

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

PUBLIC DRAINAGE EASEMENT AGREEMENT

**THE STATE OF TEXAS §
 § **KNOW ALL PERSONS BY THESE PRESENTS:**
COUNTY OF DENTON §**

THAT THE HOMEOWNERS ASSOCIATION OF HOGAN'S GLEN, INC., a Texas non-profit corporation having an address at 10340 Alta Vista Rd. #C, Fort Worth, Texas 76244 (the "Grantor"), for and in consideration of the sum of **TEN AND NO/100 DOLLARS (\$10.00)** and other good and valuable consideration, to Grantor in hand paid by the Town of Trophy Club, a home-rule municipal corporation situated in Denton County, Texas, having an address at 1 Trophy Wood Drive, Trophy Club, Texas 76262 (the "Town" or "Grantee"), the receipt and sufficiency of which is hereby acknowledged, has this day Granted, Sold, and Conveyed and does hereby Grant, Sell, and Convey unto the Town, its successors and assigns, a perpetual non-exclusive public drainage easement (the "Easement") for the limited municipal purposes of constructing, reconstructing, inspecting, using, repairing, replacing, and maintaining public drainage facilities in, upon, and across said Easement, being located within the Town of Trophy Club, Texas, and more particularly described as follows:

All that certain tract, piece or parcel of land, lying and being situated in the County of Denton, State of Texas, described in **EXHIBIT "A"**, which is attached hereto and made a part hereof for all purposes, and to which reference is hereby made for a more particular description of said property (the "Easement Property");

TO HAVE AND TO HOLD, the above described Easement, together with all and singular the rights and appurtenances thereto in anywise belonging unto Grantee, its successors and assigns forever; and Grantor does hereby bind itself, its heirs, executors, administrators, successors, and assigns to warrant and forever defend all and singular the said Easement unto the Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof by, through, or under the Grantor, but not otherwise.

NOW, THEREFORE, in consideration of the Easement granted above and for other good and valuable consideration in accordance with the mutual rights and obligations in this this Public Drainage Easement Agreement (the "Easement Agreement") the parties mutually agree as follows:

1. Grantor reserves the right to use and enjoy the easement for open space, private drainage, recreation, and any other lawful purposes; provided, however, that Grantor

its successors, and assigns, and invitees shall not create a nuisance or do any act that will be detrimental to the Town's use of the Easement.

2. Grantee shall have the right, but not the obligation, to maintain the Easement in a condition required for proper operation and maintenance of the Town's stormwater drainage utility system. The Easement shall not be made open to the general public, but shall be used by Grantee, its successors, assigns, or contractors for the limited public drainage purposes identified in this Easement Agreement, and may be used on a temporary basis for maintenance and repairs to existing culvert, roadway, or other public improvements currently adjacent to or existing on the Easement Property.

3. Grantee is not obligated to ensure that water is continuously diverted to the Easement and makes no warranties of any kind whatsoever concerning the proper functionality or design of the storm sewer drainage facilities currently existing or to be improved by Grantor in the Easement. Grantee shall not be responsible for water diverted away from the Easement, whether directly or indirectly by Grantor or any other third parties. Grantor its heirs, successors, and assigns hereby agree that no obstruction to the natural flow of storm waters, stream, or creek overflow shall be permitted by filling or by construction of any type of dam, bridge, walkway, or any other structure within the Easement. In the event of an obstruction, the Town may, but is not obligated to, remove the same and may charge the costs of such removal against any person or party causing the same.

4. Grantor, its successors, and assigns, hereby reserves the right to maintain the Easement Property and shall continue to maintain the Easement Property in accordance with its current drainage and other maintenance obligations, but shall not alter the design of the Easement Property, or make improvements to the Easement Property without the Town's written permission.

5. Grantee, its successors, and assigns, have the right and privilege, but not the obligation, at any and all times to remove or keep removed all or parts of structures, fences, landscaping, personal property, improvements, or growth which in any way may endanger or interfere with the construction, maintenance, repair, replacement, inspection, or efficiency of the Easement, and the Grantee shall at all times have the right of ingress and egress to and from and upon the Easement for the purpose of constructing, reconstructing, inspecting, maintaining, replacing, and adding to or removing all or part of the public drainage facilities located in the Easement. In the event of an emergency as determined by the Grantee in its sole discretion to protect against an immediate threat to the public health, safety, and welfare of the general public or the public drainage facilities, the Grantee may exercise its rights granted in this paragraph without the necessity at any time of procuring the permission of anyone.

