

**RESOLUTION NO. R-2020-21**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS AUTHORIZING A LICENSE TO ENCROACH AGREEMENT WITH RGG INVESTMENTS, LLC TO BUILD A RESIDENTIAL DRIVEWAY IN A DRAINAGE EASEMENT, ON LOT 2A IN THE BASTROP-CHAPA REPLAT, ALSO KNOWN AS 808 MAGNOLIA STREET, AS ATTACHED AS EXHIBIT A; AUTHORIZING THE CITY MANAGER TO EXECUTE NECESSARY DOCUMENTS; PROVIDING FOR A REPEALING CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Bastrop City Council understands the benefit of having developable residential lots within infill areas of the City near the Downtown; and

**WHEREAS**, the City of Bastrop City Council understands that housing density provides increased fiscal sustainability to the City; and

**WHEREAS**, the City of Bastrop City Council has unequivocally committed to fiscal sustainability, responsibly managing growth, and taking definitive action towards lasting solutions.

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

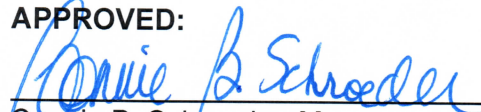
**Section 1.** The City Manager is hereby authorized to execute a License to Encroach Agreement between the City of Bastrop and RGG Investments, LLC, to construct a gravel driveway for residential use in a drainage easement, for Lot 2A of the Bastrop-Chapa Subdivision, also known as 808 Magnolia attached as Exhibit A, as well as all other necessary documents.

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resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

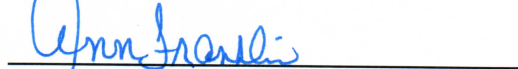
**Section 3.** This resolution shall take effect immediately from and after its passage, and it is duly resolved.

**DULY RESOLVED AND ADOPTED** by the City Council of the City of Bastrop, Texas this 25<sup>th</sup> day of February 2020.

**APPROVED:**

  
\_\_\_\_\_  
Connie B. Schroeder, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Ann Franklin, City Secretary

