

SUP-20	__ - __	Date	_____
or			
PL-20	__ - __	Date	_____
GW-20	__ - __	Date	_____

MASTER ROAD REPAIR AGREEMENT

STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
 COUNTY OF HOOD §

This Road Repair Agreement, (“Agreement”), is made and entered into on this the ____ day of _____, 20____ by and between the City of Granbury, Texas (“City”), a Texas home rule municipality, and _____, (“OPERATOR”) for the repair of certain streets and/or roadways maintained by the City of Granbury, Texas as more fully described herein.

WHEREAS, OPERATOR is in the business of drilling gas wells and, in connection therewith, shall be engaged in gas well drilling and production activities within the City or ETJ and will use a truck route or truck routes on roadways maintained by the City of Granbury; and

WHEREAS, use of the roadways by OPERATOR for the purpose of performing the activities described hereinabove is likely to cause damage to the roadways; and

WHEREAS, the City of Granbury and OPERATOR, for the mutual consideration hereinafter stated, desire to enter into an Agreement for repair of said roadways for the duration of the term of this Agreement in consideration of OPERATOR’s use of said roadways for the purpose of the activities described hereinabove.

NOW, THEREFORE, IT IS AGREED THAT:

ARTICLE 1. REPAIR OBLIGATION

1. OPERATOR agrees to reimburse the City as provided herein for damages, excluding ordinary wear and tear, on truck routes as identified on the approved route maps submitted by OPERATOR, its contractors, subcontractors, employees, agents, or representatives in connection with gas well activities authorized by an approved Gas Well Permit. This obligation shall continue during the term of this Agreement and shall include any site plans, Gas Well Permits, or other associated matters approved after the date of this Agreement. Prior to the termination of this Agreement, OPERATOR shall pay for the repair of the damages to the roadways to restore them to the condition in which they existed, excluding ordinary wear and tear, on the date of execution of this Agreement. OPERATOR shall make a videotape of the roadways within one (1) mile of the drill site prior to the start of OPERATOR’s drilling and operation of its gas wells. OPERATOR shall provide a copy of the videotape to the City’s Department of Public Works. OPERATOR shall notify the City’s Department of Public Works when gas well drilling, fracking or reworking operations are complete so that the City’s Department of Public Works can determine if repairs are required. Upon inspection, City’s Department of Public Works shall notify OPERATOR of what repairs, and their associated costs, if any, are required or shall notify OPERATOR that repairs are not required.

2. OPERATOR shall be responsible for the costs associated with the repair of roadways damaged by OPERATOR's use of the public roadways, in accordance with the provisions contained herein. Upon determination by the City of the cost to repair damage to the roadways caused by OPERATOR, City shall invoice OPERATOR for the full amount. OPERATOR agrees to remit payment in full within 30 days of the date of the invoice. City shall be responsible for contracting for the roadway repair services and, where required by State law, shall employ a competitive bidding process to ensure that the roadway repairs are performed in the most cost effective manner possible. Should payment ultimately be insufficient to fully repair the damage caused to the roadways by OPERATOR, City may invoice OPERATOR for the balance and payment shall be due within 30 days of the date thereof. Should OPERATOR fail to remit full payment to the City for all amounts invoiced within 30 days of any such invoice, City may recover against the security required pursuant to Article 4 hereof and/or pursue any remedy available to it in law or equity to ensure that the public roadways are repaired. Conversely, the City agrees to reimburse OPERATOR the balance of any funds not used in the repair of the roadways.

3. Notwithstanding the foregoing, if, in the City's sole discretion, the damage to the roadways affects the immediate health and safety of the public, the City may take immediate remedial action to repair the roads at its own expense and invoice the OPERATOR for the full amount thereafter.

4. During the term of this Agreement, OPERATOR shall periodically inspect said roadways during drilling, fracture stimulation or reworking of the gas well to determine whether or not any damage has occurred as a result of OPERATOR's activities. Within 48 hours of discovering the existence of any such damage to the roadways, OPERATOR shall notify the City's Director of Public Works of the need for repair. City shall then invoice OPERATOR in accordance with paragraph 3, above.

ARTICLE 2. TERM OF AGREEMENT

This Agreement shall commence upon the date indicated above and shall continue in full force and effect until all damage caused to the roadways by OPERATOR's activities have been repaired, OPERATOR has paid all invoice amounts in full and the OPERATOR has permanently discontinued the activities upon the roadways, as described hereinabove.

ARTICLE 3. BLANKET INSURANCE AND INDEMNITY

1. OPERATOR shall provide or cause to be provided insurance that meets the requirements of Section 15.6 of the City of Granbury Zoning Ordinance or Section 13.16.005 of Ordinance 06-127. Such insurance shall continue until the well is abandoned and the site restored.

2. OPERATOR shall and hereby does indemnify, defend and save harmless the City, its officers, agents and employees from all suits, actions or claims of any character, name and description brought for or on account of any injuries or damages received or sustained by any

person, persons or property on account of the operations of the OPERATOR, its agents, employees, contractors, subcontractors or representatives; or on account of any negligent act of fault of OPERATOR, its agents, employees, contractors, subcontractors or representatives in connection with the obligations of the OPERATOR under this Agreement; and shall pay any judgment, with costs, which may be obtained against the City growing out of such injury or damage.