If an emergency does not exist, the Grantee shall provide fourteen (14) days written notice to the Grantor including the scope of work to be performed and the proposed timeline for completion of the work prior to performing any work on the Easement Property that may endanger Grantor's existing landscaping, rock structures, concrete catch basin, waterfall, pumping equipment, or any other related private improvements. The Grantee shall, at all times after performing any work on the Easement Property, restore the areas or

improvements disturbed by the work to the condition existing immediately prior to the performance of the work, or to a better condition as mutually agreed upon by the Parties.

6. As additional consideration and in exchange for the mutual promises contained in this Easement Agreement, Grantor hereby releases and forever discharges, on behalf of the Grantor and its successors and assigns, the Town and its officers, agents, servants, and employees and any others acting or purporting to act on its behalf, from any and all liability, claims, actions, causes of action and negligence, whether real or asserted, of every nature, kind and character which the Grantor has or ever had against the Town whatsoever arising out of or connected in any way to drainage, siltation, erosion, or contamination of the ponds up to the date of execution of this Easement Agreement. The consideration provided in this Easement Agreement is not an admission of any responsibility or liability of the Town. The Grantor hereby covenants not to sue, on behalf of itself and its assigns, the Town or its officers, agents, servants and employees and any others acting or purporting to act on the Town's behalf for any matters arising out of, relating to, or in any way connected with the matters released herein.

DRAINAGE IMPROVEMENTS

1. Drainage Improvements. The Grantee shall pay the "not-to-exceed" amount of **ONE-HUNDRED AND FIFTY-THOUSAND AND NO/100 DOLLARS (\$150,000.00)** as (1) additional consideration for the convenience of the Easement; (2) the Grantor's release in Paragraph 6, above; (3) the construction of drainage improvements on or near the Easement Property, including, but not limited to, dredging and other drainage work within adjacent connected ponds that benefit and promote the operation, efficiency, and maintenance of the Easement and the Town's stormwater drainage utility system (collectively the "Project"); and (4) as security for the faithful completion of drainage improvements by Grantor.

2. The Town shall complete payment of the "not-to-exceed" amount by making three (3) equal payments of \$50,000 subject to the following conditions:

- (1) The 1st payment of \$50,000, shall be made by the Grantee within ten (10) days after review and written approval by the Town Engineer that staging, setup, and dredging for the Project has started; and
- (2) The 2nd payment of \$50,000, shall be made by the Grantee within ten (10) days after inspection and written determination by the Town Engineer that the dredging work is 100% complete in accordance with the plans and specifications for the Project; and
- (3) The 3rd payment of \$50,000, shall be made by the Grantee within ten (10) days after:
 - (i) inspection and final written confirmation by the Town Engineer that all "clean up" work is complete and no final punchlist items or other minor work remains; and
 - (ii) after Grantor has furnished to the Grantee satisfactory evidence including a unconditional and final affidavits that all indebtedness to the Grantor's contractor has been paid, that all indebtedness connected with the work and all sums of money due for labor, materials, apparatus, fixtures, or machinery furnished and used in the performance of the work have been paid or otherwise satisfied.

3. Insurance. Grantor shall ensure that contractors performing work on the Project shall provide insurance, including, but not limited to, workers' compensation coverage in accordance with applicable law, and in the form, substance, and amounts acceptable to the Town.

4. Compliance with Laws. Grantor shall ensure that contractors performing work on the Project shall comply with all local, state, and federal laws, rules, and regulations, relating to drainage, flood control, runoff, erosion, pollution, hazardous materials, waste, sedimentation, and any other control and mitigation requirements related thereto.

5. Books and Records. Grantor shall ensure that contractors performing work on the Project shall make all books and records available for audit and inspection by the Town.

6. Performance, Payment, and Maintenance Bonds. Prior to the commencement of construction on the Project, Grantor, or its contractors, shall provide a performance bond, payment bond, and maintenance bond that meets the requirements of Chapter 2253 of the Texas Government Code, and names the Town as additional obligee. Each bond shall be in the full amount of the costs to construct the work and shall be made in favor of the Town ensuring completion of the work in accordance with the plans and specifications approved by the Town Engineer. The performance bond, payment bond, and maintenance bond shall be executed by a corporate surety authorized to do business in Texas in accordance with Chapter 2253 of the Texas Government Code.

