

CONSENT TO USE THE EASEMENT AREA

(Encroachment Agreement)

STATE OF TEXAS §

COUNTY OF GALVESTON §

THIS CONSENT TO USE THE EASEMENT AREA (hereinafter the “AGREEMENT”), made this ____ day of April 2018, by and between CITY OF LEAGUE CITY, having an address at 500 West Walker Street, League City, Texas 77573 and **EARTHWORKS LAWN CARE SERVICES, INC. LEAGUE CITY OUTDOOR POWER EQUIPMENT INC.**, having an address at 211 League City Parkway, League City, TX 77573 (hereinafter jointly referred to as “OWNER”), and **GENESIS PIPELINE TEXAS, L. P. a Delaware limited partnership**, having offices at 919 Milam Street, Suite 2100, Houston, Texas 77002, (hereinafter sometimes referred to as “GPLTX”).

WHEREAS, GPLTX is the holder of that certain Right-of-Way Grant and Easement that crosses property located at Oaks of Clear Creek upon which it now maintains and operates a crude oil pipeline within said right-of-way area and commonly refers to said pipeline(s) as its Heritage Webster to Texas City 8 Inch system; and,

WHEREAS, OWNER proposes to construct, install, and maintain certain improvements consisting of an earthen berm (hereinafter referred to as “FACILITY”), within GPLTX’S right-of-way and easement; and,

WHEREAS, GPLTX has consented to the construction, installation, and utilization thereof, subject to the following terms and conditions:

WITNESSETH

- (1) Subject to the terms and conditions stated herein, consent is hereby given by GPLTX to OWNER, insofar as it has the right to do so, to maintain the FACILITY within GPLTX’S Right-of-Way and Easement.
- (2) OWNER accepts this consent with full knowledge of GPLTX’S prior rights and existing facilities.
- (3) OWNER acknowledges receipt of GPLTX’S “General Requirements for Crossing Genesis Pipelines” describing and setting forth its minimum requirements and warrants that any construction and/or maintenance of the FACILITY performed or which may be performed in the future in the area of GPLTX’S right-of-way, will conform to the conditions and requirements listed in said “General Requirements for Crossing Genesis Pipelines”. (SEE EXHIBIT “A”)

Additionally, OWNER shall put in fill to at least Three (3') feet above the existing grade and ground level over the Genesis Pipeline(s); OWNER shall place its other constructions a minimum of Fifteen (15') feet from any portion of the Genesis Pipeline(s); OWNER shall provide GPLTX notice and a reasonable opportunity to inspect the Genesis Pipeline(s) during OWNER's excavation work; and OWNER shall provide a revised drawing to indicate the above requirements.

- (4) GPLTX shall not be liable for any destruction of or damages to the FACILITY arising out of or in connection with the construction, installation, replacement, changing the size of, repair, maintenance, operation or removal of any pipeline or pipelines presently or hereafter located within the Right-of-Way and Easement. OWNER covenants and agrees to protect, indemnify and save GPLTX, its contractors and subcontractors, and its and their respective owners, partners, shareholders, officers, directors, employees, agents, representatives and servants (collectively, the "INDEMNIFIED PARTIES") harmless from and against any and all claims, demands, lawsuits, arbitrations, proceedings, judgments, awards, damages, losses, costs and expenses (including attorneys' fees and disbursements) for destruction of or damages to the FACILITY howsoever caused, INCLUDING, WITHOUT LIMITATION, THAT CAUSED BY THE SOLE, CONCURRENT OR COMPARATIVE NEGLIGENCE OF ANY ONE OR MORE OF THE INDEMNIFIED PARTIES, but not their gross negligence.
- (5) In GPLTX'S sole opinion, should the FACILITY allowed herein interfere with the construction, installation, replacement, maintenance or operation of any existing or future pipeline(s) located on the hereinabove referenced right-of-way, OWNER shall cause the FACILITY to be relocated or removed so as to eliminate any such interference.
- (6) OWNER warrants that prior to any contractor or subcontractor(s) performing any construction over or in the vicinity of GPLTX'S right-of-way, said contractor and/or subcontractor(s) shall furnish to GPLTX verification of comprehensive general liability insurance in an amount not less than (i) one million dollars (\$1,000,000) each occurrence, and (ii) one million dollars (\$1,000,000) aggregate combined single limit, and (iii) with excess liability in the amount of four million dollars (\$4,000,000). Said verification of liability is to be submitted on a GPLTX approved form.
- (7) In consideration of the consent hereinabove granted, OWNER hereby agrees to indemnify, defend and hold GPLTX harmless of and from all claims for injury to or death of any person or for damage to property arising out of or in any way connected with the construction, utilization and/or maintenance of the FACILITY on GPLTX'S right-of-way, except where such injuries, death, or damages are caused solely by the negligence of GPLTX.
- (8) Any notice required or permitted to be given under this Agreement shall be in writing, and shall be deemed to have been given when delivered by hand delivery, or when

deposited in the United States Post Office, by registered or certified mail, postage prepaid, return receipt requested, if mailed. Notices shall be addressed as follows:

If to GPLTX:

Genesis Pipeline Texas, L.P.
Attention: General Counsel
919 Milam, Suite 2100
Houston, TX 77002

If to OWNER:

CITY OF LEAGUE CITY
500 West Walker Street
League City, Texas 77573

Any party may designate a different address by giving the other party ten (10) days written notice in the manner provided above.

- (9) This Agreement is made in Texas and shall be construed, interpreted, and governed by Texas law. The parties shall consent to the jurisdiction and venue of the Courts of Harris County, Texas, for any action under this Agreement.
- (10) The prevailing party in any judicial proceeding arising from this Agreement shall recover its reasonable and necessary attorneys' fees pursuant to Texas Local Government Code Section 271.159.
- (11) This Agreement and all Exhibits and Amendments thereto shall constitute the complete understanding of GPLTX and OWNER. This Agreement constitutes the sole and only agreement of the parties to it and supersedes any prior understandings or written or oral agreements between the parties respecting the subject matter of this Agreement.

THIS AGREEMENT shall not serve to diminish or affect the rights granted to GPLTX by the hereinabove-referenced original Right-of-Way Grant.

THIS AGREEMENT shall be binding upon and shall inure to the benefit of the parties hereto, their heirs, assigns, agents, administrators, successors or grantees, with the same force and effect as if specifically mentioned in each instance where OWNER or GPLTX is named.

EXECUTED this ____ day of April 2018.

OWNER: CITY OF LEAGUE CITY

By: _____

EXECUTED this ____ day of April 2018.

**CONTRACTOR: EARTHWORKS LAWN CARE SERVICES, INC. LEAGUE CITY
OUTDOOR POWER EQUIPMENT INC.**

By: _____

EXECUTED this ____ day of April 2018.

**GENESIS PIPELINE TEXAS, L. P.,
a Delaware limited partnership**

By: _____

SENIOR VICE PRESIDENT AND CONTROLLER

STATE OF TEXAS §

COUNTY OF HARRIS §

This instrument was acknowledged before me on the __ day of _____ 2018,
by CITY OF LEAGUE CITY on behalf of said city.

My Commission Expires:

Notary Public in and for the State of Texas

STATE OF TEXAS §

COUNTY OF HARRIS §

This instrument was acknowledged before me on the __ day of _____ 2016,
by **EARTHWORKS LAWN CARE SERVICES, INC. LEAGUE CITY OUTDOOR POWER
EQUIPMENT INC.** on behalf of said company.

My Commission Expires:

Notary Public in and for the State of Texas

STATE OF TEXAS §

COUNTY OF HARRIS §

This instrument was acknowledged before me on the _____ day of April 2018, by _____, SENIOR VICE PRESIDENT AND CONTROLLER OF GENESIS PIPELINE TEXAS, L. P. a Delaware limited partnership, on behalf of said partnership.

My Commission Expires:

Notary Public in and for the State of Texas

GENERAL REQUIREMENTS FOR CROSSING GENESIS PIPELINES (Installation and Modification of Pipelines, Road and Utility Lines)

A party (herein called "INSTALLER") who proposes to install or modify pipelines, utility lines, phone lines, fiber optic lines, water lines, sewer lines or other underground facilities, roads, streets, driveways, railroads or other above ground facilities, ditches or drainage canals crossing existing pipelines owned or operated by GENESIS Pipeline USA, L.P. or GENESIS Pipeline Texas, L.P. or their affiliates (herein called "GENESIS") shall adhere and abide by the following:

