

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

STORM WATER FACILITIES MAINTENANCE COVENANT, LICENSE AND AGREEMENT

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This Agreement ("Agreement") is made by and between Luxury Auto-Works and LA Works Pflugerville, LLC a Texas limited liability company ("OWNER") the owner of a tract of land being more particularly described in **Exhibit A**, which is attached hereto and incorporated herein for all purposes ("PROPERTY"), and City of Pflugerville, Texas ("CITY"), collectively referred to herein as the Parties. For purposes of this Agreement, the term OWNER refers to the current owner of the PROPERTY, and the OWNER's successors, heirs, and assigns.

WHEREAS, the OWNER of the PROPERTY possesses full authority to execute deeds, mortgages, and other covenants affecting the PROPERTY and desires to enter into this Agreement, as required by the City of Pflugerville's Code of Ordinances, including without limitation the Unified Development Code and associated Engineering Design and Construction Standards Manual, and the City's Texas Commission on Environmental Quality-issued Municipal Separate Storm Sewer System ("MS4") TPDES General Permit (TXR040000), collectively, the "Regulations"; and

WHEREAS, the OWNER acknowledges and agrees that, in order to ensure perpetual compliance with the Regulations, the PROPERTY must be impressed with certain covenants and restrictions;

WHEREAS, the Regulations generally and specifically require the design, construction and perpetual maintenance of permanent post construction storm water best management practices ("BMPs") developed and included within a Storm Water Management Site Plan ("SWMSP") required as a part of, and incident to, development, and OWNER acknowledges that compliance therewith by virtue of this Agreement and the terms hereof shall enable OWNER to develop the PROPERTY, which is accepted in consideration of this Agreement; and

WHEREAS, the CITY is charged with the responsibility of protecting the public health, safety and welfare through implementation of storm water pollution prevention measures, including ensuring that SWMSPs are developed, and post construction storm water BMPs are implemented and perpetually maintained by property owners.

NOW, THEREFORE, AND IN CONSIDERATION OF, the mutual covenants and obligations herein expressed, the Parties hereto agree as follows:

1. RECITALS INCORPORATED. The above Recitals and all terms defined therein are incorporated into this Agreement for all purposes.

2. DECLARATION OF COVENANTS AND RESTRICTIONS. It is declared that the OWNER of PROPERTY, shall hold, sell and convey the PROPERTY, subject to the following covenants and restrictions (the "Restrictive Covenants"), which are impressed upon the PROPERTY by this Agreement. OWNER further declares that these Restrictive Covenants shall run with the land, and shall be binding upon the OWNER, its heirs, successors and assigns, and that each contract, deed or conveyance of any kind conveying all or a portion of the PROPERTY will conclusively be held to have been executed, delivered, and accepted subject to the following covenants, conditions and restrictions, regardless of whether or not they are set out in full or by reference in said contract, deed or conveyance. The OWNER shall record this Agreement in the Official Land Records of Travis County, Texas.

(a) The OWNER covenants, declares and agrees that the OWNER shall perpetually preserve, protect, inspect and maintain the permanent post construction storm water BMPs developed by the OWNER in accordance with the SWMSP for the PROPERTY to ensure that the post construction storm water BMPs are and remain in proper condition in accordance with the SWMSP and the Regulations. The permanent post construction storm water BMPs specifically consist of those provided in **Exhibit B**, attached hereto and incorporated herein.

(b) The OWNER covenants and declares that OWNER shall maintain and inspect the permanent BMPs in accordance with the "Maintenance and Repair Plan" also provided in **Exhibit B**, and the Regulations. OWNER acknowledges and agrees that the Maintenance and Repair Plan may not be modified without the CITY Development Director's, or designee's, written consent, which shall not be unreasonably withheld, conditioned or delayed. OWNER acknowledges and agrees that the CITY is a beneficiary of OWNER's obligations under this Agreement and that failure to preserve, protect, inspect and maintain the post construction storm water BMPs is a breach of this Agreement.

