

## **REIMBURSEMENT AGREEMENT PRELIMINARY ENGINEERING SERVICES**

This Agreement entered into by and between **Harris County** ("County"), acting by and through the Harris County Engineering Department ("HCED"), and **Energy Transfer LP** ("Owner"). The County and Owner each may also be referred to individually herein as a "Party", or collectively as the "Parties".

### **RECITALS**

County desires to initiate the project more particularly described on Exhibit A attached hereto (the "Project").

County agrees to collaborate with Owner on the conceptualization and development of the Project in accordance with the terms and conditions of this Agreement.

NOW THEREFORE, the Parties desire to enter into this Agreement, as follows:

### **I. AGREEMENT**

- A. Owner agrees to perform the preliminary engineering services work described on Exhibit B attached hereto (the "PE Work"). Owner acknowledges and agrees that: (a) County's review of any Project designs, plans and/or specifications, as part of the PE Work, is limited exclusively to potential impacts on existing and future County facilities and operations; (b) County makes no representations or warranties as to the validity, accuracy, legal compliance or completeness of the PE Work.
- B. Owner acknowledges and agrees that the County may withhold its approval for the Project for any reason in its sole discretion, including without limitation, impacts to the County's safety, facilities or operations. If the County approves the Project, the County will continue to work with Owner to develop final plans and specifications and prepare material and cost estimates for any Project related work performed by the County.
- C. If the Project is approved by the County, the County will prepare and forward to Owner a Utility Adjustment Agreement which shall provide the terms and conditions for the construction and ongoing maintenance of the Project. Unless otherwise expressly set forth in the Utility Adjustment Agreement, the construction and maintenance of the Project shall be at no cost to the County. No construction work on the Project affecting the County's property or operations shall commence until the Utility Adjustment Agreement is finalized and executed by the Owner and the County.

### **II. Terms of Payment**

- A. County agrees to pay Owner and Owner agrees to accept payment equal to 100% of the total actual and related indirect costs, including, but not limited to, overhead, of the PE Work, ("Owner's Costs"). The amount paid by County pursuant to this Agreement shall be full compensation to Owner for the Owner's Costs ("County's Payment"). County's Payment represents the portion of the PE Work for which County is legally required to pay and for which Owner is legally entitled to be reimbursed.
- B. Owner shall remit all invoices for reimbursement of Owner's Costs to County no later than one hundred twenty (120) days after completion of the PE Work. Any reimbursement due

under this Agreement will be based on the Owner's Costs incurred in a commercially reasonable manner. Owner shall submit to County an itemized final invoice to include supporting documentation of all costs incurred ("Final Invoice") for the PE Work. County will reimburse Owner within thirty (30) days of County's receipt of the Final Invoice.

- C. County shall have no obligation to pay Owner for the PE Work contemplated under this Agreement until sufficient funds are certified by the County Auditor as available from current fiscal funds. The issuance of a purchase order pursuant to this Agreement represents certification by the Harris County Auditor that funds, in the amount of the purchase order total, are available to satisfy all financial obligations of Harris County hereunder. Owner shall have no obligation to commence the PE Work until such time as the purchase order has been issued and Owner has been notified of such issuance.

### **III. Limitation of Liability**

- A. Unless the Parties mutually agree to modify this Agreement to provide for additional funding, County shall in no event be liable to pay a sum greater than \$50,000.00 in reimbursement of Owner's Costs ("Limitation of Liability"). Owner shall not be obligated to incur costs in excess of the Limitation of Liability as provided herein.
- B. If circumstances arise such that, based on commercially-reasonable criteria, there is the likelihood that the amount of the Limitation of Liability will be insufficient to cover 100% percent of the Costs of the PE Work, Owner shall (i) notify County of such likelihood and the basis thereof, and inform County of its reasonable estimate of the additional amount that will be sufficient to cover the cost to complete the PE Work ("Additional Costs"), and, at its option, (ii) stop the PE Work.
- C. Upon receipt of Owner's notice as described herein, County may submit a request to Commissioners Court to amend or supplement this Agreement to increase the Limitation of Liability by the amount of the Additional Costs.

### **IV. Notice**

- A. All notices required to be given hereunder ("Notice") shall be given by registered or certified United States Mail, postage prepaid, return receipt requested, or by courier services, addressed as follows:

Owner:

Energy Transfer LP  
1300 Main St.  
Houston, Texas 77002  
Attention: Mark Vedral  
**Email:** mark.vedral@energytransfer.com

With copy to:

Malcolm "Trey" Flournoy  
Assistant General Counsel  
Same physical address as above  
**Email:** malcolm.flournoy@energytransfer.com

County:

Harris County Engineering Department  
1111 Fannin Street, 7<sup>th</sup> Floor  
Houston, Texas 77002  
Attention: Okechukwu Chika, Chief Utility Coordinator  
Email: [okechukwu.chika@eng.hctx.net](mailto:okechukwu.chika@eng.hctx.net)

Any Notice sent by mail or delivery services as provided herein shall be deemed given and completed on the date of actual receipt thereof.

