

ENCROACHMENT AGREEMENT

County of Ft. Bend

§

KNOW ALL BY THESE PRESENTS:

State of Texas

§

§

This Agreement is made and entered into as of the _____ day of _____, 20____, by and between **MONUMENT PIPELINE, LP**, a Texas limited partnership (“**Grantor**”), whose address is 20329 State Highway 249, Floor 4, , Houston, Texas 77070, and **FORT BEND COUNTY, TEXAS**, a body corporate and politic under the laws of the State of Texas (“**Grantee**”), whose address is 301 Jackson Street, 4th Floor, Richmond, Texas 77469.

WITNESSETH:

WHEREAS, Grantor is successor grantee of those certain Easement Agreements (“**Easements**”) as follows:

A pipeline right-of-way and easement granted to Trunkline Gas Company, by instrumented dated September 9, 1959, recorded October 28, 1959, under Volume 397, Page 459, et seq., Deed Records of Ft. Bend, County, Texas;

pursuant to which one or more pipelines have been laid on, in and across those lands more particularly described as follows, to-wit:

That certain tract of land of an unspecified surface area, situated within the Wm. Stafford League, Abstract 89, being the public road right-of-way of Lexington Boulevard, as delineated on the plat of Lexington Colony Section Two, a subdivision of a called 51.7133 acres, dated October 1983, filed for record June 8, 1984, as Instrument 27830, Nos. 708/A & 708/B, Plat Records of Ft Bend County, Texas (hereinafter “Property”);

WHEREAS, by the above referenced plat, the City of Missouri City (hereinafter “City”) evidences an interest in the tract(s) of land subject to the Easements; and

WHEREAS, the City and Grantee have entered into an Interlocal Agreement (hereinafter “ILA”) pursuant to the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code and Section 251.012 of the Texas Transportation Code to authorizing Grantee to perform certain road and drainage improvements on Lexington Boulevard, including the tract(s) of land subject to the Easements; and

WHEREAS, pursuant to the ILA, Grantee desires to reconstruct Lexington Boulevard from Laurel Green Road to Lexington Grove Drive, including the addition of concrete pavement and lime subgrade with slightly higher clearance to improve surface drainage; and as a part of its Project, Grantee will cross the Easements (the “Improvements”) on, over, through and/or across the Property, and the Improvements will encroach on the Easements as more fully depicted in Exhibit “A” (the “Plans”) attached hereto and made a part hereof; and

WHEREAS, Grantor and Grantee desire to allow such Improvements within the Easements as more particularly agreed upon herein;

NOW THEREFORE, for and in consideration of the premises and of the mutual covenants contained herein, Grantor acknowledges and consents to Grantee's proposed construction of the Improvements, subject to the following terms and conditions:

1. **Improvements.** Grantor hereby grants to Grantee the right to construct, install, maintain, repair, and remove the Improvements on, over, across, and through the Easements. The Improvements shall be constructed and installed substantially in accordance with the Plans and in compliance with all applicable laws, rules, regulations, and ordinances. Grantee shall have the sole responsibility, without cost to Grantor, of grading, paving and shelling the Easements to construct and install the Improvements, but nothing herein shall confer upon Grantee, and Grantee shall not have, to the extent not part of or shown on the Improvements or Plans (a) the right to place any type of paving other than concrete or asphalt on the Easements or (b) the right to materially alter the grade of the Easements without first submitting plans to Grantor and securing written approval thereof, which approval shall not be unreasonably withheld, conditioned, or delayed. Grantee's use of the Improvements shall be junior and inferior to the use thereof by Grantor for the construction, operation, maintenance, replacement and removal of pipelines and related facilities, and Grantee shall make no use of the Easements which will in any way obstruct or impair the use thereof by Grantor provided specifically, that Grantee shall have the rights herein expressly set forth, and Grantor shall have a continuing right to restrict or prohibit parking during periods of construction, maintenance, replacement or removal of Grantor's facilities; Grantor shall use commercially reasonable efforts to disrupt Grantee's use as little as possible.
2. **Notification.** Grantee will notify Grantor's Pipeline Supervisor, Matt Stratmann at **(346) 803-4265** at least 48 hours prior to when the construction of the Improvements will commence. Voicemail notification or failure to reach the Pipeline Supervisor does not constitute valid notification.
3. **Representative.** Grantor reserves the right to have an inspector or company representative on site for the duration of the construction of the Improvements.
4. **Plans.** Grantor hereby approves the Plans. If Grantee desires to revise the Plans, Grantee shall supply such plans, surveys, drawings and other documentation as Grantor deems necessary or appropriate to ensure that the revised Plans will not conflict with the operational integrity of Grantor's pipelines. Any material modification in Plans shall be done only with the prior written approval of Grantor.
5. **Liability and Indemnification.** (a) To the extent permitted by law, Grantee assumes all liability for any damages, costs, and liabilities of any kind, including attorneys' fees, relating to Grantor's pipelines and any related personal injury or death resulting in any way from the construction of the Improvements or encroachment on the Easements. Grantee agrees to cause its contractors similarly to assume liability for all of these damages, costs, and liabilities. (b) Grantee agrees to be responsible for all costs (direct or indirect, tangible or intangible) associated with the construction of the Improvements and any follow-up work required to restore the Property, including, runoff and drainage patterns to the situation that prevailed immediately prior to the commencement of work in the area relating to the Improvements or encroachment on the Easements. To the extent permitted by law, **Grantee agrees to release, defend, indemnify, and hold Monument Pipeline, LP, its affiliates, and its and their members, owners, officers, directors, employees, and agents (together, the "Indemnitees") harmless from and against any and all risks, liabilities, causes of action and claims of property damage, personal injury, or death resulting from or related in any way to Grantee's construction, installation, maintenance, repair, removal, operation, and use of the Improvements or encroachment on the Easements. The above release and indemnities shall apply to any property damage, personal injury, or death that arises directly, indirectly, or incident to the Improvements or to Grantee's encroachment on the Easements, whether on the Property or in the course of going to or coming from or at any other place where Grantee's employees, agents, contractors, or equipment are present as a result of Grantee's construction installation, maintenance, removal, operation and use of the Improvements or relating to their encroachment on the Easements. Grantee's release and indemnification obligations apply WITHOUT REGARD TO THE CAUSE OR CAUSES OF THE CLAIM OR LIABILITY IN QUESTION, INCLUDING, WITHOUT LIMITATION, STRICT LIABILITY, BREACH OF WARRANTY (EXPRESS OR IMPLIED), IMPERFECTION OF MATERIALS, CONDITION**

OF ANY PREMISES OR TRANSPORT TO OR FROM SUCH PREMISES, OR THE NEGLIGENCE OF ANY INDEMNITEE, AND WHETHER ALLEGED NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, ACTIVE OR PASSIVE, and regardless of whether the claim is based on common law, civil law, statute, or contractual obligation between the indemnities and a third party. The foregoing indemnity shall not, however, extend to liability arising out of any Indemnitees' acts with respect to constructing, maintaining, replacing or removing Grantor's facilities or otherwise exercising its rights in respect of the Easements.

- 6. Grantor's Right to Remove and Rebuild.** Grantor may remove, at Grantor's expense, the Improvements or any portion thereof, if in Grantor's judgment it is reasonably necessary to do so to exercise the rights held by Grantor or to comply with any laws, regulations and statutes related to the operation and maintenance of Grantor's pipelines and facilities. At the conclusion of Grantor's work activity as contemplated herein, Grantee may reconstruct the Improvements at Grantee's expense and risk. Grantor shall notify Grantee a reasonable period of time in advance before exercising its rights under this Section, and, except in cases of emergency, shall use commercially reasonable efforts to disrupt Grantee's use as little as possible.
- 7. Cathodic Protection; Corrosion Control; Safety Facilities.** If Grantee should install any type of corrosion control device or system, it will be compatible with any corrosion control device or system used by Grantor on its pipelines and facilities. If the two devices or systems are not compatible, Grantee, at the request of Grantor, will at Grantee's sole cost and expense make the necessary modifications to its device or system to ensure compatibility with Grantor's corrosion control device or system.
- 8. Compliance with Laws and Regulations.** The Improvements shall be constructed and maintained to comply with all laws and industry standards, specifically including without limitation those relating to the operation and safety of Grantor's pipelines. No Improvements shall be constructed that cause Grantor's pipelines to be out of compliance with applicable pipeline safety or operation laws and regulations. Grantee is responsible for obtaining all necessary zoning approvals, variances, land use permits, and other required approvals for the Improvements.
- 9. Other Consents and Approvals.** The permission herein granted by Grantor is limited to its interest and authority in the Easements, and Grantee acknowledges the possible obligation to obtain the required permission from other parties or governmental entities. Grantor permits the Improvements only to the extent it may do so by law.
- 10. Liability for Pipeline Damage.** Grantee accepts full liability for any damage to Grantor's pipelines and facilities from the construction, placement, installation, operation, repair, removal, use, and maintenance of the Improvements.
- 11. Construction Standards.** Grantee warrants that its prime contractors and their contractors and subcontractors possess the degree of skill necessary to construct the Improvements depicted on Exhibit "A" in a safe and prudent manner. All of Grantee's work, including the construction, placement installation, operation, repair, removal, and maintenance of the Improvements (collectively, the "Work") will be performed in a good and workmanlike manner taking into account the expertise required to perform the Work. If Grantee determines to use the services of one or more contractors for the performance of any Work, any agreement between Grantee and its contractors will contain provisions requiring that the Work be performed in accordance with the requirements of this Agreement, including without limitation its allocation and risk, liability, and indemnification provisions.
- 12. Plants & Landscaping.** Grantee agrees to not plant trees or other large wooded vegetation within the Easements. Small shrubberies and other minor landscaping plants with non-invasive root systems are allowed.

