

RESOLUTION NO. 2020-65

A RESOLUTION AUTHORIZING THE INTERIM CITY MANAGER TO SIGN A RIGHT OF ENTRY AGREEMENT WITH WILLIAM A. GRIESENBECK AND SALLY J. GRIESENBECK, FOR THE SOUTH SEGMENT WASTEWATER COLLECTION AND WASTEWATER TREATMENT PLANT PROJECT.

WHEREAS, the City of Bastrop and the William A. and Sally J. Griesenbeck desire to enter into a possession and use agreement to allow the City to proceed with construction of the project prior to resolution and a final purchase price for the property; and

WHEREAS, the City Council finds that it is in the best interest of the City to enter into this agreement.

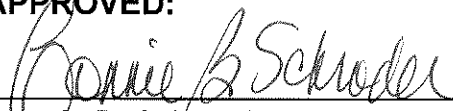
NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Bastrop:

Section 1: The City Council hereby authorizes the Interim City Manager, or his designee, to sign a right of entry agreement on a form approved by the City Attorney substantially in the form attached as Exhibit 1, which is attached hereto and incorporated herein as if copied verbatim.

Section 2: This resolution shall be effective immediately upon adoption.

DULY RESOLVED AND ADOPTED by the City Council of the City of Bastrop, TX, on this, the 14th day of July 2020.

APPROVED:



Connie B. Schroeder, Mayor

ATTEST:



Ann Franklin, City Secretary

APPROVED AS TO FORM:



Alan Bojorquez, City Attorney

Exhibit "1"

*Right of Entry Agreement for West Side Collection System Construction.
(William A. Griesenbeck, Parcel 1S)*

(see attachments that follow)

Exhibit "A, B and C"

*Legal Descriptions and Survey Plat
(William A. Griesenbeck, Parcel 1S)*

(see attachments that follow)

Exhibit "D"

*Possession and Use Agreement
(William A. Griesenbeck, Parcel 1S)*

(see attachments that follow)

Exhibit "E"

Griesenbeck Sketch of Buffer Area

(see attachments that follow)

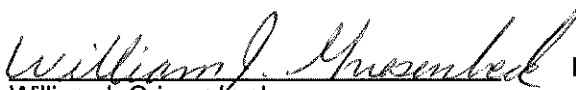
**AGREEMENT TO GRANT RIGHT OF ENTRY FOR
SOUTH SEGMENT WASTEWATER SYSTEM AND
WASTEWATER TREATMENT PLANT CONSTRUCTION**

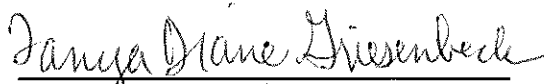
THIS AGREEMENT is made by and between William J. and Tanya Diane Griesenbeck, property owners in Bastrop County, Texas ("Grantors"), and City of Bastrop, Texas, a political subdivision of the State of Texas ("City").

1. The City is in the process of acquiring property for the expansion of the wastewater collection system for the City of Bastrop wastewater utility. Grantors own property located within the area designated by the City for the extension of the South Segment Wastewater Collection System and location of the Wastewater Treatment Plant ("Capital Improvements").
2. The Property to be acquired from Grantors is more fully described in Exhibit A, and is needed by the City for construction of the Capital Improvements.
3. The City and Grantors have not agreed upon a final value for purchase of the Property.
4. The City has filed a petition in eminent domain, which is currently pending in Bastrop County.
5. In order for the City to proceed with bidding and construction of the Capital Improvements, the City has requested that Grantors grant a right-of-entry to the Property prior to final resolution on the value to be paid by the City for the Property.
6. Grantors, in consideration of the mutual agreements herein, agree to grant to the City right-of-entry upon, under, across and through the Property, through a Possession and Use Agreement in the form attached as Exhibit B ("PUA").
7. The City will pay to Grantors the amount of the City's appraised value upon granting of the PUA, specifically One Hundred Seventy Thousand Six Hundred and Sixty Dollars and No Cents (\$170,660.00). Grantors retain the right to seek additional compensation in a Commissioners' Hearing and trial.
8. Grantors desire to have the buffer area between the fence and proposed property acquisition line at the cliffs by the Colorado River designated as a buffer easement, rather than acquired in fee simple by the City (designated on the map attached as Exhibit C, between the green and pink lines, "Buffer Area").
9. Grantors desire to use the Buffer Area for recreational and agricultural use only.
10. Grantors understand that the City's construction plans and permit for the Capital Improvements have been approved by the Texas Commission on Environmental Quality ("TCEQ") including anticipating acquisition of fee simple title to this Buffer Area.
11. The City agrees to use its best efforts to seek approval by TCEQ to move the fee simple acquisition line to the fence line (identified on Exhibit C as the green line) and for the Buffer Area to be acquired as a buffer easement in accordance with the form of easement required by TCEQ.
12. The City and Grantors agree to delay the Commissioners' Hearing on value of the Property until after a final decision is received from TCEQ on whether the Buffer Area can be acquired as a buffer easement, rather than as fee simple.
13. All exhibits are incorporated herein as if copied verbatim.
14. The mailing address of the Grantors is in care of their attorney, John McClish, Brady & Hamilton | Womack McClish, 1801 Lavaca, Suite 120, Austin, TX 78701. The mailing address of the Grantee is City of Bastrop, P.O. Box 427, Bastrop, Texas 78602.


