

**PARTIAL ASSIGNMENT
OF
EASEMENT FOR WATER FACILITIES**

STATE OF TEXAS §
 §
COUNTY OF WILLIAMSON §

This Partial Assignment of Easement for Water Facilities ("Assignment") is made and entered into by and between BRUSHY CREEK MUNICIPAL UTILITY DISTRICT, a political subdivision of the State of Texas (hereinafter referred to as "BCMUD") whose mailing address is 16318 Great Oaks Drive, Round Rock, Texas 78681, and CITY OF GEORGETOWN, TEXAS, a home-rule municipal corporation situated in Williamson County, Texas (hereinafter referred to as "City") (each, a "Party" and together, the "Parties"), upon the following terms and conditions:

WITNESSETH:

WHEREAS, BCMUD holds a certain non-exclusive easement and right of way over, under, and across a tract of land owned by Williamson County (the "Property"), said 40-foot wide utility easement area (the "Easement Area") being more particularly described in that certain Easement for Water Facilities granted by Williamson County Park Foundation, Inc., Trustee ("Grantor") to BCMUD dated June 30, 2005, and recorded as Document Number 2006031264 in the Official Records of Williamson County, Texas (the "Easement");

WHEREAS, BCMUD owns and operates a water transmission line that is located within the Easement Area (the "BCMUD Pipeline") that runs through the Property pursuant to the Easement;

WHEREAS, the Easement further grants to BCMUD the right at any time to construct, install, operate, maintain, inspect, repair, reconstruct and rebuild one additional water transmission line and related equipment and appurtenances in the future, and any such line shall be constructed in a location depicted in the Easement (the "Reservation Area");

WHEREAS, the Easement further grants to BCMUD an absolute right of ingress and egress to the Easement Area for the purposes of exercising all rights under the easement granted therein;

WHEREAS, the Easement further grants to BCMUD the right to clear-cut all trees, brush, vegetation, or other debris within thirty (30) feet of the western boundary;

WHEREAS, the Easement further requires Grantor to include in subsequent conveyances of easement rights within the Easement Area to any other person or entity that all actions taken by such person or entity shall be subject to, and will not interfere with, BCMUD's rights granted therein, and that such person or entity is prohibited from installing any

improvements or performing any construction within the Easement Area without obtaining BCMUD's prior written consent;

WHEREAS, the Easement further requires that Grantor shall not excavate or make substantial changes in the grade, elevation or contour of the Easement Area without obtaining the prior written approval of BCMUD;

WHEREAS, the Easement further requires that Grantor shall not place any water impoundment, buildings, or dwellings in the Easement Area;

WHEREAS, the Easement grants BCMUD the right to assign its rights thereunder in whole or in part;

WHEREAS, the City desires to install and temporarily operate a water transmission line and related equipment and appurtenances (the "Facilities") across the Property for the benefit of City's customers; and

WHEREAS, to effectuate the City's installation and temporary operation of the Facilities pursuant to the rights granted to BCMUD in the Easement, the Parties desire to partially assign the Easement as set forth herein.

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, BCMUD and City hereby agree as follows:

1. Recitals: The foregoing Recitals are hereby incorporated into and made part of this Assignment.

2. Partial Assignment: The rights and privileges granted to BCMUD in the Easement and set forth in the foregoing Recitals shall constitute the "BCMUD Easement Rights." BCMUD hereby partially assigns the BCMUD Easement Rights to the City, as related the construction and operation of the Facilities in the Reservation Area but not otherwise, in accordance with the terms of this Assignment. BCMUD retains all of its rights and interest in the Easement and Easement Area except as partially assigned hereunder, including without limitation, all rights under the Easement as they relate or pertain to the BCMUD Pipeline.

3. Assignment Term and Option: The term of this Assignment shall be fifteen (15) years from the Effective Date, hereinafter defined, unless mutually extended by the Parties by a written amendment to this Assignment (the "Assignment Term"). City shall additionally have the option, in its sole and absolute discretion, to extend the Assignment Term for an additional period of five (5) years (the "Option Term"), provided that said option shall be exercisable by City, if at all, only by timely delivery to BCMUD of written notice of election at least three (3) months prior to the then current expiration date. Upon expiration of the Assignment Term, either Party may record an instrument in the Official Public Records of Williamson County evidencing termination of this Assignment, and the other Party shall fully cooperate with respect thereto.

4. Early Termination: Simultaneously herewith, the Parties have otherwise entered into that certain "Interlocal Cooperation Agreement for Water Supply Facilities" (the "Easement ILA") that sets forth certain agreements of the Parties relating to this Assignment and the Facilities, including terms and conditions for termination of this Assignment. Prior to the expiration of the Assignment Term or the Option Term, if so exercised, City or BCMUD may terminate this Assignment in accordance with the terms of the Easement ILA. In the event of termination, either Party may record an instrument in the Official Public Records of Williamson County evidencing termination of this Assignment, and the other Party shall fully cooperate with respect thereto

5. Effect of Expiration or Termination. Upon expiration of the Assignment Term or the Option Term, if so exercised, or in the event of early termination by City or BCMUD pursuant to the Easement ILA, City shall have no further rights in and to the Easement or the Facilities, which shall be deemed owned by BCMUD. Within thirty (30) days of such expiration or termination, City shall execute an instrument in a form approved by the Parties, which approval shall not be unreasonably withheld, delayed or conditions, evidencing transfer of ownership of the Facilities to BCMUD free and clear of all liens, claims and encumbrances as consideration for the temporary partial assignment of the rights set forth in this Assignment. City shall remain responsible for all costs, expenses and liabilities relating to the Facilities that accrue prior to conveyance.

