

PERMIT FOR USE OF FORT BEND COUNTY TOLL ROAD
AUTHORITY RIGHT-OF-WAY

THAT FORT BEND COUNTY TOLL ROAD AUTHORITY, a local government corporation created by Fort Bend County, Texas ("Authority"), hereby authorizes the City of Fulshear (collectively, "Permittee"), to enter upon the Authority's property in Fort Bend County, Texas, the location of which is more specifically shown on **Exhibit A** attached hereto and incorporated herein for all purposes (the "ROW"), for the following purposes (collectively, the "Permitted Use"): seeding, planting, and maintaining wildflowers and related plants or vegetation.

1. This permit is subject to the standard terms and conditions set forth in **Exhibit B** attached hereto and incorporated herein for all purposes.

2. All notices given or required under this Permit shall be given in writing and shall be given either by hand delivery or by depositing such notice in the United States first-class mail, postage prepaid, by certified or registered mail, return receipt requested, enclosed in an envelope addressed to the party to be notified at the following address, or at such other address as any such party shall from time to time designate in writing.

If to Authority: Fort Bend County Toll Road Authority c/o The Muller Law Group, PLLC 202 Century Square Blvd. Sugar Land, Texas 77478 Attn: Mr. Richard Muller	If to Permittee: City of Fulshear 30603 FM 1093 Fulshear, TX 77441
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Notice delivered in accordance with this paragraph shall be deemed delivered upon delivery, if delivered by hand, and three (3) business days after deposit in a domestic United States depository box, if delivered by mail.

3. This Permit embodies the entire agreement between the parties and supersedes all prior agreements and understandings, if any, relating to this Permit, and may be amended or supplemented only by an instrument in writing executed by the party against whom enforcement is sought.

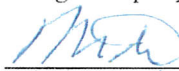
[EXECUTION PAGE FOLLOWS]

EXECUTED on October 10, 2019.

AUTHORITY:

FORT BEND COUNTY TOLL ROAD
AUTHORITY, a local government corporation
created by Fort Bend County, Texas

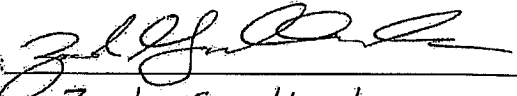
By: Mike Stone and Associates, Inc.,
Its Operating Company

By: 
Name: Mike Stone
Title: Chief operating officer

AGREED TO AND ACCEPTED this 8th day of October, 2019

PERMITTEE:

CITY OF FULSHEAR

By: 

Name: Zach Goodlander

Title: Dir. of Development Services

City of Fulshear, TX

EFFECTIVE DATE

THIS AGREEMENT IS EFFECTIVE ON THE DATE IT IS APPROVED BY THE FORT BEND COUNTY COMMISSIONERS COURT, AND IF NOT SO APPROVED SHALL BE NULL AND VOID.

DATE OF COMMISSIONERS COURT APPROVAL: _____

AGENDA ITEM NO.: _____

Exhibit A

Location of ROW

(see attached)