**APPROVED AS TO FORM:**


  
\_\_\_\_\_  
Alan Bojorquez, City Attorney

Exhibit 1

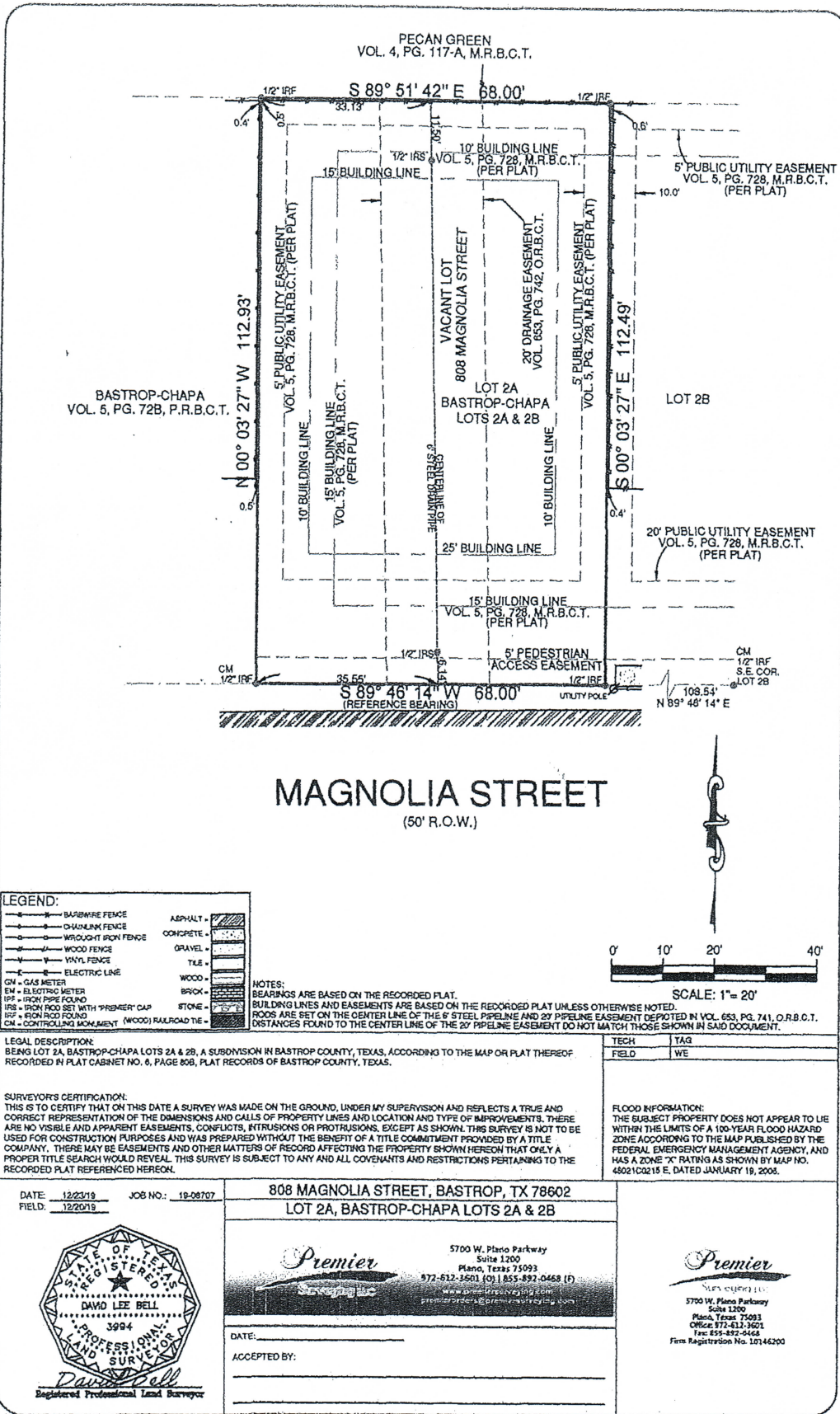


Exhibit I

**LEGEND:**

—•—•—	BARBWIRE FENCE	▨	ASPHALT
—•—•—	CHAINLINK FENCE	▨	CONCRETE
—•—•—	WROUGHT IRON FENCE	▨	GRAVEL
—•—•—	WOOD FENCE	▨	TILE
—•—•—	VINYL FENCE	▨	WOOD
—•—•—	ELECTRIC LINE	▨	BRICK
CM	GAS METER	▨	STONE
EM	ELECTRIC METER	▨	WOOD RAILROAD TIE
IPF	IRON PIPE FOUND		
IRF	IRON ROD SET WITH "PREMIER" CAP		
IRF	IRON ROD FOUND		
CM	CONTROLLING MONUMENT (WOOD) RAILROAD TIE		

**NOTES:**  
 BEARINGS ARE BASED ON THE RECORDED PLAT.  
 BUILDING LINES AND EASEMENTS ARE BASED ON THE RECORDED PLAT UNLESS OTHERWISE NOTED.  
 ROADS ARE SET ON THE CENTER LINE OF THE 6" STEEL PIPELINE AND 20" PIPELINE EASEMENT DEPICTED IN VOL. 653, PG. 741, O.R.B.C.T.  
 DISTANCES FOUND TO THE CENTER LINE OF THE 20" PIPELINE EASEMENT DO NOT MATCH THOSE SHOWN IN SAID DOCUMENT.

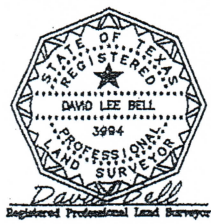
**LEGAL DESCRIPTION:**  
 BEING LOT 2A, BASTROP-CHAPA LOTS 2A & 2B, A SUBDIVISION IN BASTROP COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN PLAT CASNET NO. 6, PAGE 808, PLAT RECORDS OF BASTROP COUNTY, TEXAS.

**SURVEYOR'S CERTIFICATION:**  
 THIS IS TO CERTIFY THAT ON THIS DATE A SURVEY WAS MADE ON THE GROUND, UNDER MY SUPERVISION AND REFLECTS A TRUE AND CORRECT REPRESENTATION OF THE DIMENSIONS AND CALLS OF PROPERTY LINES AND LOCATION AND TYPE OF IMPROVEMENTS. THERE ARE NO VISIBLE AND APPARENT EASEMENTS, CONFLICTS, INTRUSIONS OR PROTRUSIONS, EXCEPT AS SHOWN. THIS SURVEY IS NOT TO BE USED FOR CONSTRUCTION PURPOSES AND WAS PREPARED WITHOUT THE BENEFIT OF A TITLE COMMITMENT PROVIDED BY A TITLE COMPANY. THERE MAY BE EASEMENTS AND OTHER MATTERS OF RECORD AFFECTING THE PROPERTY SHOWN HEREON THAT ONLY A PROPER TITLE SEARCH WOULD REVEAL. THIS SURVEY IS SUBJECT TO ANY AND ALL COVENANTS AND RESTRICTIONS PERTAINING TO THE RECORDED PLAT REFERENCED HEREON.