13. Miscellaneous Provisions.

(a) Assignment. This Agreement shall inure to the benefit of, and be binding upon, Grantee's successors and assigns. Grantee may assign its rights and obligations under this Agreement to any third party with Grantor's consent, not to be unreasonably withheld, conditioned, or delayed. Grantee shall cause any assignee of Grantee specifically to assume Grantee's obligations under this Agreement and the Easements, at which time Grantee shall be released from any and all obligations under this Agreement occurring after the effective date of the assignment.

(b) Notices. All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given: (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by facsimile or e-mail (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours of the recipient; or (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective parties at the addresses set forth below (or to such other address that may be designated by a Party from time to time in accordance with this Section).

GRANTOR:

Monument Pipeline, LP
ATTN: Land Department
20329 State Highway 249, Floor 4
Houston, TX 77070
Email: Erica.Frisbie@armenergy.com

GRANTEE:

Fort Bend County
ATTN: Engineering
301 Jackson Street, 4th Floor
Richmond, TX 77469

(c) Entire Agreement. This Agreement constitutes the entire understanding between the Grantor and Grantee relating to the Improvements, Easements, and subject matter hereof. Any related prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force and effect. Any waiver or amendment of this Agreement shall be of no force and effect unless it is in writing and signed by Grantee and Grantor.

(d) Attorneys' Fees. If any action, proceeding, or arbitration arising out of or relating to this Agreement is commenced, then as between Grantee and Grantor, the prevailing party shall be entitled to receive from the other party, in addition to any other relief that may be granted, its reasonable attorneys' fees, costs, and expenses incurred in the action, proceeding, or arbitration.

(e) Binding Effect. This Agreement shall be binding on and inure to the benefit of the parties to this Agreement and their successors and assigns, except as otherwise provided herein.

(f) Governing Law. This Agreement and the legal relations between the parties shall be governed by and construed in accordance with the laws of the State of Texas without reference to laws that could refer to the law of another jurisdiction.

(g) Waiver. The waiver by any party to this Agreement of a breach of any provision of this Agreement shall not be deemed a continuing waiver or a waiver of any subsequent breach of that or any other provision of this Agreement.

(h) Clearance. All work hereafter performed by Grantee within the Easements shall maintain a minimum two-foot (2') buffer of undisturbed soil and clearance surrounding Grantor's pipeline on all sides.

(i) Counterpart Signatures. This Agreement may be executed in several counterparts, each of which shall be an original of this Agreement but all of which, taken together, shall constitute one and the same Agreement and be binding upon the parties who execute any counterpart, regardless of whether it is executed by all parties named herein.

14. Project-specific Requirements.

- (a) A representative of Grantor must be on-site and present to oversee any and all work within Grantor's Easements.
- (b) All work authorized hereby is expressly limited to work within the public road right-of-way and not as to adjoining or neighboring private lands.
- (c) A payment of Three Thousand USD (\$3000.00) shall be paid by Grantee to Grantor immediately upon Grantee's execution of this Agreement, as a partial reimbursement for the costs borne by Grantor related to the project as described herein and its review thereof.