Exhibit B

Standard Terms and Conditions

1. This Permit is solely for the purpose of the Permitted Use and for no other purpose.
2. Subject to the limitations set forth in this Permit, Permittee may have such access to the ROW and may enter upon the ROW to engage in such activities as may be necessary, requisite, convenient, or appropriate in connection with the Permit. Permittee's rights shall include the right to bring and operate such equipment thereupon as may be necessary, requisite, convenient, or appropriate to effectuate the purposes for which this Permit is granted. Permittee shall limit the use of the ROW as much as possible, and all of Permittee's activities on Authority's property shall be limited to the ROW. Parking of vehicles within the ROW shall not be permitted, and all equipment shall be removed from the ROW during non-working hours.
3. Permittee further acknowledges: (a) that Authority's rights to use the ROW are superior to the rights granted to Permittee hereunder ("Authority's Superior Rights"); and (b) that Permittee's activities within the ROW are performed at Permittee's sole risk, as further described in paragraph 17 below.
4. Permittee shall not commence any work upon the ROW until the plans and specifications for such work have been reviewed and approved in writing by Authority's Engineer and Authority's Operator. Authority's Engineer and Authority's Operator shall be notified at least five (5) business days prior to commencement of any Permitted Use within the ROW by Permittee, its contractors, or other representatives. Call (832) 735-7385 to obtain contact information for the Authority's current Engineer and Operator.
5. Further, Permittee agrees (1) to repair any damage caused by Permittee's or its contractors' use of the ROW and all areas of FM 1093 disturbed by the Permitted Use to Authority's satisfaction; (2) to maintain the wildflowers and related plants or vegetation and keep it in good condition, with all maintenance subject to pre-approval by the Authority's Engineer and the Authority's Operator; (3) to pay all costs associated with the Permitted Use, even if any such cost is made necessary as a result of any action by the Authority, including, but not limited to, the Authority's maintenance or construction of FM 1093, which conflicts with the Permitted Use; (4) to keep the ROW free and clear of weeds and other debris or rubbish; (5) pay all ad valorem taxes, assessments, penalties, or fines which may be levied or assessed against any of the Authority's property, including, but not limited to, the ROW, by reason of Permittee's use of the ROW; (6) pay any and all costs associated with the supply of electricity and other utilities that may be used in connection with Permittee's use of the ROW. Permittee shall not place, nor allow to be placed, any kind of trash, waste, contaminants, or hazardous or toxic materials, wastes, or substances on or about the ROW.
6. If Permittee fails to maintain the right-of-way as required pursuant to this Permit, and to the satisfaction of the Authority, within thirty (30) days of the Authority's request for same, the Authority may elect to complete such maintenance and charge Permittee for the same.
7. Notwithstanding anything in this Permit to the contrary, the Authority reserves the right to revoke the Permit at any time, without cause, upon thirty (30) days written notice to Permittee (the "Revocation Notice"). No termination of the Permit shall release Permittee from any liability which may have attached or accrued prior to the time of such termination, nor from any obligation or other indemnity contained in this Permit.
8. Permittee shall maintain general liability insurance in an amount not less than \$1,000,000 per occurrence.
9. This permit is subject to any restrictions, covenants, permits, rights-of-way, encumbrances, and mineral or royalty reservations or interests affecting the ROW and appearing of record in the Official Records of Fort Bend County, Texas.
10. Permittee shall make application for, and secure from, any and all federal, state, and local governmental authorities having jurisdiction thereof, and during the term of this Permit shall maintain in effect and comply with, all permits, licenses, and other authorizations required for the purposes of the Permit. Permittee shall pay for all such permits, licenses, and other authorizations and for all renewals thereof required during the term of this Permit.
11. Permittee shall keep the ROW free and clear of any and all liens and encumbrances resulting from any work or act done by Permittee, or on its behalf, pursuant to this Permit.
12. This Permit is personal to Permittee. Permittee shall not assign or transfer the Permit, in whole or in part, to any person for any purpose, including the Permitted Use. Any attempted assignment, pledge, or transfer in violation of this paragraph shall be void.
13. The Permit granted herein is non-exclusive. The Authority shall have the right to grant other permits, licenses, easements, leases, options, contracts for sale, liens, encumbrances, and any other interests in real property as to the ROW as the Authority deems appropriate in its sole discretion. The Authority shall continue to possess and enjoy all ownership rights in and to the ROW and shall have the right to enter upon the ROW at all times, and for any reason.
14. No waiver by the Authority of any provision of this Permit shall be effective unless in writing, and no such waiver shall constitute a waiver of any other provision or a subsequent breach of the same provision.
15. **PERMITTEE SHALL, TO THE EXTENT PERMITTED BY APPLICABLE LAW, CAUSE ITS CONTRACTORS, REPRESENTATIVES, OR OTHER PERSONS ACTING BY, THROUGH, OR UNDER PERMITTEE TO RELEASE, DEFEND, HOLD HARMLESS, AND INDEMNIFY THE AUTHORITY AND ANY OTHER PERMITTEE OF THE AUTHORITY TO THE ROW, AND THE DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, REPRESENTATIVES, AND CONTRACTORS OF THE AUTHORITY OR SUCH OTHER PERMITTEES (COLLECTIVELY, THE "INDEMNIFIED PARTIES") FROM AND AGAINST ALL CLAIMS, SUITS, LIABILITIES, DAMAGES, PENALTIES, LOSSES, COSTS, AND EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES) FOR ANY BODILY INJURY TO OR DEATH OF PERSONS OR DAMAGE TO PROPERTY (INCLUDING, BUT NOT LIMITED TO, THE PROPERTY OF ANY INDEMNIFIED PARTY) ARISING DIRECTLY OR INDIRECTLY OUT OF THE ENTRY UPON, USE, OR MAINTENANCE OF, THE ROW BY PERMITTEE OR ANY INVITEE, EMPLOYEE, CONTRACTOR, AGENT, REPRESENTATIVE, OR OTHER PERSON ACTING BY, THROUGH, OR UNDER PERMITTEE, OR OUT OF PERMITTEE'S BREACH OF ANY TERM OR PROVISION OF THIS PERMIT. IN CONNECTION WITH ANY SUCH LITIGATION IN WHICH ANY INDEMNIFIED PARTY IS NAMED AS A PARTY, THE AUTHORITY SHALL, IN ITS SOLE DISCRETION, BE ENTITLED TO SELECT COUNSEL OF ITS CHOICE TO REPRESENT THE INTERESTS OF ANY SUCH INDEMNIFIED PARTY. PERMITTEE'S OBLIGATIONS UNDER THIS SECTION SHALL BECOME EFFECTIVE UPON THE EARLIER OF (1)**