SIGNED this 28 day of July, 2020.

GRANTORS:


William J. Griesenbeck


Tanya Diane Griesenbeck

CITY:

By: 
Trey Job, Interim City Manager

Attest:


Ann Franklin, City Secretary

**POSSESSION AND USE AGREEMENT
FOR WEST SIDE COLLECTION SYSTEM CONSTRUCTION**

This Possession and Use Agreement For West Side Collection System Treatment System, (the "Agreement") between the City of Bastrop, and William Jack and Tanya Diane Griesenbeck (the "Grantor" whether one or more), grants to the City, its contractors, agents and all others deemed necessary by the City, an irrevocable right to possession and use of the Grantor's property for the purpose of constructing a wastewater treatment plant and necessary infrastructure (the "West Side Collection Project"). The property subject to this Agreement is described more fully in field notes and plat map (attached as "Exhibit A") and made a part of this Agreement by reference (the "Property").

1. For the consideration paid by the City which is set forth in Paragraphs 2 and 3 below, the receipt and sufficiency of which is acknowledged, the Grantor grants, bargains, sells and conveys to the City of Bastrop the right of entry and exclusive possession and use of the Property for the purpose of constructing a wastewater plant and appurtenances thereto and the right to remove any improvements. Authorized activities include surveying, inspection, environmental studies, archeological studies, clearing, demolition, construction of permanent improvements, relocating, replacing, and improving existing utility facilities, locating new utility facilities, and other work required to be performed in connection with the West Side Collection Project. This Possession and Use Agreement will extend to the City, its contractors and assigns, owners of any existing utilities on the Property and those which may be lawfully permitted on the Property by the City in the future, and all others deemed necessary by the City for the purpose of the West Side Collection Project. This grant will allow the construction, relocation, replacement, repair, improvement, operation and maintenance of utilities on the Property.
2. In full consideration for this irrevocable grant of possession and use and other Grantor covenants, warranties, and obligations under this Agreement, the City will tender to the Grantor the sum of one hundred seventy thousand six hundred and sixty dollars and zero cents, (\$170,660.00). The Grantor agrees that this sum represents adequate and full compensation for the possession and use of the Property. The City will be entitled to take possession and use of the Property upon tender of payment. The parties agree that the sum tendered represents 100 percent of the City's approved value, which assumes no adverse environmental conditions affecting the value of the Property. The approved value is the City's determination of the just compensation owed to the Grantor for the real property interest to be acquired by the City in the Property, encumbered with the improvements thereon, if any, and damages to the remainder, if any, save and except all oil, gas and sulphur. The parties agree that the sum tendered to Grantor will be deducted from any final settlement amount, Special Commissioners' award or court judgment. In the event the amount of the final settlement or judgment for acquisition of the Property is less than the amount the City has paid for the possession and use of the Property, then the Grantor agrees that the original amount tendered represents an overpayment for the difference and, upon written notice from the City, the Grantor will promptly refund the overpayment to the City.
3. The effective date of this Agreement will be the date on which payment pursuant to

Exhibit B

mining or drilling. The extraction of oil, gas and minerals may not affect the geological stability of the surface. Nothing in this reservation will affect the title and rights of the City to take and use all other minerals and materials thereon, and thereunder.

11. The undersigned Grantor agrees to pay as they become due, all ad valorem property taxes and special assessments assessed against Property, including prorated taxes for the year in which the City takes title to the Property.
12. Notwithstanding the acquisition of right of possession to the Property by the City in a condemnation proceeding by depositing the Special Commissioners' award into the registry of the court, less any amounts tendered to the Grantor pursuant to Paragraph 2 above, this Agreement shall continue to remain in effect until the City acquires title to the Property either by negotiation, settlement, or final court judgment.
13. This Agreement will also extend to and bind the heirs, devisees, executors, administrators, legal representatives, successors in interest and assigns of the parties.
14. It is agreed the City will record this document.
15. Other conditions: N/A


To have and to hold the Agreement herein described and conveyed, together with all the rights and appurtenances belonging to the City of Bastrop and its assigns forever, for the purposes and subject to the limitations set forth above.

(See signatures on next page)

CITY OF BASTROP,
a Texas home rule municipality

By: 
Trey Job, Interim City Manager

ATTEST:

By: 
Ann Franklin, City Secretary

— City's proposed property line

||||| Where I would like property line

