

RESOLUTION R-2019-103

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, APPROVING AN ENCROACHMENT AGREEMENT WITH ENERGY TRANSFER FUEL, LP AND BASTROP COUNTY IN THE CITY'S MAYFEST PARK ALLOWING FOR THE CONSTRUCTION OF A PARKING LOT FOR A COMMUNITY CENTER TO BE BUILT BY BASTROP COUNTY; AS ATTACHED IN EXHIBIT A; AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY DOCUMENTS; PROVIDING FOR A REPEALING CLAUSE, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Bastrop has executed a 75-year lease to Bastrop County to build the Bastrop Community Center and Shelter Facility at Mayfest Park; and

WHEREAS, the City Council of Bastrop Texas has a vested interest in protecting the investment of the water customers of the City of Bastrop; and

WHEREAS, Energy Transfer Fuel, LP requires the City of Bastrop to be a co-applicant on this encroachment request since the City owns the property; and

WHEREAS, the construction of the parking lot for the County's emergency shelter/multi-use facility will encroach into the seventy-foot utility easement operated by Energy Transfer Fuel, LP; and

WHEREAS, the City of Bastrop, Texas has a history of working with other governmental entities on projects that are mutually beneficial to the community.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS:

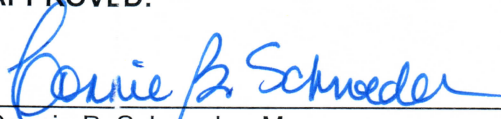
Section 1: That the City Council authorizes the City Manager to execute an Encroachment Agreement with Entergy Transfer Fuel, LP and Bastrop County allowing for construction of a parking lot for an Emergency Shelter to be built in Bastrop County.

Section 2: All orders, ordinances, and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

Section 3: That this Resolution shall take effect immediately upon its passage, and it is so resolved.

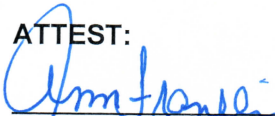
DULY RESOLVED AND ADOPTED by the City Council of the City of Bastrop this 8th day of October, 2019.

APPROVED:



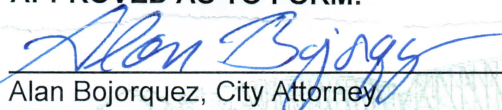
Connie B. Schroeder, Mayor

ATTEST:

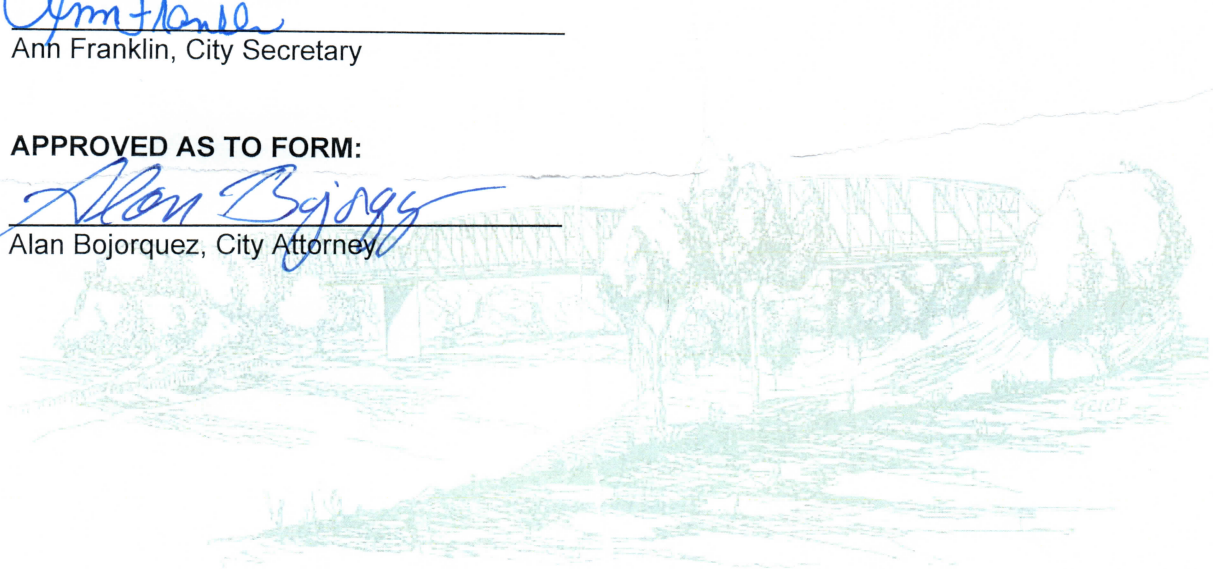


Ann Franklin, City Secretary

APPROVED AS TO FORM:



Alan Bojorquez, City Attorney





STATE OF TEXAS §
 §
COUNTY OF BASTROP §

ENCROACHMENT AGREEMENT

This instrument made and entered into this 10th day of December, 2019, by and between Energy Transfer Fuel, L.P., a Delaware limited partnership (hereinafter referred to as "ETF"), with principal offices at 1300 Main Street, Houston, Texas 77002-5600, the City of Bastrop, TX (hereinafter referred to as the "Owner" whether one or more), whose mailing address is 1311 Chestnut Street, PO Box 427, Bastrop, Texas 78602, and Bastrop County, Texas (hereinafter referred to as the "Lessee"), whose mailing address is 804 Pecan Street, Bastrop, Texas 78602.

WITNESSETH:

WHEREAS, ETF is the holder of an Easement granted by the City of Bastrop on February 3, 1969 covering the following described premises in Bastrop County, Texas:

Being a description along the centerline of the BI-STONE FUEL COMPANY'S gas pipeline as now surveyed and located across the property of the City of Bastrop, Texas, and being 15-68/100 acres of land in the Bastrop Town Tract, Abstract 11, Bastrop County, Texas, and being the same land described in a Lease from the City of Bastrop to Bastrop County Fair Association, dated January 2, 1922, and recorded in Volume 72, Page 560, Deed Records of said County (hereinafter referred to as the "Premises");

WHEREAS, pursuant to the authority contained in said Easement, ETF has constructed and currently operates and maintains an 20-inch pipeline, (hereinafter referred to as the "ETF Pipeline Facilities"), across and through the above described Premises; and

WHEREAS, Owner owns the following described real property, upon which the ETF Pipeline Facilities are situated, in Bastrop County, Texas (hereinafter referred to as the "Owned Premises"):

See Exhibit "A" attached hereto and made a part hereof for a description of the Owned Premises

WHEREAS, the Owner has entered into a 75 year lease with the Lessee for the Owned Premises:

See Exhibit "B" attached hereto and made a part hereof for a copy of the lease agreement.

WHEREAS, Lessee plans to install and construct a parking lot (hereinafter referred to as the "Encroachment") upon ETF's 70-foot right-of-way width (hereinafter referred to as the "Easement Area"), and such Encroachment is depicted on Exhibit "C" which is attached hereto and made a part hereof; and

WHEREAS, Owner and Lessee have been advised by ETF that ETF is a natural gas transmission company; and

WHEREAS, Owner and Lessee have requested permission from ETF to maintain, use, and enjoy the Encroachment upon a portion of the Easement; and

WHEREAS, ETF is willing to grant such permission upon the terms and conditions set forth as follows.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions hereinafter set forth, the parties hereto agree as follows:

1. ETF hereby grants permission to Owner and Lessee to maintain, operate and use the Encroachment, subject to the following conditions:

- A. Owner and Lessee assume all risks for damages, injuries, or loss to either property or persons, which may be incurred by Owner and Lessee or their agents, invitees, or licensees present on or in the vicinity of the Easement Area and in any way associated with said Encroachment. Any maintenance or improvements to or repairs of the Encroachment

shall be the sole responsibility, and performed at the sole cost and expense, of the Owner and Lessee.

