

ENCROACHMENT AGREEMENT

THIS ENCROACHMENT AGREEMENT is made this 1st day of September 2023,
between the CITY OF TOMBALL, TEXAS (CITY) and NHUNG LE. - LE ROSE INVESTMENT LLC
(OWNER).

RECITALS

OWNER is the owner of certain property (PROPERTY) located in the City of Tomball at

706 West Main Street Suite B

THE PROPERTY is more particularly described as:

Tracts 20, 21, and 22, Block 96, Tomball

CITY owns or exercises jurisdiction and control over a public easement or right-of-way that is on or contiguous to such property and which is more particularly described as the alley located at the rear of the property, extending east – west connecting to Poplar Street and Baker Drive

OWNER desires to place the following described improvements within the public easement or right-of-way described above: grease trap and appurtenances.

NOW, THEREFORE, be it mutually agreed as follows:

1. Consent to Encroachment. Subject to the terms of this Agreement, CITY hereby consents and allows OWNER to enter upon the above-described CITY easement or right-of-way for the purpose of installing, placing and maintaining the above described improvements within the public easement or right-of-way.
2. Term. This Agreement shall have an indefinite term and shall continue in effect until terminated in accordance with this Agreement.
3. No Interest in Land Conveyed. This Agreement does not constitute a conveyance of any interest in land. CITY retains full rights of possession and control over the above described easement or right-of-way, and with respect to such encroachment the OWNER shall have the status of a tenant at will.
4. Conditions. Prior to any construction in the public easement or right-of-way the OWNER shall obtain all other licenses or permits necessary to construction of the improvements. Except in emergencies the OWNER must notify CITY's Department of Community Development at least twenty-four hours in advance of excavating within the easement or right-of-way. OWNER must also comply with all "dial before you dig" requirements.

The Department of Community Development must approve plans for all improvements to be placed in an easement or right-of-way and the OWNER must provide an as-built drawing to the department following construction. All improvements must be installed in accordance with applicable CITY requirements.

OWNER shall be solely responsible for maintenance of the improvements and shall maintain them to avoid any damage to or interference with CITY facilities, other public utilities or the general right of the public to utilize the easement or right-of-way for its intended purpose.

CITY shall not be responsible to OWNER or any other party for damages to OWNER'S improvements. CITY may, at any time upon reasonable notice, require the removal or relocation of the encroaching improvements. OWNER shall relocate the improvements promptly at its sole expense and shall not be entitled to compensation or damages of any kind.

OWNER and its successors and assigns agree that, in the event the Property subject to this Agreement is altered in any manner whether due to fire or other force or means in excess of fifty percent (50%) of its replacement cost at the time of its alteration, it shall not be restored, rebuilt, or repaired in any manner that shall encroach upon any required set-backs or public right-of-way including the building line which is the subject of this Agreement.

5. Notices. Any notice required or permitted under this Agreement shall be deemed sufficient if delivered in hand or by First Class US Mail addressed to the parties as follows:

CITY
Community Development Director
501 James Street
Tomball, Texas 77375

OWNER
~~LE ROSE~~ LE ROSE
INVESTMENT LLC
[Signature]

6. Indemnity. OWNER shall indemnify, defend and hold harmless the CITY, its elected officials, officers and employees, from any claims, suits, causes of action, costs or damages arising from OWNER'S action or inaction relating to placement, operation or maintenance of the improvements.

7. Entire Agreement. This Agreement contains the entire agreement between the parties hereto. No promise, representation, warranty or covenant not included in this Agreement has been or is relied on by any party hereto.

8. Construction and Venue. This Agreement shall be construed in accordance with the laws of the State of Texas. Exclusive venue over any claim or cause of action arising hereunder shall be in the district court of Harris County, Texas.

9. Termination. This Agreement may be terminated by either party upon thirty days written notice to the other. In the event of termination the OWNER shall promptly remove the encroachments.

10. Agreement a Covenant Running With the Land. This Agreement shall be recorded in the Real Property Records of Harris County, Texas and shall be a covenant running with the OWNER'S land and binding upon the OWNER'S successors and assigns.

CITY

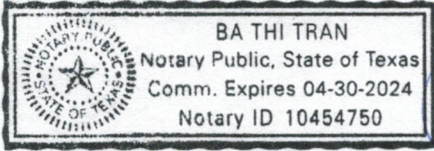
By: _____
Name: _____
Title: _____

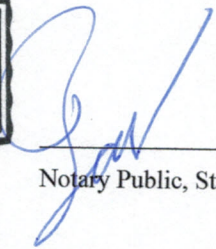
OWNER

By: NHUNG LE,
Name: LE ROSE INVESTMENT, LLC,
Title: NHUNG LE, *[Signature]*

County of Harris

This instrument was acknowledged before me on 8/2 by Sept - 2023.





Notary Public, State of Texas