

## **ENCROACHMENT AGREEMENT**

Tracts: TX-712; TX-713; TX-2-533; TX-2-534

County: Fort Bend

State: Texas

**THIS AGREEMENT** is made and entered into this \_\_\_\_ day of 2021 by and between **Natural Gas Pipeline Company of America LLC**, a Delaware limited liability company (the "Company"), with an office at 1001 Louisiana, Suite 1000, Houston, Texas 77002, and **Texas Heritage Parkway Improvement District** ("THPID") whose address for purposes of this Agreement is c/o The Muller Law Group, PLLC, 202 Century Square Blvd., Sugar Land, Texas 77478, and **Fort Bend County, Texas** ("County"), whose mailing address for the purpose of this Agreement is 301 Jackson Street, Richmond, Texas, 77469, (THPID and County, collectively referred to as the "Owner"). Company and Owners may be individually referred to in this Agreement as a "Party" and collectively as the "Parties".

**WHEREAS**, Texas Illinois Natural Gas Pipeline Company entered into a certain Right of Way Agreement ("Company Easement 1") executed on September 14, 1950 and recorded at Deed Book 275, Page 229 of the records of the Fort Bend County Recorder, and;

**WHEREAS**, Company is successor to Texas Illinois Natural Gas Pipeline Company and to the above-referenced Company Easement 1, and;

**WHEREAS**, Company entered into a certain Right of Way Agreement ("Company Easement 2") executed on November 10, 1960 and recorded at Volume 412, Page 102 of the Deed Records of Fort Bend County, and;

**WHEREAS**, Company Easement 1 and Company Easement 2 shall herein be known collectively as the "Company Easements";

**WHEREAS**, Company operates certain pipelines and pipeline related facilities (the "Company Facilities") under, upon, over, through and across the Company Easements, and;

**WHEREAS**, Owner owns all or a portion of the property (the "Parcel"), which is subject to the Company Easements, described as follows:

600 acres, more or less, of the Micajah Autrey League, Abstract 100, Fort Bend County, Texas, and being more particularly described in that certain Deed dated December 11, 1924 from Sallie B. Harris, et al, to C.C. Cardiff and J.F. Cardiff, Recorded at Volume 104, Page 483 of the Deed Records of Fort Bend County, and;

**WHEREAS**, Company is hereby willing, at the request of Owner, to allow Owner, to construct, own, operate, maintain, use and remove at Owner's sole risk and expense, one roadway known as Texas Heritage Parkway (the "Encroachment") at the location or locations designated in Exhibit "A" attached hereto and made a part hereof.

**NOW, THEREFORE** in consideration of the mutual covenants herein stated, Company and Owner agree as follows:

1. Company agrees to allow the construction, ownership, operation, maintenance, usage and removal of the Encroachment within the Company Easement, but only insofar as the Encroachment affects the Company Easement within the Parcel. The permission granted herein is limited exclusively to the Encroachment.
2. Except as specifically set forth in Exhibit "A",
  - a. Owner shall construct, own, operate, maintain, use and remove the Encroachment in accordance with Company's O&M Procedure 204 OM200-29 titled "Guidelines for Design and Construction near Kinder Morgan Operated Facilities," which is attached hereto as Exhibit "B" and made a part hereof. A Company representative shall be on-site to monitor any construction activities within twenty-five (25) feet of Company Facilities. Owner shall notify Company at (281) 886-1803 at least seventy-two (72) hours prior to commencing any construction activities.
  - b. Owner shall not reduce the depth of cover on, or permit such alteration anywhere on, or alter the drainage of the Company Easement without Company's prior written consent, which Company may withhold or condition in its sole discretion. Owner shall be solely responsible for, and shall bear the expense of repairs attributable to, in Company's sole opinion, any loss of subjacent or lateral support to the Company Easement and/or Company Facilities caused by the Encroachment.
  - c. Owner shall not construct any permanent structure, building, or obstruction within the Company Easement, except the Encroachment, without Company's prior written consent, which Company may withhold or condition in its sole discretion.
  - d. Owner shall not plant shrubs or trees within the Company Easement, without Company's prior written consent, which Company may withhold or condition in its sole discretion.
  - e. Owner shall not operate or permit the operation of any heavy equipment on the Company Easement without Company's prior written consent, which Company may withhold or condition in its sole discretion. Heavy equipment shall only be allowed to cross Company Facilities at locations designated by Company and as already approved for the initial construction of the Encroachment. Owners shall comply with all precautionary measures required by Company to protect Company Facilities and the Company Easement.