- B. The permission granted herein is limited exclusively to the Encroachment within the Easement Area. Owner and Lessee shall not alter, or permit the alteration of, the grade of the Easement Area without the prior express written consent of ETF. Owner and Lessee shall be solely responsible for, and shall bear the expense of repairs attributable to, any loss of subjacent or lateral support for ETF's Easement Area and/or the ETF Pipeline Facilities caused by the Encroachment.
- C. Owner or Lessee shall provide a minimum of forty-eight (48) hours' notice to ETF prior to any work, including installation, construction, excavation, or demolition on parcels encumbered by the ETF Easements by calling 811. Upon such notice by Owner or Lessee, ETF may elect to have an ETF representative, whether one or more ("Representative"), to be present during any construction activities within the ETF Easements. The Representative shall have the authority to stop any work performed by Owner, Lessee and/or any of its contractors, if this work is believed to be inconsistent with the final plans, noncompliant with this Agreement or considered unsafe by the Representative, acting reasonably. This provision shall apply each time work is to be performed within the Easement Area.
- C. Owner and Lessee shall at all times conduct all of their activities within the Easement Area in such a manner as not to interfere with or impede the operation, safety, or maintenance of the ETF Pipeline Facilities and activities in any manner whatsoever. In the event that ETF, in its sole discretion, determines that the safety, operation, or maintenance of the ETF Pipeline Facilities is affected by the Encroachment, Owner and Lessee shall, at ETF's option and to ETF's satisfaction, either resolve the situation or reimburse ETF for its costs incurred in resolving the situation, including but not limited to lowering or relocating the ETF Pipeline Facilities.
- D. Owner and Lessee shall not plant any trees within the Easement Area.
- E. That Owner and Lessee shall construct and maintain said Encroachment as shown on Exhibit "C".
3. Owner and Lessee agree that protection of the ETF Pipeline Facilities will be maintained at all times.
4. Should ETF desire to remove any portion of the Encroachment within the Easement Area in order to construct, maintain, operate, repair, replace, remove, or resize ETF's existing or additional Pipeline Facilities, Owner, Lessee or their successors and assigns, shall pay the cost of removing and replacing or reinstalling such removed portion of the Encroachment. In addition, all repair and maintenance work performed by ETF on its existing or additional Pipeline Facilities located on the Owned Premises, shall be performed in a reasonable and workmanlike manner and ETF shall restore the surface and grade of the Owned Premises where the work is performed, but shall not be liable for loss, damage, or replacement to the Encroachment or any associated equipment and facilities that exist within the Easement Area, and in this regard, Owner and Lessee do hereby release ETF, its employees, agents, officers, and directors from any and all liability for any such loss or damage.
5. The parties hereto understand that this Agreement in no way constitutes a waiver by ETF of its rights to enjoy the Premises or the Easement Area unencumbered by the construction and operation of the Encroachment.
6. It is expressly agreed to by and between the parties hereto that if Owner or Lessee are in violation of any terms or conditions set forth in this Agreement, ETF may at any time terminate this Agreement upon ten (10) days' written notice to Owner and Lessee. In the event of such termination, Owner shall immediately remove any and all of said Encroachment, which may be situated on the Easement Area, or if Owner and Lessee fail to remove any and all of said Encroachment, ETF may, at its option, remove said Encroachment at the expense of Owner and Lessee and without any liability whatsoever. It is further agreed that the failure by ETF to exercise such option as to any such violation shall not constitute a waiver of ETF's future right to exercise such option as to the same or any future violation.
7. Upon the termination of this Agreement, Owner and Lessee shall remove from the Easement Area all of the Encroachment and restore the surface of the Easement Area to good condition and to ETF's satisfaction, including the leveling and grading of all ruts, excavations, depressions and mounds caused by, or resulting from, the Encroachment.

8. The provisions of the Easement, and all rights, powers, privileges, and duties, obligations, and liabilities created thereby, remain in full force and effect and are not affected hereby except to the extent and in the manner set forth above.

9. This Agreement may not be assigned by Owner or Lessee, in whole or in part, without the prior express written consent of ETF, which consent shall not be unreasonably withheld so long as any such permitted assignee agrees to be bound by and to comply with all the terms and conditions of this Agreement. Any assignment made in contravention of this provision shall be deemed null and void and of no force and effect whatsoever.

10. Owner and Lessee agree, that should ETF need to utilize any portion of the Encroachment area, to perform any pipeline operations in the future, Owner and Lessee shall allow ETF to utilize same without any compensation or payment due to any interference caused to Owner's or Lessee's business.

This instrument and the covenants and agreements herein contained shall extend to and be binding upon the heirs, executors, administrators, successors, and permitted assigns of the parties and the benefits of this Agreement shall run with the land.

IN WITNESS WHEREOF, the parties have executed this instrument the day and year first above written.

"ETF"
ENERGY TRANSFER FUEL, LP
By: Energy Transfer Fuel GP, LLC, its general partner

Sign: [Signature]
Print Name: ROBERT ROSE
Title: Vice President, Land and Right of Way

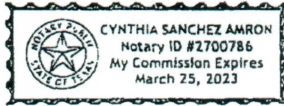
"OWNER"
The City of Bastrop, TX
Sign: [Signature]
Print Name: LINDA K. Humble
Title: City Manager

"Lessee"
Bastrop County, TX
Sign: [Signature]
Print Name: Paul Pape
Title: Bastrop County Judge

STATE OF TEXAS §
COUNTY OF Harris §

The foregoing instrument was acknowledged before me on this 10th day of December, 2019 by Robert Rose, Vice-President of Energy Transfer Fuel GP, LLC, on behalf of Energy Transfer Fuel, LP, a Delaware limited partnership.