**FLOOD INFORMATION:**  
 THE SUBJECT PROPERTY DOES NOT APPEAR TO LIE WITHIN THE LIMITS OF A 100-YEAR FLOOD HAZARD ZONE ACCORDING TO THE MAP PUBLISHED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY, AND HAS A ZONE "X" RATING AS SHOWN BY MAP NO. 45021C0215 E, DATED JANUARY 19, 2006.

DATE: 12/23/19 JOB NO.: 19-08707  
 FIELD: 12/20/19

808 MAGNOLIA STREET, BASTROP, TX 78602  
 LOT 2A, BASTROP-CHAPA LOTS 2A & 2B



**Premier**  
 5700 W. Plano Parkway Suite 1300  
 Plano, Texas 75093  
 972-612-3601 (O) | 855-892-0468 (F)  
 www.premier-surveying.com  
 premierorders@premier-surveying.com

**Premier**  
 METRO SURVEYING, L.L.C.  
 5700 W. Plano Parkway Suite 1300  
 Plano, Texas 75093  
 Office: 972-612-3601  
 Fax: 855-892-0468  
 Firm Registration No. 10144200

DATE: \_\_\_\_\_  
 ACCEPTED BY: \_\_\_\_\_



## **LICENSE TO ENCROACH AGREEMENT**

This is a license agreement for the use of a Drainage Easement (D.E) crossing Lot 2A of the Bastrop-Chapa Subdivision, also known as 808 Magnolia Street for the construction of a gravel driveway, between the City of Bastrop, acting by and through its City Manager (hereinafter "City") and RGG Investments, LLC, acting by and through its agent Jesse McKenzie (hereinafter "Licensee"). Either may herein be referred to individually as "Party"; collectively, City and Licensee will be referred to as the "Parties."

### **RECITALS**

The Parties acknowledge and agree on the following:

1. City shall maintain the use of the drainage easement of certain real property as shown on Exhibit 1 ("the Property").
2. The Property is located in the middle of a residential lot in which Licensee is placing a residential structure.
3. It is in the best interests of City and the public to have developable residential lots that add to the property tax bases, as well as provide housing to the citizens.
4. This Agreement is supported by full and adequate consideration.

### **TERMS OF THE AGREEMENT**

In consideration of the recitals and mutual covenants and agreements contained in this Agreement, the Parties agree to the following terms:

#### **ARTICLE 1**

##### **PREMISES AND PRIVILEGES**

For and in consideration of the terms, conditions and covenants of this Agreement to be performed by Licensee, all of which Licensee accepts, City authorizes and permits Licensee to have the non-exclusive use of the Drainage Easement for the construction of a gravel driveway. The herein described privileges are transferable and shall convey with the sale of the property for the term of the agreement described in Article 2. Licensee accepts the condition of the Property as is, where is, in its condition as of the effective date of this Agreement with no expectation that City will incur any expense in connection with the Property, including expenses for the repair of the Property necessitated by any damage that might occur to the Property under the use and scope of this Agreement by Licensee for residential purposes.



## ARTICLE 2

### TERM

The term of this Agreement shall be for a period of one (1) year, beginning on the effective date of this Agreement. Unless and until the Agreement is terminated, this Agreement will renew itself automatically on each anniversary of the Agreement for an additional one (1) year term.

## ARTICLE 3

### OBLIGATIONS OF LICENSEE

In addition to any other obligations imposed by this Agreement, Licensee accepts and will perform the following obligations:

1. Licensee shall not deny access to drainage improvements granted permission by law.
2. Licensee shall neither construct nor permit any buildings or structures located on the Property other than a gravel driveway.
3. Licensee shall maintain the Property and keep it clear of trash and other debris.
4. Licensee shall not use the Property for storage or parking.
5. Licensee shall not fence across the Drainage Easement.
6. Licensee agrees to remove all other obstructions out of the Drainage Easement.
7. Licensee agrees all future work within the drainage easement will require a request in writing by Licensee answered with written approval by the City Manager.
8. Licensee acknowledges that City may desire to install, repair, remove, or otherwise improve drainage improvements within the drainage easement. In this event, Licensee shall remove any improvements on the Property for such amount of time as is necessary for the City to perform such repairs, or improvements. The City also retains the right to access the property for all other rights incidental to and necessary in connection with any drainage improvements or facilities that may be located on or under the Property. The City will perform all ordinary maintenance related to the Property, and it shall be noted that the following improvements are located within the City's D.E. of the Property:
  - Gravel Driveway

## ARTICLE 4

### NOT A CONVEYANCE OF REAL PROPERTY INTEREST

The Parties agree and acknowledge that this Agreement is not a conveyance or transfer of any tenancy, leasehold, or ownership interest of any kind in the Property or the public utility easement.

