is authorized to execute the foregoing instrument on behalf of such limited partnership for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, 2023.

Notary Public, State of Texas

TM BTR of Texas,
A Texas limited liability company

By: [Signature]

Name: THOMAS MITCH Avery

Title: VP BTR Field Ops

STATE OF TEXAS

COUNTY OF Collin

BEFORE ME, the undersigned authority in and for Collin County, Texas, on this day personally appeared Mitch Avery, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that he is the VP of operations of TM BTR OF TEXAS, LLC, a Texas limited liability company, and that he is authorized to execute the foregoing instrument on behalf of such limited liability company for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 20th day of March, 2023.

[Signature]
Notary Public, State of Texas

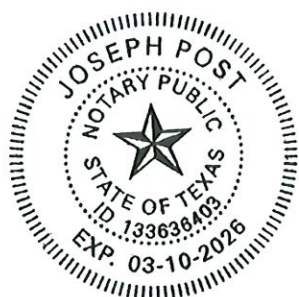


Exhibit A

WHEREAS, TM BTR of Texas, LLC is the owner of a parcel of land located in the City of Saginaw, Tarrant County, Texas, being a part of the Heirs Benjamin Thomas Survey, Abstract Number 1497, and being all of that called 18.532 acres of land as described in deed to TM BTR of Texas, LLC as recorded in document number D222027085, Official Public Records of Tarrant County, Texas and being further described as follows:

BEGINNING at a one-half inch iron rod found at the south corner of said 18.532 acre tract, said point being at the west corner of that called 15.129 acre tract of land described in deed to FORT WORTH MF LP, as recorded in Document Number D222146690, Official Public Records of Tarrant County, Texas, said point also being in the east line of the Fort Worth and Denver Railroad as recorded in Volume 3299, Page 285, Official Public Records of Tarrant County, Texas;

THENCE North 36 degrees 58 minutes 20 seconds West, 1,581.89 feet along the east line of said Fort Worth and Denver Railroad to a five-eighths inch iron rod found at the northwest corner of said 18.532 acre tract, said point being at the southwest corner of that called 241.626 acre tract of land described in deed to DR HORTON-TEXAS, LTD, as recorded in Document Number D220334094, Official Public Records of Tarrant County, Texas;

THENCE North 89 degrees 12 minutes 40 seconds East, 747.49 feet along the south line of said 241.626 acre tract to a one-half inch iron rod found at the northeast corner of said 18.532 acre tract, said point also being the northwest corner of Beltmill Parkway (a 100 foot wide right-of-way) dedicated by plat recorded in Document Number D222036300, Official Public Records of Tarrant County, Texas;

THENCE along the east line of said 18.532 acre tract and southwest line of said Beltmill Parkway as follows:

Southeasterly, 25.06 feet along a curve to the right, having a central angle of 07 degrees 41 minutes 53 seconds, a radius of 186.50 feet, a tangent of 12.55 feet, and whose chord bears South 22 degrees 41 minutes 46 seconds East, 25.04 feet to a one-half inch iron rod found for corner;

South 18 degrees 50 minutes 50 seconds East, 43.92 feet to a one-half inch iron rod with yellow cap stamped "JBI" set for corner;

Southeasterly, 45.19 feet along a curve to the left, having a central angle of 12 degrees 02 minutes 35 seconds, a radius of 215.00 feet, a tangent of 22.68 feet, and whose chord bears South 24 degrees 52 minutes 08 seconds East, 45.11 feet to a one-half inch iron rod with yellow cap stamped "JBI" set for corner;

South 30 degrees 53 minutes 25 seconds East, 15.99 feet to a one-half inch iron rod with yellow cap stamped "JBI" set for corner;

Southeasterly, 618.33 feet along a curve to the left, having a central angle of 41 degrees 40 minutes 46 seconds, a radius of 850.00 feet, a tangent of 323.56 feet, and whose chord bears South 51 degrees 43 minutes 48 seconds East, 604.78 feet to a one-half inch iron rod with yellow cap stamped "JBI" set at the most easterly northeast corner of said 18.532 acre tract, said point also being the northwest corner of said 15.129 acre tract;

THENCE along the common lines of said 18.532 acre tract and said 15.129 acre tract as follows:

South 00 degrees 10 minutes 50 seconds East, 536.64 feet to a one-half inch iron rod found for corner;

South 53 degrees 01 minutes 40 seconds West, 405.00 feet to the POINT OF BEGINNING and containing 807,245 square feet or 18.532 acres of land.