- B. All communications and invoices given hereunder may be given by electronic means or in the same manner as Notices described herein. Any email notifications must be made to the email addresses listed above.
- C. Each Party shall have the right to change its respective address, including email addresses and each shall have the right to specify as its address any other address in the State of Texas and/or email address by giving at least fifteen (15) days' written notice of such change to the other Party.

#### **V. Termination**

County may terminate this Agreement at any time up to the date that the PE Work under this Agreement has been authorized and such termination will not create any liability on the part of County. Owner may terminate this Agreement if the purchase order is not issued within 3 months of signature by Owner.

#### **VI. Liability of the Parties**

Subject to Section XII below, each Party shall be responsible for all claims and liability due to the activities of the Party's employees, officials, agents, contractors, or subcontractors arising out of or under this Agreement and which result from any act, error, or omission; intentional tort; intellectual property infringement; or failure to pay a vendor; committed by the Party or its employees, officials, agents, consultant under contract, or another entity over which it exercises control.

#### **VII. Applicable Law and Venue**

- A. The Agreement is subject to the state and federal laws, orders, rules, and regulations relating to the Agreement and funded by state or federal funds. Each Party shall comply with all applicable federal, state, and local laws, ordinances, rules, and regulations concerning the performance of this Agreement.
- B. This Agreement is governed by the laws of the State of Texas.
- C. The exclusive forum for any action arising out of, in connection with, or in any way relating to, the Agreement shall be in a state or federal court of competent jurisdiction in Texas.
- D. The exclusive venue for any action arising out of, in connection with, or in any way relating to, the Agreement shall be in a state or federal court of competent jurisdiction in Houston, Harris County, Texas.

### **VIII. Assignment**

No Party hereto shall make, in whole or in part, any assignment of this Agreement or any obligation hereunder without the prior written consent of the other Party, such consent not to be unreasonably withheld, conditioned or delayed.

### **IX. Independent Parties**

It is expressly understood and agreed by the Parties that nothing contained in this Agreement shall be construed to constitute or create a joint venture, partnership, association or other affiliation or like relationship between the Parties, it being specifically agreed that their relationship is and shall remain that of independent parties to a contractual relationship as set forth in this Agreement. The County is an independent contractor and neither it, nor its employees or agents shall be considered to be an employee, agent, partner, or representative of the Owner for any purpose. The Owner, nor its officials, employees, officers, or agents shall be considered to be employees, agents, partners or representatives of the County for any purposes. Neither Party has the authority to bind the other Party.

### **X. No Third Party Beneficiaries**

The County is not obligated or liable to any party other than Owner for the performance of this Agreement. Nothing in the Agreement is intended or shall be deemed or construed to create any additional rights or remedies upon any third party. Further, nothing contained in the Agreement shall be construed to or operate in any manner whatsoever to increase the rights of any third party, or the duties or responsibilities of County with respect to any third party.

### **XI. Waiver of Breach**

A waiver by either Party of a breach or violation of any provision of the Agreement shall not be deemed or construed to be a waiver of any subsequent breach.

### **XII. No Personal Liability; No Waiver of Immunity**

- A. Nothing in the Agreement is construed as creating any personal liability on the part of any official, officer, director, employee, or agent of Owner nor any public body that may be a Party to the Agreement, and the Parties expressly agree that the execution of the Agreement does not create any personal liability on the part of any officer, director, employee, or agent of the County or Owner.
- B. The Parties agree that no provision of this Agreement extends the County's liability beyond the liability provided in the Texas Constitution and the laws of the State of Texas.
- C. Neither the execution of this Agreement nor any other conduct of either Party relating to this Agreement shall be considered a waiver by the County of any right, defense, or immunity on behalf of itself, its employees or agents under the Texas Constitution or the laws of the State of Texas.

### **XIII. Anti-Boycott**

In accordance with Tex. Gov't Code Ann. § 2270.002, Owner warrants and represents that it does not boycott Israel and agrees that it will not boycott Israel during the term of this contract.

#### **XIV. Foreign Terrorists Organizations**

In accordance with Tex. Gov't Code Ann. Chapter 2252 Subchapter F, Owner warrants and represents that, at the time of execution of this Agreement and for the duration of the Term of this Agreement and any Renewal Terms, Owner does not appear on the Texas State Comptroller's list of companies known to have contracts with or provide supplies or services to a foreign terrorist organization.

#### **XV. No Binding Arbitration; Right to Jury Trial**

The County does not agree to binding arbitration, nor does the County waive its right to a jury trial.