- f. Owner shall not replace or modify the Encroachment without Company's prior written consent, which Company may withhold or condition in its sole discretion.
3. Owner shall be solely responsible for the construction, ownership, operation, maintenance, use, and removal of the Encroachment, or physical damage to the pipelines as a result of Owner's exercise of its rights under this Agreement.
4. Should Company's construction, reconstruction, operation, maintenance, alteration, repair, replacement, removal, addition, or changing the size of any of its Company Facilities within the Company Easement in any way, shape, manner, or form, in Company's sole opinion, affect, damage, or cause to be removed the Encroachment, or any portion thereof, Owner agrees to bear all costs to repair or replace the Encroachment, including any costs and expenses associated with the loss of the use of the Encroachment as a result of Company's activities.
5. In the event Company shall, at any time, desire or be required to construct, reconstruct or alter the grade or location of its pipeline(s) or other facility upon the Company Easement; or in the event Company shall, at any time, desire to construct additional pipelines, appurtenances or other facilities upon the Company Easement; and if, in the judgment of Company, it is necessary that the Encroachment shall be relocated or altered in any way; or if for any other reason, Company deems it necessary for Owner to relocate or alter the Encroachment, Company shall notify Owner of the necessity for such relocation and use reasonable efforts to minimize the distance of said relocation and Owner shall alter or relocate the Encroachment, at its sole cost and expense, within thirty (30) days of receipt of said notification, as shall be deemed necessary in the judgment of Company. In the event of such alteration or relocation, Owner agrees to restore the Company Easement as nearly as practicable to its original condition. If Owner shall fail to comply with any such request of Company to alter or relocate the Encroachment, Company shall have the right to alter or relocate the Encroachment at Owner's sole risk and expense.
6. Should Owner remove the Encroachment, in its entirety, from the Company Easement for a term of one hundred twenty (120) consecutive days, this Agreement shall be deemed null and void.
7. Should Owner fail to adhere to the provisions of this Agreement, Company may have no adequate remedy at law and Owner agrees that monetary damages may not be sufficient. Owner, therefore, consents to Company seeking injunctive relief or an emergency order to enforce the provisions, or prevent breach of, this Agreement without the necessity to post a bond.
8. Nothing contained herein shall be deemed to constitute any warranty or representation by Company as to its authority to permit the Encroachment upon the Parcel as proposed by Owner, except regarding Company's rights as set forth in the Company Easement that may restrict the Encroachment.

9. If any part, term or provision of this Agreement is, by a court of competent jurisdiction or regulatory authority having jurisdiction over the Parcel, held to be illegal, void or unenforceable, or to be in conflict with the law of the state which the Parcel lies, the validity of the remaining provisions or portion hereof shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if this Agreement did not contain the particular part, term, or provision held to be invalid.
10. Except as specifically herein described, all of the terms and conditions of the Company Easement shall remain in full force and effect.
11. The terms and conditions of this Agreement shall be binding on the Parties hereto, their heirs, successors and assigns.

**IN WITNESS WHEREOF**, the Parties hereunto subscribed their names as of the date first above written.

**TEXAS HERITAGE PARKWAY  
IMPROVEMENT DISTRICT**

Clifford J. Vacek  
Signature

CLIFFORD J. VACEK  
Name

VICE - PRESIDENT  
Title

**NATURAL GAS PIPELINE COMPANY  
OF AMERICA LLC**

Thomas C. Dender  
Signature

THOMAS C. DENDER  
Name

VP - PROJECT MANAGEMENT / ROW  
Title

**FORT BEND COUNTY, TEXAS**

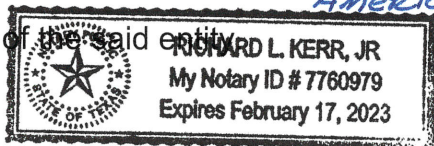
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

THE STATE OF TEXAS §  
COUNTY OF HARRIS §  
§

This instrument was acknowledged before me on this the 26<sup>th</sup> day of  
APRIL, 2021, by THOMAS C. DENDER  
(name), as VP- PROJECT MANAGEMENT/ROW (type of authority, e.g., officer,  
trustee, etc.) of NATURAL GAS PIPELINE COMPANY OF (company) on  
AMERICA LLC  
behalf of and as the act of the said entity.