ARTICLE 4. BLANKET PERFORMANCE BOND

OPERATOR shall provide or cause to be provided a security instrument in the form of a performance bond, irrevocable letter of credit or certificate of deposit that meets the requirements of Section 15.7 of the City of Granbury Zoning Ordinance or Section 13.16.006 of Ordinance 06-127 to secure the obligation of OPERATOR to pay for the repair of damages, excluding ordinary wear and tear, to public streets, including, but not limited to, bridges.

ARTICLE 5. MISCELLANEOUS PROVISIONS

1. OPERATOR understands and agrees that OPERATOR, its employees, agents, contractors, subcontractors or representatives shall at no time represent themselves to be employees, agents, contractors, subcontractors or representatives of the City.

2. By entering into this Agreement, the City does not waive, nor shall it be deemed to waive, any immunity or defense that would otherwise be available to it against claims arising by third parties.

ARTICLE 6. FORCE MAJEURE

The performance of this Agreement shall be subject to events of Force Majeure. Events of Force Majeure shall mean any contingency or cause beyond the reasonable control of a party including, without limitation, acts of God or the public enemy, war, riot, civil commotion, insurrection, government or de facto government action (unless caused by acts or omissions of the party), fires, explosions, rain or other weather delays, floods, strikes, slowdowns or work stoppages.

ARTICLE 7. ASSIGNABILITY/CONSENT

Except as otherwise provided herein, or except as may be hereafter determined by the parties, no party to this Agreement may sell, assign, partially assign or transfer its interest in this Agreement, or any of its right, duties, or obligations hereunder, without the prior written consent of the other party. Whenever the consent or the approval of a party is required herein, such party shall not unreasonably withhold, delay, or deny such consent or approval. Notwithstanding the foregoing, the OPERATOR may assign this Agreement if the Gas Well Permit has been assigned in accordance with Section 15.10 of the City of Granbury Zoning Ordinance.

ARTICLE 8. NOTICE

Any notice given by one party to the other in connection with this Agreement shall be in writing and shall be by personal delivery; sent by registered mail or certified mail; or by U.S. Mail, return receipt requested, postage prepaid; to:

CITY: Office of the City Manager
City of Granbury, Texas
116 West Bridge Street
Granbury, Texas 76048

OPERATOR: OPERATOR
ADDRESS

Notice shall be deemed to have been received on the date of receipt as shown on the return receipt or other written evidence of receipt.

ARTICLE 9. MODIFICATION

No waiver or modification of this Agreement or of any covenant, condition, limitation herein contained shall be valid unless in writing and duly executed by the party to be charged therewith. No evidence of any waiver or modification shall be offered or received in evidence in any proceeding arising between the parties hereto out of or affecting this Agreement, or the rights or obligations of the parties hereunder, unless such waiver or modification is in writing, duly executed. The parties further agree that the provisions of this Article will not be waived unless as herein set forth.

ARTICLE 10. SAVINGS/SEVERABILITY

In the event that any one or more of the provisions hereof contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect the other provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in this Agreement.

ARTICLE 11. GOVERNING LAW AND VENUE

This Agreement shall be construed under and governed by, and in accordance with the laws of the State of Texas, and all obligations of the parties hereto, created by this Agreement are performable in Hood County, Texas. Venue of any suit or cause of action under this Agreement shall lie exclusively in Hood County, Texas.

ARTICLE 12. ENTIRE AGREEMENT

This Agreement and the exhibits attached thereto, constitute the entire agreement among the parties hereto with respect to the subject matter hereof, and supersede any prior understandings or written or oral agreements between the parties with respect to the subject

matter of this Agreement. No amendment, modification, cancellation or alteration of the terms of this Agreement shall be binding on any party hereto unless the same is in writing, dated subsequent to the date hereof, and is duly authorized and executed by the parties hereto.

ARTICLE 13. WAIVER OF TERMS AND CONDITIONS

The failure of either party to enforce or insist upon compliance with any of the terms or conditions of this Agreement shall not constitute a general waiver or relinquishment of any such terms or conditions, but the same shall be and remain at all times in full force and effect.

ARTICLE 14. CAPTIONS

The captions contained in this Agreement are for informational purposes only and shall not in any way affect the substantive terms or conditions of this Agreement.

ARTICLE 15. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and constitute one and the same instrument.

IN WITNESS WHEREOF, the parties do hereby affix their signatures and enter into this Agreement as of the ____ day of _____, 20__.

CITY OF GRANBURY, TEXAS

By: _____
City Manager

ATTEST:

City Secretary

APPROVED AS TO FORM AND LEGALITY

City Attorney

STATE OF TEXAS §
 §
COUNTY OF HOOD §

Before me, the undersigned notary public, on this day personally appeared _____ of the City of Granbury, Texas, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated, and as the act and deed of said City of Granbury, Texas.

Given under my hand and seal of office this ____ day of _____, 20____.

Notary Public

OPERATOR

(Name and Title)

Texas Rail Road Commission Operator
Number: _____

STATE OF TEXAS §
 §
COUNTY OF _____ §

Before me, the undersigned notary public, on this day personally appeared _____ of OPERATOR, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated, and as the act and deed of said OPERATOR.

Given under my hand and seal of office this ____ day of _____, 20____.

Notary Public