BASIS OF BEARING: THE BASIS OF BEARING IS BASED ON THE COORDINATE SYSTEM (NORTH CENTRAL ZONE 4202 STATE PLANE COORDINATES, NAD 83), DISTANCES SHOWN HEREON ARE SURFACE VALUES WITH A SCALE FACTOR OF 1.00018047 FROM GRID TO SURFACE.

Exhibit B

Facility Area and Description

EXHIBIT C DRAINAGE EASEMENT PAGE 1 OF 2

LEGAL DESCRIPTION

BEING a parcel of land located in the City of Saginaw, Tarrant County, Texas, being a part of the Heirs Benjamin Thomas Survey, Abstract Number 1497, and being a part of that called 15.129 acre tract of land described in deed to FORTH WORTH MF LP, as recorded in Document Number D222146690, Official Public Records of Tarrant County, Texas and being further described as follows:

COMMENCING at a five-eighths inch iron rod found at the northwest corner of that called 18.532 acres of land as described in deed to TM BTR of Texas, LLC as recorded in document number D222027085, Official Public Records of Tarrant County, Texas, said point being at the southwest corner of that called 241.626 acre tract of land described in deed to DR HORTON-TEXAS, LTD, as recorded in Document Number D220334094, Official Public Records of Tarrant County, Texas, said point also being in the east line of the Fort Worth and Denver Railroad as recorded in Volume 3299, Page 285, Official Public Records of Tarrant County, Texas;

THENCE South 36 degrees 58 minutes 20 seconds East, 1,581.89 feet along the west line of said 18.532 acre tract and along the east line of said Fort Worth and Denver Rail Road to the one-half inch iron rod found at the south corner of said 18.532 acre tract, said point also being the west corner of said 15.129 acre tract;

THENCE along the west line of said 15.129 acre tract and along the east line of said 18.532 acre tract as follows:

North 53 degrees 01 minutes 40 seconds east, 41.50 feet to the POINT OF BEGINNING;
North 53 degrees 01 minutes 40 seconds East, 15.00 feet to a point for corner;

THENCE South 36 degrees 58 minutes 20 seconds East, 328.47 feet to a point for corner;

THENCE North 83 degrees 01 minutes 40 seconds East, 25.78 feet to a point for corner;

THENCE North 45 degrees 02 minutes 08 seconds East, 50.21 feet to a point for corner;

THENCE South 89 degrees 57 minutes 52 seconds East, 573.39 feet to a point for corner;

THENCE South 00 degrees 02 minutes 08 seconds West, 7.49 feet to a point for corner in the south line of said 15.129 acre tract;

THENCE along the south line of said 15.129 acre tract as follows:

North 89 degrees 48 minutes 50 seconds East, 570.29 feet to a point for corner;
South 53 degrees 01 minutes 40 seconds West, 71.81 feet to a point for corner;

THENCE South 83 degrees 01 minutes 40 seconds West, 13.72 feet to a point for corner;

THENCE North 36 degrees 58 minutes 20 seconds West, 337.13 feet to the POINT OF BEGINNING and containing 10,527 square feet or 0.242 acres of land.

BASIS OF BEARING: THE BASIS OF BEARING IS BASED ON THE COORDINATE SYSTEM (NORTH CENTRAL ZONE 4202 STATE PLANE COORDINATES, NAD 83), DISTANCES SHOWN HEREON ARE SURFACE VALUES WITH A SCALE FACTOR OF 1.00018047 FROM GRID TO SURFACE.