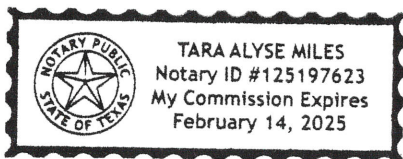
{Seal}

2/17/2023  
Commission Expires

R L Kerr  
Notary Public

THE STATE OF TEXAS §  
COUNTY OF FORT BEND §  
§

This instrument was acknowledged before me on this the 27<sup>th</sup> day of  
April, 2021, by Clifford J. Vacek  
(name), as Vice President (type of authority, e.g., officer,  
trustee, etc.) of Texas Heritage Parkway Improvement District (company) on  
behalf of and as the act of the said entity.



{Seal}

2/14/2025  
Commission Expires

Tara Alyse Miles  
Notary Public

THE STATE OF \_\_\_\_\_ §  
COUNTY OF \_\_\_\_\_ §  
§

This instrument was acknowledged before me on this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ (name), as \_\_\_\_\_ (type of authority, e.g., officer, trustee, etc.) of \_\_\_\_\_ (company) on behalf of and as the act of the said entity.

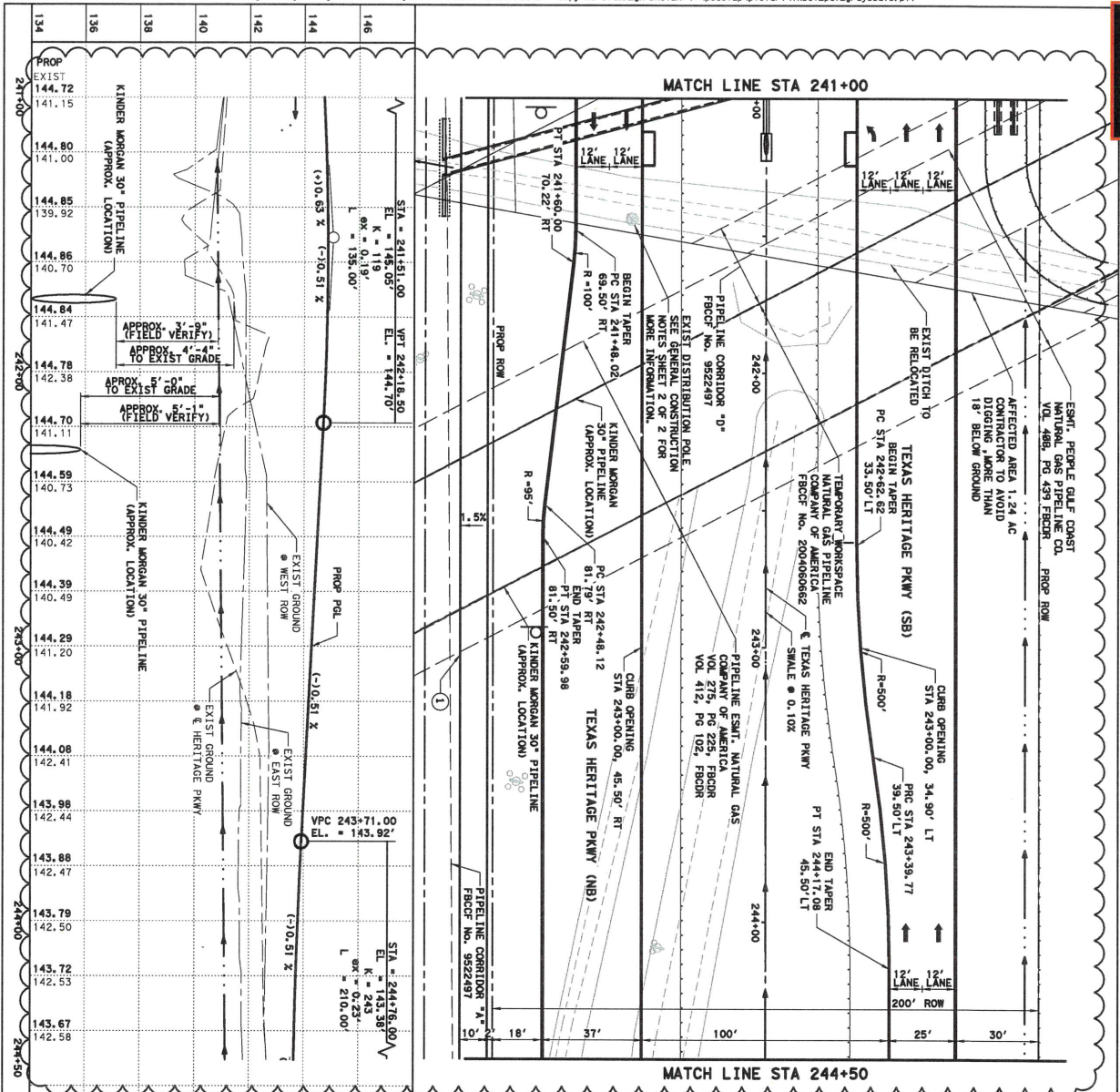
{Seal}

\_\_\_\_\_  
Commission Expires

\_\_\_\_\_  
Notary Public

This instrument prepared by:  
Natural Gas Pipeline Company of America LLC  
After recording, return to:  
Natural Gas Pipeline Company of America LLC,  
Attention: David Ross  
1001 Louisiana, Suite 1000, Houston, Texas 77002





LEGEND:

- 1 PEDESTRIAN TRAIL
- 2 TRUCK APRON
- 3 MSE RETAINING WALL
- 4 8" CRCP
- 5 4" PCTB
- 6 4" LTS
- 7 FAST TRACK CONCRETE PAVEMENT
- 8 OVERHEAD ELECTRIC
- 9 GAS
- 10 PRODUCT LINE
- 11 DIRECTION OF TRAFFIC
- 12 CURVE NUMBER
- 13 DRIVEWAY NUMBER
- 14 PROP ROW
- 15 CURB & GUTTER
- 16 PROP DITCH FLOW LINE

- NOTES:
1. ALL DIMENSIONS ARE TO BACK OF CURB UNLESS NOTED OTHERWISE
