

CONSENT TO ENCROACH

STATE OF TEXAS }  
 }  
COUNTY OF GALVESTON }

WHEREAS, William W. Whittle, II and Holly Elise Whittle, (hereinafter referred to as "Owner", whether one or more), is Owner of the following described property situated in the City of League City, (hereinafter referred to as "City"), Galveston County, Texas:

PROPERTY DESCRIPTION:

That certain called 0.565 acre tract of land being the South 200 feet of Lot 46 of League City Townsite in Galveston County, Texas, according to the Map of League City and Subdivisions prepared R. W. Luttrell for J. C. League in 1893, 1907 and 1909, being that same called 0.565 acre tract of land more particularly described in instrument of record filed on April 24, 2012 under County Clerk's File No. 2012020930.

WHEREAS, Owner's Property is addressed as 706 Coryell Street and is located at the northwesterly quadrant of Coryell Street's intersection with Kansas Avenue; and

WHEREAS, Owner desires to construct small-diameter private sanitary sewer force main (hereinafter "Force Main Sewer") within the City's Coryell Street road right-of-way, a dedicated 70-foot wide road right-of-way; and

WHEREAS the proposed private Force Main Sewer will encroach upon the City's Coryell Street as follows: From Owner's southeast property line, the Force Main Sewer cross Coryell Street in a southeasterly direction approximately 40 linear feet, then turn in a southwesterly direction, generally along and parallel with the Coryell Street another 215 linear feet to its proposed core-cut connection at an existing City sanitary sewer manhole located at the intersection of Coryell Street and Colorado Street, the total linear footage of said Force Main Line being approximately 255 feet. The proposed Force Main Line shall be designed and installed in accordance with all applicable jurisdictional codes and regulations; and

WHEREAS, prior to the construction or installation of said Force Main Line: (i) Owner shall submit properly engineered plans to the City for review and approval and construction shall not occur until such plans have been approved; and (ii) Owner shall pay the City a fee of \$463.50 based on the following formula:  $\$15 \times 2 \text{ inches} \times \text{approximately } 15.45 \text{ rods} = \$463.50$ .

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS that the City hereby consents to Owner's encroachment of said private Force Main Line within the City's Coryell Street right-of-way, subject to the terms and conditions hereinafter set forth.

## TERMS AND CONDITIONS:

1. Owner, Owner's successors, heirs, or assigns hold the City harmless from all claims, lawsuits, costs, and damages for any person or property arising out of or in any way connected with the maintenance and use of said encroaching private Force Main Line, except where such injuries or damages are caused solely by the negligence of the City, its agents, or employees;
2. If the City, its successors, assigns or grantees, shall at any time in its sole discretion determine that it is necessary to do so for the purpose of maintaining City facilities, it shall be privileged to remove or alter the above-mentioned encroaching private Force Main Line, and which the City agrees to restore as nearly as is practical to their former condition, all at Owner's cost. Owner, Owner's successors, assigns and grantees, hereby releases the City from any and all liability for damage caused to the encroaching private Force Main Line by any such removal, altering and restoring. Owner, Owner's successors, assigns and grantees further releases the City from any and all liability for loss of or damage to the encroaching private Force Main Line which may be caused by, result from or be related to the presence or malfunctioning of the City's facilities, regardless of whether its negligence may contribute to such loss or damage.
3. The City may, at its sole discretion, terminate this consent to encroach by giving Owner, Owner's successors, assigns, agents or licensees written notice of such termination. Such written notice of termination shall be delivered by U. S. Postal Service certified mail delivery. Upon receipt of such notice, Owner, Owner's successors, assigns, agents or licensees shall have sixty (60) calendar days to cause the removal of said encroachment from the City's Coryell Street right-of-way. If the encroachment has not been removed within said 60 days, the City may cause the removal the encroachment, the cost of which removal by the City shall be solely borne by the Owner, Owner's successors, assigns, agents, or licensees, and which cost may be attached as a lien against Owner's property described above.
4. The exercise and enjoyment, by Owner's successor, assigns, agents or licensees, of their rights and privileges to which the City has herein granted its consent to encroach shall constitute affirmative acceptance by such successors, assigns, agents or licensees of the terms herein contained; provided, however, that the City reserves the right to require that any such successor, assign, agent, or licensee further signify in a recordable instrument acceptance of such terms and conditions, and should any such successor, assign, agent or licensee refuse upon written request to execute such instrument, the rights and privileges herein consented to shall thereupon automatically terminate.
5. The Owner shall submit construction drawings associated with the proposed private Force Main Line to the City Engineering Department for review and approval prior to constructing said private Force Main Line. In no case shall any construction



For the City of League City:

EXECUTED this the \_\_\_\_\_ day of \_\_\_\_\_, 2015.

By: \_\_\_\_\_  
John Baumgartner  
Deputy City Manager

ACKNOWLEDGMENT

STATE OF TEXAS                    }  
  }  
COUNTY OF GALVESTON        }

BEFORE ME, a notary public, on this day personally appeared John Baumgartner, Deputy City Manager of the City of League City, Texas, known to me or having proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER my hand and seal of office this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

(SEAL)

\_\_\_\_\_  
Notary Public in and for the State Texas

My Commission Expires: \_\_\_\_\_