

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION APPROVING THE ISSUANCE OF PERMITS TO DIAMONDBACK E&P LLC (“OPERATOR”) TO DRILL FOUR OIL AND GAS WELLS LOCATED IN SECTION 24, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY OF MIDLAND, MIDLAND COUNTY, TEXAS (GENERALLY LOCATED 1,345 FEET NORTH OF BRIARWOOD AVENUE AND BETWEEN 1,684 FEET AND 1,775 FEET EAST OF AVALON DRIVE); AND PROVIDING THAT SAID PERMITS DO NOT REQUIRE A NEW ROAD REPAIR AGREEMENT BUT SHALL BE CONSOLIDATED UNDER AN EXISTING ROAD REPAIR AGREEMENT**

**WHEREAS**, on December 8, 2009, the City Council of the City of Midland duly approved Ordinance No. 8769 which amended Title VI, “Police Regulations,” Chapter 1, “General Offenses,” of the City Code of Midland, Texas, so as to establish Section 23, “Oil and Gas Well Permits issued on or after January 1, 2010,” which governs the granting or rejecting of Oil and Gas Well Permits; and

**WHEREAS**, the purpose of said section is to establish reasonable and uniform limitations, safeguards, and regulations for present and future operations related to the exploring, drilling, developing, producing, transporting and storing of oil or gas or other substances produced in association with oil and gas within the City of Midland to protect the health, safety, and general welfare of the public and the orderly development of the City of Midland; abate or prevent potential public nuisances; minimize the potential adverse impact to surface and mineral owners, protect the quality of the environment and encourage the orderly production of available mineral resources; and

**WHEREAS**, Section 6-1-23(C) of the City Code of Midland, Texas, makes it an offense to knowingly drill or participate in the drilling of any well or to re-enter any well within the corporate limits of the City of Midland without a permit having first been issued by the authority of the City Council; and

**WHEREAS**, Operator has submitted applications to the City of Midland to drill oil and gas wells on the property described in Section Two hereof; and

**WHEREAS**, notice of the public hearing on this matter was provided in accordance

with Section 6-1-23(H)(1) and a public hearing was held on March 23, 2021; and

**WHEREAS**, subsequent to said public hearing, and in accordance with Section 6-1-23(H)(1), the City Council allowed the public and Operator thirty (30) days to submit written input to the City Manager regarding Operator's applications to drill oil and gas wells on the property described in Section Two hereof; and

**WHEREAS**, the City Council has considered those issues set forth in Section 6-1-23(I) in determining whether to grant or deny permits to Operator to drill oil and gas wells on the property described in Section Two hereof; and

**WHEREAS**, the City Council finds it to be in the public interest to approve the issuance of permits to Operator to drill oil and gas wells on the property described in Section Two hereof;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS:**

**SECTION ONE.** That the above recitals are hereby adopted and approved by the City Council of the City of Midland.

**SECTION TWO.** That the Mayor is hereby authorized and directed to execute permits, on behalf of the City of Midland, that will allow Operator to drill the following oil and gas wells:

GRIDIRON N004WA; GRIDIRON N004WB; GRIDIRON N005JM; and  
GRIDIRON N005LS;

located in Section 24, Block 40, T-1-S, T&P RR Co. Survey, City of Midland, Midland County, Texas. Said permits shall be in forms substantially similar to those attached hereto as Exhibits "A" through "D" and incorporated herein for all legal purposes.

**SECTION THREE.** That said permits do not require a new road repair agreement but shall be consolidated under the existing road repair agreement between Operator and the City of Midland for Operator's wells located on the property described in Section Two hereof.

On motion of Council member \_\_\_\_\_, seconded by Council member \_\_\_\_\_, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2021, by the following vote:

Council members voting “AYE”:

Council members voting “NAY”:

\_\_\_\_\_  
Patrick N. Payton, Mayor

ATTEST:

\_\_\_\_\_  
Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

\_\_\_\_\_  
Robert Patrick, Interim City Manager

APPROVED AS TO CONTENT

\_\_\_\_\_  
Charles Harrington, Director of Development Services

APPROVED ONLY AS TO FORM:

\_\_\_\_\_  
John Ohnemiller, City Attorney

## **OIL AND GAS WELL PERMIT**

The City Council of the City of Midland, Texas, at its regular meeting on April 27, 2021, considered the application of Diamondback E&P LLC (“Operator”) dated December 1, 2020, to drill an oil and gas well inside the territorial limits of the City of Midland, Texas. The City Council of the City of Midland, Texas, by appropriate action approved the application and authorized the issuance of this permit.