## ARTICLE 5

### NO LIABILITY FOR CITY

The Parties agree that the City shall have no liability for any losses or damages, neither direct nor consequential, resulting from the loss of any things on the Property, real or personal, whether by theft, vandalism, negligence, act of God, or other event or occurrence.

## ARTICLE 6

### NO ASSIGNMENT

Licensee shall not assign this Agreement without the prior written consent of the City.

## ARTICLE 7

### TERMINATION

This Agreement shall terminate upon the occurrence of any of the following:

1. Either the City or the Licensee may terminate this Agreement without cause by submitting 30 (thirty) days written notice of such to the other Party.
2. Licensee defaults in the performance of its obligations under this Agreement, if such default continues for a period of ten (10) days after written notice to Licensee by the City of the default.

Upon termination of this Agreement, Licensee shall remove all things placed within the Right of Way by Licensee or its agents, servants or employees. Licensee shall restore the right of way as nearly as practical to its condition prior to the initial execution of this Agreement.

The failure of the City to declare this Agreement in default shall not operate to bar or waive the right of the City to terminate this Agreement because of any subsequent violation of the Agreement.

## ARTICLE 8

### MISCELLANEOUS GENERAL PROVISIONS

1. Attorney's Fees. In any action brought for the enforcement of the obligations in this Agreement, the prevailing party shall be entitled to recover interest and reasonable attorney's fees.
2. Misrepresentation. All terms and conditions with respect to this Agreement are expressly contained in this document. Licensee agrees that no representative or agent of the City has made any representation or promise with respect to this Agreement not expressly contained in the Agreement.
3. Paragraph Headings. The paragraph headings are for convenience and reference and are not intended to define or limit the scope of any provision of this Agreement.
4. Notices. Notices that are sent pursuant to any provision of this Agreement, at a minimum, shall be sent to the following:

5. Choice of Law and Venue. This Agreement is made and entered into by the Parties in the City of Bastrop, Bastrop County, Texas. This Agreement shall be construed in accordance with the laws of the State of Texas and the venue of any suits arising from this Agreement shall be Bastrop County, Texas.
6. Entire Agreement Amendment: This Agreement including any exhibits constitutes the full and entire understanding and agreement between the Parties and supersedes any prior or contemporaneous written or oral agreements between the Parties. This Agreement may not be amended except by a written instrument agreed to and signed by both Parties.
7. Rights and Remedies Cumulative: The rights and remedies provided by this Agreement are cumulative; and the use of any one right or remedy by either Party shall not preclude or waive its right to use any or all other remedies. The rights and remedies provided in this Agreement are given in addition to any other rights the Parties may have by law, statute, ordinance, or otherwise.
8. Agreement Approval: Each Party represents and warrants that all necessary approvals for this Agreement have been obtained, and the persons whose signatures appear below have the authority necessary to execute this Agreement on behalf of the Parties indicated.
9. Originals: This Agreement may be executed in multiple or duplicate originals. A duplicate original or copy of this Agreement is as fully enforceable as an Original, whether the document is a “hard copy” or an electronic copy. This Agreement may be signed and a .pdf copy of the document transmitted electronically which shall then constitute an original signature on the document.
10. Effective Date: This Agreement shall become effective and enforceable upon the date on which both Parties signatures are collected and so attested.

**SIGNATURE PAGE TO FOLLOW.**



**AGREED:**

City of Bastrop, Texas

By: Trey Job  
Trey Job, Acting City Manager

Date Signed: 3-4-2020

**ATTEST:**

Ann Franklin  
Ann Franklin, City Secretary for Bastrop, Texas

**AGREED:**

By: Jesse McKenzie  
Title: Jesse McKenzie, Agent

Date Signed: 3-4-2020

**ATTEST:**

By: Traci Chavez

Date Signed: 3-4-2020

STATE OF TEXAS §

COUNTY OF BASTROP §

The foregoing instrument was acknowledged before on this 4<sup>TH</sup> day of March, 2020 by Jesse McKenzie, Agent for RGG Investments, LLC, a Texas limited liability company.

(Seal)

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