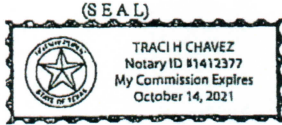
(SEAL)



Notary Public
My Commission Expires 03.25.2023

STATE OF TEXAS §
COUNTY OF BASTROP §

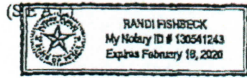
The foregoing instrument was acknowledged before me on this 24th day of October, 2019 by LYNDA K. Humble, property owner.



Traci Chavez
Notary Public
My Commission Expires 10-14-21

STATE OF TEXAS §
COUNTY OF Bastrop §

The foregoing instrument was acknowledged before me on this 9th day of September, 2019 by Paul Pepe, Bastrop County Judge.



Randi Fishbeck
Notary Public
My Commission Expires 2-16-20

PROJECT NO: 26573
This Instrument To Be Returned To:
Hope Acosta - Right of Way Dept.
Energy Transfer Fuel, LP
1300 Main Street, 13th Floor
Houston, Texas 77002-5600

NOT FOR REGULATORY
APPROVAL OR CONSTRUCTION

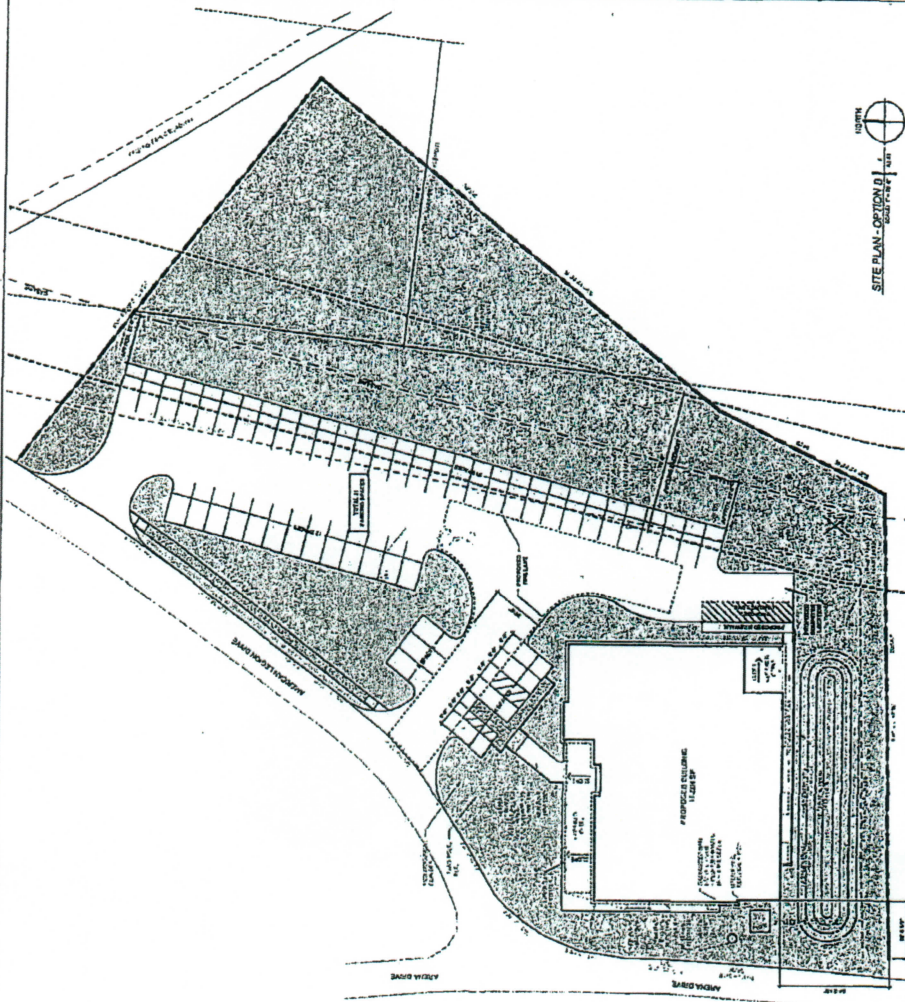
Revision	Scale	Author	Date

OWT ARCHITECTS
1000 W. 10TH STREET
SUITE 100
BASTROP, TEXAS 76011

BASTROP COUNTY
COMMUNITY
CENTER
1500 W. 10TH STREET
BASTROP, TEXAS 76011

SITE PLAN

A1.01



FILED AND RECORDED
OFFICIAL PUBLIC RECORDS



Rose Pietsch

ROSE PIETSCH, County Clerk
Bastrop Texas
December 11, 2019 01:21:53 PM

KRISTAB

FEE: \$0.00
AGREE

201919444