15. Term of Agreement. This Agreement shall remain valid for a period of twelve (12) months from the day and year first above written (the "Primary Term"); provided that the Agreement shall continue in full force and effect thereafter only with respect to the portion(s) of Improvements fully constructed and installed by the expiration of the Primary Term. Any construction falling under the scope of this agreement but not completed by the expiration of the Primary Term shall require: a) Grantee's (re)submitted plans to Grantor; b) additional administrative review fee paid by Grantee to Grantor, and c) Grantor's separate prior written approval.

16. Amendment and Confirmation. The Easements are amended to the extent noted herein. In all other respects, it is confirmed and shall continue in full force and effect. Grantee hereby ratifies, adopts, approves and confirms the Easements and declares that the Easements are in full force and effect with respect to the Property.

[Signature Page(s) Follow]

IN WITNESS WHEREOF, the parties have set their hands by their duly authorized representatives as of the date so acknowledged, but to be made effective the date first set forth above.

Grantor:

Grantee:

MONUMENT PIPELINE, LP

FORT BEND COUNTY, TEXAS

by and through ARM Monument GP, LLC,
its general partner

By: _____
Brian O'Higgins, SVP Engineering & Operations

By: _____
KP George, County Judge

ACKNOWLEDGEMENTS

State of Texas §
 §
County of Harris §

This instrument was acknowledged before me on ____day of _____, 202__, by Brian O'Higgins, SVP Engineering & Operations, for Monument Pipeline, LP, by and through its General Partner, ARM Monument GP, LLC.

(Seal)

Notary Public, State of Texas
Commission Expires: _____

State of _____ §
 §
County of _____ §

This instrument was acknowledged before me on ____day of _____, 202__, by
_____[name], _____[title] for
_____[company].

(Seal)

Notary Public, State of _____
Commission Expires: _____

Following recording return this instrument to:

Monument Pipeline, LP
20329 State Hwy 249, 4th Fl.
Houston, TX 77070
Attn: Land Department

EXHIBIT “A”
(construction plans)

FORT BEND COUNTY ENGINEERING DEPARTMENT
CITY OF MISSOURI CITY
LEXINGTON BOULEVARD
LAUREL GREEN RD. TO 450 FEET EAST OF
LEXINGTON GROVE DR.
PROJECT NO. 20405

VINCENT M. MORALES, JR.
COMMISSIONER PRECINCT 1

GRADY PRESTAGE
COMMISSIONER PRECINCT 2

KP GEORGE
COUNTY JUDGE

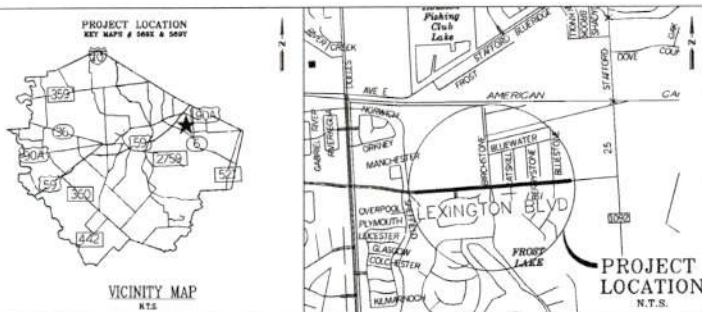
ANDY MEYERS
COMMISSIONER PRECINCT 3
DEXTER L. McCOY
COMMISSIONER PRECINCT 4

MAYOR
ROBIN ELACKATT
CITY MANAGER
ANGEL JONES

DISTRICT COUNCIL MEMBERS
MONICA RILEY DISTRICT A
JEFFREY BONEY DISTRICT B
ANTHONY MAROULIS DISTRICT C
FLOYD EMERY DISTRICT D