#### **XVI. Contract Construction**

- A. This Agreement shall not be construed against or in favor of any Party hereto based upon the fact that the Party did or did not author this Agreement.
- B. The headings in this Agreement are for convenience or reference only and shall not control or affect the meaning or construction of this Agreement.
- C. When terms are used in the singular or plural, the meaning shall apply to both.
- D. When either the male or female gender is used, the meaning shall apply to both.

#### **XVII. Recitals**

The recitals set forth in this Agreement are, by this reference, incorporated into and deemed a part of this Agreement.

#### **XVIII. Entire Agreement; Modifications**

This Agreement contains the entire agreement between the Parties relating to the rights herein granted and the obligations herein assumed. This Agreement supersedes and replaces any prior agreement between the Parties pertaining to the rights granted and the obligations assumed herein. This Agreement shall be subject to change or modification only by a subsequent written modification approved and signed by the governing bodies of each Party.

#### **XIX. Severability**

The provisions of this Agreement are severable, and if any provision or part of this Agreement or the application thereof to any person, entity, or circumstance shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of such provision or part of this Agreement to other persons, entities, or circumstances shall not be affected thereby.

#### **XX. Survival of Terms**

Any provision of this Agreement that, by its plain meaning, is intended to survive the expiration or earlier termination of this Agreement including, but not limited to the indemnification provision, shall survive such expiration or earlier termination. If an ambiguity exists as to survival, the provision shall be deemed to survive.

## XXI. Multiple Counterparts/Execution.

This Agreement may be executed in several counterparts. Each counterpart is deemed an original and all counterparts together constitute one and the same instrument. In addition, each Party warrants that the undersigned is a duly authorized representative with the power to execute the Agreement.

## XXII. Warranty

By execution of this Agreement, the Owner warrants that the duties accorded to the Owner in this Agreement are within the powers and authority of the Owner.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the Effective Date.

### HARRIS COUNTY

\_\_\_\_\_  
Signature

Lina Hidalgo

\_\_\_\_\_  
Printed Name

County Judge

\_\_\_\_\_  
Title

### ENERGY TRANSFER LP

  
\_\_\_\_\_  
Signature

Kevin Taliaferro  
\_\_\_\_\_  
Printed Name

Sr. Director - ROW  
\_\_\_\_\_  
Title

APPROVED AS TO FORM:

Christian D. Menefee

County Attorney

By: Philip Berzins

Philip Berzins

Assistant County Attorney

C.A.O. File No.: 22GEN2894

## **EXHIBIT A: Scope of Project Services**

<b>Project Information</b>	<b>Description</b>
<b>Project Name</b>	Beaumont Place Subdivision Drainage Improvements - 2018
<b>UPIN</b>	19101MF17901
<b>Proposed Road Improvements</b>	Drainage and Infrastructure Improvements for and related to Beaumont Place Subdivision area
<b>Precinct</b>	2
<b>Utility Owner/Company</b>	Energy Transfer LP
<b>Utility Scope of Work</b>	To perform preliminary engineering activities such as field visits & surveying to deliver a project scope, engineering design, and cost estimates to address utility conflicts impacting the Beaumont place subdivision drainage improvements.

## **EXHIBIT B: Billing Contact Information**

<b>Name</b>	Okechukwu Chika
<b>Title</b>	Chief Utility Coordinator
<b>Address</b>	1111 Fannin Street, 7 <sup>th</sup> Floor, Houston, TX, 77002
<b>Work Phone</b>	(713) 274-3659
<b>Cell Phone</b>	(832-206-5554
<b>Email</b>	okechukwu.chika@eng.hctx.net



**ORDER OF COMMISSIONERS COURT**  
**Authorizing execution of an Agreement**

The Commissioners Court of Harris County, Texas, convened at a meeting of said Court at the Harris County Administration Building in the City of Houston, Texas, on the \_\_\_\_ day of \_\_\_\_\_, 2022 with all members present except \_\_\_\_\_.

A quorum was present. Among other business, the following was transacted:

**ORDER AUTHORIZING EXECUTION OF A REIMBURSEMENT AGREEMENT WITH  
ENERGY TRANSFER LP**

Commissioner \_\_\_\_\_ introduced an order and made a motion that the same be adopted. Commissioner \_\_\_\_\_ seconded the motion for adoption of the order. The motion, carrying with it the adoption of the order, prevailed by the following vote:

Vote of the Court	<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Judge Hidalgo	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Ellis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Garcia	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Ramsey, P.E.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Cagle	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The County Judge thereupon announced that the motion had duly and lawfully carried and that the order had been duly and lawfully adopted. The order thus adopted follows:

**IT IS ORDERED** the Harris County Judge is authorized to execute for and on behalf of Harris County, a Reimbursement Agreement between Harris County and Energy Transfer LP. The Agreement is incorporated herein as though fully set forth word for word.

All Harris County officials and employees are authorized to do any and all things necessary or convenient to accomplish the purpose of this Order.