7. **INDEMNIFICATION BY CONTRACTOR.** GRANTOR SHALL CAUSE ALL CONTRACTORS PERFORMING WORK ON THE EASEMENT PROPERTY TO COVENANT AND AGREE TO INDEMNIFY, HOLD HARMLESS, AND DEFEND THE TOWN, ITS OFFICERS, AGENTS, SERVANTS AND EMPLOYEES, FROM AND AGAINST ANY AND ALL CLAIMS OR SUITS FOR PROPERTY DAMAGE OR LOSS AND/OR PERSONAL INJURY, INCLUDING DEATH, TO ANY AND ALL PERSONS OF WHATSOEVER KIND OR CHARACTER, WHETHER REAL OR ASSERTED (INCLUDING, WITHOUT LIMITATION, REASONABLE FEES AND EXPENSES OF ATTORNEYS, EXPERT WITNESSES, AND OTHER CONSULTANTS), ARISING OUT OF OR IN CONNECTION WITH, DIRECTLY OR INDIRECTLY, THE CONSTRUCTION, MAINTENANCE, REPAIR, OR ANY OTHER USE OF THE EASEMENT PROPERTY. THE CONTRACTORS AND SUBCONTRACTORS, SHALL FURTHER AGREE TO BE LIABLE FOR INJURY OR DAMAGE TO TOWN PROPERTY, ARISING OUT OF OR IN CONNECTION WITH ANY AND ALL ACTS OR OMISSIONS OF CONTRACTORS AND SUBCONTRACTORS. THIS OBLIGATION TO INDEMNIFY SHALL APPLY TO ALL CLAIMS THAT ARISE FROM EVENTS THAT OCCUR BEFORE OR AFTER THE TIME THE TOWN INSPECTS THE PROJECT, REGARDLESS OF WHETHER ANY SUCH DAMAGES, CLAIMS OR LIABILITIES ARE ALLEGED TO BE CAUSED, IN WHOLE OR IN PART, BY THE NEGLIGENT ACT OR OMISSION, OR OF THE CONCURRENT NEGLIGENT ACT OR OMISSION OF THE TOWN, ITS OFFICERS AND EMPLOYEES, AND SHALL CONTINUE TO APPLY TO THE CONTRACTOR FOR TWO YEARS AFTER THE TOWN INSPECTS THE PROJECT.

MISCELLANEOUS

1. Severability. In case any one or more of the provisions contained in this Easement Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Easement Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
2. Entire Agreement. This Easement Agreement contains the entire agreement between the parties relating to the rights herein granted and the obligations herein assumed. Any or all representations or modifications concerning this instrument shall be of no force and effect except for a subsequent modification in writing signed by the parties hereto.
3. Declaration of Covenants and Restrictions. The parties their successors, and assigns acknowledge and agree that Grantor's recorded Declaration of Covenants and Restrictions, as amended, authorize Grantor to sell easements and related appurtenances to the Town, and the recorded Declaration of Covenants and Restrictions, as amended, and this Easement Agreement are not intended to restrict or limit the rights of the Town to exercise its legislative and governmental rights, duties, and powers insofar as zoning, building, use, maintenance, and other like obligations are concerned.
4. No Waiver. All rights, remedies, and privileges permitted or available to the parties under this Easement Agreement or at law or equity shall be cumulative and not alternative, and election of any such right, remedy or privilege shall not constitute a waiver or exclusive election of any rights, remedies, or privilege with respect to any other permitted or available right, remedy or privilege. Additionally, one instance of forbearance by a party in the enforcement of any such right, remedy or privilege, shall not constitute a waiver of such right, remedy or privilege by that party. A default under this Easement Agreement by the Town shall not result in forfeiture of any Easement rights, remedies, or privileges under this Easement Agreement by the Town.
5. Venue and Governing Law. The Grantor and Grantee agree that this Easement Agreement shall be enforceable in Denton County, Texas, without regard to conflict of laws principles, and if legal action is necessary in connection therewith, exclusive venue shall lie in Denton County, Texas. The terms and provisions of this Easement Agreement shall be construed in accordance with the laws and court decisions of the State of Texas.
6. Successor and Assigns. This Easement Agreement and the terms and conditions herein shall be binding upon and inure to the benefit of the parties, hereto, their respective successors and assigns. This Easement Agreement may not be assigned without the mutual written consent of the Grantor and Grantee.
7. Counterparts. The Easement Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.
8. Governmental Function(s) and Immunity. The parties hereby acknowledge and agree that the Town is entering into this Easement Agreement in the performance of and pursuant

to its governmental functions for the health, safety, and welfare of the citizens of the Town, the general public, and the State of Texas, and nothing contained in this Easement Agreement shall be construed as constituting a waiver of the Town's governmental immunity from suit or liability, which is expressly reserved to the fullest extent allowed by law.

9. Waiver of Attorney's Fees. The parties expressly covenant and agree that in the event of any litigation arising between the parties to this Easement Agreement, each party shall be solely responsible for payment of its attorneys (except as required pursuant to the indemnity obligations in this Easement Agreement) and that in no event shall either party be responsible for the other party's attorneys' fees regardless of the outcome of the litigation.