(c) OWNER covenants and declares that any maintenance or repair needs identified by OWNER through periodic inspection shall be performed by the OWNER within thirty (30) days of discovery, or immediately upon notification by the CITY. If maintenance and repair cannot be performed immediately upon written notification by the CITY, the OWNER shall provide CITY with a schedule of activities to be completed, which shall be completed within a reasonable time as agreed to by the Parties. In the event the work is not performed within the specified time, the OWNER acknowledges and agrees that the CITY, or its employees, agents or contractors, may enter the PROPERTY and complete the required maintenance, as determined necessary in the CITY's sole discretion, at the OWNER's sole cost and expense. In the event that immediate maintenance and repair is necessary to protect public health, safety or welfare, as determined in the CITY'S sole discretion, CITY may enter and complete such maintenance and repair without prior notice to the OWNER. The OWNER shall reimburse the CITY for the costs incurred for the maintenance of the post construction storm water BMPs immediately upon demand. OWNER

further acknowledges and agrees that failure to reimburse CITY for all such costs shall be deemed a breach of this Agreement and will subject OWNER to all actions at law or in equity as the CITY may deem prudent, including without limitation, the placement of a judicially enforceable lien on the PROPERTY to secure the payment of all CITY costs incurred.

(d) The OWNER covenants, declares and agrees to modify or increase the inspection and maintenance or repair requirements, as deemed reasonably necessary by the CITY upon receipt of written notification thereof to OWNER, to ensure proper functioning and maintenance of the said post construction storm water BMP's.

(e) Notwithstanding anything in this Agreement to the contrary, OWNER acknowledges and agrees that the CITY is under no obligation to maintain or repair said post construction storm water BMP's, and in no event shall this Agreement be construed to impose any such obligation, duty or liability upon the CITY.

3. EASEMENT RESERVATION. OWNER hereby reserves a perpetual access and maintenance easement to all post construction storm water BMPs shown on the SWMSP for the purpose of inspection, repair and perpetual maintenance.

4. LICENSE. OWNER hereby GRANTS, SELLS AND CONVEYS TO CITY A NON-EXCLUSIVE IRREVOCABLE LICENSE OVER, UPON, ACROSS AND THROUGHOUT THE PROPERTY FOR ACCESS, INSPECTION AND MAINTENANCE OF THE POST CONSTRUCTION STORM WATER BMPs, AS APPLICABLE AND NECESSARY, UNTIL SUCH TIME AS THIS AGREEMENT IS MODIFIED, AMENDED OR TERMINATED AS PROVIDED HEREIN.

5. INDEMNIFICATION. In the event of the OWNER's failure to maintain the post construction storm water BMPs or OWNER's creation of a hazard, and the City's subsequent maintenance of the post construction storm water BMPs, the OWNER, whether one or more, shall be jointly and severally liable to the City for any reasonable expenses incurred by the City while maintaining the post construction storm water BMPs and, TO THE EXTENT PERMITTED BY THE LAWS OF THE STATE OF TEXAS, OWNER, AND ITS HEIRS, SUCCESSORS AND ASSIGNS, AGREE TO INDEMNIFY, SAVE HARMLESS, AND DEFEND THE CITY, ITS OFFICIALS, OFFICERS, EMPLOYEES, AGENTS, ~~OR CONTRACTORS AND INSURERS,~~ INCLUDING WITHOUT LIMITATION THE TEXAS MUNICIPAL INTERGOVERNMENTAL RISK POOL, AND THEIR RESPECTIVE SUCCESSORS AND ASSIGNS FROM AND AGAINST ANY AND ALL DEMANDS, LIABILITIES, CLAIMS, PENALTIES, FORFEITURES, SUITS, AND THE COSTS AND EXPENSES INCIDENT THERETO (INCLUDING COSTS OF DEFENSE, SETTLEMENT, AND REASONABLE ATTORNEY'S FEES), WHICH CITY MAY HEREAFTER INCUR, BECOME RESPONSIBLE FOR, OR PAY OUT AS A RESULT OF DEATH OR BODILY INJURIES TO ANY PERSON, DESTRUCTION OR DAMAGE TO ANY PROPERTY, CONTAMINATION OF OR ADVERSE EFFECTS ON THE ENVIRONMENT, OR ANY VIOLATION OF GOVERNMENTAL LAWS, REGULATIONS, OR RULES NOT RESULTING FROM THE CITY'S OWN NEGLIGENCE, BUT TO THE EXTENT CAUSED BY THE OWNER'S BREACH OF ANY WARRANTY, TERM OR PROVISION OF THIS AGREEMENT, OR ANY