This documentation hereby constitutes a permit, issued in accordance with Midland City Code § 6-1-23, “Oil and Gas Well Permits Issued On or After January 1, 2010” (Ordinance 8769), to drill an oil and gas well as requested in Operator’s application that has been filed with the Oil & Gas Compliance Coordinator and is incorporated herein for all legal purposes.

The location of Operator’s GRIDIRON N004WA oil and gas well shall be 1,345 feet from the south line and 1,775 feet from the west line, Section 24, Block 40, T-1-S, T&P RR. Co. Survey, Midland County, Texas. The hole size, casing program, cement program and total depth of that well shall be in strict compliance with the proposed hole size, casing program, cementing program and proposed total depth found in Operator’s application. Further, all operations done under this permit shall be done and accomplished in strict accordance with Midland City Code § 6-1-23, “Oil and Gas Well Permits Issued On or After January 1, 2010” (Ordinance 8769), which is hereby incorporated into this permit by reference and made applicable hereto with the same force and effect as if the same were copied fully in this permit, including, but not limited to, Subsections (K) through (Z).

This permit shall be effective from April 27, 2021 through April 27, 2022, and so long thereafter as oil or gas is produced, or until such time as Operator has permanently abandoned the operations of the well or facility for which this permit is issued.

The issuance of this permit by the City of Midland does not in any way alter or modify the rights as between the surface estate owner(s) and mineral estate owner(s) if there exists a severance of the surface estate and mineral estate. This permit in no way exempts Operator from its responsibilities or obligations as to third parties. The issuance of this permit only means that Operator has, at this time, complied with Midland City Code § 6-1-23, “Oil and Gas Well Permits Issued On or After January 1, 2010” (Ordinance No. 8769) and that the Midland City Council, as a regulatory body, will allow Operator to proceed under the conditions of this permit. The issuance of this permit is intended to be only a negative pronouncement that grants no affirmative rights to the permittee to occupy the property. It is expressly provided

that this permit does not authorize a trespass by the permittee as to any third party. This permit does not in any way restrict the use of the surface estate. Securing a permit does not authorize Operator to act with impunity as to third parties, nor does it insulate Operator from the consequences of its actions with regard to those third parties. The receipt of a permit does not undertake to adjudicate property rights.

This permit granted by the City of Midland does not act to immunize Operator from civil tort liability from private parties for actions arising out of the use of the permit. This is because the permit is a “negative pronouncement” that grants no affirmative rights to the permittee. The issuance of this permit does not authorize any injury to persons or property or an invasion of other property rights, or any infringement of State or local law or regulations. Operator has obtained a permit from the City of Midland but the consequences of acting under the permit have not been immunized. The fact that the City of Midland has issued a permit to drill an oil and gas well does not shield Operator from third party tort liability stemming from the consequences of the permitted activity.

***NOTWITHSTANDING ANY OTHER PROVISION, OPERATOR HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES CITY OF MIDLAND, CITY OF MIDLAND’S EMPLOYEES AND OFFICERS, FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH OPERATOR HAS OR MIGHT HAVE IN THE FUTURE, INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT, QUANTUM MERUIT, CLAIMS UNDER THE DUE PROCESS AND TAKING CLAUSES OF THE TEXAS AND UNITED STATES CONSTITUTIONS, TORT CLAIMS OR CITY OF MIDLAND’S NEGLIGENCE.***

***OPERATOR AGREES TO INDEMNIFY AND HOLD HARMLESS AND DEFEND THE CITY OF MIDLAND, THE CITY’S OFFICERS, AGENTS, AND EMPLOYEES FROM ANY AND ALL CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS, AND LIABILITY OF ANY KIND, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, AND ATTORNEY’S FEES, FOR INJURY TO OR DEATH OF ANY PERSON, OR FOR DAMAGE TO ANY PROPERTY ARISING OUT OF OR IN CONNECTION WITH THE WORK DONE BY OPERATOR UNDER AN OIL AND GAS WELL PERMIT WHERE SUCH INJURIES, DEATH, OR DAMAGES ARE CAUSED BY OPERATOR’S SOLE NEGLIGENCE OR THE JOINT NEGLIGENCE OF THE OPERATOR AND ANY OTHER PERSON OR ENTITY.***

A right-of-way license agreement approved by a resolution of the Midland City Council is required for any oil and/or gas flowline or pipeline or any other device associated with a proposed well site that extends into, on, above, in, under, across or through any City rights-of-way, including but not limited to streets, alleys, and utility and drainage rights-of-way.

