

ENCROACHMENT AGREEMENT

This Encroachment Agreement, hereinafter "Agreement," is made and entered into between EDDIE and MARIA RODRIGUEZ, hereinafter referred to as the "Owner," whose address is 401 EAST EGGLESTON, MANOR, TX 78653, and the City of Elgin, Texas, hereinafter the "City," a municipal home-rule corporation whose address is P.O. Box 591, Elgin, Texas 78621, and becomes effective on the date this document is approved by Elgin City Council and signed by the Mayor of the City of Elgin. The City and the Owner agree as follows:

- A. The Owner is the record owner of certain property described as:

Puckett, Block 6, Lot 4D (1/2), City of Elgin, Deed Records, Plat Records,
Bastrop County, Texas

See sketch attached hereto as Exhibit "A" and made a part hereof for all
intents and purposes hereto.

- B. City is the record holder of the Alley between North Avenue E and North Avenue F twenty foot (20') right-of-way (hereinafter the "ROW"), which is indicated as "20' ALLEY" in Exhibit "A".
- C. The Owner has requested that the City allow an encroachment on or over a portion of the ROW, with the encroaching structures being in the nature of one (1) one-story frame building, concrete steps, a concrete walkway as called out in Exhibit "A".
- D. By execution of this Agreement, the City grants its limited consent for the Owner to encroach on or over a portion of the ROW *strictly subject to the following conditions:*
- (1) The encroaching structures may be located only as depicted on the attached Exhibit "A", and that no further encroachment or improvements of any kind in the ROW belonging to the City shall be allowed;
 - (2) The existence of the encroaching structures shall be subject to any and all relevant requirements of the Elgin Code of Ordinances, including but not limited to the Building Code;
 - (3) Use, maintenance, repair and removal of the encroaching structures shall be solely at the risk and liability of the Owner, and not at the risk and liability of the City in any manner whatsoever;
 - (4) Removal of the encroaching structures, or a portion thereof, shall cause the immediate termination of this Agreement;

- (5) The permission of the City in allowing such encroachment shall be strictly limited to this particular request, and shall not ever be construed as establishing any precedent whatsoever;
- (6) The parties expressly agree that the City has full authority in an emergency to remove or permit to be removed, in whole or part, the encroaching structures, and such removal shall be allowed without notice to the Owner and without any obligation whatsoever on the part of the City to replace or repair any part or the whole of the encroaching structures;
- (7) In a non-emergency situation, the Owner agree to be solely responsible for removal of the encroaching structures to the City's satisfaction, and such removal shall be completed by the Owner within forty-eight (48) hours of actual notice to the Owner of the City's directive to remove same. The parties expressly agree that, in the event the Owner fails to remove the encroaching structures to the City's satisfaction following notice, then and in that event the City may cause the encroaching structures to be removed at the expense of the Owner;
- (8) The parties expressly agree that the City shall never be responsible in any manner whatsoever for damage caused to the encroaching structures related to the City's use or maintenance of the ROW;
- (9) The Owner shall indemnify and hold the City harmless from any and all loss, damage, penalty, liability, cost and expense, including without limitation reasonable attorney's fees, that may be incurred by, imposed upon, or asserted by reason of any suit, action, legal proceeding, claim, demand, regulatory proceeding, or litigation arising from any act done or omitted to be done by any party, excepting only any loss, damage, penalty, liability, cost or expenses resulting from negligence or willful misconduct of the City. Nothing herein shall be deemed to limit the rights (including but not limited to the right to seek contribution) of the City or the Owner against any third party who may be liable for an indemnified claim. The parties agree that in no event shall the City be liable to the Owner for any incidental, indirect, special, punitive, consequential or similar damages of any kind including without limitation loss of profits, loss of business or interruptions of business, whether such liabilities are predicated on contract, tort, strict liability or any other legal theory. This indemnification shall apply to the Owner, and to each of its successors, assigns, officers, employees and officials. The parties agree that the provisions of this section shall survive the termination of this agreement; and

- (10) Relative to any subsequent purchaser of the encroaching structures, the Owner expressly agrees to adequately inform any such purchaser of the property as to the existence of this Agreement and provide a copy of same.
- (11) The City reserves the right to rescind this Agreement at any time, with or without cause.

By execution below by the Owner and the respective appropriate authorities of the City of Elgin, Texas, the signatories bind the entities to obey all conditions of this Agreement.

The Owner

By: Eddie Rodriguez
Eddie Rodriguez

Date Signed: 2-25-19

By: Maria Rodriguez
Maria Rodriguez

Date Signed: 2/25/19

City of Elgin, Texas

By: _____
Chris Cannon, Mayor

Date Signed: _____

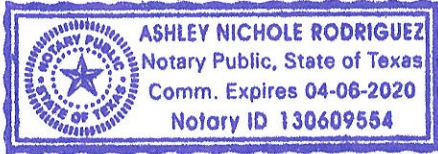
ATTEST:

Amelia Sanchez, City Secretary

ACKNOWLEDGMENT

THE STATE OF TEXAS
COUNTY OF BASTROP

This instrument was acknowledged before me on this 25th day of february, 2019, by EDDIE RODRIGUEZ, whose name is subscribed to the preceding instrument, and acknowledged to me that he executed it for the purposes and consideration expressed in it.

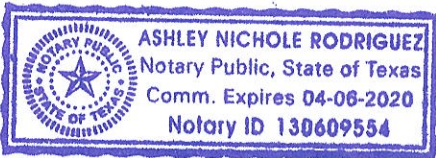


(Signature)
Notary Public in and for the State of Texas

ACKNOWLEDGMENT

THE STATE OF TEXAS
COUNTY OF BASTROP

This instrument was acknowledged before me on this 25th day of february, 2019, by MARIA RODRIGUEZ, whose name is subscribed to the preceding instrument, and acknowledged to me that she executed it for the purposes and consideration expressed in it.



(Signature)
Notary Public in and for the State of Texas

ACKNOWLEDGMENT

THE STATE OF TEXAS
COUNTY OF BASTROP

This instrument was acknowledged before me on this ____ day of _____, 2019, by Chris Cannon, Mayor of the City of Elgin, in the capacity and for the purposes and consideration therein indicated.

Notary Public in and for the State of Texas

After recording please return to:
City of Elgin
Attn: Melissa Lipiec
P O Box 591
Elgin, TX 78621