NEGLIGENT OR WILLFUL ACT OR OMISSION OF THE OWNER, ITS EMPLOYEES, AGENTS OR SUBCONTRACTORS IN THE PERFORMANCE, OR OMISSION, OF ANY ACT CONTEMPLATED BY THIS AGREEMENT.

6. GENERAL PROVISIONS.

(a) Severability. If any part of this Agreement is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this agreement, and such remaining portion of this Agreement shall remain in full effect.

(b) Non-Waiver. If at any time the CITY fails to enforce this Agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it.

(c) Modification and Amendment. The Restrictive Covenants and License provided by this Agreement may be modified, amended, or terminated upon the filing of a written modification, amendment, or termination document in the Real Property Records of Travis County, Texas, executed, acknowledged, and approved by (a) the Director of Planning of the City of Pflugerville, or successor department; (b) by the owner(s) of the property subject to the modification, amendment or termination at the time of such modification, amendment or termination, and (c) any mortgagees holding first lien security interests on any portion of the PROPERTY.


(d) Attorney's Fees. In the event the CITY brings an action or proceeding to enforce the terms hereof or declare rights hereunder, and is determined to be the Prevailing Party (as hereafter defined) in any such proceeding, action, or appeal thereon, CITY shall be entitled to reasonable attorneys' fees, costs and expert witness fees as the court shall determine. The term "Prevailing Party" shall mean a party who substantially obtains or defeats the relief sought, as the case may be, by the entering of a judgment or arbitration award in such party's favor.

(e) Governing Law. This Agreement and all rights and obligations created hereby will be governed by the laws of the State of Texas and venue shall be located in Travis County, Texas.

(f) Entire Agreement. This Agreement, and the exhibits attached hereto contain all the representations and the entire agreement between the parties to this Agreement with respect to the subject matter hereof. Any prior correspondence, memoranda or agreements are superseded in total by this Agreement and the exhibits attached hereto. The provisions of this Agreement will be construed as a whole according to their common meaning and not strictly for or against any party.

Executed and effective on this 9 day of JANUARY, 2018.

OWNER:



OWNER Signature

THOMAS DEERE

OWNER Print Name/Title

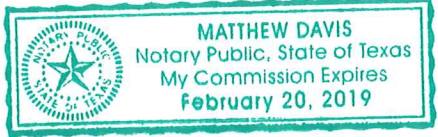
ACKNOWLEDGMENT

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

BEFORE ME, the undersigned, a Notary Public, on this day personally appeared THOMAS DELE, OWNER, known to me (or proved to me on the oath of, a credible witness) to be the person(s) whose name(s) is (are) subscribed to the foregoing instrument and acknowledged to me that he/she/they executed the same for purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 9 day of January, 2018

Matthew Davis
Notary Public, State of TEXAS



The City of Pflugerville does hereby accept the above described license in accordance with the terms of this Agreement.

CITY OF PFLUGERVILLE, TEXAS

By: _____
~~Brandon Wade, City Manager~~
Trey Fletcher, Interim City Manager

ATTEST:

Karen Thompson, City Secretary

NOTES:

PFLUGERVILLE STORAGE AND RETAIL PROJECT HAS OBTAINED ALL OFFSITE WATER FLOW AND DETENTION DATA FROM THE DEVELOPER. THE FLOW AND DETENTION DATA HAS BEEN SIZED FOR ONSITE DETENTION ONLY. ANALYSIS POINT IS SET AT THE OUTFALL OF THE OFFSITE DETENTION BASIN FOR THE PROPOSED DEVELOPMENT DESIGN CASE.