COUNCIL MEMBERS AT-LARGE
SONYA BROWN-MARSHALL POSITION 1
LYNN CLOUSER POSITION 2

1/12/2024



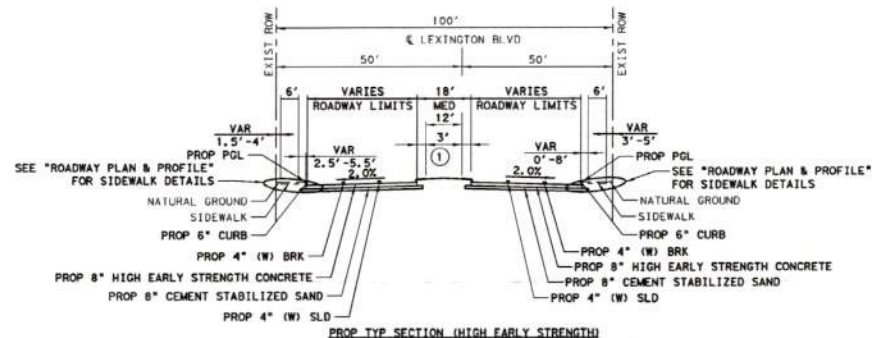
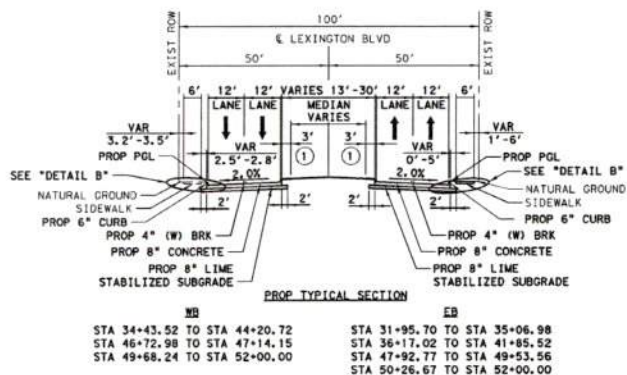
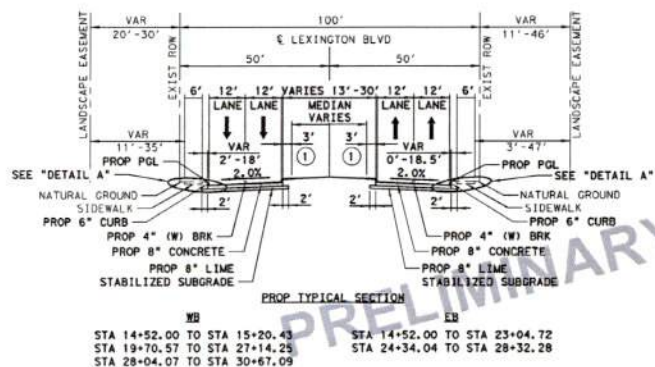
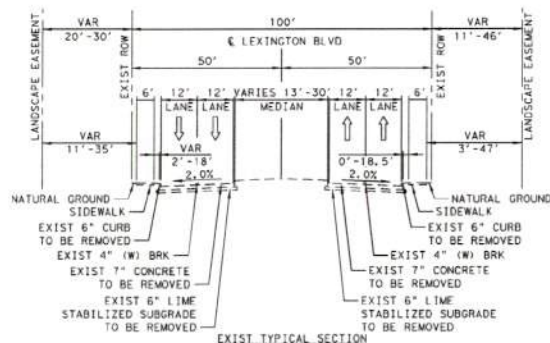
JANUARY 2024
PRECINCT 3
Fort Bend County, Texas



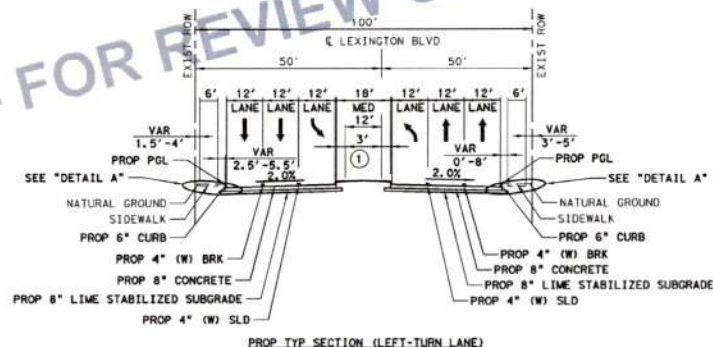
BGE, Inc.
19777 Westheimer, Suite 400, Houston, TX 77042
Tel: 281-556-8700 • www.bgeinc.com
TBPE Registration No. F-1046
Copyright 2024

APPROVED: COUNTY ENGINEER J. STACY SLAMNICK, P.E. DATE

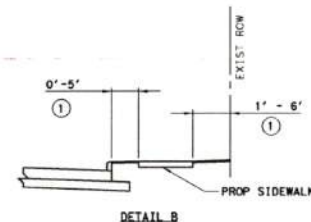
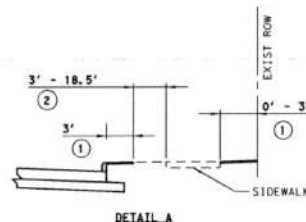
APPROVED: CITY ENGINEER SHASH KUMAR, P.E. DATE