  2. STATION AND OFFSET BASED ON & TEXAS HERITAGE PARKWAY UNLESS NOTED OTHERWISE
  3. SEE ROUNDABOUT INTERSECTION LAYOUTS FOR ADDITIONAL INFORMATION

REV	DATE	BY	DESCRIPTION
1	4/14/20	CM	CHANGE ORDER 1
2	4/14/21	CM	REV ROW AND ADDED CURBENT

SUBMITTED FOR INTERIM REVIEW  
UNDER THE AUTHORITY OF  
HARRISON THAI, P.E.  
TEXAS LICENSE NO. 129438  
BEG, INC.  
TYPE FIRM REGISTRATION NO. 1046  
IT IS NOT TO BE USED FOR  
CONSTRUCTION, BIDDING  
OR PERMIT PURPOSES

4/23/2021

TEXAS HERITAGE PARKWAY  
IMPROVEMENT DISTRICT

TEXAS HERITAGE PARKWAY  
SECTION 2  
PLAN & PROFILE  
STA 241+00 TO 244+50  
SHEET 12 OF 32

DESIGNED BY:  
DATE:  
SHEET NO.:

## Exhibit B

## KINDER MORGAN

Name of Company: National Gas Pipeline Company of America, LLC (NGPL)

The list of design, construction and contractor management building has not finished to the following: for the design and implementation of project systems or improvements on the right side of the page are not intended nor do they relate to mostly any other. It may have under existing conditions or RCV approaches. Furthermore existing assessments and assessments for the right side of the page. The list of milestones is applicable for the building on approximately, Environments as an building should be referred to the last and right-of-way documents.

- [illegible]

**БЕЛОРУССКАЯ АКАДЕМИЯ НАУК**

[illegible]

## FINAL PLANS

12/20/2013

**TEXAS HERITAGE PARKWAY  
IMPROVEMENT DISTRICT**

**GENERAL  
CONSTRUCTION NOTES**

SECTION 2	SHEET 3 OF 4
DESIGNED BY: JLT	
DESIGN BY: MJC	
DATED:	
SHEET NO: 31	