THE EFFECTIVE DATE OF THIS PERMIT OR (2) ANY ENTRY UPON THE ROW BY PERMITTEE OR ANY INVITEE, EMPLOYEE, CONTRACTOR, AGENT, REPRESENTATIVE, OR OTHER PERSON ACTING BY, THROUGH, OR UNDER PERMITTEE. PERMITTEE AGREES, TO THE EXTENT PERMITTED BY APPLICABLE LAW, CAUSE ITS CONTRACTORS, REPRESENTATIVES, OR OTHER PERSONS ACTING BY, THROUGH, OR UNDER PERMITTEE TO INDEMNIFY THE AUTHORITY FOR ANY AND ALL DAMAGES ARISING FROM NEGLIGENCE, INCLUDING THE AUTHORITY'S OWN NEGLIGENCE, NEGLIGENT ACTS, OR OMISSIONS.

16. WITHOUT LIMITING ANYTHING CONTAINED IN THIS PERMIT, PERMITTEE KNOWINGLY AND VOLUNTARILY ASSUMES ANY AND ALL RISKS, KNOWN AND UNKNOWN, WHICH MAY ARISE DIRECTLY OR INDIRECTLY FROM ITS USE OF THE ROW. PERMITTEE SPECIFICALLY AGREES THAT IT WILL NOT SEEK REIMBURSEMENT, DAMAGES, OR ANY OTHER KIND OF COMPENSATION FROM THE AUTHORITY, NOR MAKE ANY CLAIMS WHATSOEVER AGAINST THE AUTHORITY, AND THE AUTHORITY SHALL HAVE NO LIABILITY TO PERMITTEE OR ANY PERSON ENTERING THE ROW BY, THROUGH, OR UNDER PERMITTEE'S RIGHTS HEREUNDER, FOR ANY LOSS,

COST, DAMAGES, BODILY INJURIES, OR DEATH. THE AUTHORITY MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND CONCERNING THE ROW, AND PERMITTEE ACCEPTS THE PERMIT TO USE THE ROW "AS IS, WHEREIS" AND WITH ALL FAULTS.

17. If any provision of this Permit shall, for any reason, be held violative of any applicable law and/or unenforceable, then the invalidity of such specified provision herein shall not be held to invalidate any other provision herein, all of which such other provisions shall remain in full force and effect.

18. This is not a conveyance of the real estate or property included within the ROW or of any interest in the oil, gas, and other minerals in, on, or under the real estate covered hereby, but is a grant solely of the Permit, as described above.

19. Nothing in this Permit shall prohibit or in any manner restrict the right of the Authority to develop the premises for oil, gas, and other minerals.

20. This Permit is being executed and delivered and is intended to be performed in the State of Texas, and the laws of such State shall govern the validity, construction, enforcement, and interpretation of this Permit, unless otherwise specified herein.