If the well that is the subject of this permit is not located within the County of Midland, Texas, Operator shall notify the Midland Central Appraisal District of the following: (1) the well's location within the territorial limits of the City of Midland; and (2) that the City of Midland is to be included as a taxing entity. Operator shall make said notification no later than 60 days after completion of the well.

The Midland City Council, in granting this permit, also grants the following variance(s):

1. For trees of 2"-3" diameter due to having a better survival rate over a five-year period and have greater growth rate than the 4" diameter requirements.
2. In lieu of constructing a perimeter fence around this permitted well, a perimeter fence around the well pad site may be constructed. Said perimeter fence around the well pad site meeting the requirement of the City of Midland to, at a minimum, meet the requirements of the Ordinance No. 8769.
3. Use of lined and bermed reserve pit that is 440 feet x 250 feet for the drilling operations.
4. Pit closure will use a green bio technology treatment which will result in a low percentage of hydrocarbons in the soil and will leave the soil in an environmentally friendly state
5. Twenty-four hour hydraulic fracturing operations allowed including the use of necessary lighting.

Sound walls shall be used during drilling, after the surface casing is set with a spudder rig, and during completion operations (frac & drillout). The height of the walls will be a minimum of 24 feet tall, and will be erected on the westerly and southerly sides of the well pad.

This permit shall constitute a written contract for purposes of insurance requirements.

In addition to the requirements of this permit and the Midland City Code § 6-1-23, "Oil and Gas Well Permits Issued On or After January 1, 2010" (Ordinance 8769), including, but not limited to Subsections (K) through (Z), Operator shall develop, maintain and operate the well described herein in accordance with the conditions, limitations and safeguards contained in Operator's application for said well.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS \_\_\_\_\_ day of April 2021.

CITY OF MIDLAND, TEXAS

BY: \_\_\_\_\_

Patrick N. Payton, Mayor

UNDERSTOOD AND AGREE THIS \_\_\_\_\_ day of April 2021.

Diamondback E&P LLC

By: \_\_\_\_\_

Joel Martin

Production Manager

## **OIL AND GAS WELL PERMIT**

The City Council of the City of Midland, Texas, at its regular meeting on April 27, 2021, considered the application of Diamondback E&P LLC (“Operator”) dated December 1, 2020, to drill an oil and gas well inside the territorial limits of the City of Midland, Texas. The City Council of the City of Midland, Texas, by appropriate action approved the application and authorized the issuance of this permit.

This documentation hereby constitutes a permit, issued in accordance with Midland City Code § 6-1-23, “Oil and Gas Well Permits Issued On or After January 1, 2010” (Ordinance 8769), to drill an oil and gas well as requested in Operator’s application that has been filed with the Oil & Gas Compliance Coordinator and is incorporated herein for all legal purposes.

The location of Operator’s GRIDIRON N004WB oil and gas well shall be 1,345 feet from the south line and 1,715 feet from the west line, Section 24, Block 40, T-1-S, T&P RR. Co. Survey, Midland County, Texas. The hole size, casing program, cement program and total depth of that well shall be in strict compliance with the proposed hole size, casing program, cementing program and proposed total depth found in Operator’s application. Further, all operations done under this permit shall be done and accomplished in strict accordance with Midland City Code § 6-1-23, “Oil and Gas Well Permits Issued On or After January 1, 2010” (Ordinance 8769), which is hereby incorporated into this permit by reference and made applicable hereto with the same force and effect as if the same were copied fully in this permit, including, but not limited to, Subsections (K) through (Z).

This permit shall be effective from April 27, 2021 through April 27, 2022, and so long thereafter as oil or gas is produced, or until such time as Operator has permanently abandoned the operations of the well or facility for which this permit is issued.