1. INSTALLER shall not commence work in the crossing area without first having obtained GENESIS's written approval of INSTALLER's plan and profile regarding the proposed crossing. Such plans shall include, but not be limited to, any boring or excavation, any proposed addition of fill or removal of ground on the GENESIS right-of-way, and the horizontal placement of, or routing along side of or parallel to, GENESIS pipelines by any apparatus, drains, sewers or any other construction. INSTALLER will adhere to and comply with GENESIS damage prevention, public awareness, excavation and trenching safety and related policies/procedures.
 - a. In all cases, the situation will be evaluated to ensure that adequate provisions are made for corrosion control. If the INSTALLER elects to install its pipelines/utilities within GENESIS' easement by any method of boring, then the INSTALLER shall physically verify the separation between GENESIS' facilities and the INSTALLER'S pipeline/utilities. Where physical verification is not practical, minimum clearance will be four (4) feet horizontally and ten (10) feet vertically.
 - b. Blasting will only be allowed at GENESIS sole discretion. If considered, plans contemplating blasting operations within 500 feet of the GENESIS pipelines shall be submitted to GENESIS for approval at least ten (10) working days prior to commencement of blasting operations. This plan must include hole depth, diameter, spacing, burden, delay times and sequence, explosive type, maximum charge weight per delay, and blast zone location relative to the pipelines. If GENESIS determines the integrity of the pipelines will be jeopardized, then blasting will not be permitted. After blasting is completed pipeline must be leak tested if blasting is allowed. INSTALLER will reimburse GENESIS for leak testing.
 - c. No signs, monuments, building structures, and/or manholes shall be located within the pipeline right-of-way or within 15 feet of the pipeline.
 - d. GENESIS may deem it necessary to back weld any collars located under and in close proximity to any road, street, driveway, drainage canal or ditches, etc. If deemed necessary then Genesis will require reimbursement for the cost of back welding of collars.
 - e. Paved streets, roads, driveways or parking areas crossing over or on GENESIS right-of-way shall be surfaced using asphalt or breakaway concrete.

- f. No trucks or heavy equipment are to cross the GENESIS pipeline right-of-way without approval from GENESIS. If GENESIS determines that the integrity of the GENESIS pipelines may be jeopardized if they are crossed with heavy equipment, a temporary road crossing to protect the pipelines and the equipment will be required. All temporary road crossings will be built to the specifications of GENESIS. Depending upon the soil conditions, depth and character of the pipelines, and the projected stresses induced upon the pipelines from the vehicles which are to cross, GENESIS may require fill or matting material of its choice to be placed over the pipelines. The designs of all temporary road crossings require GENESIS' prior written approval. Should conditions change after construction of the temporary road crossing (e.g. heavier equipment than previously planned for or inclement weather conditions), then the INSTALLER shall not cross the GENESIS pipelines with equipment until the integrity of the GENESIS pipelines can be protected from the change in condition. In the case of collared pipelines, the collars are to be roped/welded prior to the start of any construction activities. Roping/welding of collars will be completed by GENESIS and reimbursed by INSTALLER.
2. At least forty-eight (48) hours prior to commencing any excavating or other construction activity in the vicinity of the pipelines the INSTALLER must telephone the LOCAL ONE CALL SERVICE provider.
3. All construction activity shall conform to all applicable federal, state, county and/or local regulations. However, the regulations will not constitute the maximum requirements for the INSTALLER. The maximum requirements will be determined at the sole discretion on GENESIS.
4. **No excavating or other construction activity shall be conducted in the immediate vicinity of the pipelines in the absence of a GENESIS representative. The INSTALLER will assume full liability for any damages to GENESIS due to construction/excavation activities. GENESIS is not aware of any spills that have occurred at the location for which the INSTALLER is requesting approval or in the vicinity thereof, but accordingly, if in the event during INSTALLER'S construction any contaminated soil of any nature needs to be removed and disposed of it shall be removed and disposed of at the sole risk and expense of the INSTALLER and according to GENESIS' requirements and specifications.**
5. If GENESIS deems it necessary to lower, encase, rope/weld collars on, or otherwise adjust the pipelines because of the INSTALLER'S construction activity, the INSTALLER shall reimburse GENESIS for the cost of such lowering, encasement, roping collars, or other adjustment.
6. Minimum Clearance/Separation/Cover
 - a. All pipelines, utility lines and other underground facilities (except electrical power cables and telecommunications cables) constructed such that they cross GENESIS pipelines must be installed under the GENESIS pipelines with a vertical separation of twenty four (24) inches of clearance between the outside of the GENESIS pipe and the extremity of any other underground structure.