NR		ER	
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STA 27+14.25	TO STA 28+04.07	STA 30+67.09	TO STA 31+95.70
STA 30+67.09	TO STA 31+95.70	STA 35+06.98	TO STA 36+17.02
STA 44+20.72	TO STA 45+35.12	STA 44+20.72	TO STA 45+35.12
STA 47+14.15	TO STA 48+11.32	STA 47+31.80	TO STA 47+92.77
		STA 49+53.56	TO STA 50+26.67



WD	ED
STA 31+95.70 TO STA 34+43.52	STA 28+32.28 TO STA 30+67.09
STA 45+35.12 TO STA 46+72.98	STA 41+85.52 TO STA 44+20.72
STA 48+11.32 TO STA 49+68.24	STA 45+35.12 TO STA 47+31.80



LEGEND

- ① BLOCK SODDING
- ② HYDRO-MULCH SEEDING

NOTES

1. PROP PGL IS LOCATED AT BACK OF CURB, TOP OF CURB.

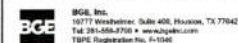
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REV	DATE	BY	DESCRIPTION
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1/12/2024

FORT BEND COUNTY
ENGINEERING DIVISION



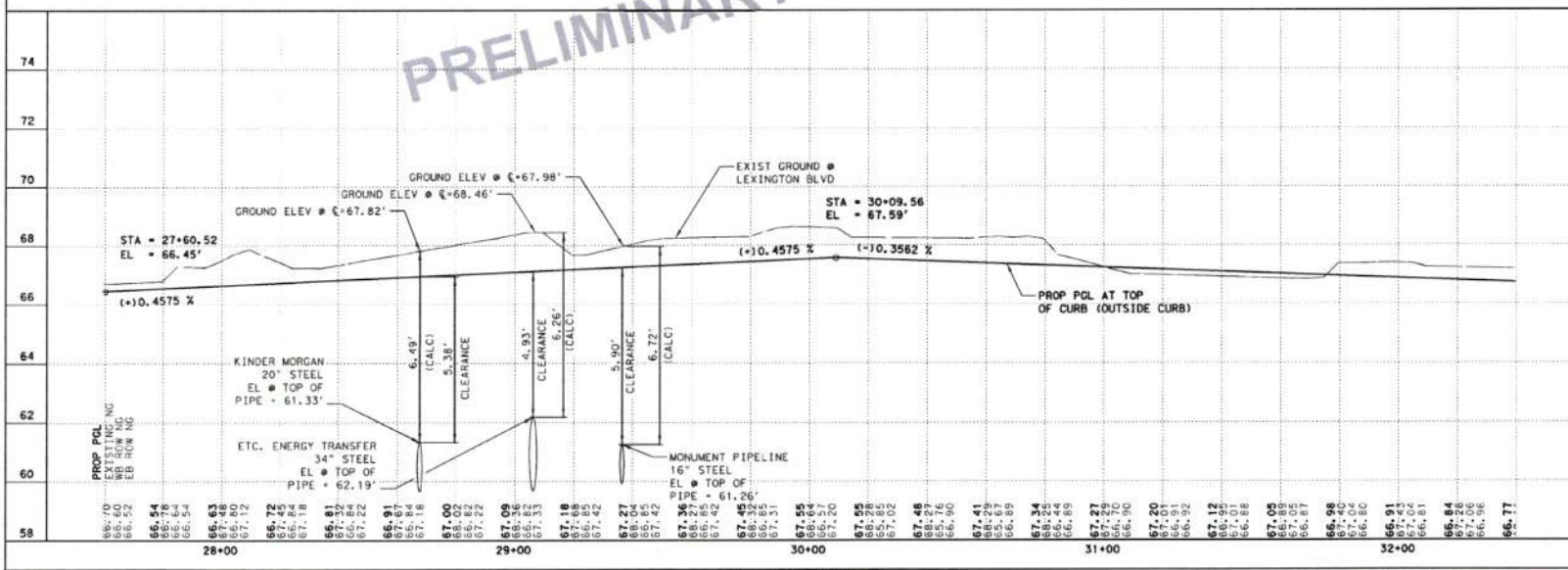
LEXINGTON BOULEVARD
TYPICAL SECTIONS

SHEET 1 OF 1

DESIGNED BY:

DRAWN BY:

DATE: _____



- H: 0 20 40
V: 0 2 4

DESIGNED BY:
DRAWN BY:
DATE:
SHEET NO: 1