The issuance of this permit by the City of Midland does not in any way alter or modify the rights as between the surface estate owner(s) and mineral estate owner(s) if there exists a severance of the surface estate and mineral estate. This permit in no way exempts Operator from its responsibilities or obligations as to third parties. The issuance of this permit only means that Operator has, at this time, complied with Midland City Code § 6-1-23, “Oil and Gas Well Permits Issued On or After January 1, 2010” (Ordinance No. 8769) and that the Midland City Council, as a regulatory body, will allow Operator to proceed under the conditions of this permit. The issuance of this permit is intended to be only a negative pronouncement that grants no affirmative rights to the permittee to occupy the property. It is expressly provided



that this permit does not authorize a trespass by the permittee as to any third party. This permit does not in any way restrict the use of the surface estate. Securing a permit does not authorize Operator to act with impunity as to third parties, nor does it insulate Operator from the consequences of its actions with regard to those third parties. The receipt of a permit does not undertake to adjudicate property rights.

This permit granted by the City of Midland does not act to immunize Operator from civil tort liability from private parties for actions arising out of the use of the permit. This is because the permit is a “negative pronouncement” that grants no affirmative rights to the permittee. The issuance of this permit does not authorize any injury to persons or property or an invasion of other property rights, or any infringement of State or local law or regulations. Operator has obtained a permit from the City of Midland but the consequences of acting under the permit have not been immunized. The fact that the City of Midland has issued a permit to drill an oil and gas well does not shield Operator from third party tort liability stemming from the consequences of the permitted activity.

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A right-of-way license agreement approved by a resolution of the Midland City Council is required for any oil and/or gas flowline or pipeline or any other device associated with a proposed well site that extends into, on, above, in, under, across or through any City rights-of-way, including but not limited to streets, alleys, and utility and drainage rights-of-way.

If the well that is the subject of this permit is not located within the County of Midland, Texas, Operator shall notify the Midland Central Appraisal District of the following: (1) the well's location within the territorial limits of the City of Midland; and (2) that the City of Midland is to be included as a taxing entity. Operator shall make said notification no later than 60 days after completion of the well.

The Midland City Council, in granting this permit, also grants the following variance(s):

1. For trees of 2"-3" diameter due to having a better survival rate over a five-year period and have greater growth rate than the 4" diameter requirements.
2. In lieu of constructing a perimeter fence around this permitted well, a perimeter fence around the well pad site may be constructed. Said perimeter fence around the well pad site meeting the requirement of the City of Midland to, at a minimum, meet the requirements of the Ordinance No. 8769.
3. Use of lined and bermed reserve pit that is 440 feet x 250 feet for the drilling operations.
4. Pit closure will use a green bio technology treatment which will result in a low percentage of hydrocarbons in the soil and will leave the soil in an environmentally friendly state
5. Twenty-four hour hydraulic fracturing operations allowed including the use of necessary lighting.

Sound walls shall be used during drilling, after the surface casing is set with a spudder rig, and during completion operations (frac & drillout). The height of the walls will be a minimum of 24 feet tall, and will be erected on the westerly and southerly sides of the well pad.

This permit shall constitute a written contract for purposes of insurance requirements.

In addition to the requirements of this permit and the Midland City Code § 6-1-23, "Oil and Gas Well Permits Issued On or After January 1, 2010" (Ordinance 8769), including, but not limited to Subsections (K) through (Z), Operator shall develop, maintain and operate the well described herein in accordance with the conditions, limitations and safeguards contained in Operator's application for said well.

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BY: \_\_\_\_\_

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By: \_\_\_\_\_

Joel Martin

Production Manager

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The location of Operator’s GRIDIRON N005JM oil and gas well shall be 1,345 feet from the south line and 1,745 feet from the west line, Section 24, Block 40, T-1-S, T&P RR. Co. Survey, Midland County, Texas. The hole size, casing program, cement program and total depth of that well shall be in strict compliance with the proposed hole size, casing program, cementing program and proposed total depth found in Operator’s application. Further, all operations done under this permit shall be done and accomplished in strict accordance with Midland City Code § 6-1-23, “Oil and Gas Well Permits Issued On or After January 1, 2010” (Ordinance 8769), which is hereby incorporated into this permit by reference and made applicable hereto with the same force and effect as if the same were copied fully in this permit, including, but not limited to, Subsections (K) through (Z).