- b. All electrical power cables and telecommunications cables shall be installed with a minimum vertical separation of twenty four (24) inches between structures and in a manner acceptable to GENESIS' on-site representative. In addition, the electrical power cables must be enclosed in conduit (steel or PVC) and marked with the burial warning tape a minimum of six (6) inches on each side and above the conduit. The conduit and warning tape must extend a minimum of twenty-five (25) feet on either side of the centerline of the pipelines. Communications cables must be enclosed in conduit (steel or PVC) and marked with the burial warning tape a minimum of six (6) inches on each side and above the conduit. The conduit and warning tape must extend a minimum of twenty-five (25) feet either side of the centerline of the pipelines.
- c. Any overhead power or communication lines must maintain at least 15 foot of clearance between the lowest point on the conductor or cable and the top of the ground along the easement and right-of-way. Power or communication structures will not be allowed in the easement and right-of-way. No overhead power or communications lines will be allowed that interfere with the operations and maintenance of the Genesis pipeline or easement. Any overhead power or communications lines may be required to relocate if Genesis deems necessary for the location or placement of Genesis' above ground facilities.
- d. Any road, street, or driveway shall be constructed with a minimum cover, as measured from the top of the pipelines to the top of the surface of the road, street, or driveway as shown below:

<u>LOCATION</u>	<u>MINIMUM COVER</u>
(1) Under road or street	Forty-eight (48) inches measured from top of shallowest pipeline to top of crown in pavement but no less than twenty four (24) inches below bottom of sub-grade.
(2) Under driveway on residential lot	Thirty-six (36) inches below crown but no less than twenty four (24) inches below bottom of sub-grade
(3) Under all other surfaces within the right-of-way	Thirty-six (36) inches

- e. Any ditches, drainage canals, etc., shall be constructed with a minimum cover, as measured from the lowest point in ditch, canal, etc., to the top of the pipe, as shown below:

<u>LOCATION</u>	<u>MINIMUM COVER</u>
(1) Under lowest surface of road ditches:	

a)	Unlined	Thirty-six (36) inches
b)	Concrete/asphalt lined	Twelve (12) inches
(2)	Drainage canals and ditches	Sixty (60) inches

7. No excavations or fill activities shall be made on land adjacent to the pipelines which will in any way alter right-of-way drainage patterns, impair or withdraw the lateral support, or which will cause any subsidence or damage to the pipelines.
8. If GENESIS deems it necessary, the INSTALLER shall remove teeth from the bucket of excavation equipment and/or a bar shall be installed across the teeth of the bucket during excavation in the vicinity of the pipelines. GENESIS' designated representative shall have the authority to reject the use of equipment to excavate if, in their opinion, the equipment is unsuitable to perform the excavation in a safe and prudent manner.
9. All written correspondence is to be sent to:

**Genesis Energy, L.P.
 Attn: Robert Findley
 919 Milam, Suite 2100
 Houston, TX 77002**

GENESIS appreciates the opportunity to work with INSTALLERS in the early stages of development activity to minimize any conflict, which may arise, and to protect the integrity of our pipelines.



Washington Street

Work Limits of Proposed Earthen Berm

State Hwy. 3

Bradshaw Ditch

Deer Ridge

OAKS OF CLEAR CREEK

League City Parkway

Google earth

Eye alt 5339 ft

© 2012 Google

29°29'44.46" N 95°05'18.77" W elev 25 ft

1944

Imagery Date: 3/10/2011

HIGH WATER BERM FOR
THE OAKS OF CLEAR CREEK
DEER RIDGE DR.

OAKS OF CLEAR CREEK
DEER RIDGE RD.

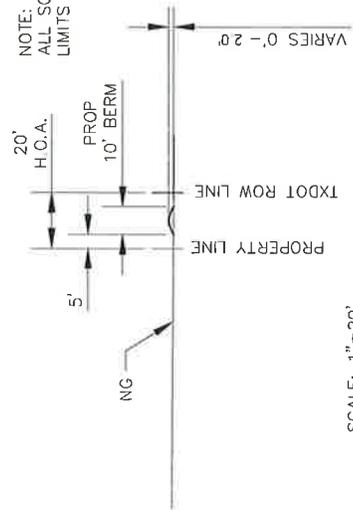


Project No.	00000	Owner	JLU
Date	APR	Drawn	JLU
Scale	AS NOTED	Date	AUG 2013
Sheet	1	of	1



SCALE: 1"=40'

NOTE:
ALL SOD TO BE REMOVED AND REPLACE IN
LIMITS OF BERM CONSTRUCTION.



SCALE: 1"=20'