10. Additional Verifications. To the extent required by Texas law, the Grantor verifies that: (1) It does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, as defined in Texas Government Code § 2274.001, and that it will not during the term of the contract discriminate against a firearm entity or firearm trade association; (2) It does not "boycott Israel" as that term is defined in Texas Government Code Ch. 2271 and § 808.001 and it will not boycott Israel during the term of this Easement Agreement; and (3) It does not "boycott energy companies," as those terms are defined in Texas Government Code §§ 809.001 and 2276.001, and it will not boycott energy companies during the term of the Easement Agreement; (4) It does not engage in scrutinized business operations with Sudan, Iran, or designated foreign terrorist organization as defined in Texas Government Code, Chapter 2270; and (5) It is not owned by or the majority of its stock or other ownership interest is held or controlled by i) individuals who are citizens of China, Iran, North Korea, Russia, or a designated country as defined by Texas Government Code § 2275.0101; or ii) a company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or a designated country; nor is it headquartered in China, Iran, North Korea, Russia, or a designated country.

11. Ethics Disclosure. To the extent required by law, the Grantor represents that it has completed a Texas Ethics Commission (the "TEC") form 1295 ("Form 1295") generated by the TEC's electronic filing application in accordance with the provisions of Texas Gov't Code Ch. 2252.908 and the rules promulgated by the TEC. The parties agree that, with the exception of the information identifying the Town and the contract identification number, the Town is not responsible for the information contained in the Form 1295.

12. This Easement Agreement shall be filed for record in the deed records of Denton County, Texas, shall be deemed a covenant running with the land and shall be binding on the successors and assigns of the Grantor and Grantee.

[signature pages to follow]

EXECUTED this 2th day of January, 2024.

GRANTOR:

GRANTOR:

**HOMEOWNERS ASSOCIATION OF
HOGAN'S GLEN, INC.,** a Texas non-profit
corporation

By: Pat Currie
Name: PAT CURRIE
Title: PRESIDENT, HOGAN'S GLEN HOA

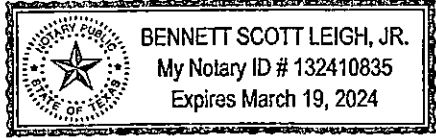
STATE OF TEXAS §
 §
COUNTY OF DENTON §

The foregoing instrument was acknowledged before me this 4 day of January, 2024, by Pat Currie, President of the Homeowners Association of Hogan's Glen, Inc., a Texas non-profit corporation, who is personally known to me to be the person who signed the foregoing instrument and he acknowledged that the execution thereof was his free act and deed as such President for the uses and purposes therein expressed, and that the said instrument is the act and deed of said President for the uses and purposes therein expressed.

WITNESS my hand and official seal this 4 day of January, 2024.

[Signature]
Notary Public ~~is and~~ for the State of Texas

My Commission Expires: 3.19.2024





GRANTEE:

TOWN OF TROPHY CLUB, TEXAS

By: *Dennis Sheridan Mayor Pro Tem*
~~Jeannette Tiffany, Mayor Pro Tem~~
Dennis Sheridan

ATTEST:

Tammy Dixon
Tammy Dixon, Town Secretary

APPROVED AS TO FORM:

[Signature]
Dean Roggia, Town Attorney

MAYOR'S ACKNOWLEDGMENT

THE STATE OF TEXAS §
§
COUNTY OF DENTON §

BEFORE ME, the undersigned authority, a Notary Public in and for said State, on this day personally appeared Dennis Sheridan, Mayor Pro Tem of the Town of Trophy Club, Texas, a municipal corporation, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that the same was the act of the said Town of Trophy Club, Texas, a home-rule municipal corporation, that she was duly authorized to perform the same by appropriate action of the Town Council of the Town of Trophy Club and that she executed the same as the act of the said Town for the purpose and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 8th day of January, A.D. 2024.

Tammy Dixon
Notary Public, in and for the State of Texas

My Commission Expires:

11/29/2024

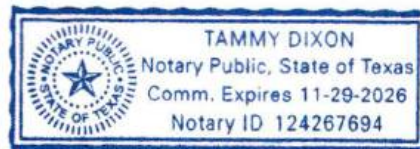


EXHIBIT A

Tract 1

That certain portion of property generally described as Denton County Central Appraisal District Property ID 206484, Geographic ID SJ0202A-000000-0000-0000-0001, described as THE VILLAS OF HOGANS GLEN LOT OPEN SPACE A and identified in the Warranty Deed recorded as Document No. 1994-91662; and Deed Without Warranty recorded as Document No. 2023-26024, Deed Records, Denton County, Texas (previously owned by Beck Properties Development-I, L.P.)

WHEN RECORDED, RETURN TO:

Town of Trophy Club
Attn: Town Secretary
1 Trophy Wood Drive
Trophy Club, Texas 76262