FLOODPLAIN

THIS PROJECT IS LOCATED WITHIN THE WILSONS CREEK WATERSHED. NO PORTION OF THIS PROJECT IS WITHIN THE FLOODPLAIN OF THE WATERSHED. THE FLOODPLAIN INFORMATION IS FOR INFORMATIONAL PURPOSES ONLY. THE FLOODPLAIN INFORMATION IS NOT TO BE USED FOR DESIGN OR CONSTRUCTION PURPOSES.

BENCHMARK

THE BENCHMARK IS A 4" ALUMINUM BOLT SET IN CONCRETE ON WEST SIDE OF P.A. 505 TRAFFIC SIGNAL. ELEVATION = 701.44' VERTICAL DATUM: NAVD 83 (DEC 01) SURVEY POINT: FOR THE NORTHEAST CORNER OF THE SIGNAL. ELEVATION = 715.37' VERTICAL DATUM: NAVD 83 (DEC 01)



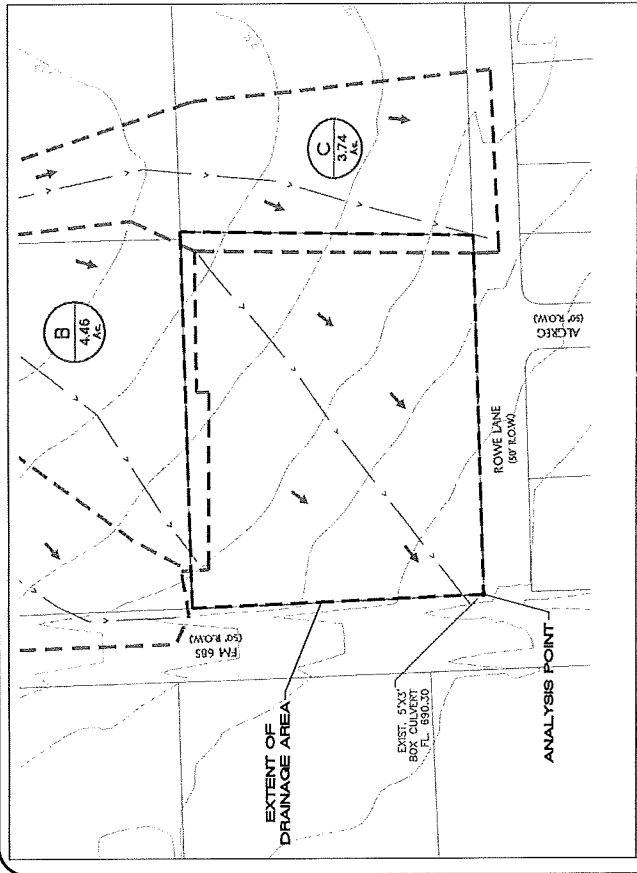
17750 Katy Freeway, Suite 100 Houston, TX 77058 Phone: 281-202-1118 Fax: 281-202-1119 www.dac-engineering.com