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The Midland City Council, in granting this permit, also grants the following variance(s):

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CITY OF MIDLAND, TEXAS

BY: \_\_\_\_\_

Patrick N. Payton, Mayor

UNDERSTOOD AND AGREE THIS \_\_\_\_\_ day of April 2021.

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By: \_\_\_\_\_

Joel Martin

Production Manager

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The location of Operator’s GRIDIRON N005LS oil and gas well shall be 1,345 feet from the south line and 1,684 feet from the west line, Section 24, Block 40, T-1-S, T&P RR. Co. Survey, Midland County, Texas. The hole size, casing program, cement program and total depth of that well shall be in strict compliance with the proposed hole size, casing program, cementing program and proposed total depth found in Operator’s application. Further, all operations done under this permit shall be done and accomplished in strict accordance with Midland City Code § 6-1-23, “Oil and Gas Well Permits Issued On or After January 1, 2010” (Ordinance 8769), which is hereby incorporated into this permit by reference and made applicable hereto with the same force and effect as if the same were copied fully in this permit, including, but not limited to, Subsections (K) through (Z).

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***OPERATOR AGREES TO INDEMNIFY AND HOLD HARMLESS AND DEFEND THE CITY OF MIDLAND, THE CITY’S OFFICERS, AGENTS, AND EMPLOYEES FROM ANY AND ALL CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS, AND LIABILITY OF ANY KIND, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, AND ATTORNEY’S FEES, FOR INJURY TO OR DEATH OF ANY PERSON, OR FOR DAMAGE TO ANY PROPERTY ARISING OUT OF OR IN CONNECTION WITH THE WORK DONE BY OPERATOR UNDER AN OIL AND GAS WELL PERMIT WHERE SUCH INJURIES, DEATH, OR DAMAGES ARE CAUSED BY OPERATOR’S SOLE NEGLIGENCE OR THE JOINT NEGLIGENCE OF THE OPERATOR AND ANY OTHER PERSON OR ENTITY.***

A right-of-way license agreement approved by a resolution of the Midland City Council is required for any oil and/or gas flowline or pipeline or any other device associated with a proposed well site that extends into, on, above, in, under, across or through any City rights-of-way, including but not limited to streets, alleys, and utility and drainage rights-of-way.

If the well that is the subject of this permit is not located within the County of Midland, Texas, Operator shall notify the Midland Central Appraisal District of the following: (1) the well's location within the territorial limits of the City of Midland; and (2) that the City of Midland is to be included as a taxing entity. Operator shall make said notification no later than 60 days after completion of the well.

The Midland City Council, in granting this permit, also grants the following variance(s):

1. For trees of 2"-3" diameter due to having a better survival rate over a five-year period and have greater growth rate than the 4" diameter requirements.
2. In lieu of constructing a perimeter fence around this permitted well, a perimeter fence around the well pad site may be constructed. Said perimeter fence around the well pad site meeting the requirement of the City of Midland to, at a minimum, meet the requirements of the Ordinance No. 8769.
3. Use of lined and bermed reserve pit that is 440 feet x 250 feet for the drilling operations.
4. Pit closure will use a green bio technology treatment which will result in a low percentage of hydrocarbons in the soil and will leave the soil in an environmentally friendly state
5. Twenty-four hour hydraulic fracturing operations allowed including the use of necessary lighting.

Sound walls shall be used during drilling, after the surface casing is set with a spudder rig, and during completion operations (frac & drillout). The height of the walls will be a minimum of 24 feet tall, and will be erected on the westerly and southerly sides of the well pad.

This permit shall constitute a written contract for purposes of insurance requirements.

In addition to the requirements of this permit and the Midland City Code § 6-1-23, "Oil and Gas Well Permits Issued On or After January 1, 2010" (Ordinance 8769), including, but not limited to Subsections (K) through (Z), Operator shall develop, maintain and operate the well described herein in accordance with the conditions, limitations and safeguards contained in Operator's application for said well.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS \_\_\_\_\_ day of April 2021.

CITY OF MIDLAND, TEXAS

BY: \_\_\_\_\_

Patrick N. Payton, Mayor

UNDERSTOOD AND AGREE THIS \_\_\_\_\_ day of April 2021.

Diamondback E&P LLC

By: \_\_\_\_\_

Joel Martin

Production Manager