6. No Interference: After initial construction of the Facilities, BCMUD and City shall at all times conduct all of their respective activities within the Easement Area in such a manner as not to materially interfere with or impede in any manner whatsoever the operation of the Facilities and any related activities of the other. If at any time a Party determines that the safety, operation, or maintenance of its facilities in the Easement is adversely affected or impeded by the activities of the other Party, the affected Party shall immediately notify the other Party, and the other Party shall promptly take any and all reasonable and necessary action to protect the facilities from such adverse condition. If a Party fails to take corrective action within a commercially reasonable period of time, the other Party has the right to take such action as necessary to protect its facilities, and the failing Party shall be responsible for the costs thereof. A Party shall not be responsible for any loss, damage, or replacement of any facilities that exist within the Easement Area that may result from a Party's exercising its rights under this Section; and each Party releases the other from all costs, losses, or damages directly or indirectly arising from a Party's actions in accordance herewith. The provisions of this section as they relate to the Facilities shall apply only to Facilities constructed by City within the Reservation Area.

7. Construction of Facilities. City shall not commence construction of the Facilities except as otherwise provided in the Easement ILA. Prior to commencement of construction of the Facilities in the Reservation Area, City shall identify the location of the BCMUD Pipeline, and BCMUD makes no representation or warranty regarding the location of the BCMUD Pipeline. BCMUD shall have no obligation to remove or relocate the BCMUD Pipeline to accommodate the Facilities. City shall construct the Facilities without damage to, or interference with the property operation of, the BCMUD Pipeline. If, notwithstanding the foregoing, City damages the BCMUD Pipeline in connection with the construction of the Facilities in the Reservation Area, City shall be responsible for all costs and expenses in

connection therewith. City shall reimburse BCMUD for any costs or expenses incurred by BCMUD as a result of damage caused by City or its contractors within thirty (30) days of receipt of a written invoice for payment. City further agrees to cause the contractor for construction of the Facilities to add BCMUD as an additional named insured on all insurance coverages.

8. Runs with the Land: The terms, covenants and conditions of this Assignment constitute covenants running with the land and shall be binding upon and inure to the benefit of the Parties, their legal representatives, successors and assigns. Parties agree that this Assignment shall be recorded by City in the Official Public Records of Williamson County, Texas.

9. Governance and Venue: This Assignment shall be governed by, and interpreted and construed in accordance with, the laws of the State of Texas, without regard to any of its principles of conflicts of laws that would make applicable the laws of any other jurisdiction. Exclusive venue for any suit, action, or proceeding brought by either party in connection with this Assignment shall be in the state and federal courts located in Williamson County, Texas.

10. Construction: If any term, covenant or condition of this Assignment is deemed invalid, illegal, or incapable of being enforced by any rule of law or public policy, all other terms, covenants or conditions of this Assignment shall remain in full force and effect. Upon such determination, the parties shall negotiate in good faith to modify this Assignment so as to give effect to the original intent of the parties, as closely as possible and in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the maximum extent possible.

11. Amendment: This Assignment shall not be amended or modified in any manner, including the conduct of the parties, except by written instrument duly signed by the Parties or their respective heirs, successors or assigns.

12. Successors and Assigns. This Assignment shall be binding upon and inure to the benefit of the Parties and their respective legal representatives, successors and assigns.

13. Entire Agreement: This Assignment, including any exhibits hereto, together with the Easement ILA constitute the entire agreement between the Parties with respect to the Assignment and supersedes and replaces any prior agreement, whether written or oral, between the Parties with respect thereto.

14. Counterparts: This Assignment may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument and any of the parties hereto may execute this Assignment by signing any such counterpart.

15. Notices: Any notice required by or permitted under this Assignment must be in writing. Any such notice will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in the opening paragraph of this Assignment. Notice may also be given by regular mail, personal delivery,

courier delivery, or other commercially reasonable means and will be effective when actually received. Any address for notice may be changed by written notice delivered to the other parties as provided herein.

16. Effective Date: This Assignment shall be effective and in full force and effect on the date of the last signature of the Parties hereto.

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SIGNATURES CONTAINED ON NEXT PAGE

IN WITNESS WHEREOF, we have hereunto set our hands on the day and year below.

BRUSHY CREEK MUNICIPAL UTILITY
DISTRICT

By: Donna S. Parker

Name: Danna Parker

Title: President, Board

Date: August 26, 2021

Ken Lipchlag
Secretary

CITY OF GEORGETOWN, TEXAS

By: _____
Josh Schroeder, Mayor

Date: _____

Attest:

By: _____
Robyn Densmore, City Secretary

Approved as to Form:

By: _____
Skye Masson, City Attorney

ACKNOWLEDGEMENTS

STATE OF TEXAS §
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This instrument was acknowledged before me on this 26 day of August, 2021, by Donna Parker, Ken Reitschlager for Brushy Creek Municipal Utility District, on behalf of said District.



Chelsea Lockhart
Notary Public

My Commission Expires: 5/01/2024

STATE OF TEXAS §
 §
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This instrument was acknowledged before me on this _____ day of _____, 20____, by _____, as _____ of _____, on behalf of such _____.

(seal) _____
Notary Public

My Commission Expires: _____