

AGREEMENT RELATING TO CONSTRUCTION OF IMPROVEMENTS WITHIN EASEMENT

THE STATE OF TEXAS §
 §
COUNTY OF WILLIAMSON §

This Agreement Relating to Construction of Improvements within Easement (this "Agreement") is made and entered into on the date set forth below, by and between **Brushy Creek Municipal Utility District**, a conservation and reclamation district of the State of Texas created and operating under the authority of Chapters 49 and 54, Texas Water Code ("BCMUD"), and **Parkside at Mayfield Ranch Municipal Utility District**, a conservation and reclamation district of the State of Texas created and operating under the authority of Chapters 49 and 54, Texas Water Code, whose address is c/o Armbrust & Brown, PLLC, 100 Congress Avenue, Suite 1300, Austin, Texas, 78701 ("PMRMUD"). BCMUD and PMRMUD are individually referred to herein as a "Party" and collectively referred to herein as the "Parties."

RECITALS

A. Whereas, BCMUD is a holder of easement rights dedicated under that certain "Easement or Water Facilities" executed June 30, 2005 and recorded as Document No. 2006031264 of the Official Public Records of Williamson County, Texas (the "BCMUD Easement"), and BCMUD is a party for limited purposes to that certain "Water Line Easement" recorded as Document No. 2011049089 of the Official Public Records of Williamson County, Texas;

B. Whereas, PMRMUD is the holder of easement rights dedicated under that certain "Drainage Easement" recorded as Document No. 2015059442 of the Official Public Records of Williamson County, Texas (the "PMRMUD Easement");

C. Whereas, PMRMUD desires to install an earthen diversion berm with level spreader, rock riprap and rock berm improvements, as more particularly described in Exhibit "A" attached hereto (collectively, the "Erosion Control Improvements") within the lands encumbered by the BCMUD Easement in order to mitigate potential erosion damage caused by stormwater flows from the PMRMUD drainage improvements located within the PMRMUD Easement; and

D. Whereas, the Parties desire to enter into this Agreement to set forth the terms and conditions pursuant to which BCMUD consents to construction and operation of the Erosion Control Improvements within the BCMUD Easement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereafter set forth, the receipt and sufficiency of which are hereby acknowledged, BCMUD and PMRMUD hereby agree as follows:

1. **Approval.** BCMUD hereby consents to the construction of the Erosion Control Improvements within the BCMUD Easement at the locations and in accordance with the specifications set forth in Exhibit "A" attached hereto.

2. **Damage to BCMUD Facilities.** PMRMUD agrees that it shall be responsible for all costs of repair of any damage caused to BCMUD's waterline improvements located within the BCMUD Easement arising out of, or in connection with, construction, operation, maintenance, repair or replacement of the Erosion Control Improvements. In the event of any such damage, BCMUD shall provide a written invoice for all such costs and expenses, and PMRMUD shall provide payment in the full amount of the invoiced sum within 30 days after receipt of the invoice. BCMUD agrees that the invoice will include a description in reasonable detail to allow PMRMUD to confirm that the damage was caused by the construction, operation, maintenance, repair or replacement of the Erosion Control Improvements and to verify all costs and expenses incurred by BCMUD.

3. **Future Improvements.** The consent of BCMUD set forth herein is limited to the construction of the Erosion Control Improvements more particularly described on **Exhibit "A"** attached hereto, and this Agreement does not authorize the construction of any additional improvements within the BCMUD Easement.

4. **Maintenance and Operation of Erosion Control Improvements.** PMRMUD assumes sole responsibility for operation and maintenance of the Erosion Control Improvements, and BCMUD shall have no responsibility therefor.

5. **BCMUD Easement Rights.** The BCMUD Easement shall remain in full force and effect and this Agreement is not intended to, and shall not be construed to, release or modify the BCMUD Easement or any portion thereof, or BCMUD's rights thereunder, in any manner. BCMUD retains the full right and authority to exercise its rights under the BCMUD Easement, including the right and authority to access, inspect, operate, repair, maintain, replace or construct waterline(s) within the BCMUD Easement.

6. **Future Damage to Erosion Control Improvements.** BCMUD will endeavor to exercise its rights under the BCMUD Easement so as to minimize any damage to the Erosion Control Improvements; provided, however, BCMUD shall not be required to incur any unnecessary or additional costs or expenses in connection therewith. In the event that it is necessary for BCMUD to exercise any rights under the BCMUD Easement in a manner that would damage the Erosion Control Improvements, and BCMUD damages or destroys all or any portion of the Erosion Control Improvements in connection therewith, BCMUD shall have absolutely no responsibility for any such damages and shall have no obligation to repair, restore or replace the Erosion Control Improvements, and PMRMUD agrees to be solely responsible for such repair, restoration or replacement.

7. **Recordation.** Upon execution hereof, this Agreement shall be recorded in the real property records of Williamson County, Texas.

8. **Miscellaneous.**

(a) The constitution and laws of the State of Texas and the decisions of its courts shall govern with respect to any question or controversy which may arise under this Agreement.

(b) A waiver by any party hereto of any default by another party hereunder shall not be deemed a waiver by such party of any default by other parties which may thereafter occur.

(c) This Agreement contains the entire agreement between the Parties, and may be amended only by express written agreement signed by the Parties.

(d) This Agreement is binding upon and inures to the benefit of the Parties hereto, and their respective successors and representatives. This Agreement may not be assigned by any party without the express written consent of the other Party.

After recordation, return to:

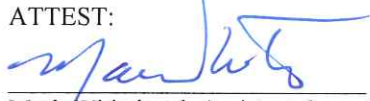
Brushy Creek Municipal Utility District
16318 Great Oaks Drive
Round Rock, Texas 78681

BRUSHY CREEK MUNICIPAL UTILITY DISTRICT:

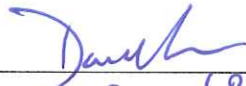
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ATTEST:


Mark Whitehead, Assistant Secretary

**PARKSIDE AT MAYFIELD RANCH MUNICIPAL
UTILITY DISTRICT:**

By: 
Name: Daniel Ryan
Title: President
Date: 12/12/17

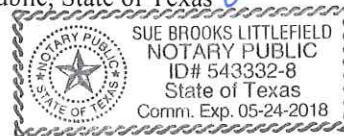
THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 14th day of November, 2017, by Mark Whitehead, Assistant Secretary of Parkside at Mayfield Ranch Municipal Utility District, a conservation and reclamation district of the State of Texas, on behalf of said conservation and reclamation district.


Notary Public, State of Texas

(SEAL)



CONSENT OF WILLIAMSON COUNTY

By its execution below, Williamson County consents to the terms of the foregoing Agreement Regarding Construction of Improvements within Easement, and specifically agrees that Brushy Creek Municipal Utility District shall not be responsible for any damages to, nor for repair or replacement of, any Erosion Control Improvements installed within the BCMUD Easement that may arise out of or in connection with the exercise of easement rights by Brushy Creek Municipal Utility District.

WILLIAMSON COUNTY:

By: _____
Name: _____
Title: _____
Date: _____

STATE OF TEXAS §

COUNTY OF WILLIAMSON §

 This instrument was acknowledged before me on _____, 2017, by _____,
_____ of Williamson County, on behalf of said county.

(Seal)

Notary Public Signature

Description of Erosion Control Improvements