LUXURY AUTO WORKS
1429 ACRES TRACT
1704 ROME LANE
PFLUGERVILLE, TEXAS 78660

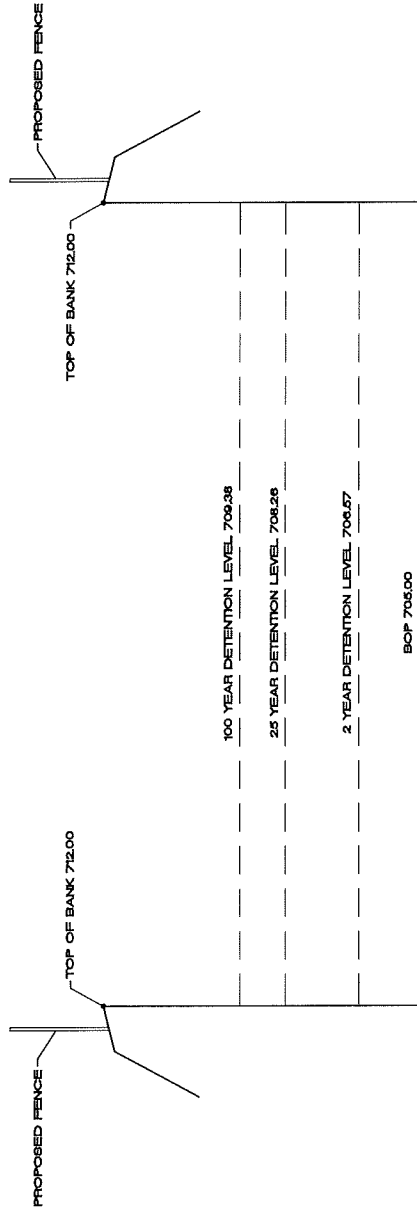
DRAINAGE CALCULATIONS

DATE: 01/30/2018
SHEET NO. 006
PROJECT: LUXURY AUTO WORKS
DRAWN BY: [Name]
CHECKED BY: [Name]
SCALE: AS SHOWN

C6.1



OFFSITE DRAINAGE AREA MAP



HYDROLOGIC SUMMARY

Storm	Time of Concentration		Rainfall Intensity (inches)	Curve Number		Flowrates		Storage (Cubic Ft)	Maximum Elevation (Feet)
	Pre Dev (minutes)	Post Dev (minutes)		Pre Dev	Post Dev	To detention (CFS)	Offsite Discharge (CFS)		
2 Year	21.80	10.80	4.10	74	81	7.162	4.03	3.82	705.57
25 Year	21.80	10.80	7.90	74	81	7.295	2.83	7.68	705.57
100 Year	21.80	10.80	10.00	74	81	10.120	8.622	9.622	705.57

SECTION A-A

MAINTENANCE PLAN

Inspection, Maintenance, Repair and Retrofit Plan

This Maintenance Plan outlines the requirements for the Stormwater BMP facilities for the Luxury Auto Works development at 1704 Rowe Lane, Pflugerville.

Detention Pond

Maintenance for Detention Pond is generally minimal with the focus on ensuring the outlets remain unobstructed.

Issue	Action	Frequency	Comments
Evaluate Facility Operation	More detailed inspection including inspection of structural elements of the system including pipes, concrete drainage structures and damage identified and repaired immediately Cracks, voids and undermining should be patched/filled to prevent additional structural damage. Trees and root systems should be removed to prevent growth in cracks and joints that can cause structural damage. Any areas of the pond that do not have sufficient vegetative cover (90% or more with no bare areas larger than 10 square feet) should be reseeded and irrigated as necessary	Every 6 months	
Sediment Removal	Remove sediment from the inlet structure and chambers when sediment buildup reaches a depth of 6 inches or when the proper functioning of inlet and outlet structures is impaired. Sediment should be cleared from the sedimentation basin at least every 5 years.	As required but minimum yearly	
Debris and Litter Removal.	Debris and litter will accumulate near the basin outlet device and should be removed during regular mowing operations and inspections. Particular attention should be paid to floating debris that can eventually clog the control device or riser.	As needed	
Mowing.	Grass areas in and around detention pond must be mowed at least twice annually to limit vegetation height to 18 inches. More frequent mowing to maintain aesthetic appeal may be necessary in landscaped areas. Vegetation on the pond embankments should be mowed as appropriate to prevent the establishment of woody vegetation.	Every 6 months	Likely to be more frequent for aesthetic appeal.

MAINTENANCE PLAN

Issue	Action	Frequency	Comments
Survey	Survey pond every 5 years to ascertain that grading remains per original approved plans and regrade/revegetate as necessary to maintain approved detention volumes.	Every 5 years	
Reporting	Owner shall provide an annual report to the City's Development Services Center on or before December 31st of each subsequent year specifically detailing the inspection and maintenance obligations undertaken to maintain the facilities during the current calendar year. Owner shall confirm the contact information for the point of contact for maintenance issues with each annual report and shall immediately notify the City of Pflugerville should the contact information change	Annually	

In case of issues with the Maintenance Plan the City of Pflugerville can Contact:

Matthew Davis
 Vice President – Operations
 Luxury Auto Works
 8300 N. Lamar Blvd, #100
 Austin, TX 78753
 512 736 9170
 Matt <matt@luxuryautoworks.com>