	DATE 01/04/2023	DRAWN DRB	PROJECT TMR012	JBI PARTNERS 2121 Midway Road Suite 900 Carrollton, Texas 75006 972.248.7676 TBFF No. F-438 TBFLS No. 10276000
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Drawing: H: \Projects\TMR012 - Beltmill\surveying\dwg\ESMT-DE.dwg Saved By: dbell Save Time: 1/4/2023 3:50 PM

EXHIBIT C **DRAINAGE EASEMENT** **PAGE 2 OF 2**



LINE TABLE		
NO.	BEARING	LENGTH
L1	N53°01'40"E	41.50'
L2	N53°01'40"E	15.00'
L3	N83°01'40"E	25.78'
L4	N45°02'08"E	50.21'
L5	S00°02'08"W	7.49'
L6	S83°01'40"W	13.72'

P.O.C.
 5/8" IRF (CM)
 DR HORTON-TEXAS, LTD
 CALLED 241.626 ACRES
 DOC. NO. D220334094

TM BTR OF TEXAS, LLC
 CALLED: 18.532
 DOC. NO. D222027085

FORT WORTH AND DENVER
 RAILROAD COMPANY
 VOL. 3289, PG. 285
 D.R. 1.C.T.
S36°58'20"E

TM BTR OF TEXAS, LLC
 CALLED: 18.532
 DOC. NO. D222027085

FORT WORTH MF LP
 CALLED 15.129 ACRES
 DOC. NO. D222146690

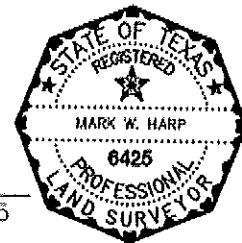
P.O.B.
 1.581.89'
 1/2" IRF (CM)
 CHICAGO ROCK ISLAND AND
 PACIFIC RAILWAY COMPANY
 VOL. 984, PG. 128
 VOL. 984, PG. 128
 VOL. 984, PG. 128
 D.R. 1.C.T.
S36°58'20"E
S328°47'13"
S53°01'40"W

DRAINAGE EASEMENT
 10,527 S.F.
 0.242 ACRES

L4 S89°57'52"E 573.39'
 N89°48'50"E 570.29'
 L6 S53°01'40"W 71.81'
 BELTMILL SAGINAW, LLC
 REMAINDER OF CALLED 398.365 ACRES
 DOC. NO. D220330746

LEGEND
 POC POINT OF COMMENCING
 POB POINT OF BEGINNING
 IRF IRON ROD FOUND
 CM CONTROL MONUMENT
 S.F. SQUARE FEET

Mark W. Harp
 MARK W. HARP, R.P.L.S. NO. 6425
 JANUARY 04, 2023



SCALE: 1" = 200'	DATE 01/04/2023	DRAWN DRB	PROJECT TMR012	JB PARTNERS 2121 Midway Road Suite 300 Carrollton, Texas 75006 972.248.7676 TOLPE No. F-458 TBPLS No. 10079300
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Exhibit C

CITY OF SAGINAW SOUTH STORMWATER FACILITY OPERATION AND MAINTENANCE PLAN

The only responsibility the City of Saginaw has in the operation and maintenance of this Facility is inspection.

General Maintenance Procedures

The structural and functional integrity of the Facility shall be maintained at all times by removing and preventing drainage interference, obstructions, blockages, or other adverse effects into, through, or out of the system.

Accumulated litter, sediment, and debris shall be removed every 6 months or as necessary to maintain proper operation of the pipe. Disposal shall be in accordance with federal, state and local regulations.

4. PREVENTIVE MAINTENANCE/INSPECTION

- Visual inspections of all components will be conducted every 6 months.
- A log shall be kept of maintenance actions, and inspections.
- **Written maintenance and repair records shall be maintained by the party or parties signing the attached Agreement and shall be provided to the City upon request.**

Exhibit D

Stormwater Structural Maintenance CHECKLIST

FREQUENT INSPECTION	DATE	REPAIRS REQUIRED	REPAIRS MADE	NOTES
Remove Trash and debris				
Violations Noted				